

## HB0218S02 compared with HB0218

~~deleted text~~ shows text that was in HB0218 but was deleted in HB0218S02.

inserted text shows text that was not in HB0218 but was inserted into HB0218S02.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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

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#### LONG TITLE

##### General Description:

This bill addresses foreign government ~~real property~~ agricultural land interests. ~~}~~

##### Highlighted Provisions:

This bill:

- ▶ defines terms; ~~and~~
- ▶ prohibits a foreign government or an entity under a foreign government's control from holding an interest in ~~real property in the state.~~

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;

## HB0218S02 compared with HB0218

- ▶ 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

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

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

#### ENACTS:

~~{57-30-101}~~4-47-101, Utah Code Annotated 1953

~~{57-30-201}~~4-47-201, Utah Code Annotated 1953

4-47-301, Utah Code Annotated 1953

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

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

### CHAPTER 47. FOREIGN GOVERNMENT AGRICULTURAL LAND INTERESTS

#### Part 1. General Provisions

#### 4-47-101. Definitions.

As used in this chapter:

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

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

(b) "Controlling interest" includes:

(i) ownership or control of more than 50% of all issued stock, issued voting stock, or

## **HB0218S02 compared with HB0218**

the total votes allocated to the issued stock; or

(ii) holding a majority interest in an entity.

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

(a) the United States;

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

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

(d) a sovereign tribal nation.

(4) "Foreign government entity" means an entity in which a foreign government holds a controlling interest.

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

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

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

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

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

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

(3) This section:

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

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

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

### **Part 3. Enforcement**

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

(1) The department shall:

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

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

## HB0218S02 compared with HB0218

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

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

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

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

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

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

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

(4) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to enforce this chapter.

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

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

(1) Each recorder shall:

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

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

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

## HB0218S02 compared with HB0218

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

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

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

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

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

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

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

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

(l) keep an index of water right numbers that are included on an instrument recorded on or after May 13, 2014, showing the date and time of recording, the book and the page or the

## HB0218S02 compared with HB0218

entry number, and the kind of instrument~~[.]; and~~

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

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

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

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

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

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

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

(i) use a tax parcel number;

(ii) use a site address;

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

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

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

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

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

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

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

## HB0218S02 compared with HB0218

~~{ Section 1. Section 57-30-101 is enacted to read:~~

### ~~CHAPTER 30. FOREIGN GOVERNMENT REAL PROPERTY INTERESTS~~

#### ~~Part 1. General Provisions~~

##### ~~57-30-101. Definitions:~~

~~As used in this chapter, "foreign government" means a government other than the government of:~~

- ~~(1) the United States;~~
- ~~(2) a state within the United States;~~
- ~~(3) a territory or possession of the United States; or~~
- ~~(4) a political subdivision of the state.~~

~~Section 2. Section 57-30-201 is enacted to read:~~

#### ~~Part 2. Foreign Government Real Property Interests~~

##### ~~57-30-201. Prohibition on foreign governments holding an interest in real property:~~

- ~~(1) Except as provided in Subsection (3), a foreign government, or an entity that is owned, controlled, operated, or maintained by a foreign government, may not purchase, acquire, lease, or hold any interest in real property in the state.~~
- ~~(2) A transfer of an interest in violation of this section is void.~~
- ~~(3) This section:~~
  - ~~(a) does not apply to an interest held in real property before May 3, 2023; and~~
  - ~~(b) is subject to any treaty between the United States and another country.~~

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