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Farm Ownership & Corporate Farming Laws: *Louisiana*



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Farm Ownership & Corporate Farming Laws: Louisiana

Fast Find:

- 1) Prohibition: La. Stat. Ann. § 9:2717.1
- 2) Permission: La. Const. Ann. art. I, § 4
- 3) Reporting: None
- 4) Corporate Farming: La. Stat. Ann. § 9:2717.1

La. Const. Ann. art. I, § 4

La. Stat. Ann. § 9:2717.1

Current through laws passed by the Louisiana State Legislature through the 2023 First Extraordinary Session.

§ 4. Right to Property

Section 4. (A) Every person has the right to acquire, own, control, use, enjoy, protect, and dispose of private property. This right is subject to reasonable statutory restrictions and the reasonable exercise of the police power.

(B)(1) Property shall not be taken or damaged by the state or its political subdivisions except for public purposes and with just compensation paid to the owner or into court for his benefit. Except as specifically authorized by Article VI, Section 21 of this Constitution property shall not be taken or damaged by the state or its political subdivisions: (a) for predominant use by any private person or entity; or (b) for transfer of ownership to any private person or entity.

(2) As used in Subparagraph (1) of this Paragraph and in Article VI, Section 23 of this Constitution, “public purpose” shall be limited to the following:

(a) A general public right to a definite use of the property.

(b) Continuous public ownership of property dedicated to one or more of the following objectives and uses:

(i) Public buildings in which publicly funded services are administered, rendered, or provided.

(ii) Roads, bridges, waterways, access to public waters and lands, and other public transportation, access, and navigational systems available to the general public.

(iii) Drainage, flood control, levees, coastal and navigational protection and reclamation for the benefit of the public generally.



- (iv) Parks, convention centers, museums, historical buildings and recreational facilities generally open to the public.
 - (v) Public utilities for the benefit of the public generally.
 - (vi) Public ports and public airports to facilitate the transport of goods or persons in domestic or international commerce.
- (c) The removal of a threat to public health or safety caused by the existing use or disuse of the property.
- (3) Neither economic development, enhancement of tax revenue, or any incidental benefit to the public shall be considered in determining whether the taking or damaging of property is for a public purpose pursuant to Subparagraph (1) of this Paragraph or Article VI, Section 23 of this Constitution.
- (4) Property shall not be taken or damaged by any private entity authorized by law to expropriate, except for a public and necessary purpose and with just compensation paid to the owner; in such proceedings, whether the purpose is public and necessary shall be a judicial question.
- (5) In every expropriation or action to take property pursuant to the provisions of this Section, a party has the right to trial by jury to determine whether the compensation is just, and the owner shall be compensated to the full extent of his loss. Except as otherwise provided in this Constitution, the full extent of loss shall include, but not be limited to, the appraised value of the property and all costs of relocation, inconvenience, and any other damages actually incurred by the owner because of the expropriation.
- (6) No business enterprise or any of its assets shall be taken for the purpose of operating that enterprise or halting competition with a government enterprise. However, a municipality may expropriate a utility within its jurisdiction.
- (C) Personal effects, other than contraband, shall never be taken.
- (D) The following property may be forfeited and disposed of in a civil proceeding, as provided by law: contraband drugs; property derived in whole or in part from contraband drugs; property used in the distribution, transfer, sale, felony possession, manufacture, or transportation of contraband drugs; property furnished or intended to be furnished in exchange for contraband drugs; property used or intended to be used to facilitate any of the above conduct; or other property because the above-described property has been rendered unavailable.
- (E) This Section shall not apply to appropriation of property necessary for levee and levee drainage purposes.
- (F) Further, the legislature may place limitations on the extent of recovery for the taking of, or loss or damage to, property rights affected by coastal wetlands conservation, management, preservation, enhancement, creation, or restoration activities.



(G) Compensation paid for the taking of, or loss or damage to, property rights for the construction, enlargement, improvement, or modification of federal or non-federal hurricane protection projects, including mitigation related thereto, shall not exceed the compensation required by the Fifth Amendment of the Constitution of the United States of America. However, this Paragraph shall not apply to compensation paid for a building or structure that was destroyed or damaged by an event for which a presidential declaration of major disaster or emergency was issued, if the taking occurs within three years of such event. The legislature by law may provide procedures and definitions for the provisions of this Paragraph.

(H)(1) Except for the removal of a threat to public health or safety caused by the existing use or disuse of the property, and except for leases or operation agreements for port facilities, highways, qualified transportation facilities or airports, the state or its political subdivisions shall not sell or lease property which has been expropriated and held for not more than thirty years without first offering the property to the original owner or his heir, or, if there is no heir, to the successor in title to the owner at the time of expropriation at the current fair market value, after which the property can be transferred only by competitive bid open to the general public. After thirty years have passed from the date the property was expropriated, the state or political subdivision may sell or otherwise transfer the property as provided by law.

(2) Within one year after the completion of the project for which the property was expropriated, the state or its political subdivision which expropriated the property shall identify all property which is not necessary for the public purpose of the project and declare the property as surplus property.

(3) All expropriated property identified as surplus property shall be offered for sale to the original owner or his heir, or, if there is no heir, to the successor in title to the owner at the time of expropriation at the current fair market value, within two years after completion of the project. If the original owner, heir, or other successor in title refuses or fails to purchase the surplus property within three years from completion of the project, then the surplus property may be offered for sale to the general public by competitive bid.

(4) After one year from the completion of the project for which property was expropriated, the original owner or his heir, or, if there is no heir, the successor in title to the owner at the time of expropriation may petition the state or its political subdivision which expropriated the property to have all or any portion of his property declared surplus. If the state or its political subdivision refuses or fails to identify all or any portion of the expropriated property as surplus, the original owner or the successor in title may petition any court of competent jurisdiction to have the property declared surplus.



§ 9:2717.1. Prohibition of acquisition of immovable property by a foreign adversary or a person connected with a foreign adversary

A.(1) No foreign adversary or person connected with a foreign adversary may purchase, lease, or otherwise acquire immovable property in this state.

(2) A party to a contract to purchase, lease, or otherwise acquire immovable property may rescind the contract prior to the transfer of the immovable property if the party determines that the purchaser or lessee is a foreign adversary or a person connected with a foreign adversary.

(3) The provisions of this Section are applicable to contracts entered into by a foreign adversary or person connected with a foreign adversary to purchase, lease, or otherwise acquire immovable property after August 1, 2023. These provisions are not applicable to existing contracts to purchase, lease, or otherwise acquire immovable property or the renewal of existing leases that were in place prior to August 1, 2023.

(4) A person may conclusively rely upon an affidavit made by a person intended to acquire or holding an interest in immovable property to the effect that the person is neither a foreign adversary nor a person connected with a foreign adversary, and the correctness of those facts may not be controverted against a person relying on the affidavit, unless actual fraud by such person is proved. A person who gives a false affidavit shall be responsible for any loss or damage suffered by any person whose rights are adversely affected.

(5) No seller or lessor shall be liable pursuant to this Section, except a foreign adversary or a person connected with a foreign adversary that is required to forfeit or dispose of property pursuant to a court order as provided for in Subsection C of this Section.

B.(1) The attorney general may bring an action for injunctive relief in the name of the state against the foreign adversary or the person connected with a foreign adversary to enjoin the property transfer prior to the transfer of the immovable property. The attorney general shall serve the petition for injunctive relief upon all parties to the transaction.

(2) If the transfer or lease of the property has been completed, the attorney general may bring an action in the name of the state against the foreign adversary or a person connected with a foreign adversary.

(3) Any action by the attorney general may be brought in the district court having civil jurisdiction in any parish in which a portion of the immovable property is located, and the attorney general may recover reasonable attorney fees and court costs.

(4) The attorney general may open an investigation if any of the following exist:

(a) The attorney general has evidence that a foreign adversary or a person connected with a foreign adversary is



attempting to enter into, conspiring to enter into, or has entered into a contract to purchase, lease, or otherwise acquire immovable property in this state.

(b) The attorney general believes it to be in the public interest that an investigation needs to be made to ascertain whether a foreign adversary or a person connected with a foreign adversary in fact is attempting to enter into, conspiring to enter into, or has entered into a contract to purchase, lease, or otherwise acquire immovable property in this state.

(5) If an action is brought pursuant to this Section then no later than one business day after filing the action, the attorney general shall record in the public mortgage records of the parish clerk of court of each parish in which any portion of the immovable property is located a notice of pendency of the action pursuant to Code of Civil Procedure Article 3751 et seq. The institution of the action and the recordation of the notice of pendency of the action shall have no effect on persons obtaining rights in the immovable property prior to the recordation of the petition. The attorney general shall cause the notice of pendency of action to be cancelled from the mortgage records no later than one business day after judgment is rendered or after a request for cancellation is made by any interested party in connection with the transfer of the property to a person other than a foreign adversary or person connected with a foreign adversary. If the notice of pendency of action relates to a property interested vested in a foreign adversary or person connected with a foreign adversary, the attorney general may petition the court for an order requiring the proceeds of the sale attributable to the property interest of the foreign adversary or person connected with a foreign adversary after the deduction of payments to mortgagees, lienholders, person providing services in connection with the transfer of the property, and credits to the purchaser relating to tax and other customary prorations, be deposited in the registry of the court in which the proceeding is pending.

(6) Prior to bringing an action pursuant to this Section, the attorney general shall provide written notice to the holder of each mortgage, lien, privilege, and other encumbrance encumbering the subject immovable property, which is filed in the public mortgage records in the parish where the immovable property is located. Such notice shall be provided in the same manner as provided in R.S. 40:2608 or R.S. 14:90.1.

C.(1) If the court finds that a foreign adversary or person connected with a foreign adversary has purchased, leased, or otherwise acquired property in Louisiana after August 1, 2023, the court may do one of the following:

(a) Order that the foreign adversary's interest in the property be sold to a person who is not a foreign adversary or to a person who is not connected to a foreign adversary.

(b) Order that the foreign adversary or person connected with a foreign adversary's interest in the property be sold at a judicial sale in accordance with the requirements of Code of Civil Procedure Article 2331 et seq.



(c) Under Subparagraphs (a) and (b) of this Paragraph, the court shall order that the price of the sale be not less than the sum of all of the following:

(i) Ad valorem taxes and other liens payable to a political subdivision of the State which are due or past due and attributable to the property.

(ii) Indebtedness, including interests, penalties, attorney fees, court costs, and other expenses, secured by a conventional mortgage on the property or any portion of the property.

(iii) Indebtedness, including interest, penalties, attorney fees, and court costs, secured by a judicial or legal mortgage on the property.

(iv) Indebtedness, including interest, penalties, attorney fees, and court costs, secured by a lien or privilege on the property.

(v) Commissions due to a real estate broker or real estate agent.

(vi) Costs related to the perfection of the sale.

(2) After satisfying all mortgages, liens, privileges, and other encumbrances encumbering the property subject to this Section, and payment of all persons providing services in connection with the transfer of the property, sheriff's fees, and credits to the purchaser relating to tax and other customary prorations, the remaining proceeds of the sale provided by this Subsection shall be considered a civil asset forfeiture and the money shall be paid to the Department of Justice to fund services for veterans of foreign wars. The attorney general may also enter into cooperative endeavor agreements with other state agencies or local governments to provide services for veterans who suffer from injury or disability as a result of a foreign war.

D.(1) All proceedings under this Section shall be made with due provisions to protect the rights of any person unless the attorney general proves beyond a reasonable doubt that the person entered into the transaction with the foreign adversary or person connected with a foreign adversary for the purpose of aiding such foreign adversary or person connected with a foreign adversary in compromising the security of the United States.

(2) No mortgage, lien, privilege, or other security interest recognized under the laws of this state and no ownership interest in indivision, lease, servitude, usufruct, right of use, bond for deed, or other real right shall be affected by a forfeiture or disposition pursuant to this Section.

(3) No forfeiture or disposition under this Section shall affect the rights of any person unless the attorney general proves beyond a reasonable doubt that the person entered into the transaction with the foreign adversary or person connected with a foreign adversary with the purpose of aiding such foreign adversary or person connected with a foreign adversary in compromising the security of the United States.



E. No attorney, title insurer, title insurance producer, title insurance agency producer, lender, mortgage loan servicer, notary public, real estate agent, real estate broker, seller, or lessor shall have a duty to make any investigation as to whether a party to a transaction involving immovable property is a foreign adversary, nor shall any such person be liable for failing to identify that a party to a transaction involving immovable property is a foreign adversary.

F. The provisions of this Section shall not apply to any of the following:

(1) A natural person who is an American citizen, regardless of whether the United States citizenship was acquired by birth or the United States citizenship was granted to a person after meeting the requirements established by the United States Congress in the Immigration and Nationality Act, 8 U.S.C. 1158, et seq.

(2) A person who is not a United States citizen but is a permanent legal resident or is lawfully present in the United States by virtue of authorization by the United States Department of Homeland Security.

(3) A juridical person, as defined in Civil Code Article 24, that is wholly owned by persons who qualify under Paragraphs (1) and (2) of this Subsection.

(4) Immovable property purchased, leased, or otherwise acquired by a natural person that is used as a one to four family residential property.

(5) A juridical person that owned and conducted oil and gas operations located in Louisiana prior to July 1, 2023, and that is granted permissions by a General License issued by the United States Department of the Treasury, Office of Foreign Assets Control (OFAC General License) and that purchases or acquires property in Louisiana with a party or parties that are subject to the OFAC General License.

G. For the purposes of this Section:

(1) "Foreign adversary" means an individual or a government identified as a foreign adversary in 15 CFR 7.4(a) and identified in the database maintained by the United States Department of Treasury, Office of Foreign Assets Control.

(2) "Person connected with a foreign adversary" means the juridical person, as defined in Civil Code Article 24, in which the foreign adversary has the power to direct or cause the direction of the management or policies of the juridical person whether through ownership of securities, by contract, or otherwise. A person or entity that directly or indirectly has the right to vote fifty percent or more of the voting interests of an entity or is entitled to fifty percent or more of its profits is presumed to have the power to direct or cause the direction of the management or policies of the juridical person.

H. This Act shall apply only to property acquired by a foreign adversary or person connected with a foreign adversary on or after August 1, 2023. If a foreign adversary or person connected with a foreign adversary acquires immovable property despite the prohibitions as provided in this Section, the property shall only be subject to forfeiture during the period in which the prohibited foreign adversary or person connected with a foreign adversary



owns the property. Rights in immovable property shall not be void or voidable because the property or right held in the property was previously held by a prohibited foreign adversary or person connected with a foreign adversary.

