

MISSISSIPPI LEGISLATURE

2024 Regular Session

To: Judiciary, Division A

By: Senator(s) McCaughn, Younger, Berry, Whaley, Suber, Rhodes, Williams, Parker, England, Fillingane, McLendon, McMahan, Wiggins, Seymour, Ladner, Carter, Blackwell, Robinson, Sparks, Barrett, Hill, Boyd, Jordan, Branning

Senate Bill 2519

(As Sent to Governor)

AN ACT TO ENACT THE MISSISSIPPI FOREIGN LAND OWNERSHIP ACT TO LIMIT THE ABILITY OF NONRESIDENT ALIENS TO MAINTAIN OWNERSHIP OF MISSISSIPPI AGRICULTURAL AND FORESTRY LAND IF THEY ARE FROM A COUNTRY THAT IS CONSIDERED A FOREIGN ADVERSARY BY THE UNITED STATES SECRETARY OF COMMERCE; TO DEFINE TERMS; TO LIMIT NONRESIDENT ALIENS FROM COUNTRIES THAT ARE LABELED ADVERSE TO THE UNITED STATES FROM EXERCISING OWNERSHIP OF MISSISSIPPI LANDS PAST A PRESCRIBED AMOUNT OF TIME; TO OUTLINE SITUATIONS FOR WHICH THIS ACT SHALL NOT APPLY; TO CREATE PROCEDURES FOR THE ATTORNEY GENERAL AND MISSISSIPPI SECRETARY OF STATE TO FOLLOW TO PENALIZE VIOLATIONS OF THIS ACT; TO AMEND SECTIONS 89-1-23 AND 29-1-75, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF

MISSISSIPPI:

SECTION 1. This act shall be known and may be cited as the "Mississippi Foreign Land Ownership Act."

SECTION 2. For the purposes of this act, the following words shall have the meaning herein ascribed unless the context clearly requires otherwise:

(a) "Forest and agricultural land" means any land in the state devoted to the growing of trees or the commercial production of agricultural products or timber, wood or forest products, including nongaming species. Where the land is classified by the county as forest, agricultural, pasture or open land and being used as forest or agricultural land in the

performance of forestry or agricultural activities is a prima facie case as to the purpose the land is devoted to, though such classification shall not be required.

(b) "Majority part" or "majority interest" means an interest of fifty percent (50%) or more in the aggregate, held by individuals, parties or governments that are nonresident aliens as defined in paragraph (c) of this section. Majority interest shall still qualify even if the nonresident alien individuals, parties or governments are not acting in concert.

(c) "Nonresident alien" means:

(i) An individual who is domiciled in a country whose government is designated as a foreign adversary by the United States Secretary of Commerce and is neither a citizen of the United States nor a resident of the United States within the meaning of subparagraph (A) (26) U.S. Code Section 7701;

(ii) A corporation, partnership, limited partnership, limited liability company, trustee or other business entity that is:

1. Domiciled in a country whose government is designated as a foreign adversary by the United States Secretary of Commerce; or

2. Domiciled within the United States but which is wholly or in the majority part owned by any corporation, partnership, limited partnership, limited liability company, trustee or other business entity domiciled in a country whose government is designated as a foreign adversary by the United States Secretary of Commerce.

This subparagraph (ii) shall apply unless the nonresident alien is a corporation, partnership, limited partnership, limited liability company, trustee or other business entity leasing not more than five hundred (500) total acres of Mississippi land from its owner and using such land for agricultural research and development or experimental purposes, including testing, developing or producing crop production inputs, including, but not limited to, seeds, plants, pesticides, soil amendments, biologicals and fertilizers solely for sale or resale; or

(iii) A foreign government designated as a foreign adversary by the United States Secretary of Commerce.

(d) "Possessory interest" means all direct interest acquired, transferred or held in forest or agricultural land for a term of one (1) year or longer.

SECTION 3. (1) A nonresident alien may acquire a possessory interest in forest or agricultural land by devise or inheritance, as security for indebtedness, in the collection of debts or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise.

(2) Any such possessory interest in forest or agricultural land acquired by a nonresident alien in the collection of debts or by any procedure for the enforcement of a lien or claim thereon shall be disposed of within two (2) years after acquiring such possessory interest.

(3) Any such possessory interest in forest or agricultural land acquired by a nonresident alien by devise or inheritance

shall be disposed of within one (1) year after acquiring such possessory interest.

(4) A nonresident alien that acquires a possessory interest in forest or agricultural land pursuant to subsection (1) of this section may avoid disposing of such interest if, within the time required for disposal, such nonresident alien terminates said nonresident alien status or disposes of such shared interest as to no longer retain the majority part of interest thereof.

(5) Ownership of a majority part or majority interest in forest or agricultural land by a nonresident alien, outside of the provisions allowed by subsections (1) through (4) of this section, shall be prohibited. Failure to comply with the provisions of this section shall trigger the Secretary of State to issue a formal demand with notice of the violation to the nonresident alien. Failure to comply with the disposition of forest or agricultural land within the State of Mississippi after receiving notice shall trigger the Secretary of State to formally notify the Attorney General with a specific request for enforcement actions to begin.

SECTION 4. (1) The Mississippi Office of the Secretary of State shall be charged with the oversight of this act. Upon notice of a violation of the provisions herein, the Secretary of State shall issue a formal demand on the nonresident alien requiring the nonresident alien to comply herein within the time and manner prescribed. If the provisions of this act are silent to the time period a nonresident alien has to dispose of

acquired forest or agricultural land within the State of Mississippi, or to bring the interest of a nonresident alien, which is held in a corporation, partnership, limited partnership, limited liability company, trustee or other business entity, below a majority interest, the time to comply shall be set at one (1) year. Failure to comply with the disposition of forest or agricultural land within the State of Mississippi after receiving notice shall trigger the Secretary of State or his or her agent to formally notify the Attorney General with a specific request for enforcement actions to begin.

(2) Upon notification received by the Attorney General, the nonresident alien shall be issued fines in the amount as set forth below:

First Offense..... \$ 100,000.00 -
\$250,000.00

Second Offense..... \$ 250,000.00 -
\$750,000.00

Third and Subsequent Offense..... \$750,000.00 -
\$5,000,000.00

Fines shall be payable within thirty (30) days of the date of institution of the fine and shall be filed on the judgment rolls of the county where the property is located. Following the conclusion of the thirty-day period, the Attorney General shall begin the judicial taking of the property by filing a civil forfeiture action in the Chancery Court where the property is so located or in the Hinds County Chancery Court, whichever

is convenient to the State of Mississippi. The entry of the final order of civil forfeiture shall extinguish the lien of the fine on the property, but shall not extinguish the fine on the nonresident alien. No mortgage, lien, privilege or other security interest recognized under the laws of this state and no ownership interest in division, lease, servitude, usufruct, right to use, bond or deed or other real rights shall be affected by a forfeiture or disposition pursuant to this section.

(3) The Secretary of State, in consultation with the Attorney General, shall promulgate rules and regulations as necessary to implement the provisions of this act.

SECTION 5. A real estate broker or realtor who engages with a client who is a prospective buyer or seller of a possessory interest in forest or agricultural land shall timely disclose to said client the requirements and limitations of this act.

SECTION 6. 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.

SECTION 7. Section 89-1-23, Mississippi Code of 1972, is amended as follows:

89-1-23. Resident aliens may acquire and hold land, and may dispose of it and transmit it by descent, as citizens of the state may. Except as otherwise provided in this section and Sections 3 and 4 of this act, nonresident aliens shall not hereafter acquire or hold land, but a nonresident alien may have or take a lien on land to secure a debt, and at any sale thereof to enforce payment of the debt may purchase the same, and thereafter hold it, not longer than twenty (20) years, with full power during said time to sell the land, in fee, to a citizen; or he or she may retain it by becoming a citizen within that time. All land held or acquired contrary to this section shall escheat to the state; but a title to real estate in the name of a citizen of the United States, or a person who has declared his or her intention of becoming a citizen, whether resident or nonresident, if he or she be a purchaser or holder, shall not be forfeited or escheated by reason of the alienage of any former owner or other person.

Any person who was or is a citizen of the United States and became or becomes an alien by reason of marriage to a citizen of a foreign country, may hereafter inherit, or if he or she heretofore inherited or acquired or hereafter inherits, may hold, own, transmit by descent or transfer land free from any escheat to the State of Mississippi, if said land has not heretofore escheated by final valid order or decree of a court of competent jurisdiction.

Nonresident aliens who are citizens of Syria or the Lebanese Republic may inherit property from citizens or

residents of the State of Mississippi.

Except as provided in Sections 3 and 4 of this act,
nonresident aliens may acquire and hold not to exceed three hundred twenty (320) acres of land in this state for the purpose of industrial development thereon. In addition, any nonresident alien may acquire and hold not to exceed five (5) acres of land for residential purposes. The nonresident alien may dispose of any such land, but if any land acquired for industrial development ceases to be used for industrial development while owned by a nonresident alien, it shall escheat to the state. The limitation set forth in this paragraph shall not apply to corporations in which the stock thereof is partially or wholly owned by nonresident aliens; and title to real estate acquired by, and held in the name of, any corporation, limited partnership, general partnership, limited liability partnership, limited liability company, joint venture, joint-stock company or business trust organized and existing under the laws of the State of Mississippi or of any other state or the federal laws of the United States of America for purposes of development thereon of one or more projects, as defined in Section 57-75-5(f)(xxxii), shall not be forfeited or escheated by reason of the alienage of any former owner or other person if said land has not heretofore escheated to the State of Mississippi by final valid order or decree of a court of competent jurisdiction. The limitation set forth in this section shall also not apply to any real estate acquired by, and held in the name of, any corporation, limited partnership, general partnership, limited

liability partnership, limited liability company, joint venture, joint-stock company or business trust organized and existing under the laws of the State of Mississippi or of any other state or the federal laws of the United States of America for purposes of developing, owning and/or operating a project, as defined in Section 57-75-5(f) (xxxii).

Land that is classified as an industrial or residential zone, but is otherwise used as forest or agricultural land in the performance of forest or agricultural activities, shall serve as a prima facie case as to the purpose of the land being devoted to forestry and agriculture and shall make the land and the nonresident alien subject to the provisions of Sections 3 and 4 of this act.

SECTION 8. Section 29-1-75, Mississippi Code of 1972, is amended as follows:

29-1-75. (1) Except as otherwise provided in this section, neither a corporation nor a nonresident alien, nor any association of persons composed in whole or in part of nonresident aliens, shall directly or indirectly purchase or become the owner of any of the public lands; and every patent issued in contravention hereof shall be void.

(2) (a) A banking corporation owning such tax-forfeited lands or holding a mortgage or deed of trust thereon at the time of the sale to the state, and whose mortgage or deed of trust is still in force and effect, may purchase such lands, regardless of acreage, owned by it as aforesaid or on which it held a mortgage or deed of trust. In the event of a purchase by such

corporation as a mortgagee, such lands shall be held for the benefit of the mortgagor subject to all the terms and conditions of the mortgage or deed of trust held by the purchasing banking corporation and, upon payment of the debt secured by such mortgage or deed of trust, together with interest and incidents, such banking corporation shall in that event reconvey such lands to the original mortgagor, his or her heirs or assigns.

(b) Any other nonbanking corporation may purchase lands sold or forfeited to the state for delinquent taxes under any section of Chapter 1, Title 29, specifically relating to the sale of such tax-forfeited lands by the Secretary of State. A nonbanking corporation purchasing land sold or forfeited to the state shall be subject to the acreage limitations of Section 29-1-73.

(c) Except as provided in Sections 3 and 4 of this act, nonresident aliens may acquire and hold not to exceed three hundred twenty (320) acres of public lands in this state for the purpose of industrial development thereon. In addition, any nonresident alien may acquire and hold not to exceed five (5) acres of public lands for residential purposes. If any land acquired by a nonresident alien for the purpose of industrial development ceases to be used for industrial development, it shall escheat to the public body that sold such land to the nonresident alien.

(d) Land that is classified as an industrial or residential zone, but is otherwise used as forest or agricultural land in the performance of forest or agricultural

activities, shall serve as a prima facie case as to the purpose of the land being devoted to forestry and/or agriculture and shall make the land and the nonresident alien subject to the provisions of Sections 3 and 4 of this act.

(3) This section shall stand repealed on July 1, 2026.

SECTION 9. This act shall take effect and be in force from and after July 1, 2024.
