

Senate File 2204 - Introduced

SENATE FILE 2204
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 3113)

A BILL FOR

1 An Act relating to interests in agricultural land acquired
2 or held by foreign businesses, foreign governments, or
3 nonresident aliens, or by agents, trustees, or fiduciaries
4 thereof, by providing for registration and reporting
5 requirements, providing for enforcement, and providing
6 penalties.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 9I.1, Code 2024, is amended by adding the
2 following new subsections:

3 NEW SUBSECTION. 4A. "*Interest*" means any estate, remainder,
4 or reversion, or portion of the estate, remainder, or
5 reversion, or an option pursuant to which one party has a right
6 to cause legal or equitable title to agricultural land to be
7 transferred.

8 NEW SUBSECTION. 4B. "*Intermediary*" means any person,
9 including a bank, broker, or dealer, that makes business or
10 financial arrangements between companies or organizations that
11 do not deal with each other directly.

12 NEW SUBSECTION. 6. "*Parent*" means any corporation which
13 directly, or indirectly through one or more intermediaries,
14 controls more than fifty percent of the voting stock of another
15 corporation.

16 Sec. 2. Section 9I.7, Code 2024, is amended to read as
17 follows:

18 **9I.7 Registration.**

19 A nonresident alien, foreign business, or foreign
20 government, or an agent, trustee, or fiduciary thereof, which
21 owns an interest in agricultural land within this state on or
22 after January 1, 1980, shall register the agricultural land
23 with the secretary of state. The registration shall be made
24 within sixty days after January 1, 1980, or within sixty days
25 after acquiring the land or the interest in land, whichever
26 time is the later. The registration shall be made online or
27 in the form and manner prescribed by the secretary and shall
28 ~~contain the name of the owner and the location and number of~~
29 ~~acres of the agricultural land by township and county of state.~~
30 ~~If the owner of the agricultural land or owner of the interest~~
31 ~~in agricultural land is an agent, trustee or fiduciary of a~~
32 ~~nonresident alien, foreign business or foreign government,~~
33 ~~the registration shall also include the name of any principal~~
34 ~~for whom that land, or interest in that land was purchased as~~
35 ~~agent.~~ Information described in this section is a confidential

1 record and subject to use in the same manner as provided in
2 section 10B.5. As part of the registration, the nonresident
3 alien, foreign business, or foreign government, or an agent,
4 trustee, or fiduciary thereof, shall file all of the following
5 information:

6 1. The legal name, street address, mailing address,
7 if different, and the birthplace and nationality of the
8 nonresident alien, foreign business, or foreign government that
9 owns the interest in the agricultural land.

10 2. The legal name, street address, mailing address,
11 if different, and the birthplace and nationality of the
12 agent, trustee, or fiduciary of the nonresident alien,
13 foreign business, or foreign government in subsection 1, if
14 specifically authorized to do any of the following:

15 a. Purchase the agricultural land.

16 b. Supervise the daily operations on the agricultural land.

17 3. A statement of the purpose for conducting business in
18 this state.

19 4. A description of the purpose of the interest in the
20 agricultural land in this state as it relates to the stated
21 business purpose in subsection 3.

22 5. The legal name, street address, and mailing address
23 of any parent of the registering party, including the legal
24 name, street address, and mailing address of any subsidiary or
25 intermediary of the parent.

26 6. The legal name, street address, and mailing address of
27 any subsidiary of the registering party.

28 7. A listing of all other interests in agricultural land
29 that are held directly or indirectly by the registering party,
30 parent of the registering party, or subsidiary or intermediary
31 of the parent in the United States that exceeds two hundred
32 fifty acres.

33 Sec. 3. Section 9I.10, subsection 1, Code 2024, is amended
34 to read as follows:

35 1. If the secretary of state finds that a nonresident alien,

1 foreign business, foreign government, or an agent, trustee,
2 or other fiduciary thereof, has acquired or holds title to or
3 interest in agricultural land in this state in violation of
4 this chapter or has failed to timely register as required under
5 section 9I.7 or has failed to timely report as required under
6 section ~~9I.8~~ 10B.4, the secretary shall report the violation
7 to the attorney general.

8 Sec. 4. Section 9I.10, Code 2024, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 4. The attorney general may conduct an
11 inquiry or investigation regarding a violation of this chapter
12 or section 10B.4. As part of that inquiry or investigation,
13 and in accordance with the Iowa rules of civil procedure, the
14 attorney general may issue a subpoena for the production of
15 records, including but not limited to books, accounts, papers,
16 correspondence, memoranda, purchase agreements, files, or other
17 documents in a print or electronic format. If a person refuses
18 compliance, the attorney general may seek enforcement by the
19 district court.

20 Sec. 5. Section 9I.12, Code 2024, is amended to read as
21 follows:

22 **9I.12 Penalty — failure to timely file.**

23 A civil penalty ~~of not more than two thousand dollars to~~
24 exceed twenty-five percent of the county's assessed value of
25 the subject agricultural land for the previous year shall be
26 imposed, for each offense, upon a nonresident alien, foreign
27 business, or foreign government, or an agent, trustee, or other
28 fiduciary thereof, who fails to timely file the registration as
29 required by [section 9I.7](#), ~~or who fails to timely file a report~~
30 ~~required by [section 9I.8](#).~~

31 Sec. 6. Section 10B.4, subsection 1, Code 2024, is amended
32 to read as follows:

33 1. A biennial report shall be filed by a reporting entity
34 with the secretary of state on or before March 31 of each
35 odd-numbered year as required by rules adopted by the secretary

1 of state pursuant to [chapter 17A](#). However, a reporting entity
2 required to file a biennial report pursuant to [chapter 489](#),
3 [490](#), [496C](#), [497](#), [498](#), [499](#), [501](#), [501A](#), or [504](#) shall file the
4 report required by [this section](#) in the same year as required
5 by that chapter. The reporting entity may file the report
6 required by [this section](#) together with the biennial report
7 required to be filed by one of the other chapters referred to
8 in [this subsection](#). The reports shall be filed online or on
9 forms prepared and supplied by the secretary of state. The
10 secretary of state may provide for combining its reporting
11 forms with other biennial reporting forms required to be used
12 by the reporting entities.

13 Sec. 7. Section 10B.4, subsection 2, unnumbered paragraph
14 1, Code 2024, is amended to read as follows:

15 A report required pursuant to [this section](#) shall contain
16 information for the reporting period regarding the reporting
17 entity as required by the secretary of state which shall at
18 least include any updates to the information provided in the
19 registration to the secretary of state in section 9I.7 and all
20 of the following:

21 Sec. 8. Section 10B.4, Code 2024, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 4. The attorney general may conduct an
24 inquiry or investigation regarding a violation of this section
25 as provided in section 9I.10.

26 Sec. 9. Section 10B.4A, Code 2024, is amended to read as
27 follows:

28 **10B.4A Suspension of other filing requirements.**

29 The secretary of state shall not prepare or distribute forms
30 for reports or file reports otherwise required pursuant to
31 ~~section 9I.8 or 501.103~~. A person required to file a report
32 pursuant to [this chapter](#) is not required to file a report under
33 ~~those sections~~ section 501.103. ~~A person required to file a~~
34 ~~report pursuant to this chapter is not required to register~~
35 ~~with the secretary of state as otherwise required in section~~

1 ~~9I.7.~~

2 Sec. 10. NEW SECTION. 10B.5A Annual summary to governor and
3 general assembly.

4 The secretary of state shall prepare an annual summary of
5 foreign landholding. The summary must be a report summarizing
6 the compiled information included in the current registrations
7 filed pursuant to section 9I.7 and the last reports filed
8 pursuant to section 10B.4. The information is a confidential
9 record as provided in section 22.7. The attorney general may
10 have access to the annual summary and may use information
11 in the annual summary in any action to enforce state law,
12 including but not limited to chapters 9H and 9I, and this
13 chapter. The annual summary shall be made available to the
14 governor, members of the general assembly, and appropriate
15 committees of the general assembly in order to determine the
16 extent that agricultural land is held in this state by foreign
17 entities and the effect of such land ownership upon the economy
18 of this state. Upon request, the secretary of state shall
19 assist any committee of the general assembly studying these
20 issues.

21 Sec. 11. Section 10B.6, subsection 1, Code 2024, is amended
22 to read as follows:

23 1. a. ~~The~~ Except as provided in paragraph "b", the failure
24 to timely file a report or the filing of false information in a
25 report as provided in [section 10B.4](#) is punishable by a civil
26 penalty not to exceed one thousand dollars.

27 b. The failure to file a report or the filing of false
28 information in a report by a nonresident alien, foreign
29 business, or foreign government, or an agent, trustee, or other
30 fiduciary thereof as provided in section 10B.4 is punishable by
31 a civil penalty of up to ten thousand dollars for each offense.

32 Sec. 12. REPEAL. Section 9I.8, Code 2024, is repealed.

33 Sec. 13. REGISTRATION REQUIREMENT. A nonresident alien,
34 foreign business, or foreign government, or an agent, trustee,
35 or fiduciary thereof, that currently owns an interest in

1 agricultural land must update their registration with the
2 secretary of state's office to comply with the requirements of
3 section 9I.7, as amended by this Act, within one hundred eighty
4 days of the effective date of this Act.

5

EXPLANATION

6

The inclusion of this explanation does not constitute agreement with
7 the explanation's substance by the members of the general assembly.

7

8 BACKGROUND — GENERAL (CODE CHAPTERS 9H, 9I, AND 10B).

9 Currently, three related Code chapters impose requirements upon
10 the acquisition or holding of agricultural land suitable for
11 farming in this state.

12 BACKGROUND — FARMING BY A DOMESTIC OR FOREIGN BUSINESS
13 ENTITY (CODE CHAPTER 9H). Code chapter 9H, which is referred
14 to but not amended by this bill, restricts certain business
15 entities classified as either domestic (meaning formed in the
16 state) or foreign (meaning formed outside the state) from
17 acquiring or holding agricultural land, subject to a number
18 of exceptions such as a family farm corporation (Code section
19 9H.4). The Code chapter's reporting requirement was repealed
20 in 2003 (2003 Iowa Acts, chapter 115, sections 17 and 19).

21 BACKGROUND — FARMING BY A FOREIGN PERSON (CODE CHAPTER
22 9I). Code chapter 9I, amended by the bill, restricts a foreign
23 person from acquiring agricultural land suitable for use in
24 farming in this state (Code section 9I.3). The Code chapter
25 specifically describes a foreign person as a foreign business,
26 foreign government, or nonresident alien and any authorized
27 representative of the foreign business, foreign government, or
28 nonresident alien. Similarly, the Code chapter describes an
29 authorized representative as an agent, trustee, or fiduciary.
30 A foreign business is a corporation incorporated under the
31 laws of a foreign country or any other type of business entity
32 (e.g., limited liability company) if the majority interest
33 is owned directly or indirectly by one or more nonresident
34 aliens. A foreign person must file two documents with the
35 secretary of state, including a one-time registration (Code

1 section 9I.7) and an annual report (Code section 9I.8). The
 2 annual report must be filed by a foreign person that acquires
 3 agricultural land for development and is required to convert
 4 it for a nonfarming purpose within five years (Code section
 5 9I.4). Information in the registration or annual report is
 6 not a confidential record under Iowa's open records law (Code
 7 chapter 22). A foreign person who fails to file a timely
 8 annual report is subject to a civil penalty of not more than
 9 \$2,000 (Code section 9I.12). If the foreign person acquires
 10 or fails to convert agricultural land to a purpose other than
 11 farming within five years, the agricultural land escheats to
 12 the state pursuant to an enforcement action by the attorney
 13 general (Code section 9I.11).

14 BACKGROUND — SUPERSEDING FILING REQUIREMENTS (CODE CHAPTER
 15 10B). Code chapter 10B requires that a business entity
 16 described in Code chapter 9H, or a foreign person described
 17 in Code chapter 9I, acquiring or holding agricultural land,
 18 file a biennial report with the secretary of state (Code
 19 section 10B.4). In addition, a foreign person's duty to
 20 file a registration and annual report under Code chapter 9I
 21 is permanently suspended (Code section 10B.4A). Information
 22 published in the biennial report is a confidential record but
 23 may be released to the attorney general and members of the
 24 general assembly (Code section 10B.5).

25 BILL'S PROVISIONS — REGISTRATION REQUIREMENT (CODE
 26 CHAPTERS 9I AND 10B). The bill eliminates the suspension
 27 of the registration requirement (Code section 10B.4A). The
 28 same confidentiality requirements that currently apply to
 29 information in a biennial report (Code section 10B.5) apply
 30 to information in the reinstated registration under Code
 31 section 9I.7. The bill requires specific information to
 32 be included in the registration. A foreign person must
 33 provide its legal name, mailing address, and nationality. An
 34 authorized representative of a foreign person must state the
 35 representative's legal name, street and mailing address, and

1 nationality; and its authority to purchase the agricultural
2 land and supervise any daily operations on the agricultural
3 land. The foreign person must include a statement of the
4 purpose of conducting a business in this state; a description
5 of the purpose in the interest in the agricultural land; the
6 legal name and mailing address of a parent corporation, or an
7 intermediary or subsidiary of the parent corporation; and a
8 listing of all other interests in agricultural land totaling
9 more than 250 acres held in the United States by the foreign
10 person, a parent of the foreign corporation, or intermediary or
11 subsidiary of the parent. A foreign person currently owning
12 agricultural land has 180 days after the bill's enactment date
13 to register.

14 BILL'S PROVISIONS — INQUIRY OR INVESTIGATION BY THE
15 ATTORNEY GENERAL (CODE CHAPTERS 9I AND 10B). The bill
16 authorizes the attorney general to conduct an inquiry or
17 investigation regarding a violation of Code chapter 9I (Code
18 section 9I.10) or the biennial reporting requirements in Code
19 chapter 10B (Code section 10B.4). This includes the power to
20 issue a subpoena for the production of records, and to seek
21 compliance of the subpoena in district court.

22 BILL'S PROVISIONS — PENALTIES (CODE CHAPTER 9I). The bill
23 changes the civil penalty imposed for failing to timely file
24 a registration to an amount not more than 25 percent of the
25 county's assessed value of the subject agricultural land for
26 the previous year, and retains language referring to "each
27 offense".

28 BILL'S PROVISIONS — REPORTING REQUIREMENTS (CODE CHAPTERS
29 9I AND 10B). The bill eliminates the suspended annual
30 reporting requirements in Code chapter 9I (Code section
31 10B.4A). Unlike the reinstated registration requirement, the
32 annual reporting requirement is repealed (Code section 9I.8).
33 The bill amends the biennial reporting requirements in Code
34 chapter 10B (Code section 10B.4). Specifically, the biennial
35 report must include any updates to the information stated

1 in the registration. The secretary of state must prepare
2 an annual summary of compiled information in the current
3 registrations and last filed reports (Code section 10B.5A).
4 The information is a confidential record. However, the bill
5 creates an exception allowing access to the record by the
6 attorney general for enforcement purposes, and the governor and
7 general assembly for public policy purposes.

8 BILL'S PROVISIONS — PENALTIES (CODE CHAPTER 10B). The
9 civil penalty for failing to timely file a biennial report or
10 filing false information in such report is increased to an
11 amount of not more than \$10,000 for violations by a foreign
12 person. There is another reference to "each offense" (Code
13 section 10B.6).