

Representative Kay J. Christofferson proposes the following substitute bill:

FOREIGN GOVERNMENT LAND POSSESSION

REQUIREMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses foreign government agricultural land interests.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a foreign government or an entity under a foreign government's control from holding an interest in agricultural land in the state;
- ▶ provides that the foreign government's or entity's interest in agricultural land escheats to the state after a specified time;
- ▶ authorizes the Department of Agriculture and Food (department) to enforce provisions in this bill;
- ▶ provides civil penalties for a violation of the provisions in this bill;
- ▶ requires a county recorder to notify the department if a document is recorded that the county recorder believes indicates a violation of the provisions in this bill; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **17-21-6**, as last amended by Laws of Utah 2014, Chapter 22

31 ENACTS:

32 **4-47-101**, Utah Code Annotated 1953

33 **4-47-201**, Utah Code Annotated 1953

34 **4-47-301**, Utah Code Annotated 1953



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **4-47-101** is enacted to read:

38 **CHAPTER 47. FOREIGN GOVERNMENT AGRICULTURAL LAND INTERESTS**

39 **Part 1. General Provisions**

40 **4-47-101. Definitions.**

41 As used in this chapter:

42 (1) "Agricultural land" means the same as the term "land in agricultural use" is defined
43 in Section **59-2-502**.

44 (2) (a) "Controlling interest" means the possession of the power to direct or cause the
45 direction of the management and policies of an entity through ownership of voting shares, by
46 contract, or through foreign government policy, law, or regulation.

47 (b) "Controlling interest" includes:

48 (i) ownership or control of more than 50% of all issued stock, issued voting stock, or
49 the total votes allocated to the issued stock; or

50 (ii) holding a majority interest in an entity.

51 (3) "Foreign government" means a government other than the government of:

52 (a) the United States;

53 (b) a state or political subdivision within the United States;

54 (c) a territory or possession of the United States; or

55 (d) a sovereign tribal nation.

56 (4) "Foreign government entity" means an entity in which a foreign government holds a

57 controlling interest.

58 Section 2. Section 4-47-201 is enacted to read:

59 **Part 2. Foreign Government Agricultural Land Interests**

60 **4-47-201. Prohibition on foreign governments holding an interest in agricultural**
61 **land -- Alienate interest -- Escheat.**

62 (1) Except as provided in Subsection (3), a foreign government or foreign government
63 entity may not purchase, acquire, lease, or hold any interest in agricultural land in the state.

64 (2) (a) A foreign government or a foreign government entity that acquires an interest in
65 agricultural land on or after May 3, 2023, by grant, gift, donation, devise, or bequest, or as a
66 security for indebtedness shall alienate the interest within three years after the date of
67 acquisition.

68 (b) If a foreign government or foreign government entity fails to alienate an interest in
69 accordance with Subsection (2)(a), the interest escheats to the state.

70 (3) This section:

71 (a) does not apply to an interest held in agricultural land before May 3, 2023; and

72 (b) is subject to any treaty between the United States and another country.

73 Section 3. Section 4-47-301 is enacted to read:

74 **Part 3. Enforcement**

75 **4-47-301. Administration and enforcement -- Department powers -- Rulemaking.**

76 (1) The department shall:

77 (a) investigate transfers in violation of Subsection 4-47-201(1); and

78 (b) upon a determination after the investigation that a transfer violated Subsection
79 4-47-201(1), bring a civil action to enforce this chapter.

80 (2) In a civil action by the department to enforce this chapter, the court may:

81 (a) declare the transfer of an interest in agricultural land that violates this chapter void;

82 (b) issue an injunction for a violation of this chapter;

83 (c) impose a civil penalty of up to \$5,000 per day for each day the person is in violation
84 of this chapter; and

85 (d) award any other relief that the court deems reasonable and necessary.

86 (3) If a court grants judgment or injunctive relief to the department, the court shall
87 award the department:

88 (a) reasonable attorney fees;

89 (b) court costs; and

90 (c) investigative fees.

91 (4) The department may make rules in accordance with Title 63G, Chapter 3, Utah

92 Administrative Rulemaking Act, to enforce this chapter.

93 Section 4. Section **17-21-6** is amended to read:

94 **17-21-6. General duties of recorder -- Records and indexes.**

95 (1) Each recorder shall:

96 (a) keep an entry record, in which the recorder shall, upon acceptance and recording of
97 any instrument, enter the instrument in the order of its recording, the names of the parties to the
98 instrument, its date, the hour, the day of the month and the year of recording, and a brief
99 description, and endorse upon each instrument a number corresponding with the number of the
100 entry;

101 (b) keep a grantors' index, in which the recorder shall index deeds and final judgments
102 or decrees partitioning or affecting the title to or possession of real property, which shall show
103 the entry number of the instrument, the name of each grantor in alphabetical order, the name of
104 the grantee, the date of the instrument, the time of recording, the kind of instrument, the book
105 and page, and a brief description;

106 (c) keep a grantees' index, in which the recorder shall index deeds and final judgments
107 or decrees partitioning or affecting the title to or possession of real property, which shall show
108 the entry number of the instrument, the name of each grantee in alphabetical order, the name of
109 the grantor, the date of the instrument, the time of recording, the kind of instrument, the book
110 and page, and a brief description;

111 (d) keep a mortgagors' index, in which the recorder shall enter all mortgages, deeds of
112 trust, liens, and other instruments in the nature of an encumbrance upon real estate, which shall
113 show the entry number of the instrument, the name of each mortgagor, debtor, or person
114 charged with the encumbrance in alphabetical order, the name of the mortgagee, lien holder,
115 creditor, or claimant, the date of the instrument, the time of recording, the instrument,
116 consideration, the book and page, and a brief description;

117 (e) keep a mortgagees' index, in which the recorder shall enter all mortgages, deeds of
118 trust, liens, and other instruments in the nature of an encumbrance upon real estate, which shall

119 show the entry number of the instrument, the name of each mortgagee, lien holder, creditor, or
120 claimant, in alphabetical order, the name of the mortgagor or person charged with the
121 encumbrance, the date of the instrument, the time of recording, the kind of instrument, the
122 consideration, the book and page, and a brief description;

123 (f) subject to Subsection (3), keep a tract index, which shall show by description every
124 instrument recorded, the date and the kind of instrument, the time of recording, and the book
125 and page and entry number;

126 (g) keep an index of recorded maps, plats, and subdivisions;

127 (h) keep an index of powers of attorney showing the date and time of recording, the
128 book, the page, and the entry number;

129 (i) keep a miscellaneous index, in which the recorder shall enter all instruments of a
130 miscellaneous character not otherwise provided for in this section, showing the date of
131 recording, the book, the page, the entry number, the kind of instrument, from, to, and the
132 parties;

133 (j) keep an index of judgments showing the judgment debtors, the judgment creditors,
134 the amount of judgment, the date and time of recording, the satisfaction, and the book, the
135 page, and the entry number;

136 (k) keep a general recording index in which the recorder shall index all executions and
137 writs of attachment, and any other instruments not required by law to be spread upon the
138 records, and in separate columns the recorder shall enter the names of the plaintiffs in the
139 execution and the names of the defendants in the execution; ~~and~~

140 (l) keep an index of water right numbers that are included on an instrument recorded on
141 or after May 13, 2014, showing the date and time of recording, the book and the page or the
142 entry number, and the kind of instrument~~[-]; and~~

143 (m) upon recording of an instrument that the recorder believes or has reason to believe
144 indicates a transfer in violation of Title 4, Chapter 47, Foreign Government Agricultural Land
145 Interests, notify the Department of Agriculture and Food of the recording.

146 (2) The recorder shall alphabetically arrange the indexes required by this section and
147 keep a reverse index.

148 (3) (a) The tract index required by Subsection (1)(f) shall be kept so that it shows a true
149 chain of title to each tract or parcel, together with each encumbrance on the tract or parcel,

150 according to the records of the office.

151 (b) A recorder shall abstract an instrument in the tract index unless:

152 (i) the instrument is required to contain a legal description under Section 17-21-20 or
153 Section 57-3-105 and does not contain that legal description; or

154 (ii) the instrument contains errors, omissions, or defects to the extent that the tract or
155 parcel to which the instrument relates cannot be determined.

156 (c) If a recorder abstracts an instrument in the tract index or another index required by
157 this section, the recorder may:

158 (i) use a tax parcel number;

159 (ii) use a site address;

160 (iii) reference to other instruments of record recited on the instrument; or

161 (iv) reference another instrument that is recorded concurrently with the instrument.

162 (d) A recorder is not required to go beyond the face of an instrument to determine the
163 tract or parcel to which an instrument may relate.

164 (e) A person may not bring an action against a recorder for injuries or damages
165 suffered as a result of information contained in an instrument recorded in a tract index or other
166 index that is required by this section despite errors, omissions, or defects in the instrument.

167 (f) The fact that a recorded instrument described in Subsection (3)(e) is included in the
168 tract index does not cure a failure to give public notice caused by an error, omission, or defect.

169 (g) A document that is indexed in all or part of the indexes required by this section
170 shall give constructive notice.

171 (4) Nothing in this section prevents the recorder from using a single name index if that
172 index includes all of the indexes required by this section.