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State Laws Relating to the Ownership of U.S. Agricultural Land by Aliens and Business Entities

Dale C. Schian

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STATE LAWS RELATING TO THE OWNERSHIP OF U.S. AGRICULTURAL LAND BY ALIENS AND BUSINESS ENTITIES, by Dale C. Schian, Natural Resource Economics Division, Economic Research Service, U.S. Department of Agriculture, Washington, D.C. 20250. ERS Staff Report No. AGES840412, May 1984.

ABSTRACT

A significant number of States have laws directed at the ownership of U.S. land by aliens and business entities. These laws vary greatly from State-to-State in the degree of their severity. Thirty States have some type of law restricting alien ownership of land. Ten States require aliens to report their landholdings within the State. Fifteen States restrict business entities from owning land or engaging in the business of farming. Eleven States have laws requiring business entities to report their landholdings within the State. An individual State may be included in more than one of the above categories.

Keywords: Aliens, corporations, family farm corporations, foreign investment, land acquisition, landownership, reporting requirements, State laws, statutes.

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STATE LAWS RELATING TO THE OWNERSHIP OF U.S. AGRICULTURAL

LAND BY ALIENS AND BUSINESS ENTITIES

Dale C. Schian*

INTRODUCTION

The following material is intended to be a guide for persons interested in determining the way that State laws may affect alien or business-entity ownership of U.S. land. The objective is to present a summary of these State laws as they appear in the statute books. The laws included here are those which most directly affect the ownership of land, but there may be other laws which indirectly affect such ownership. Although in many cases the summaries include great detail for the sake of completeness, the interpretation of possible ambiguities and inconsistencies in the statutes is not frequently presented. This survey generally does not include court decisions concerning these laws, nor does it take into account the possibility that some State laws may be overridden by U.S. constitutional provisions or treaties.^{1/} Therefore, although these summaries provide a comprehensive survey of State statutory laws, they should not be relied upon for determining the status of the law in a particular State. One should consult a local attorney to determine such status.

DESCRIPTION OF CONTENTS

The summaries are presented State-by-State, and each State summary is divided into two major categories: laws affecting aliens and laws affecting corporations and other business entities. Most of the laws affecting aliens are directed at nonresident aliens only.^{2/} Laws affecting aliens and business entities often overlap and, thus, both categories should be consulted. In instances where corporations are specifically included in statutes directed primarily towards aliens, or vice versa, cross-references are made in the summary.

The two major categories are sometimes further subdivided into two sections: one presenting laws restricting the ownership of land and the other presenting laws requiring the reporting of land owned in the State. In addition, laws which relate

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^{1/} For a discussion of the possibility that U.S. constitutional and treaty provisions may override State laws restricting alien investment, see F. Morrison, Limitations on Alien Investment in American Real Estate, 60 Minn. L. Rev. 621 (1976).

^{2/} Statutes directed solely at resident aliens have not generally been included due to numerous constitutional questions which arise concerning their validity. These statutes tend to be very old and no recent reported cases of their enforcement could be found. For discussions of their existence and validity see id.; R. Bell & J. Savage, Our Land Is Your Land, 13 J. Mar. L. Rev. 679 (1980).

to the ownership of land by aliens and business entities which cannot be classified as restrictions or reporting requirements are set forth in a miscellaneous section. In States where there are no specific restrictions or reporting requirements for a particular category, the summary includes a statement to that effect.

The section entitled "Restrictions" generally describes laws restricting the ownership or acquisition of land. The laws may encompass real estate in general, agricultural lands, or State lands; however, residency requirements contained in homesteading statutes have not been included. The nature of the restrictions vary from outright prohibitions to limitations on the amount of acreage that may be held, the duration for which it may be held, or how it may be acquired. Laws which give general affirmative rights to acquire land are usually not presented; only laws which in some way restrict the right to acquire land are included.^{3/} In the category entitled "Corporations and Other Business Entities," the restrictions pertain to both landownership and the business of farming or ranching. However, laws pertaining to the general requirements for doing business in or establishing and maintaining corporations, trusts, and partnerships in the State have not been included in the summaries. Specific restrictions within a State's regulation of banks and insurance companies also have not been included unless they directly restrict agricultural holdings.

The section entitled "Reporting Requirements" describes laws requiring those persons or entities who own or acquire land in the State to file a report disclosing that fact. These laws generally require owners of land to provide identifying information about themselves and the land they own. Most States require both foreign and domestic corporations and some other business entities to file general annual reports, but their mention has been omitted from the State summaries.

In States which have exceptions to their restrictions or reporting requirements explicitly mentioned in the statute, the exceptions will be presented in the summary. The enforcement of the law or the penalty for its violation are also described in the summary when the statute includes them. In addition, States often differ in their definition of terms such as agricultural land, family farm corporation, authorized farm corporation, and others. In order to clarify the meaning of the restrictions, reporting requirements, and exceptions, some definitions are given when they exist in the statute. Two terms whose definitions are generally agreed upon, but which should be defined here, are alien corporation and foreign corporation. An alien corporation is one which is incorporated outside of the United States. A foreign corporation is one which is incorporated outside of a particular State, but not necessarily outside of the United States. Alien corporations are usually treated as foreign corporations unless they are separately mentioned.

In drafting the summaries, an attempt was made to clarify ambiguous statutory language. Where secondary sources were found to be helpful, they have been noted.

^{3/} Statutes which establish eligibility for citizenship as the only requirement for landownership also have not been included. These statutes were enacted when Federal immigration laws prohibited entire nationalities from becoming U.S. citizens. Because of amendments to the Federal immigration laws and court decisions broadly construing who is eligible for citizenship, see, e.g., Hughes v. Kerfoot, 175 Kan. 181, 263 P.2d 226 (1953), these statutes do not impose any restrictions for most investors. No recent decisions prohibiting an alien from owning land due to the alien's ineligibility for citizenship were found.

However, where significant unresolved ambiguities appear in the statute, the statute's actual wording and punctuation have usually been retained in the summary.

SUMMARY

Thirty States have some type of law restricting alien ownership of real property (table 1). The restrictions on aliens vary greatly in the degree of their severity. Some States, such as Idaho, merely restrict the acquisition of State lands by aliens. Other States restrict the acquisition of land generally or agricultural land specifically, but some States, such as Maryland, may limit their restrictions to enemy aliens. Indiana and other States restrict the amount of acreage that may be held. Finally, States such as Minnesota have outright prohibitions on alien ownership or acquisition of land, but they also generally have exceptions to those prohibitions.

There are 10 States which require aliens to report the land they own in the State. The reporting laws generally exist to enable the States to monitor the extent of foreign ownership in their jurisdictions. Alien individuals, alien corporations, or U.S. corporations in which a significant interest is owned by aliens are usually the ones required to file these reports. The information required in the reports varies from State to State. Additionally, the statutes of seven States (Illinois, Kentucky, Minnesota, North Carolina, Pennsylvania, South Dakota, and Virginia) allow or direct the State agency charged with monitoring foreign investment to use data collected by the Federal Government.

Table 1--Summary of State Restrictions and Reporting Requirements

State	Aliens		Corporations and Other Business Entities	
	Restrictions	Reporting* Requirements	Restrictions	Reporting* Requirements
Alabama				
Alaska				
Arizona			x	
Arkansas	x	x		
California	x			
Colorado				
Connecticut	x			
Delaware				
Florida		x		x
Georgia	x	x		x
Hawaii				
Idaho	x			
Illinois	x	x	x	x
Indiana	x			
Iowa	x	x	x	x

continued--

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Table 1--Summary of State Restrictions and Reporting Requirements

State	Aliens		Corporations and Other Business Entities	
	Restrictions	Reporting* Requirements	Restrictions	Reporting* Requirements
Kansas	x		x	x
Kentucky	x		x	
Louisiana			x	x
Maine				
Maryland	x			
Massachusetts				
Michigan				
Minnesota	x	x	x	x
Mississippi	x		x	
Missouri	x	x	x	x
Montana	x			
Nebraska	x		x	
Nevada	x			
New Hampshire	x			
New Jersey	x			
New Mexico				
New York	x			
North Carolina	x			
North Dakota	x	x	x	x
Ohio		x		
Oklahoma	x		x	x
Oregon	x			
Pennsylvania	x			
Rhode Island				
South Carolina	x		x	
South Dakota	x		x	x
Tennessee				
Texas				
Utah				
Vermont				
Virginia	x	x		
Washington				
West Virginia				
Wisconsin	x		x	
Wyoming	x			

*/ States which rely upon information submitted by persons other than the alien or business entity affected are noted in the summaries but are not included in this chart.

Fifteen States have laws restricting business entities from owning land or engaging in the business of farming. Most of these laws restrict the ownership of agricultural land, but some restrict the ownership of real estate generally, while others restrict the purchase of State lands. Several States, such as Iowa, have long lists of exceptions to their general restrictions. An exception common to many States is one which excludes entities such as family farm corporations or authorized farm corporations from the general restrictions.

Eleven States have laws requiring business entities to report the land they own in the State. The information required in these reports varies but is usually similar to either that required of foreign corporations doing business in the State or that required of alien individuals owning land in the State.

Since the previous publication of this report, Mayer, supra at 1, four States have enacted changes in their restrictions or reporting requirements that are especially noteworthy. Florida and Georgia have enacted new reporting requirements which apply to both aliens and corporations. Texas eliminated its restrictions on corporations holding land. Finally, Nebraska imposed new restrictions on corporations engaging in farming or holding agricultural land, but repealed the statute which required corporations to report their holdings.

STATE LAWS*

ALABAMA

I. Aliens

No restrictions or reporting requirements.

II. Corporations and Other Business Entities.

No restrictions or reporting requirements.

ALASKA

I. Aliens

A. Restrictions: None.

B. Reporting Requirements: None.

C. Miscellaneous:

1. Each district judge or magistrate shall file with the commissioner of commerce and economic development a copy of each conveyance recorded that contains a statement that property is conveyed to as nonresident alien or for the benefit of a nonresident alien. Alaska Stat. § 22.15.120 (1962).

2. See II. infra.

*/ This summary of State laws is current as of January 1, 1983.

II. Corporations and Other Business Entities

No restrictions, or reporting requirements, but the articles of incorporation of domestic corporations, the applications for certificates of authority for foreign corporations, and the biennial reports by all corporations must disclose the name and address of each alien affiliate, the percentage of outstanding shares controlled by each alien affiliate, and a specific description of the nature of the relationship between the corporation and its alien affiliates. Id. §§ 10.05.225, .615, .702 (1962 & Supp. 1982).

ARIZONA

I. Aliens

No restrictions or reporting requirements.

II. Corporations and Other Business Entities

A. Restrictions:

1. No individual, corporation, or association may purchase more than 160 acres of State agricultural land or more than 640 acres of State grazing land. Ariz. Const. art. 10, § 11; Ariz. Rev. Stat. Ann. § 37-240 (Supp. 1975-1982).
2. No sales, leases, or subleases of State lands shall be made to corporations or associations not qualified to transact business in the State. Ariz. Rev. Stat. Ann. § 37-240(B) (Supp. 1975-1982).

B. Reporting Requirements: None.

ARKANSAS

I. Aliens

A. Restrictions:

1. Although the statute discussed at I.B. infra is principally a reporting statute, certain sections may imply that there is a prohibition on ownership of agricultural land by foreign parties. See Ark. Stat. Ann. §§ 77-2209, -2210 (Supp. 1981).

The Arkansas code states that except as provided in the act, all aliens, whether or not residents of the United States, shall be capable of acquiring any interest in any real estate except agricultural land. Id. § 77-2209; see also id. § 77-2210. However, if sections 77-2209 and 77-2210 are to be read as consistent with other sections of title 77, chapter 22, it is probable that they were merely intended to negate any suggestion that the reporting requirements implicitly apply to nonagricultural lands.

2. Aliens are ineligible to obtain a deed to tax-forfeited agricultural land from the State until they become naturalized citizens. Id. § 10-926 (1976).

B. Reporting Requirements:

1. Requirements:

- a. Any foreign party or agent, trustee, or fiduciary for a foreign party who acquires any interest (except leases and options of less than 10 years) in agricultural land, shall register such ownership with the circuit clerk of the county in which the land is located, within 60 days after such acquisition. The registration shall include: (1) a description of the land acquired, and (2) the name and business address of the foreign party which acquired such lands or on whose behalf the lands were acquired. The clerk shall record the information and forward copies of the registration to the secretary of state. Id. §§ 77-2203, -2204, -2211 (1981).
- b. Section 77-2203(c) implies that a party who has violated the reporting requirements continues to be in violation of the statute for as long as they hold an interest in the land. It does not include a provision for allowing late compliance to cure the violation.

2. Exceptions:

- a. The act does not apply to agricultural land owned by a foreign party on the effective date of the act (April 19, 1979) nor to any alien while he is a bona fide resident of the United States. However, if an alien ceases to be a bona fide resident of the United States, according to one section of the act, he must register the ownership of his agricultural lands within 2 years, while another section seems to give him only 60 days in which to register. Id. § 77-2207; but see id. § 77-2208.
 - b. Any foreign party who acquires agricultural land for nonfarming purposes is exempt from the reporting requirements. However, such a foreign party must file a declaration of intent with the secretary of state within 60 days of the acquisition. The declaration of intent must disclose: (1) the intended use of the land, (2) the foreign party's identity, and (3) a legal description of the land acquired. Any foreign party who acquires agricultural land for nonfarming purposes and fails to put the land to the use described in his declaration of intent within 5 years shall register as required above. Id. § 77-2210.
3. Enforcement: The attorney general may enforce the act by filing an action in the circuit court of the appropriate county. If the attorney general refuses to bring an action, any person claiming a violation may bring an action. If a court finds a violation of the act, it may order that the agricultural land be divested within 2 years to a nonalien party. Any land not divested within 2 years shall be ordered sold at public sale. Id. §§ 77-2205, -2206.
4. Definitions:
- a. Foreign party: (1) nonresident aliens, (2) foreign governments, (3) alien corporations, partnerships, trusts, or other legal entities, and (4) any corporation, partnership, trust, or other

legal entity in which a significant interest is held by any combination of 1, 2, or 3 above.

- b. Agricultural land: Land outside the corporate limits of any municipality used or capable of use for agricultural, forestry, or timber production, but not including oil, gas, or other commercial minerals underlying the land.

Id. § 77-2202.

II. Corporations and Other Business Entities

Some corporations and other business entities are explicitly affected by the alien restrictions and reporting requirements discussed above. See I.A. and I.B. supra.

CALIFORNIA

I. Aliens

A. Restrictions:

1. Only persons who are citizens of the United States, or who have declared their intention of becoming citizens, or whose country grants reciprocal rights, or who are granted the right by treaty may be issued leases or prospecting permits to public lands. Alien corporations are not eligible for the above rights unless 90 percent or more of the shares are owned by eligible persons or corporations. Cal. Pub. Res. Code § 6801 (West 1977).
2. Only U.S. citizens or persons who have filed their intention to become such, and are also State residents, may purchase certain State-owned lands. Id. §§ 7356, 7601, 8105.

B. Reporting Requirements: None.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

COLORADO

I. Aliens

No restrictions or reporting requirements.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

CONNECTICUT

I. Aliens

A. Restrictions:

1. Resident aliens and citizens of France may hold real estate without limitation but the right to citizens of France exists only so long as France accords the same rights to U.S. citizens. Conn. Gen. Stat. Ann. § 47-57 (West 1981).
2. Nonresident aliens are authorized to hold and transmit real estate only if it is used in mining or developing the products of the mine. Id. § 47-58.

B. Reporting Requirements: None.

C. Miscellaneous:

The probate court shall order the sale of any real property which would otherwise pass by devise or intestacy to a nonresident alien, except in cases where treaties or laws permit distribution of real estate to a nonresident alien. Where there is a sale, the net proceeds shall be distributed to the nonresident alien. Conn. Gen. Stat. Ann. § 45-278a (West 1981).

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

DELAWARE

I. Aliens

No restrictions or reporting requirements.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

FLORIDA

I. Aliens

A. Restrictions: See I.B. infra.

B. Reporting Requirements:

1. Requirements:

- a. All corporations, organized outside of the United States, that desire to acquire any interest in real property, including leases and mortgages, must establish prior to acquisition, and maintain thereafter, a registered office and a registered agent.

(1) The registered agent must be either a resident of the State or a corporation authorized to transact business therein.

(2) The registered agent's business office must be identical with that of the alien corporation's registered office.

b. Each alien corporation must file a report between January 1 and July 1 of each year stating:

- (1) The name of the alien corporation.
- (2) The street address of the principal office of the alien corporation.
- (3) The name and street address of each officer and each director of the alien corporation.
- (4) The name and street address of the registered agent and registered office of the alien corporation.
- (5) The signature of the corporate president, vice president, secretary, assistant secretary, or treasurer attesting to the accuracy of the report as of the day immediately preceding filing of this report.

Fla. Stat. Ann. § 692.05 (West Supp. 1983).

Requirement b. has raised a number of questions regarding compliance. It is unclear how broad the phrase "each alien corporation" was intended to be. The phrase could refer to all alien corporations claiming an interest in real property, those claiming a recordable interest, those having acquired an interest after the effective date of the statute (September 1, 1981), those subject to the State's jurisdiction, or those prohibited from suing or defending in the courts of the State under I.B.2. infra. Given the desire of the legislature to curtail the investment of profits from criminal activities, it is likely that the phrase "each alien corporation" is intended to be very broad. See generally Investment/USA, Feb. 1982, at 11. It is impossible for some alien corporations to strictly comply with subsection (5) supra. Some alien corporations do not have any of the officers listed or must mail the report from outside the United States and are therefore unable to have it signed the day before filing. It was the opinion of the Florida attorney general that a report signed by an officer with duties similar to those of the designated officers of American corporations or a report signed before mailing would fulfill the purposes of the statute. 081 Op. Fla. Att'y Gen. 87 (Nov. 3, 1981).

2. Penalty: Failure to comply with the requirements of I.B.1. supra prohibits the alien corporation from owning, purchasing, or selling real property, and from suing or defending in the State courts. Fla. Stat. Ann. § 692.05(7). See Investment/USA supra for the problems caused by late or defective compliance.

II. Corporations and Other Business Entities

No general restrictions or reporting requirements. But see I.A. supra.

GEORGIA

I. Aliens

A. Restrictions:

1. Aliens who are the subjects of governments at peace with the United States shall have the privilege of purchasing, holding, and conveying real estate. Ga. Code Ann. § 1-2-11 (1982).
2. See also I.B. infra.

B. Reporting Requirements:

The substantive provisions of Georgia's reporting statute, Ga. Code Ann. § 16-14-15 (1982), are the same as the Florida statute discussed supra.

II. Corporations and Other Business Entities

No general restrictions or reporting requirements. But see I.B. supra.

HAWAII

I. Aliens

No restrictions on reporting requirements.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

IDAHO

I. Aliens

A. Restrictions:

Only U.S. citizens and aliens who have declared their intention to become U.S. citizens may purchase State lands. Idaho Code § 58-313 (1976).

B. Reporting Requirements: None.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

ILLINOIS

I. Aliens

A. Restrictions:

An alien may acquire title to real property. However, within 6 years of acquiring title (or, if the alien is under 21 years of age, within 6 years of his twenty-first birthday) he must either become a U.S. citizen or convey the property to a bona fide purchaser for value. If this is not done within 6 years, it is the duty of the State's attorney to bring

an action to force the sale. Ill. Ann. Stat. ch. 6, §§ 1 to 2 (Smith-Hurd 1975 & Supp. 1983-1984).

B. Reporting Requirements:

1. Requirements:

- a. Any foreign person who acquires or transfers any interest, other than a leasehold interest of 5 years or less or a security interest, in agricultural land must submit a report to the State director of agriculture not later than 90 days after such acquisition or transfer. The report must contain the following:
 - (1) The legal name and address of the foreign person.
 - (2) The citizenship of the foreign person, if an individual; or the nature of the legal entity, the country where created, and the principle place of business, if the foreign person is not an individual.
 - (3) The type of interest in agricultural land acquired or transferred.
 - (4) The legal description and acreage of the land.
 - (5) The purchase price paid or other consideration given.
 - (6) In the case of a transfer, the legal name and address of the person to whom the interest is transferred plus the information on that person as required above in (2).
 - (7) The agricultural purposes for which the foreign person intends to use the land.
 - (8) Such other information as the director may require by regulation.

Ill. Ann. Stat. ch. 5, § 603(a) (Smith-Hurd Supp. 1983-1984).

- b. Foreign persons holding agricultural land before the effective date of the act (August 14, 1979) should have reported such holdings within 180 days of such date, including in the report information similar to that in I.B.I.a. supra. Ill. Ann. Stat. ch. 5, § 603(b).
- c. When a person changes his status to become a foreign person or when land changes to become agricultural land, reports must be filed within 90 days of the change of status as in I.B.I.a. supra. Ill. Ann. Stat. ch. 5, § 603(c)-(d).
- d. Foreign persons other than individuals and governments may be required to submit an additional report containing the names and addresses of persons holding an interest in such foreign person, and their citizenship, or the country where organized and the principle place of business. Entities whose names are disclosed in the additional report may have to further report the names of persons holding an interest in those entities. Id. § 603(e)-(f).

2. Caveat: A foreign person required to submit a report shall be in full compliance if such person files with the State director of agriculture a copy of the report required under the Federal Agricultural Foreign Investment Disclosure Act of 1978, 7 U.S.C. §§ 3501-3508 (1982) (AFIDA). Ill. Ann. Stat. ch. 5, § 606.
3. Enforcement: If the State director of agriculture determines that a person has willfully and knowingly failed to submit a report or willfully and knowingly submitted a report that is deficient, false, or misleading, a civil penalty may be imposed by the director, but such penalty when added to the Federal penalty for violation of the AFIDA statute shall not exceed 25 percent of the fair market value of the interest in the land. Id. § 604.
4. Definitions:
 - a. Agricultural land: Land used for agriculture, forestry, or timber production, except agricultural land used primarily to meet pollution control laws.
 - b. Foreign person: (1) nonresident aliens, (2) foreign governments, (3) alien corporations, partnerships, trusts, and other entities, and (4) any corporation, partnership, trust, or other entity in which a significant interest is held by any combination of 1, 2, or 3 above.

Id. § 602.

II. Corporations and Other Business Entities

A. Restrictions:

1. Illinois corporations may only own that property appropriate to accomplish any or all of its purposes. Ill. Ann. Stat. ch. 32, § 157.5 (Smith-Hurd 1975).
2. Corporations may acquire, own, use, convey, and otherwise dispose of and deal in real property or any interest therein, without limitation, if these powers are among its purposes as set forth in its articles of incorporation. Id.
3. Foreign corporations are limited to those activities which Illinois corporations are permitted to perform. Id. § 157.103 (Smith-Hurd 1954).
4. Foreign corporations may acquire title to land sold under any judgment, or power in mortgage or deed, but must sell any real estate so acquired within 5 years of acquiring title. Id. ch. 17, § 2901 (Smith-Hurd 1981).

B. Reporting Requirements:

Some corporations and other business entities are explicitly affected by the alien reporting requirements mentioned in I.B. supra.

INDIANA

I. Aliens

A. Restrictions:

Natural persons who are aliens, whether resident or nonresident, may acquire by purchase, devise, or descent any real estate, but any alien who shall acquire in excess of 320 acres must dispose of the excess within 5 years, unless he becomes a U.S. citizen, or the excess will escheat to the State. Ind. Code Ann. §§ 32-1-8-1 to -3 (Burns 1973). However, other sections provide that aliens who have not declared an intention to become U.S. citizens or who reside outside of Indiana may take and hold real estate only by devise or descent, and any alien may acquire land through enforcement of a lien or debt. All such lands must be divested within 5 years. Id. §§ 32-1-7-1 to -3. Despite sections 32-1-7-1 to -3 remaining on the books, section 32-1-8-3. Expressly repealed all laws and parts of laws in conflict with sections 32-1-8-1 to -2.

B. Reporting Requirements: None.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

IOWA

I. Aliens

A. Restrictions:

1. Prohibitions and Limitations:

- a. A nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof shall not purchase or otherwise acquire any interest in agricultural land in the State. Iowa Code §§ 567.2, .3(1) (1983).
- b. A person or business which acquires agricultural land, except by devise or descent, whose status changes such that it becomes a nonresident alien or foreign business, must divest itself of all interest in the land within 2 years of the change of status. Id. § 567.6.
- c. Those who would otherwise be restricted, but qualify under one of the exceptions below, may not transfer an interest in agricultural land to a nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof except by devise or descent. Id. § 567.3(4).

2. Exceptions:

- a. All those holding agricultural land on January 1, 1980, who would otherwise be restricted by this act, may continue to own or hold the land, but may not purchase or otherwise acquire additional agricultural land. Id. § 567.3(1).

- b. The restrictions do not apply to agricultural land acquired by devise or decent, but such land must be divested within 2 years of the acquisition. Id. §§ 567.3(3), .5.
 - c. The restrictions shall not apply to an interest in agricultural land, not to exceed 320 acres, acquired for an immediate or pending use other than farming. The land must be put to that use within 5 years after acquisition and shall not be used for farming before being put to a nonfarming use, except under lease to one who is not subject to restrictions on agricultural landholdings. Id. §§ 567.3(3), .4.
3. Enforcement: The attorney general may bring an action for divestiture in the district court of the county in which land acquired in violation of the act is located. The court may declare that the land be escheated to the State. The land is then sold by the State. The proceeds remaining after court costs are paid go to the person divested of the property, but this amount may not exceed the amount the person divested actually paid for the property. Id. §§ 567.9-.10.
4. Definitions:
- a. Agricultural land: Land suitable for use in the production of agricultural crops, poultry, eggs, milk, fruit or other horticultural products, livestock, grazing, timber, forest products, nursery products, and sod. It does not include a contract where a processor of farm products provides farm services.
 - b. Foreign business: A corporation incorporated under the laws of a foreign country or a business entity in which a majority interest is owned directly or indirectly by nonresident aliens. Legal entities including trusts do not affect the determination of ownership of a foreign business.

Id. § 567.1.

B. Reporting Requirements:

- 1. Registration: A nonresident alien, foreign corporation, or foreign government, or an agent, trustee, or fiduciary thereof which owns or acquires an interest in agricultural land must register the land with the secretary of state within 60 days of acquiring the land. The registration shall contain the name of the owner, the location of the property, and number of acres. If the owner of the land is an agent, trustee, or fiduciary of a nonresident alien, foreign business, or foreign government the registration shall contain the name of any principal for whom the land was purchased. Id. § 567.7.
- 2. Reports: A nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof acquiring agricultural land not subject to the restrictions of this act because the land was acquired for an immediate or pending use other than farming shall file a report with the secretary of state before March 31 of each year. The report shall contain the following:
 - a. The name of the owner of the land or owner of the interest in the land.

- b. If the land is owned by an agent, trustee, or fiduciary of a nonresident alien, foreign business, or foreign government, the name of any principal for whom the land was purchased.
- c. The location and the number of acres.
- d. The date the land or the interest in the land was acquired.
- e. The immediate and pending use for which the land or the interest in the land was acquired and the status of the land's development for the purpose other than farming.
- f. The present use of the land.

Id. § 567.8.

- 3. Penalty: Failure to register or to file a report as required by this act shall be punishable by a fine of not more than \$2,000 for each offense. Id. § 567.11.
- 4. Definitions: See I.A.4. supra.
- 5. See also II.B. infra.

C. Recording Requirements:

1. Requirements:

- a. Every conveyance or lease of agricultural land must be recorded by the grantee or lessee within 180 days of the conveyance or lease.
- b. If the grantee or lessee is a nonresident alien, an affidavit with the name, address, and citizenship of the nonresident alien must be included as a precondition to recording the lease or conveyance.
- c. If the nonresident alien is a partnership, limited partnership, corporation, or trust, the affidavit must either: (1) disclose the names, addresses, and citizenship of the nonresident alien individuals who are the beneficial owners of such entities, or (2) state that the partnership, limited partnership, corporation, or trust has a class of equity securities registered with the U.S. Securities and Exchange Commission.

2. Exceptions:

- a. Leases of 5 years or less, including renewals.
 - b. Conveyances and leases made by operation of law.
 - c. Distributions made from estates to heirs or devisees.
- 3. Penalty: Failure to record in a timely manner is punishable by a fine of up to \$100 for each day of violation but does not invalidate an otherwise valid conveyance or lease. Iowa Code § 558.44 (1983).

4. Definitions:

a. Nonresident alien includes:

- (1) An individual who is not a citizen of the United States and who is not domiciled in the United States.
- (2) A corporation incorporated under the law of any foreign country.
- (3) A corporation organized in the United States, beneficial ownership of which is held, directly or indirectly, by nonresident alien individuals.
- (4) A trust organized in the United States or elsewhere, if beneficial ownership is held, directly or indirectly, by nonresident alien individuals.
- (5) A partnership or limited partnership organized in the United States or elsewhere, if beneficial ownership is held, directly or indirectly, by nonresident alien individuals.

- b. Beneficial ownership includes interests held by a nonresident alien individual directly or indirectly holding or acquiring a 10 percent or greater share in the partnership, limited partnership, corporation, or trust, or directly or indirectly through two or more such entities. Beneficial ownership also includes interests held by all nonresident alien individuals if the nonresident alien individuals in the aggregate directly or indirectly hold or acquire 25 percent or more of the partnership, limited partnership, corporation, or trust.

Id. § 558.43.

D. Tax Recording Requirements:

1. Requirements: Most arms-length conveyances of nonleasehold estates must be accompanied by a declaration of value as a prerequisite to recording. On transfers of agricultural land, the declaration of value must include whether the purchaser is a corporation, limited partnership, trust, aliens, or nonresident alien. This information is shared by the county recorder, the city or county assessor, the State director of revenue, and the secretary of state to aid each in monitoring compliance with this and other chapters of the State code.
Id. §§ 428A.1-.2.

2. Definitions: See II.A.4. infra.

E. Miscellaneous: See II.E. infra.

II. Corporations and Other Business Entities

A. Restrictions:

1. Prohibitions and Limitations: No corporation or trust shall either directly or indirectly acquire or otherwise obtain or lease any agricultural land in the State. Iowa Code § 172C.4 (1983).

2. Exceptions:

- a. Family farm corporations, authorized farm corporations, family trusts, authorized trusts, and testamentary trusts.
- b. A bona fide encumbrance taken for security.
- c. Land acquired by a corporation for research or experimental purposes, if the commercial sales from such land are incidental (less than 25 percent of gross sales) to those purposes.
- d. Land acquired by a nonprofit corporation.
- e. Land acquired by a corporation or trust for immediate or potential nonfarming uses.
- f. Land acquired by a corporation in the collection of debts or enforcement of a lien.
- g. A municipal corporation.
- h. Land acquired by a trust company or bank as trustee for a family trust, authorized trust, testamentary trust, or a nonprofit corporation.
- i. Certain religious organizations.
- j. Agricultural land held or leased by a corporation on July 1, 1975, or by a trust on July 1, 1977, as long as that entity continues to hold or lease the land.

Id. § 172C.4(1)-(11).

3. Enforcement: Violations are punishable by fines of not more than \$50,000 and any land acquired in violation of the act must be divested within 1 year. Id. § 172C.4(12).

4. Definitions:

- a. Agricultural land: Same as I.A.4. supra except that the production of timber, forest products, nursery products, and sod are not included in the prohibitions here.
- b. Authorized farm corporations: (1) Founded for the purpose of farming and the ownership of agricultural land, (2) the stockholders do not exceed 25 in number, and (3) the stockholders are all natural persons or fiduciaries for natural persons or nonprofit corporations.
- c. Authorized trust: (1) Beneficiaries do not exceed 25 in number, (2) all the beneficiaries are natural persons, fiduciaries, or nonprofit corporations and are not acting as a trustee for a prohibited trust, and (3) its income is not exempt from U.S. or Iowa taxation.
- d. Beneficial ownership: See I.C.4.b. supra.

e. Family farm corporation: (1) Founded for the purpose of farming and the ownership of agricultural land, (2) a majority of the stock is held by and a majority of the stockholders are persons related to each other, (3) all the stockholders are natural persons or persons acting as fiduciaries for natural persons, and (4) 60 percent of the corporation's gross revenue the last 3 years came from farming.

f. Family trust: (1) A majority interest in the trust is held by and a majority of the beneficiaries are persons related to each other and (2) all the beneficiaries are natural persons, fiduciaries, or nonprofit corporations and are not acting as a trustee for a prohibited trust.

g. Nonresident alien: See I.C.4.a. supra.

Iowa Code § 172C.1 (1983).

5. See also I.A. supra.

B. Reporting Requirements:

1. Requirements:

a. Corporations: All corporations that own or lease agricultural land must file yearly reports with the secretary of state containing the following information:

- (1) The type of agricultural activity engaged in by the corporation, and the name, address, and title of the agent or person in charge of the corporation's daily operations.
- (2) The amount of agricultural land owned or leased; the amount and kind of agricultural products owned, produced, or contracted for in the previous year; and the terms of any live-stock or crop-share agreement.
- (3) If the land is held for a nonfarming purpose, a statement of what that purpose is.
- (4) The name, address, residence, citizenship, and the number of shares held by any nonresident alien shareholder holding 5 percent or more of any class of stock, and the name, address, and number of shares held by all shareholders owning more than 10 percent of any class of stock.
- (5) Whether the corporation is a family farm corporation or authorized farm corporation, and the number of shares held by persons residing on or actively engaged in farming.
- (6) Corporations owning agricultural land used for research, testing, or experimental purposes or held for potential expansion of its physical facilities need only report items (1)-(3).

Iowa Code § 172C.5 (1983).

- b. Limited partnerships: Each limited partnership owning or leasing agricultural land must file a report with the secretary of state before March 31 of each year containing information similar to that which corporations are required to report. In addition, limited partnerships must report the term of the partnership, the name, residence, and principal occupation of each member of the limited partnership, and, if a nonresident alien is a partner, his citizenship. The report must also include the amount of capital contributed by and the share of the profits of each limited partner. Iowa Code § 172C.6.
 - c. Fiduciaries: Every person acting as a fiduciary for a corporation, limited partnership, or nonresident alien who holds agricultural land must file a report with the secretary of state on or before January 31 of each year giving identifying information on the corporation, limited partnership, or nonresident alien and the acreage and location of the land owned by the fiduciary. Id. § 172C.7.
 - d. Beneficiaries: Any corporation, limited partnership, or nonresident alien identified as a beneficiary in a report under II.B.1.c. supra must file the respective report for that entity under II.B.1.a. or b. and I.B.1. supra before March 31 of each year. Iowa Code § 172C.8.
- 2. Penalty: Failure to timely file a report or the filing of false information is punishable by a civil penalty not to exceed \$1,000. Id. § 172C.11.
 - 3. Definitions: See II.A.4. supra.
 - 4. See also I.B. supra.
- C. Recording Requirements: See I.C. supra.
- D. Tax Recording Requirements:
- 1. See I.D. supra.
 - 2. Certain transfers within corporations or family corporations are exempt from the real estate transfer tax but are still required to file a declaration of value with its accompanying information. Compare Iowa Code § 428A.1 (1983) (15 exceptions to the declaration of value requirements) with § 428A.2 (1983) (17 exceptions to the real estate transfer tax).
- E. Miscellaneous:
- 1. The county assessor shall forward to the secretary of state, by October 1 of each year, the name and address of every corporation, nonresident alien, and trust owning agricultural land in the county, as shown by the assessment rolls of the county. Id. § 172C.12.
 - 2. The county recorder shall forward to the secretary of state, by December 1 of each year, the names and addresses of each limited partnership owning agricultural land or engaged in farming in the county as shown by county records. Id. § 172C.13.

KANSAS

I. Aliens

A. Restrictions:

The devise of real estate in Kansas is prohibited to any foreign country, subdivision thereof, or city, body politic, or corporation located therein or existing under the laws thereof, except devises to institutions organized for religious, educational, or charitable purposes. Kan. Stat. Ann. § 59-602 (1981).

B. Reporting Requirements: None.

II. Corporations and Other Business Entities

A. Restrictions:

1. Prohibitions and Limitations: No corporation, trust, limited corporate partnership, or corporate partnership shall, either directly or indirectly, own, acquire, or otherwise obtain or lease any agricultural land in the State. Id. § 17-5904.

2. Exceptions:

- a. Family farm corporations, authorized farm corporations, family trusts, authorized trusts, and testamentary trusts.
- b. A bona fide encumbrance taken for security.
- c. Gifts of land, by either grant or devise, to an educational, religious, or charitable nonprofit corporation.
- d. Corporate lands which are necessary for the operation of a non-farming business. Such land may not be used for farming except under lease to a person or entity which is permitted to own or lease agricultural land. The corporation shall not engage in the farming operation nor receive any financial benefit other than rent from the operation.
- e. Land acquired by a corporation in the collection of debts or through enforcement of a lien, provided that it is divested within 10 years.
- f. A municipal corporation.
- g. Land acquired by a trust company or bank in a fiduciary capacity for a nonprofit corporation.
- h. Land owned or leased on July 1, 1981, if (1) the entity owned or leased such land before July 1, 1965, (2) the entity was in compliance with Kan. Stat. § 17-5901 prior to its repeal by this act, or (3) the entity was not in compliance with Kan. Stat. § 17-5901 but is in compliance with this act by July 1, 1991.
- i. Land held or leased by a corporation for use as a feedlot.

- j. Land used for educational research or scientific or experimental farming.
- k. Land used for the commercial production of seed for sale or for the growing of alfalfa, by an alfalfa processing entity, if such land is located within 30 miles of such entity's plant site.
- l. Land owned or leased by a corporate partnership or limited corporate partnership in which the partners are all either natural persons or one of the legal entities listed in exception a. supra.

Kan. Stat. Ann. § 17-5904(a) (1981).

- 3. Enforcement: The attorney general shall institute suit to enforce the provisions of the act. Violators of the act are subject to a civil penalty of not more than \$50,000 and must divest themselves of the acquired land within 1 year. Id. § 17-5904(b).
- 4. Definitions:
 - a. Agricultural land: Land suitable for use in the production of agricultural crops, poultry, eggs, milk, fruit or other horticultural products, grazing, or livestock. It does not include the production of timber, forest products, nursery products, sod, or contracts to provide farm services.
 - b. Family farm corporation: (1) Founded for the purpose of farming and owning agricultural land, (2) a majority of the stock is held by and a majority of the stockholders are persons related to each other, (3) all the stockholders are natural persons or fiduciaries for natural persons, and (4) at least one of the stockholders is a person residing on the farm or actively engaged in the farming operation.
 - c. Authorized farm corporation: (1) A Kansas corporation, all incorporators of which are Kansas residents, (2) founded for the purpose of farming and the ownership of agricultural land, (3) the stockholders do not exceed 15 in number; however, if a stockholder dies and more than one person receives stock by bequest, all such persons shall be considered collectively as one stockholder, and (4) at least 30 percent of the stockholders are persons residing on the farm or actively engaged in its day-to-day operation.
 - d. Family trust: (1) A majority of the equitable interest in the trust is held by and a majority of the beneficiaries are persons related to each other and (2) all the beneficiaries are natural persons, fiduciaries, or nonprofit corporations and are not trustees for a trust.
 - e. Authorized trust: (1) The beneficiaries do not exceed 15 in number; however, if one beneficiary dies, and more than one person succeeds to the interest, all such persons shall be collectively considered one beneficiary, (2) the beneficiaries are all natural persons, fiduciaries, or nonprofit corporations,

and (3) its gross income is not exempt from U.S. or Kansas taxation.

Id. § 17-5903.

B. Reporting Requirements:

1. Requirements:

a. In addition to the reports required of all foreign and domestic corporations and limited partnerships, those that own agricultural land (defined at II.A.4. supra) in the State must report:

- (1) The acreage and location of each parcel owned or leased by the corporation and used or usable for agricultural or horticultural purposes.
- (2) The purposes for which the land is owned or leased.
- (3) Whether the land was acquired after July 1, 1981.

b. Corporations must also report the:

- (1) Value of nonagricultural and agricultural assets within the State stated separately.
- (2) Total number of stockholders.
- (3) Total number of acres under irrigation.

Kan. Stat. Ann. §§ 56-123(a), (c), 17-7503(b), -7504(b), -7505(b) (1981 & Supp. 1982).

2. Exception: All holdings of less than 10 acres, and of State-assessed-railroad-operating property may be exempted. Id. § 17-5902.
3. Penalty: Any person who knowingly submits, or through proper exercise of care should have known that he was submitting, a false statement or who fails to submit a statement shall be guilty of a misdemeanor punishable by up to 1 year in prison. Id. §§ 17-5902(b), 21-4502.

C. Miscellaneous:

Foreign insurance companies may not engage in the agricultural or horticultural business of producing, planting, raising, harvesting, or gathering of wheat, corn, barley, oats, rye, or potatoes, or the milking of cows for dairy purposes. Id. § 40-403(b).

KENTUCKY

I. Aliens

A. Restrictions:

1. Any alien, not an enemy, after declaring his intention to become a

U.S. citizen may recover, inherit, hold, and dispose of any interest in real property as if he were a citizen of the State. However, if citizenship is not obtained within 8 years from the time of acquisition of the property, the property will be subject to escheat. Ky. Rev. Stat. Ann. §§ 381.290, .300 (Bobbs-Merrill 1970).

2. Any alien resident in Kentucky, not an enemy, may acquire land for a residence or business for a period not exceeding 21 years. Id. § 381.320.
3. Nonresident aliens may hold property acquired by devise or descent for 8 years. Id. § 381.330.

B. Reporting Requirements: None. But note I.C. infra.

C. Miscellaneous:

1. The State commissioner of agriculture regularly reports to the State legislature the names of foreign investors owning agricultural land in the State, the county in which the land is located, and the number of acres owned by the foreign investor. The commissioner of agriculture's reports are based upon the information collected under the Agricultural Foreign Investment Disclosure Act of 1978, 7 U.S.C. §§ 3501-3508 (1982).
2. Each county court clerk and property valuation administrator shall notify the county Agricultural Stabilization and Conservation Service office of any property partially or wholly owned by foreign interests that they have reason to believe has not been duly reported.

Ky. Rev. Stat. Ann. § 246.105 (Bobbs-Merrill 1981).

II. Corporations and Other Business Entities

A. Restrictions:

No corporation shall hold any real estate, except such as may be proper and necessary for carrying on its legitimate business, for a longer period than 5 years, under penalty of escheat. An escheat action shall be preceded by a written notice given to the corporation requiring it to dispose of the property within 2 years of receipt of the notice, and no action shall be brought before that time. Id. § 271A.705.

B. Reporting Requirements: None.

LOUISIANA

I. Aliens

No restrictions or reporting requirements.

II. Corporations and Other Business Entities

A. Restrictions:

To promote the State's preference of leasing state lands to individuals

rather than to syndicated landowners or corporations, Louisiana limits lessees to one contiguous parcel of no more than 640 acres. La. Rev. Stat. Ann. §§ 41:1216, :1266 (West 1963 & Supp. 1983).

B. Reporting Requirements:

In addition to the filing requirements for corporations and other businesses doing business in Louisiana, foreign partnerships that own immovable property are required to file a copy of their written partnership agreement. Id. § 9:3423 (West 1983).

MAINE

I. Aliens

No restrictions or reporting requirements.

II. Corporations and Other Business Entities.

No restrictions or reporting requirements.

MARYLAND

I. Aliens

A. Restrictions:

Any alien, not an enemy, may own, sell, devise, dispose of, or otherwise deal with property in the same manner as if he had been a citizen of the State by birth. Md. Real Prop. Code Ann. § 14-101 (1981).

B. Reporting Requirements: None.

II. Corporations and Other Business Entities.

No restrictions or reporting requirements.

MASSACHUSETTS

I. Aliens

No restrictions or reporting requirements.

II. Corporation and Other Business Entities

No restrictions or reporting requirements.

MICHIGAN

I. Aliens

No restrictions or reporting requirements.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

MINNESOTA

I. Aliens

A. Restrictions:

1. Prohibitions and Limitations:

- a. Alien individuals, that are not permanent residents, may not acquire directly or indirectly any interest in agricultural land. Minn. Stat. Ann. § 500.221(2) (West Supp. 1983).
- b. No corporation, partnership, limited partnership, trustee, or other business entity shall directly or indirectly acquire or otherwise obtain any interest, whether legal, beneficial, or otherwise, in any title to any agricultural land unless at least 80 percent of each class of stock is held directly or indirectly by U.S. citizens or permanent resident aliens. Id. see also II.A. infra.
- c. Any person or business entity that acquires an interest in agricultural land after May 27, 1981, and thereafter changes its status, subjecting it to the restrictions discussed supra I.A.1.a.-b., must divest itself of the land within 1 year of the change in status. Minn. Stat. Ann. § 500.221 (2a). See also I.B.1.d. infra.

2. Exceptions:

- a. Agricultural land acquired by devise or inheritance, as security for indebtedness, in the collection of debts, or enforcement of a lien. However, lands acquired in the collection of debts or by enforcement of a lien must be disposed of within 3 years of acquisition.
- b. The restriction does not apply to citizens of foreign countries whose rights to hold land are secured by treaty.
- c. Land used for transportation purposes by a common carrier.
- d. Land acquired for mining purposes. However, pending the mining use, the land may not be used for farming except under lease to a person or entity permitted to hold the land.
- e. Lands operated for research or experimental purposes, if the ownership of the land is incidental to the research or experimental objectives and the total acreage owned does not exceed the amount owned on May 27, 1977.

- f. Corporations may purchase up to 40 acres of agricultural land for facilities incidental to the corporations operation of a pipeline.

Minn. Stat. Ann. § 500.221(2), as amended by Act of May 18, 1983, ch. 240, 1983 Minn. Laws 833.

- 3. Enforcement: If, after investigation, the commissioner of agriculture has reason to believe that any person is violating this act, he shall commence an action in district court. If a violation is found, the land must be divested within 1 year. Any land not divested will be sold at public sale. Id. § 500.221(3).

4. Definitions:

- a. Agricultural land: Land capable of use in the production of agricultural crops, livestock, poultry, milk, fruit, and other horticultural products. It does not include land zoned by a local governmental unit for other than agricultural use.
- b. Interests in agricultural land include any leasehold interests.
- c. Permanent resident alien: A natural person lawfully admitted into the United States for permanent residence that in fact maintains his principal, actual dwelling place in the United States for at least 6 months out of every consecutive 12-month period. An alien who has been physically absent from the United States for more than 6 months shall be presumed not to be a permanent resident alien. Id. § 500.221(1).

B. Reporting Requirements:

1. Requirements:

- a. Any natural person, corporation, partnership, trustee, or other business entity prohibited from future acquisition of agricultural land may retain title to any agricultural land lawfully acquired prior to June 1, 1981, but shall file with the commissioner of agriculture before January 31 of each year a public report containing the following:
 - (1) Description of all agricultural land held within the State.
 - (2) Purchase price and market value of land.
 - (3) Use to which the land is put.
 - (4) Date of acquisition.
 - (5) Other reasonable information required by the commissioner.

Id. § 500.221(4).

Penalty: Willful failure to properly register any land as required is punishable by up to 1 year in prison or a \$1,000 fine or both.

Each willful failure to register is a separate offense. Id.
§§ 500.221(4), 609.03(2) (West 1983).

- b. Every permanent resident alien who owns property subject to the restrictions above shall, during January of each year, file with the commissioner a statement giving dates and places of that person's residence in the United States during the prior calendar year. The statement must include an explanation of any absences totalling more than 6 months and any facts which support the continuation of permanent resident alien status. The commissioner shall review the statement within 30 days and notify the alien whether the facts support continuation of the permanent resident alien status. Id. § 500.221(1a).
- c. Every person and corporation required to file a return under 26 I.R.C. § 6039C (Supp. V 1981) (information return for a foreign person holding a U.S. real property interest) shall make a similar return to the Minnesota commissioner of revenue. Minn. Stat. Ann. § 290.41(6) (West Supp. 1983).

Penalty: Unless the person or corporation can show that its failure to file was due to a reasonable cause, it may be subject to fines, which shall not exceed \$1,000 in any calendar year. Id. § 290.41(8).

- d. Any person or business entity which acquires an interest in agricultural land and thereafter changes status so as to become unqualified to acquire such land shall notify the commissioner within 30 days of the loss of qualification and file a report giving the following information:

- (1) A description of all agricultural land owned in the State.
- (2) The date the land was acquired.
- (3) The date when the person or entity ceased to be qualified.
- (4) Other information reasonably required by the commissioner.

The person or entity whose status has changed must report the fact that it has divested itself of the lands acquired after May 27, 1981. See I.A.1.c. supra. The person or business entity also must begin to submit the periodic reports described in I.B.1.a. supra on lands acquired before May 27, 1981.

Minn. Stat. Ann. § 500.221(2a).

- 5. Definitions: See I.A.4. supra.

II. Corporations and Other Business Entities

A. Restrictions:

- 1. Prohibitions and Limitations: No corporation or pension or investment fund shall engage in farming, nor directly or indirectly, own, acquire,

or otherwise obtain any interest in any land used or capable of being used for farming. Minn. Stat. Ann. § 500.24(3) (West Supp. 1983).

2. Exceptions:

- a. Family farm corporations and authorized farm corporations.
- b. A bona fide incumbrance taken for security.
- c. An interest in the title to agricultural land acquired by a pension fund or family trust established by the owners of a family farm or authorized farm corporation but limited to the farm on which one or more of those owners or shareholders have resided or have been actively engaged in farming.
- d. Purchases reasonably necessary to meet pollution control requirements.
- e. Land operated for research or experimental purposes, provided that commercial sales from such farm are incidental to those purposes.
- f. Land operated by a corporation for the purpose of raising breeding stock for resale to farmers or operated for the purpose of growing seed, wild rice, nursery plants, or sod.
- g. Land acquired as a gift by an educational, religious, or charitable nonprofit corporation, or by a pension or investment fund, provided that all such lands must be divested within 10 years unless they are used for purposes exempt from the restriction under e. and f. supra.
- h. Land acquired which is zoned nonagricultural, is located within an incorporated area, or for which the entity has documented plans to use and subsequently uses within 6 years from the date of purchase for a specific nonfarming purpose. These lands may be held in such acreage as may be necessary for nonfarm business operations. Pending the nonfarm use, the land cannot be used for farming except under lease to an entity that is not subject to restrictions on farming.
- i. Land acquired in the collection of debts or by enforcement of a lien. However, all lands so acquired must be disposed of within 10 years and cannot be used for farming during the 10-year period except under lease to an entity that is not restricted.
- j. Land acquired by a public utility or by an electric generation or transmission cooperative. However, such land may not be used for farming except under lease to a family farm or a family farm corporation.
- k. Land leased or owned totalling no more than 2,700 acres, acquired after May 20, 1973, for replacing or expanding asparagus growing operations, provided that 2,000 acres of asparagus production already have been established.

1. Land that was owned or leased by an authorized farm corporation as defined by Minn. Stat. § 500.24(1)(d)(1974) before the definition of authorized farm corporations was revised by Act of April 4, 1978, ch. 722, § 1, 1978 Minn. Laws 755 (codified at Minn. Stat. Ann. § 500.24(2)(d)(West Supp. 1983).
- m. A corporation formed primarily for religious purposes whose sole income is derived from agriculture.
- n. Corporations and pension or investment funds that lawfully acquired agricultural land, but that later revisions and amendments to the Minnesota corporate farming statute, Minn. Stat. § 500.24, would prohibit from owning agricultural lands, have generally been grandfathered into the revised statute. These corporations and pension or investment funds are also allowed to expand their farming operations at a rate that in any 5-year period may not exceed an increase of 20 percent of their holdings allowed under the previous restrictions. See id. § 500.24(3)(c), (f), (n), (o).

Id. § 500.24(3).

3. Enforcement: The attorney general shall bring an action for suspected violations of the act in the district court of the county where the land is located. Those entities found to be in violation of the act shall have 5 years to divest themselves of the lands, after which time any lands not divested will be sold at public sale. Id. § 500.24(5).

4. Definitions:

- a. Agricultural land: Land used for the production of agricultural products, livestock, milk, or fruit and other horticultural products. It does not include processing, refining, or packaging of those products, or providing farm services. It also does not include the production of timber, forest, or poultry products.
- b. Family farm corporation: (1) Founded for the purpose of farming and the ownership of agricultural land, (2) a majority of the voting stock is held by and a majority of stockholders are persons related to each other, (3) at least one of the related persons is residing on or actively operating the farm, and (4) none of the stockholders are corporations.
- c. Family farm unit: An unincorporated farming unit owned by one or more persons residing on the farm or actively engaged in farming.
- d. Authorized farm corporation: (1) Shareholders do not exceed five in number, (2) all shareholders other than estates are natural persons, (3) does not have more than one class of shares, (4) revenues from rent, royalties, dividends, interest, and annuities do not exceed 20 percent of its gross receipts, and (5) shareholders holding a majority of the shares must be residing on the farm or actively engaging in farming.
- e. Pension or investment fund: A pension or employee welfare benefit fund, mutual fund, life insurance company separate account, common

trust of a bank or other trustee established for the investment and reinvestment of money contributed to it, real estate investment trust, or an investment company. It does not include a benevolent trust established by the owners of a family farm or authorized farm corporation.

Id. § 500.24(2).

f. Nonrestricted entity: A family farm unit, family farm corporation, or authorized farm corporation.

5. See also I.A. supra.

B. Reporting Requirements:

1. Requirements:

a. Every corporation or pension or investment fund that holds any interest in agricultural land (including land used for poultry production), other than a bona fide encumbrance for security, or which is engaged in, or proposes to commence farming after May 20, 1973, shall file an initial report and, later, annual reports with the commissioner of agriculture containing the following:

- (1) The name and address of the corporation or pension or investment fund.
- (2) The acreage and location of each parcel owned or leased that is subject to the provisions of the statute.
- (3) The names and addresses of officers, administrators, directors, trustees, and shareholders owning more than 10 percent of stock.
- (4) The farm products produced or intended to be produced.

Minn. Stat. Ann. § 500.24(4)(a).

b. Reports by corporations seeking to qualify as family farm corporations or authorized farm corporations shall contain the following additional information:

- (1) The number of shares owned by persons residing on the farm or actively engaged in farming, or their relatives.
- (2) The name, address, and number of shares owned by each shareholder.
- (3) A statement as to the percentage of gross receipts derived from rent, royalties, dividends, interest, and annuities.

Id.

c. See also I.B. supra.

2. Penalty: No pension or investment fund or corporation shall commence

farming until the commissioner certifies the initial report. Any failure to file a required report or the willful filing of false information is punishable but up to 1 year in prison or a \$1,000 fine or both. Minn. Stat. Ann. §§ 500.24(5), 609.03(2) (West 1983).

4. Definitions: See II.A.4. supra.

MISSISSIPPI

I. Aliens

A. Restrictions:

1. Prohibitions and Limitations:

- a. Resident aliens may hold and dispose of land as if they were citizens. Nonresident aliens may not own land, upon penalty of escheat, with the following exceptions: a person who has declared his intention to become a citizen, property acquired as security for a debt, and citizens of Syria and Lebanon acquiring through inheritance. Nonresident aliens may also acquire land through enforcement of lien but may not hold the land for more than 20 years. Miss. Code Ann. § 89-1-23 (1972 & Supp. 1982).
- b. Corporations, nonresident aliens, and associations composed in whole or in part by nonresident aliens may not directly or indirectly purchase or become owners of State land. Id. § 29-1-75 (1972).

2. Enforcement: The attorney general or a district attorney may file an information in the nature of a quo warranto whenever any nonresident alien or corporation shall acquire or hold lands contrary to law. Id. §§ 11-39-1, -3 (1972).

B. Reporting Requirements: None.

C. Miscellaneous: The legislature is required by the State constitution to enact laws to limit, restrict, or prevent the acquiring and holding of land by nonresident aliens. Miss. Const. art.IV, § 84.

II. Corporations and Other Business Entities

A. Restrictions: See I.A.1.a. supra.

B. Reporting Requirements: None.

MISSOURI

I. Aliens

A. Restrictions:

1. Prohibitions and Limitations:

- a. Nonresident aliens and foreign businesses may not acquire agricultural land in the State, nor may any agent, trustee, or other fiduciary acquire agricultural land for a nonresident alien or foreign business. Mo. Ann. Stat. § 442.571 (1) (Vernon Supp. 1983); see also id. § 442.560 (historical disabilities of aliens to hold real property abolished except for agricultural lands).
- b. Any resident alien who ceases to be a bona fide resident of the United States shall divest himself of his agricultural lands within 2 years. Any agricultural lands not divested within 2 years will be ordered sold at public sale. Id. § 442.586.

2. Exceptions:

- a. Agricultural land owned before August 13, 1978, so long as it is held by the same owner. Id.
- b. Agricultural land or any interest therein acquired for immediate or potential nonfarming purposes. This land may be held in such acreage as may be necessary to the nonfarm business operation. However, pending the development for the nonfarm purpose, the land may not be used for farming purposes unless the land is leased to a family farm or family farm corporation (defined at II.A.4.c.-d. infra), an alien or foreign business that has filed the reports required in I.B. infra, or except when controlled by a corporation as part of the corporation's participation in certain Federal programs. Mo. Ann. Stat. § 442.591.

3. Enforcement: If land is acquired in violation of the act or ceases to be used for nonfarming purposes, the attorney general shall bring an action in the circuit court. If a violation is found, the court shall order that the land be divested within 2 years. Any land not divested within 2 years will be sold at public sale. Id. § 442.576.

4. Definitions:

- a. Agricultural land: Any tract of land, or adjacent lands, greater than 5 acres that is capable, without substantial modification to the character of the land, of supporting an agricultural enterprise. This includes, but is not limited to, land used in the production of agricultural crops, fruit and the horticultural products, livestock, poultry, and milk products.
- b. Foreign business: Any business entity whether or not incorporated, including but not limited to corporations, partnerships, limited partnerships, and associations, in which a controlling interest is owned by nonresident aliens. In determining ownership of a foreign business, legal fictions such as corporate form or trust shall be disregarded.
- c. Resident alien: Aliens are considered to be residents if their principal, actual dwelling place in fact, where they intend to remain permanently or indefinitely, is somewhere within the United States.

Id. § 442.571.

- d. Interest in agricultural land: Includes leases of 10 years or more, including renewals at the lessee's option. Id. § 442.581.

B. Reporting Requirements:

1. Requirements:

- a. Any foreign person who held any interest in agricultural land on September 28, 1979, should have submitted a report to the director of agriculture within 60 days of that date. Those reports already submitted and those reports filed late must contain the following:
 - (1) The legal name and address of the foreign person.
 - (2) If the foreign person is an individual, his citizenship.
 - (3) The type of interest that is held in agricultural land.
 - (4) A legal description of the agricultural land, including the total acreage involved.
 - (5) The date of acquisition and the purchase price.
 - (6) A declaration of the agricultural use.
 - (7) If the land was acquired for a nonfarm use, its intended use.
 - (8) If the foreign person is other than an individual or government, the report must also contain:
 - (a) The nation in which the foreign person is created or organized and the place of its principal place of business.
 - (b) The legal name and address of each person who holds a substantial interest in the foreign person and that person's citizenship or its principal place of business and the nation where it was created.

Id. § 442.592.

- b. Any foreign person who acquires or transfers any interest in agricultural land must submit a report to the director of agriculture within 30 days of such acquisition or transfer. The report must contain the same information as under I.B.I.a. supra plus, if the foreign person is transferring the land, the name, address, and citizenship or principal place of business and the place of organization of the person to whom the land was transferred. Mo. Ann. Stat. § 442.592.
2. Penalty: Any person who fails to file a report required under the provisions of this section may be fined an amount not to exceed 25 percent of the fair market value of the person's interest in the agricultural land. Id. § 442.592(6).

3. Definitions:

- a. Agricultural land: The code section requiring reports does not define agricultural land, but see definition at I.A.4.a. supra.
- b. Foreign person: (1) Nonresident aliens, (2) alien entities, (3) foreign governments, and (4) entities created under the laws of the United States which are substantially controlled by any combination of 1, 2, or 3, above. Mo. Ann. Stat. § 442.592(1).
- c. Interest in agricultural land: Includes leaseholds of 10 or more years and beneficial interests in land under contracts of sale or similar arrangements. It does not include security interests or interests for the extraction, refining, processing, or transportation of oil, gas, coal, or lignite. Id. § 442.592(2).

II. Corporations and Other Business Entities

A. Restrictions:

1. Prohibitions and Limitations:

- a. No corporation may engage in farming unless it was already doing so on September 28, 1975.
- b. No corporation shall, directly or indirectly, acquire or otherwise obtain any interest in any title to agricultural land in the State.

Id. § 350.015.

2. Exceptions:

- a. Family farm corporations and authorized farm corporations.
- b. A bona fide encumbrance taken for security.
- c. Land owned or leased as of September 28, 1975, including additional acreage for normal expansion at a rate not to exceed 20 percent in any 5-year period, and additional acreage reasonably necessary to meet requirements of pollution control regulations.
- d. A farm operated solely for research or experimental purposes, provided that any commercial sales shall be incidental to the research or experimental objectives.
- e. Any interest when acquired by an educational, religious, or charitable not-for-profit corporation or association.
- f. Agricultural land operated by a corporation for: (1) growing nursery plants, vegetables, grain or fruit used exclusively for brewing, winemaking, or distilling purposes and not for resale, (2) forest cropland, (3) the production of poultry, poultry products, fish, or mushroom farming, (4) the production of registered breeding stock for sale to farmers to improve their breeding herds, (5) the production of raw materials for

pharmaceutical manufacture, chemical processing, food additives and related products, and not for resale, (6) alfalfa dehydration exclusively, and only as to said lands lying within 15 miles of a dehydrating plant, and crops raised thereon which shall be used only for further processing.

- g. Land acquired for immediate or potential use in nonfarming purposes, in such acreage as is necessary for the nonfarm business operation. Pending the development of the land for nonfarm purposes, such land may not be used for farming except under lease to a family farm unit, a family farm corporation, or an authorized farm corporation, or except when controlled by a corporation as part of the corporation's participation in certain Federal programs.
- h. Land acquired in the collection of debts or by enforcement of a lien, provided that such lands may be held for only 10 years.
- i. The raising of hybrid hogs in connection with operations designed to improve the quality of hybrid hogs through selective breeding.
- j. A bank or trust company acting as administrator or executor of a will or as trustee for a trust created by a family farm or authorized farm corporation. However, a bank or trust company acting in the administration of a trust whose primary purpose is making investments in agricultural property is not exempt from the restrictions.

Id.

- 3. Enforcement: The attorney general shall institute an action in county circuit court for suspected violations. If the court finds a violation, it shall order that the land be divested within 2 years. Any lands not divested within such time shall be ordered sold at public sale. Id. § 350.030.

4. Definitions:

- a. Agricultural land: Land used or cultivated for the production of agricultural crops, livestock, poultry (but see II.A.2.f. number 3 supra), milk, fruit, or other horticultural products. It does not include contracts for farm services.
- b. Authorized farm corporation: (1) All the shareholders are natural persons, estates, or trusts and (2) at least two-thirds of the corporation's total net income is derived from farming.
- c. Family farm: An unincorporated farming unit owned or leased by one or more persons residing on the farm or actively engaged in farming.
- d. Family farm corporation: (1) Incorporated for the purpose of farming and the ownership of agricultural land, (2) at least one-half of the voting stock is held by and at least one-half of the stockholders are persons related to each other, (3) at least one of the stockholders is a person residing on or actively

operating the farm, and (4) none of the stockholders are corporations prohibited from farming.

Id. § 350.010.

5. No corporation shall hold any real estate except such as is necessary and proper for carrying on its legitimate business as expressly authorized in its charter or by law. Any corporation may hold, for 10 years and for such longer periods as may be provided by general law, real estate acquired in the collection of a debt. Mo. Const. art. XI, § 5.

6. See also I.A. supra.

B. Reporting Requirements:

1. Requirements:

- a. Every corporation engaged in farming or proposing to commence farming must file a report with the director of agriculture. No corporation may commence farming in the State until it has filed the report. The report must contain the following:
 - (1) The corporation's name, place of incorporation, and principal place of business in its place of incorporation.
 - (2) The address of the registered office in the State and the name and address of the registered agent.
 - (3) The acreage and location of land owned or leased for farming.
 - (4) The names and addresses of officers and directors of the corporation.

Mo. Ann. Stat. § 350.020 (Vernon Supp. 1983).
- b. A corporation seeking to qualify as a family farm corporation or an authorized farm corporation must report the following additional information:
 - (1) The number of shares owned by persons residing on the farm or actively engaged in farming, or their relatives.
 - (2) The name, address, and number of shares owned by each shareholder.
 - (3) The percentage of net receipts derived from sources other than farming.

Id.

- c. Every corporation, except a family farm corporation, engaged in farming in the State shall file reports, such as those in II.B.1. supra, whenever any of the initially filed information changes, whenever the ownership of the controlling interest in the corporation changes, or whenever the land ceases to be used for farming or is sold. Mo. Ann. Stat. § 350.020.

2. Penalty: Failure to file a required report, or the use of false information, shall be a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Id.
3. Definitions: See II.A.4. supra.
4. See also I.B. supra.

MONTANA

I. Aliens

A. Restrictions:

1. No person is disqualified to take as an heir because he, or a person through whom he claims, is an alien, unless the country in which the person resides does not allow reciprocity. Mont. Code Ann. § 72-2-214 (1981).
2. State lands may be sold only to citizens and those persons who have declared their intent to become citizens or corporations organized under the laws of this State. As far as it is possible to determine, lands should not be sold to speculators. No person or corporation is eligible to purchase more than one section, and this area shall not include more than 160 acres of land susceptible of irrigation. Id. §§ 77-2-306 to -307.
3. Coal leases for State-owned lands may not be granted to a citizen of another country or to any partnership, corporation, association, or other legal entities controlled by interests foreign to the United States, unless their country provides similar or like privileges to U.S. citizens. Id. § 77-3-305, amended by Mont. Act of March 18, 1983, ch. 127.

B. Reporting Requirements: None.

II. Corporations and Other Business Entities

A. Restrictions: See I.A.2. -3. supra.

B. Reporting Requirements: None.

NEBRASKA

I. Aliens

A. Restrictions:

1. Prohibitions and Limitations:

- a. Aliens and foreign corporations are prohibited from taking or holding title to land, and from acquiring any interest less than fee for more than 5 years. Neb. Rev. Stat. § 76-402 (1981).

b. A nonresident alien's right of inheritance is contingent upon a reciprocal right for U.S. citizens in the alien's home country and upon the alien's ability to prove that he may receive the benefit, use, or control of the property without confiscation. Id. § 4-107.

c. See II.A.2., II.A.3.c.(4) infra.

2. Exceptions:

a. Aliens and foreign corporations may take title to land and hold it for up to 10 years to enforce a lien or judgment for a debt or liability. Neb. Rev. Stat. § 76-411.

b. Aliens and foreign corporations may purchase and hold title for up to 10 years to land at any sale made for the purpose of collecting or enforcing the collection of a debt or judgment. Id.

c. Aliens and foreign corporations may hold such real property as may be necessary for:

(1) The operation of railroads, public utilities, or common carriers.

(2) The erection of manufacturing or industrial facilities and facilities incidental to them.

(3) The storage, sale, and distribution of petroleum products.

Id. §§ 76-412 to -414.

d. Land within the corporate limits of cities and villages or within 3 miles thereof. Id. § 76-414.

e. Aliens and foreign corporations may own leases for oil, gas, or other hydrocarbon substances for 10 years and as long thereafter as the property is producing in commercial quantities. Id. § 76-404 (Supp. 1982).

3. If land acquired under exception a. or b. supra is held for more than 10 years it automatically escheats to the State. A judicial proceeding is mandated to declare that the forfeiture has occurred and to ascertain the full value of the property, which is paid to the alien. Neb. Rev. Stat. §§ 76-408, -411.

B. Reporting Requirements: None.

II. Corporations and Other Business Entities.

A. Restrictions:

1. Foreign corporations are statutorily treated as aliens and are subject to the same restrictions and exceptions; see I.A. supra. Penalty: Foreign corporations that violate the restrictions listed at I.A. supra forfeit their right to do business in Nebraska. Neb. Rev. Stat. § 76-407 (1981).

2. A domestic corporation becomes subject to the restrictions on aliens if aliens constitute a majority of its board of directors, aliens own a majority of its stock, or aliens are elected as officers or managers of the corporation. Id. § 76-406.

Penalty: Any domestic corporation that is subject to the restrictions at I.A. supra and violates them shall forfeit its charter and be dissolved. Neb. Rev. Stat. § 76-407 (1981).

3. No corporation or syndicate may acquire or obtain an interest, whether legal, beneficial, or otherwise, in any title to real estate used for farming or ranching, or engage in farming or ranching. Neb. Const. art. XII, § 8.

a. Exceptions:

- (1) Family farm or ranch corporations.
- (2) Nonprofit corporations.
- (3) Nebraska Indian tribal corporations.
- (4) Land purchased by a corporation or syndicate before November 29, 1982, is exempted for as long as the corporation or syndicate retains its legal or beneficial interest.
- (5) Land reasonably necessary to meet pollution control regulations.
- (6) A farm or ranch operated for research or experimental purposes, if any commercial sales are only incidental.
- (7) Land operated by corporations for the purpose of raising poultry.
- (8) Land leased by alfalfa processors for the production of alfalfa.
- (9) Land operated for the purpose of growing seed, nursery plants, or sod.
- (10) Mineral rights.
- (11) Agricultural land acquired or leased by a corporation or syndicate for nonagricultural purposes, but pending development of the land for nonagricultural purposes, it may not be used for farming or ranching except under lease to an entity authorized to acquire and operate agricultural land. The land must be converted to nonagricultural use within 5 years.
- (12) Lands acquired by process of law in the collection of debts or claims upon the land. These lands may not be held for more than 5 years or used in farming or ranching except under lease to an entity authorized to acquire and operate agricultural land.

- (13) A bona fide encumbrance taken as security.
- (14) Custom spraying, fertilizing, or harvesting.
- (15) Livestock futures contracts and livestock purchased for slaughter or that are resold within 2 weeks.

Id.

b. Enforcement:

- (1) The secretary of state monitors compliance and reports suspected violations to the State attorney general. The attorney general upon reasonable belief that a violation has occurred or will occur shall initiate an action in district court to enjoin a pending violation or order divestiture. If a divestiture is ordered by the court, the land must be divested within 2 years or it shall escheat to the State.
- (2) If the attorney general fails to bring the action as directed above, any Nebraska citizen or entity may do so.

Id.

c. Definitions:

- (1) Agricultural use: Farming or ranching.
- (2) Corporation: Includes all corporations other than family farm or ranch corporations and any partnership that has a corporation as a partner.
- (3) Farming or ranching: The cultivation of land for the production of crops or horticultural products, or the ownership, keeping, or feeding of animals for the production of livestock or livestock products.
- (4) Family farm or ranch corporation: A corporation engaged in farming or ranching or the ownership of agricultural land, in which the majority of the voting stock is held by family members or a trust for family members. At least one family member must reside on the farm or be actively engaged in the day-to-day labor and management of the farm or ranch. No stockholder may be:
 - (a) A nonresident alien.
 - (b) A corporation or partnership unless all the stockholders or partners are persons related to the family members of the family farm or ranch corporation.
- (5) Syndicate: Any limited partnership in which all partners do not meet the family membership requirements of a family farm or ranch corporation.

Id.

4. Any qualified family farm or ranch corporation that ceases to meet the requirements of a family farm or ranch corporation must either requalify within 50 years or dissolve and return the property to personal ownership. The landholdings may not be increased until the corporation requalifies as a family farm or ranch corporation. Id.

a. Enforcement: See II.A.3.b. supra.

b. Definitions: See II.A.3.c. supra.

5. No trust shall directly or indirectly acquire or otherwise obtain or lease any agricultural land in the State. Neb. Rev. Stat. § 76-1515 (1981).

a. Exceptions:

- (1) Family trusts, authorized trusts, and testamentary trusts.
- (2) A bona fide encumbrance taken for security.
- (3) Land acquired for research or experimental purposes, provided that the commercial sales from the land are less than 25 percent of the gross sales of the primary product of the research.
- (4) Land acquired by a trust company or bank in a fiduciary capacity for a family trust, authorized trust, or testamentary trust.
- (5) Land held or leased by a trust on August 30, 1981, as long as the trust continues to hold or lease such land.
- (6) Land acquired for immediate use in nonfarming purposes.
- (7) Any property held by the State of Nebraska.

Id.

- b. Enforcement: Any trust violating the act shall be punished by a fine of not more than \$50,000, and shall divest itself of the land within 1 year. Id. § 76-1516.

c. Definitions:

- (1) Agricultural land: Land used for the production of agricultural crops, poultry, eggs, milk, fruit and other horticultural crops, grazing, or livestock. It does not include the production of timber, forest products, nursery products, sod, or contracts for farm services. Id. §§ 76-1508 to -1509.
- (2) Authorized trust: Is a trust other than a family trust that meets the following requirements:
 - (a) It may not have more than 25 beneficiaries.
 - (b) All beneficiaries are natural persons who are not acting as a trustee, a fiduciary, or in a similar capacity.

(c) Its income is not exempt from State taxes.

(d) Its income is not exempt from Federal taxes, except that an exemption from Federal taxation under 26 I.R.C. §§ 501(c)(3), 509(a)(3) (1976 & Supp. V 1981) does not keep a trust from qualifying under this exception. Neb. Rev. Stat. § 76-1513.

(3) Family trust: A trust in which:

(a) A majority of the trust is held by and a majority of the beneficiaries are persons related to each other or fiduciaries for related persons.

(b) All the beneficiaries are natural persons not acting as a trustee or as a fiduciary.

Id. § 76-1512.

(4) Fiduciary capacity: Undertaking to act as an executor, administrator, personal representative, guardian, conservator, or receiver. Id. § 76-1510.

(5) Trust: Does not include a person acting in a fiduciary capacity, but includes a legal entity holding property as a trustee, agent, escrow agent, attorney-in-fact, or in any similar capacity. Id. § 76-1511.

B. Reporting Requirements: None. But see II.C. infra.

C. Miscellaneous:

The county assessor shall forward to the secretary of state, by October 1 of each year, the name and address of every trust owning agricultural land in the county as shown by the assessment rolls of the county. Neb. Rev. Stat. § 76-1516 (1981).

NEVADA

I. Aliens

A. Restrictions:

U.S. citizenship or lawful and permanent residence in the United States is required to make an application to purchase Carey Act desert reclamation lands or to locate a lode mining claim. Nev. Rev. Stat. §§ 324.130, 517.010 (1979).

B. Reporting Requirements: None.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

NEW HAMPSHIRE

I. Aliens

A. Restrictions:

Resident aliens were granted the same rights as citizens by N.H. Rev. Stat. Ann. § 477:20. However, the courts have consistently upheld the common-law prohibition against nonresident aliens taking title by descent. In re Estate of Constan, 118 N.H. 166, 384 A.2d 495 (1978); Lazarou v. Moraros, 101 N.H. 383, 143 A.2d 669 (1958); Hanafin v. McCarthy, 95 N.H. 36, 57 A.2d 148 (1948).

B. Reporting Requirements: None.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

NEW JERSEY

I. Aliens

A. Restrictions:

1. Alien friends have the same rights with respect to owning real property as do citizens. An alien friend is considered to be any alien who shall be domiciled and resident in the United States and licensed or permitted by the U.S. Government to remain and engage in business transactions in the United States, and who shall not be arrested or interned, or his property taken by the United States. N.J. Stat. Ann. § 46:3-18 (West Supp. 1983-1984).
2. Where it appears that a devisee, heir, or beneficiary of a trust would not have the benefit, use, or control of the property, the court may direct that the property be paid into the court for the benefit of the devisee, heir, or beneficiary, or their successor. Id. § 3B:23-22 (West 1983).

B. Reporting Requirements: None.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

NEW MEXICO

I. Aliens

No restrictions or reporting requirements.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

NEW YORK

I. Aliens

A. Restrictions:

Where it is uncertain if an alien legatee, distributee, or beneficiary not residing in the United States would have benefit, use, or control of the property due him, the alien has the burden of proving that he would have the benefit, use, or control. If the alien cannot meet the burden of proof, the property will be paid into the court to be used for his benefit. N.Y. Surr. Ct. Proc. Act § 2218 (McKinney Supp. 1982-1983).

B. Reporting Requirements: None.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

NORTH CAROLINA

I. Aliens

A. Restrictions:

The right of nonresident aliens to inherit real property is contingent on the reciprocal right existing in the alien's home country for U.S. citizens. The burden is on the nonresident alien to establish the existence of a reciprocal right. In the absence of reciprocity, the property will be disposed of as escheated property. N.C. Gen. Stat. §§ 64-3 to -5 (1981).

B. Reporting Requirements: None.

C. Miscellaneous:

The secretary of state is authorized and directed to collect all information obtainable from reports by aliens made to agencies of the Federal government on ownership of real property interests in North Carolina, to be updated every 3 months, and to maintain a file on such information which shall be available to members of the general assembly and the public. N.C. Gen. Stat. § 64-1.1 (1981).

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

NORTH DAKOTA

I. Aliens

A. Restrictions:

1. Prohibitions and Limitations:

- a. Nonresident aliens may not acquire, directly or indirectly, any interest in agricultural land, unless they are citizens of Canada.
- b. No partnership, limited partnership, trustee, or other business entity may acquire, or otherwise obtain, directly or indirectly, any interest in agricultural land if the ultimate beneficial interest in the entity is held, directly or indirectly, by nonresident aliens.

N.D. Cent. Code § 47-10.1-02 (Supp. 1981).

2. Exceptions:

- a. Land acquired by devise or inheritance.
- b. Land acquired as security for indebtedness, by process of law in the collection of debts, or by enforcement of a lien or claim. However, these lands shall be disposed of within 3 years if the acquisition would otherwise be a violation.
- c. A foreign corporation may acquire agricultural land for use as an industrial site where construction contracts are entered into by the corporation within 150 days after acquisition of the land. Only land reasonably necessary for industrial purposes may be acquired, and the land may be held only so long as it is used for industrial purposes. The land must be disposed of within 1 year after acquisition if construction contracts are not entered into within 150 days after acquisition.
- d. Citizens or subjects of a foreign country whose rights to hold land are secured by treaty and railroad common carriers are not subject to the restrictions.

Id.

- e. Land acquired prior to July 1, 1979. Id. § 47-10.1-05.

3. Enforcement: The attorney general shall commence an action in district court to force the sale of land held in violation of the act, or to enjoin any prospective or threatened violation. If the court finds a violation, it shall enter an order so declaring. The person or business entity has 1 year from the date of the order to sell the land to someone eligible to purchase it. Any land not divested within 1 year shall be sold at public auction. Id. § 47-10.1-04.

4. Definitions:

- a. Agricultural land: Land capable of use in the production of agricultural crops, livestock, poultry, milk, or fruit and other horticultural products. It does not include any land zoned by a local governmental unit for a use other than agricultural use. It also does not include any interest in oil, gas, coal or other minerals underlying the land, any interest in minerals separate from the surface, or any easements or tracts of land acquired in connection with the extraction, refining, processing, or transportation of minerals. Id. § 47-10.1-01.

b. Interest in agricultural land: Includes leasehold interests.

B. Reporting Requirements:

1. Requirements: Any individual, partnership, limited partnership, trustee, or other business entity prohibited from future acquisition of agricultural land should have submitted a report to the commissioner of agriculture by October 1, 1979, for any land acquired before July 1, 1979. Reports by such individuals or entities are also required before July 1 of each year, and the commissioner shall make the information available to the public. The reports should contain the following:

- a. A description of all agricultural land owned within the State.
- b. The purchase price and market value of the land.
- c. The use to which the land is put.
- d. The date of acquisition.
- e. Any other reasonable information the commissioner may require.

Id. § 47-10.1-05.

2. Penalty: Willful failure to properly register any parcel of agricultural land as required above is punishable by up to 1 year in prison or a \$1,000 fine or both. Id. § 47-10.1-06; id. § 12.1-32-01 (1976).

3. Definitions: See I.A.4. supra.

C. Miscellaneous:

1. A register of deeds shall not record any instrument affecting title to, possession of, or interest in agricultural land where the acquiring person or business entity is in violation of I.A. supra. N.D. Cent. Code § 47-10.1-03.

2. See II.A.2.b.(4), II.B.1.a.(4), .b.(8)(d) infra.

II. Corporations and Other Business Entities

A. Restrictions:

1. Prohibitions and Limitations:

a. No corporation may own land used for farming or ranching, nor engage in the business of farming or ranching. N.D. Cent. Code § 10-06-01 (Supp. 1981).

b. See I.A.1.b. supra. See II.B.2. infra.

2. Exceptions:

a. Cooperative corporations, 75 percent of whose members or shareholders are actual farmers or ranchers residing on farms or

ranches or depending principally on farming or ranching for their livelihood. N.D. Cent. Code § 10-06-04.

- b. A domestic corporation meeting all of the following requirements is exempt from the restrictions:

- (1) It does not have more than 15 shareholders.
- (2) All shareholders are related.
- (3) Each shareholder is either an individual, a trust for an individual or related individuals, or an estate of a decedent who was related to a shareholder. However, neither a trust nor an estate may be a shareholder if its beneficiaries together with the other shareholders are more than 15 in number.
- (4) Each individual who is a shareholder is a U.S. citizen or permanent resident alien.
- (5) The officers and directors of the corporation must be shareholders who are actively engaged in operating the farm or ranch and at least one of its shareholders must be an individual residing on or operating the farm or ranch.
- (6) An annual average of at least 65 percent of the corporation's gross income over the previous 5 years or for each year of existence, if less than 5 years, was derived from farming or ranching.
- (7) The corporation's income from rent, royalties, dividends, interest, and annuities does not exceed 20 percent of the corporation's gross receipts.

Id. § 10-06-07, amended by Farm Corporation Requirements, ch. 131, § 1, 1983 N.D. Sess. Laws 337.

A corporation meeting the requirements of the above exception must still comply with all the provisions of the State corporate code, except that a special authorization is made for corporations with less than three shareholders and officers. Farm Corporation Requirements, ch. 131, § 3, 1983 N.D. Sess. Laws 337.

- c. Any corporation may acquire farm or ranch land as security for indebtedness, by process of law in the collection of debts, or by enforcement of a lien or claim. However, all such lands must be disposed of within 3 years of acquisition if the acquisition would otherwise violate the chapter. During the interim the land must be leased to persons actually engaged in farming or ranching and permitted to do so by statute. N.D. Cent. Code § 10-06-13.
- d. A nonprofit organization exempt from Federal taxation under 26 I.R.C. 501(c)(3)(1982) may own or lease farm or ranch land if that land is leased to an entity authorized to engage in farming or ranching. Farm Corporation Requirements, ch. 131, § 6(1), 1983 N.D. Sess. Laws 337.

- e. A trust for the benefit of an individual or a group of related individuals may own or lease farm or ranch land if that land is leased to an entity authorized to engage in farming or ranching. Id.
- f. A nonprofit organization exempt from Federal taxation under 26 I.R.C. 501(c)(3) may continue to engage in the business of farming or ranching if it was actively engaged in farming or ranching on January 1, 1983. Farm Corporation Requirements, ch. 131, § 6 (2), 1983 N.D. Sess. Laws 337.
- g. A nonprofit organization exempt from Federal taxation under 26 I.R.C. 501(c)(3) which owned farm or ranch land for the preservation of unique historical, archeological, or environmental land prior to January 1, 1983, may continue such ownership. Farm Corporation Requirements, ch. 131, § 6(3), 1983 N.D. Sess. Laws 337.
- h. Until June 30, 1985, nonprofit organizations exempt from Federal taxation under 26 I.R.C. 501(c)(3) may acquire farm or ranch land by inter vivos or testamentary gift, but must dispose of all lands so acquired after January 1, 1983, within 15 years of acquisition. Farm Corporation Requirements, ch. 131, § 6(4), 1983 N.D. Sess. Laws 337.
- i. Until June 30, 1985, corporations may acquire farm or ranch lands for their other business purposes but must make such lands available to be leased by persons actually engaged in farming or ranching. Id.
- j. A corporation engaged in coal mining may own or lease such lands used for farming or ranching as is necessary for its business. These lands must be disposed when they are no longer necessary to the coal mining operation. Coal Mining Exception to Corporate Farming Law, ch. 130, § 1, 1983 N.D. Sess. Laws 336.

3. Enforcement:

- a. The secretary of state is required to notify the attorney general and the governor if a violation of the above statute is found from the information reported in annual returns of corporations. N.D. Cent. Code § 10-06-10.
- b. The tax commissioner is to select at random at least 5 percent of the corporate tax returns, compare them to corporate agricultural reports, and report any violations to the attorney general and the governor. Id. § 10-06-11.
- c. The attorney general is to select at random at least 5 percent of the corporations claiming to be authorized to engage in agriculture, and request more detailed information to check for violations of the statute. Id. § 10-06-12.
- d. The attorney general or any resident of the county may commence an action in the district court of the county where the land is located, for suspected violations of the act. If the court finds

a violation, the corporation must divest itself of the land and cease all farming and ranching operations within 1 year. Any corporation that fails to comply with the court's order shall be dissolved by the secretary of state. Any land not divested within 1 year will be sold at public sale. Id. §§ 10-06-13, -14. •

4. Definitions:

- a. Corporation: Includes joint stock companies or associations. Id. § 10-06-01.
- b. Farming or ranching: Cultivating land for the production of agricultural crops, livestock, poultry, milk, fruit, or horticultural products. It does not include production of timber or forest products or contracts for farm services. Id. § 10-06-01.1.

B. Reporting Requirements:

1. Requirements:

- a. Initial Report: Every farming or ranching corporation must file an initial report with its articles of incorporation. The report must be executed by the incorporator and must contain the following information which will be printed in a newspaper in each county where land is owned or leased by the corporation filing the report:
 - (1) The name of the corporation.
 - (2) The name and addresses of each shareholder of the corporation.
 - (3) A statement that each shareholder is related to each of the other shareholders within the required degree of kinship.
 - (4) A statement that each shareholder is a citizen of the United States or a permanent resident alien.
 - (5) A statement that at least one of the shareholders is actively engaged in operating the farm or ranch and at least one of its shareholders is an individual residing on or operating the farm or ranch.
 - (6) A statement listing the acreage and location listed by section, township, range, and county of all land in the State owned or leased by the corporation and used for farming or ranching.

Farm Corporation Requirements, ch. 131, § 6, 1983 N.D. Sess. Laws 337.

- b. Annual Reports: Every corporation engaged in farming or ranching after June 30, 1981, shall file with the secretary of state a report executed by its president, a vice president,

secretary, or treasurer prior to April 15 of each year. The report must contain the following information:

- (1) The name of the corporation.
- (2) The address of the registered office and the name and address of the registered agent in the State.
- (3) The acreage and location of all land owned or leased in the State and used for farming or ranching.
- (4) The names and addresses of the officers and directors and whether or not each is actively engaged in operating the farm or ranch and resides on the farm or ranch.
- (5) The number of shares of stock in the corporation or the percentage interest in the acreage used for farming or ranching by the corporation, that is owned by persons residing on the farm or ranch and actively engaged in farming or ranching, or by relatives.
- (6) The percentage of gross receipts derived from rent, royalties, dividends, interest, and annuities.
- (7) The name, address, and relationship of each beneficiary of any trust or estate.
- (8) The following information must be supplied about each of the corporation's shareholders or beneficiaries:
 - (a) Name and address.
 - (b) Interest held in the corporation.
 - (c) Relationship to every other shareholder or beneficiary.
 - (d) Whether or not they are a citizen or a permanent resident alien of the United States.

N.D. Cent. Code § 10-06-08, amended by Farm Corporation Requirements, ch. 131, § 8, 1983 N.D. Sess. Laws 337.

2. Enforcement: No corporation may commence farming or ranching until it has filed the initial report required in II.B.1.a. supra, and the secretary of state has certified the corporation to be in compliance with the statute. Farm Corporation Requirements, ch. 131, § 5, 1983 N.D. Sess. Laws 337 (to be codified at N.D. Cent. Code § 10-06-06).
3. Penalty: Failure to file a required report or willfully filing false information is punishable by up to 1 year in prison or a \$1,000 fine or both. N.D. Cent. Code §§ 10-06-09, 12.1-32-01.
4. Definitions: See II.A.4. supra.

OHIO

I. Aliens

A. Restrictions: None.

B. Reporting Requirements:

1. Requirements:

a. All nonresident aliens who acquire any interest, directly or indirectly, in real property in excess of 3 acres, or that has a market value greater than \$100,000, or any interest in mining or minerals that has a market value in excess of \$50,000 shall, within 30 days of the acquisition, file a report with the secretary of state. The report shall contain the following:

- (1) The alien's name, address, telephone number, and country of citizenship.
- (2) Location and amount of acreage of the real property.
- (3) Intended use of the real property at the time of filing.

Ohio Rev. Code Ann. § 5301.25.4(B) (Page 1981).

b. Every corporation or business entity, that is organized outside Ohio or that has its principal place of business in a foreign country, in which an individual nonresident alien acquires a 10-percent interest, or in which any number of nonresident aliens acquire a 40-percent interest, shall file a report if it acquires real property, directly or indirectly, in excess of the amounts stated in I.B.1.a. supra. The report shall be filed within 30 days of acquisition and contain:

- (1) Name, address of principal place of business, and address of principal Ohio office.
- (2) Name, address, telephone number, and country of citizenship of each nonresident alien who owns at least a 10-percent interest in the entity.
- (3) If nonresident aliens of any country cumulatively own more than 5 percent of the shares of stock or control more than 5 percent of the interest of the corporation or business entity, the percentage of the corporation owned or controlled by the nonresident aliens of that country must be reported and must be accurate within 5 percentage points.
- (4) Location and acreage of real property.
- (5) Principal business of corporation or entity.
- (6) Intended use of real property at time of filing.
- (7) Names of any chairman, chief executive officer, and partners.

- (8) Name of the corporation's or business entity's resident agent.
- (9) Place of incorporation, if a corporation.
- (10) Number of persons who own shares of stock or other interests.

Ohio Rev. Code Ann. § 5301.25.4(C)

- c. Those who acquired real property prior to the effective date of the statute, March 19, 1979, and who would have been required to file if they had purchased the real property after the effective date, should have filed a report with the above information before March 19, 1980. Ohio S. Bill 508, § 3, 112th General Assembly, Reg. Sess., 1978 Ohio Senate Journal 1942, reprinted in Ohio Rev. Code Ann. § 5301.25.4 at 163.
 - d. Persons or entities required to report their acquisitions under the act shall also report the sale of the property or any change in their status within 30 days of the sale or change in status. Ohio Rev. Code Ann. § 5301.25.4(D).
2. Penalty: Any individual, corporation, or business entity which violates the act will be fined not less than \$5,000 nor more than an amount equal to 25 percent of the market value of the property. Id. § 5301.99(A).

II. Corporations and Other Business Entities

A. Restrictions: None.

B. Reporting Requirements: See I.B.1.b. supra.

OKLAHOMA

I. Aliens

A. Restrictions:

1. Prohibitions and Limitations:

- a. Nonresident aliens may not acquire title to any real property. Okla. Const. art. 22, § 1; Okla. Stat. tit. 60, § 121 (1981).
- b. Aliens who cease to be bona fide residents of Oklahoma shall divest themselves all of real property in the State within 5 years of ceasing to be a bona fide resident. Okla. Const. art. 22, § 1; Okla. Stat. tit. 60, § 122 (1981).
- c. Aliens who acquire title to real property by devise, descent, or purchase in a foreclosure proceeding shall divest themselves of the property within 5 years of acquiring title. Okla. Const. art. 22, § 1; Okla. Stat. tit. 60, § 123.
- d. The Oklahoma Supreme Court has held that the restrictions on alien landownership apply to alien corporations. However an alien

corporation licensed to do business in Oklahoma is considered to be a resident of the State and is not subject to the restrictions above. State v. Hillcrest Investment, Ltd., 630 P.2d 1253 (Okla. Sup. Ct. 1981).

2. Enforcement: Any land held in violation of the above restrictions shall be escheated to the State through proceedings in the district court of the county in which the lands are located. The State attorney general or the county attorney must give 30 days notice before instituting escheat proceedings, and conveyances made before the initiation of the escheat proceeding are valid. However, any conveyance made by such alien to an alien, or to a U.S. citizen in trust for the purpose of evading the restrictions, shall be null and void, and the lands so conveyed shall be absolutely forfeited and escheated to the State. Okla. Stat. tit. 60, §§ 124-125 (1981); Okla. Const. art. 22, § 1.

B. Reporting Requirements: None.

II. Corporations and Other Business Entities.

A. Restrictions:

1. No corporation shall own, hold, or take any real estate in the State.

a. Exceptions:

- (1) Real estate within an incorporated city or town, or any addition thereto.
- (2) Such real estate as is necessary and proper for carrying on the business it was lawfully formed or incorporated to do. See II.A.2. infra (restrictions on lawful purposes for which corporations may be formed); see also Okla. Stat. tit. 18, § 120 (1981) (corporations authorized to engage in farming limited to owning or leasing only those lands reasonably necessary for their business purpose).
- (3) Trust companies holding naked title as trustee of an express or testamentary trust for the benefit of natural persons.
- (4) Mortgages held to secure loans or debts.
- (5) Real estate may be acquired by mortgage foreclosure or in collection of a debt, but must it be disposed of within 7 years of acquisition.
- (6) Real estate acquired for sale or lease to a corporation that could have legally acquired the real estate.
- (7) Taxable property of religious, educational, charitable, or eleemosynary corporations. Okla. Const. art. 22, § 2; Okla. Stat. tit. 18, § 1.20 (1981).

- b. Penalty: Any person who shall take or hold any real estate for the use or benefit of any corporation, with the intent of evading

the above restrictions, shall be deemed guilty of a misdemeanor, which is punishable by a fine of \$50 to \$500 or by imprisonment for 30 days to 6 months, or both. Okla. Stat. tit. 18, § 1.21 (1981).

2. Only those entities authorized by statute may own or lease any interest in land to be used in the business of farming or ranching, or engage in farming or ranching.

a. Authorized entities:

- (1) Natural persons and their estates.

- (2) Trustees, partnerships, and limited partnerships if:

- (a) Each beneficiary or partner is an entity authorized by statute to own or lease interests in land used in the business of farming or ranching, and to engage in the business of farming or ranching.

- (b) There are not more than 10 unrelated beneficiaries or partners.

- (c) At least 65 percent of its gross receipts for the previous year, or 65 percent of its average annual gross receipts for the previous 5 years, or for each year in existence if less than 5 years, must have been derived from farming or ranching, or from allowing others to extract minerals underlying lands held by the trust.

Id. § 955(A).

- (3) Corporations engaging in food canning operations, food processing, or frozen food processing insofar as such corporations engage in the raising of food products for these purposes. Id. §§ 953(C), 955(A)(3).

- (4) Corporations engaged in research, or feeding arrangements, or both, to the extent of such research or feeding arrangements. Id. §§ 954, 955(A)(3).

- (5) Corporations engaged in the feeding of livestock or poultry to the extent of these operations. Id.

- (6) Corporations engaged in forestry or whose corporate purpose is charitable or eleemosynary. Id.

- (7) Domestic corporations that meet the following requirements:

- (a) There are no shareholders other than:

- i. Natural persons.

- ii. Estates.

iii. Banks or trust companies that are either organized within the State, or have their principal place of business within the State.

iv. Corporations with not more than 10 unrelated shareholders, in which every shareholder is one of the above entities.

(b) It meets the same limitations regarding the sources of its income as are imposed upon trusts and partnerships. See supra II.A.2.(2)(c).

(c) There are not more than 10 unrelated shareholders.

(d) Its articles of incorporation have been approved by the State board of agriculture prior to filing them in the office of the secretary of state.

Okla. Stat. tit. 18, § 951.

(8) Corporations holding any property acquired on or before June 1, 1971. Id. § 952(E).

b. Enforcement:

(1) The secretary of state shall provide at least weekly the State department of agriculture a list of corporations registering in the State that list among their business purposes farming or ranching, or owning or leasing any interest in land to be used in the business of farming or ranching. Id. § 951(B).

(2) The State board of agriculture shall initiate and prosecute civil or criminal actions to enforce the statute. Id. § 952.

(3) Any resident of the county in which the land is situated, who is of legal age, may initiate an action for divestment of an interest in land held in violation of the statute. Id. §§ 953(B), 956(A).

(4) Any corporation required to dispose of land shall be given a reasonable amount of time to do so after divestment is ordered. Id. §§ 953(C), 956(A).

c. Penalties:

(1) Any entity that violates the restrictions shall be fined an amount not to exceed \$500.

(2) Any person or entity that knowingly violates the restrictions shall be guilty of a misdemeanor. Id. §§ 952(F), 955(B).

3. See also I.A.1.d. supra.

B. Reporting Requirements:

1. Requirements:

- a. On or before April 1 of each year every corporation holding real estate in contravention of II.A.1. supra shall file in the county clerk's office of each county in which such real estate is located a verified statement containing:

- (1) The legal description of the property.
- (2) The last assessed valuation of the property.
- (3) The purpose and method of acquisition.

Okla. Stat. tit. 18, § 1.22.

- b. See also supra II.A.2.a.(2)(c), (7)(b), (7)(d).

2. Penalty: Failure or refusal to file the statement as required in II.B.1.a. supra shall be a misdemeanor punishable by a fine not to exceed \$1,000. Okla. Stat. tit. 18, § 1.21.

OREGON

I. Aliens

A. Restrictions:

Only citizens and persons who have declared their intention to become citizens may purchase State lands. Or. Rev. Stat. §§ 273.255, 517.010, 517.044 (1981).

B. Reporting Requirements: None.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

PENNSYLVANIA

I. Aliens

A. Restrictions:

1. Aliens and groups of aliens are allowed to purchase and hold up to 5,000 acres, and enjoy all rights connected to ownership, if they are citizens of a country at peace with the United States at the time of the purchase. Pa. Stat. Ann. tit. 68, § 28 (Purdon 1965).

Exception: A decedent's property passes without regard to alienage. 20 Pa. Cons. Stat. Ann. §§ 2104 (Purdon Supp. 1983-1984), 2518 (Purdon 1975); accord Pa. Stat. Ann. tit. 68, §§ 22-23 (Purdon 1965).

2. Noncorporate aliens may not purchase or hold more than 500 acres, or real property that produces more than \$20,000 in net annual income.

Pa. Stat. Ann. tit. 68, § 32 (Purdon 1965 & Supp. 1983-1984); Id. tit. 15, §§ 2203(c)(2), 8103(b)(5)(Purdon 1967).

Exception: See exception at I.A.1. supra.

3. Non-resident aliens and foreign governments shall not acquire an interest in agricultural land exceeding 100 acres. Pa. Stat. Ann. tit. 68, § 41 (Purdon Supp. 1983-1984).

a. Exceptions:

- (1) Land acquired by devise or descent by persons designated as Class A beneficiaries for inheritance tax purposes. Non-Class A beneficiaries must dispose of the land within 3 years of acquisition. Id. § 44. See I.A.3.c.(2) infra.
- (2) Land held as security for indebtedness. Pa. Stat. Ann. tit. 68, § 41.
- (3) Land held by aliens or foreign governments whose rights to hold land are secured by treaty. Id. § 41.
- (4) Land acquired in the collection of debts or through enforcement of a lien, provided that such lands are disposed of within 3 years after acquiring title. Id. § 42.

- b. Enforcement: The State department of agriculture shall monitor compliance with the provisions of the act through reports submitted under the U.S. Agricultural Foreign Investment Disclosure Act of 1978, 7 U.S.C. §§ 3501-3508 (1982). If this review reveals evidence of noncompliance, the matter is referred to the State attorney general for further investigation and if necessary a forfeiture action. No forfeiture will be adjudged unless the attorney general brings an action to enforce it within 5 years of the acquisition by the alien. Id. §§ 45-46.

c. Definitions:

- (1) Agricultural land: Land capable of use in the production of agricultural crops, timber, livestock, poultry, milk, or fruit and other horticultural products. It does not include any royalty interests; any oil, gas, or other mineral interest; any lease, right-of-way, option, or easement relating thereto; or any land zoned by a local government for a use other than and not conforming with agricultural use. Id. § 47.
 - (2) Class A beneficiaries: Grandfather, grandmother, father, mother, husband, wife, and lineal descendants, and the wife, widow, husband, or widower of a child. Pa. Stat. Ann. tit. 72, § 2485-403(Purdon 1964)(repealed 1982).
4. Any resident alien who ceases to be a bona fide resident must dispose of his excess agricultural lands within 3 years of the termination of his residency. Id. tit. 68, § 43.

a. Exceptions: See I.A.3.a. supra.

b. Enforcement: See I.A.3.b. supra.

c. Definitions: See I.A.3.c. supra.

B. Reporting Requirements: None. But see I.A.3.b. supra.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

RHODE ISLAND

I. Aliens

No restrictions or reporting requirements.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

SOUTH CAROLINA

I. Aliens

A. Restrictions:

Aliens may acquire, hold, and dispose of real property in the same manner as a natural born citizen, provided that aliens and corporations controlled by aliens may not own or control more than 500,000 acres of land within the State. Lands acquired through the foreclosure of mortgages are excluded, provided the excess lands are disposed within 5 years, unless the State comptroller general certifies that to sell the property would create a hardship, in which case the property may be held for an additional 5 years. S.C. Code §§ 27-13-10 to -40 (1976).

B. Reporting Requirements: None.

C. Miscellaneous: See II.C. infra.

II. Corporations and Other Business Entities

A. Restrictions: Section I.A. supra applies to foreign corporations. S.C. Code § 27-13-10.

B. Reporting Requirements: None.

C. Miscellaneous:

The tax assessment of agricultural real property owned by certain corporations and actually used for agricultural purposes is different if the corporation has (1) more than 10 stockholders, (2) a stockholder who is not an individual, (3) a nonresident alien stockholder, or (4) more than one class of stock. S.C. Code § 12-43-220(d) (Supp. 1982).

SOUTH DAKOTA

I. Aliens

A. Restrictions:

1. Prohibitions and Limitations:

- a. Nonresident aliens and foreign governments may not acquire any interest in agricultural land exceeding 160 acres. S.D. Comp. Laws Ann. § 43-2A-2 (1983).
- b. Resident aliens may acquire agricultural land, but if a resident alien ceases to be a bona fide resident, he must dispose of land in excess of 160 acres within 3 years of the termination of his residency. Id. § 43-2A-5.

2. Exceptions:

- a. Land acquired by devise or descent or held as security for a debt. However, land acquired by devise or descent must be disposed of within 3 years of acquisition. Id. §§ 43-2A-2 to -3.
- b. The restrictions do not apply to citizens, foreign governments, or subjects of a foreign country whose rights to hold land are secured by treaty. Id. § 43-2A-2.
- c. Land acquired in collection of debts or through enforcement of a lien, however such land must be disposed of within 3 years of acquisition. Id. § 43-2A-4.

- 3. Enforcement: The State department of agriculture shall monitor, for compliance with the act, biannual reports transmitted to the department pursuant to section 6 of the U.S. Agricultural Foreign Investment Disclosure Act of 1978, 7 U.S.C. §§ 3501-3508 (1982). If noncompliance is discovered, the attorney general shall investigate and initiate legal action if necessary. All agricultural lands held in violation of this act shall be forfeited to the State if the enforcement action is brought within 3 years of the acquisition. S.D. Comp. Laws Ann. §§ 43-2A-6 to -7.

- 4. Definition: Agricultural land: Land capable of use in the production of agricultural crops, timber, livestock, poultry, milk, or fruit and other horticultural products. It does not include any royalty interest; any oil, gas, or other mineral interest; any lease, right-of-way, option, or easement relating thereto; or any land zoned by a local government for a use other than and not conforming with agricultural use. Id. § 43-2A-1.

B. Reporting Requirements: None.

II. Corporations and Other Business Entities

A. Restrictions:

- 1. Prohibitions and Limitations: No corporation shall engage in farming

nor, directly or indirectly, own, acquire, or otherwise obtain any interest in real estate used or capable of use for farming. Id. §§ 47-9A-3, -1.

2. Exceptions:

- a. Banks and trust companies. However, they may not purchase lands through a pooled investment fund formed from assets from retirement, pension, profit sharing, stock bonds, or other trusts. Id. § 47-9A-4.
- b. Land owned or leased by a corporation before July 1, 1974, including the normal expansion of such ownership at a rate not to exceed 20 percent in any 5-year period, and additional acreage necessary to meet the requirements of pollution control regulations. Id. § 47-9A-5.
- c. A bona fide encumbrance taken for purposes of security. Id. § 47-9A-6.
- d. Land acquired in the collection of debts or through enforcement of a lien, provided that all such lands are disposed of to an entity authorized to hold farmland within 10 years of acquisition. In addition, the land may not be used for farming during the 10-year period except under lease to a family farm, a family farm corporation, or an authorized farm corporation. Id. § 47-9A-7.
- e. Family farm corporations and authorized farm corporations. Id. § 47-9A-13.
- f. Gifts of agricultural land to nonprofit corporations. Id. § 47-9A-8.
- g. A farm operated for research or experimental purposes, provided that any commercial sales from the farm are incidental to those purposes. Id. § 47-9A-9.
- h. Land operated by a corporation for the purpose of raising breeding stock for resale to farmers, or for growing seed, nursery plants or sod, or solely for the purpose of feeding livestock. Id. §§ 47-9A-10 to -11.
- i. Land acquired for immediate or potential use in nonfarming purposes. Such land may be held in such acreage as is necessary to the nonfarm business operation. However, pending the development of the land for nonfarm use, the land may not be used for farming except under lease to entities authorized by statute to engage in farming. Id. § 47-9A-12.
- j. Corporations participating in the Federal New Community Program, Title IV of the Housing and Urban Development Act of 1968, 42 U.S.C. §§ 3901-3914 (Supp. V 1981), may acquire land for non-farming purposes and may engage in farming pending development. S.D. Comp. Laws Ann. § 47-9A-12.

3. Enforcement: The attorney general shall bring an action for suspected violations in the circuit court of the county where the land is located. If the court finds a violation, the corporation shall divest itself of the land within 5 years. Any lands not divested within that time shall be sold at public sale. Id. §§ 47-9A-21 to -22.

4. Definitions:

- a. Agricultural land: Land used for the production of agricultural crops, livestock, poultry, milk, or fruit or other horticultural products. It does not include the production of timber or forest products, nor contracts for farm services. Id. § 47-9A-2.
- b. Family farm corporation: (1) Founded for the purpose of farming and the ownership of agricultural land, (2) the majority of the voting stock is held by and the majority of the stockholders are persons related to each other, (3) at least one of the stockholders is a person residing on or actively operating the farm, and (4) none of the stockholders are corporations. Id. § 47-9A-14.
- c. Authorized farm corporation: (1) The shareholders do not exceed 10 in number, (2) the shareholders are all natural persons or estates, (3) the shares are all of one class, and (4) the revenues from rent, royalties, dividends, interest, and annuities do not exceed 20 percent of its gross receipts. Id. § 47-9A-15.

- B. Reporting Requirements:

1. Requirement:

- a. Every corporation engaged in farming or proposing to commence farming in the State shall file a report with the secretary of state.
- b. No corporation shall commence farming in the State until the secretary of state has certified the report.
- c. Corporations engaged in farming must file reports before May 1 of each year containing the following information:
 - (1) The name of the corporation and its place of incorporation.
 - (2) The address of the registered office, and the name and address of the registered agent in the State.
 - (3) The acreage and location of the agricultural land owned or leased by the corporation.
 - (4) The names and addresses of the officers and directors of the corporation.

Id. §§ 47-9A-16, -18 to -19.

d. The report of a corporation seeking to qualify as a family farm corporation or an authorized farm corporation must contain the following additional information:

- (1) The number of shares owned by persons residing on the farm or actively engaged in farming, or their relatives.
- (2) The name, address, and number of shares owned by each shareholder.
- (3) The percentage of gross receipts of the corporation derived from rent, royalties, dividends, interest, and annuities.

Id. § 47-9A-17.

2. Enforcement: See II.A.3. supra.

3. Penalty: Every corporation which fails to file a report, or willfully gives false information on a report, is subject to a civil fine of not more than \$1,000. S.D. Comp. Laws Ann. § 47-9A-20 (as amended by Act to Provide for the Punishment of Certain Minor Offenses by Civil Fines, ch. 331, 1983 S.D. Sess. Laws 582 (Mar. 31, 1983)).

4. Definitions: See II.A.4. supra.

TENNESSEE

I. Aliens

No restrictions or reporting requirements.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

TEXAS

I. Aliens

No restrictions or reporting requirements.

II. Corporations and Other Business Entities.

No restrictions or reporting requirements.

UTAH

I. Aliens

No restrictions or reporting requirements.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

VERMONT

I. Aliens

No restrictions or reporting requirements.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

VIRGINIA

I. Aliens

A. Restrictions:

Aliens not enemies may acquire, inherit, hold, and transmit real property. Va. Code § 55-1 (1981).

B. Reporting Requirements:

Virginia has legislation entitled "Foreign Agricultural Investment Disclosure Act" which has reporting requirements similar to the U.S. Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA). 7 U.S.C. §§ 3501-3508 (1982). Va. Code §§ 3.1-22.22 to .27 (Supp. 1982). However, the Virginia commissioner of agriculture has not elected to implement the requirements and will rely solely on AFIDA data received through the U.S. Department of Agriculture. Letter from S. Mason Carbaugh, Commissioner of Agriculture, to Leland E. Beale, Jr., Executive Director, Virginia State Agricultural Stabilization and Conservation Service Office (April 6, 1979) (reconfirmed by telephone, December 7, 1983).

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

WASHINGTON

I. Aliens

No restrictions or reporting requirements.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

WEST VIRGINIA

I. Aliens

No restrictions or reporting requirements.

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

WISCONSIN

I. Aliens

A. Restrictions:

II. Corporations and Other Business Entities

No restrictions or reporting requirements.

1. Prohibitions and Limitations:

a. Nonresident aliens are prohibited from acquiring more than 640 acres of land. Wis. Stat. Ann. § 710.02 (West 1981).

b. See II.A.1. infra.

2. Exceptions: Lands acquired by devise, inheritance, or in good faith collection of debts. Wis. Stat. Ann. § 710.02.

3. Enforcement: All lands acquired in violation of the statute are forfeited to the State. Id.

B. Reporting Requirements: None.

II. Corporations and Other Business Entities

A. Restrictions:

1. Alien corporations, and corporations in which more than 20 percent of the stock is owned by nonresident aliens are prohibited from acquiring more than 640 acres of land in the State. Id.

a. Exceptions:

(1) Alien corporations may acquire more than 640 acres of land if it is acquired by devise, inheritance, or in good faith collection of debts.

(2) Corporations with a nonresident alien interest of greater than 20 percent may acquire more than 640 acres of land in good faith collection of debts.

(3) The prohibitions do not apply to railroad or pipeline corporations.

Id.

b. Enforcement: All lands acquired, held, or owned in violation of the above, shall be forfeited to the State. Id.

2. No corporation or trust may own land on which to carry on farming operations. Id. § 182.001(1) (West Supp. 1983-1984).

a. Exceptions:

- (1) Authorized corporations and authorized trusts.

Id.

- (2) Land may be acquired by bequest or devise or in the regular course of business in satisfaction of a mortgage or lien, but must be disposed of within 5 years of acquisition if a sale can be made at a fair market value.
- (3) Small business investment corporations. See Small Business Investment Act of 1958, Pub. L. 85-699, 72 Stat. 689.
- (4) Corporations may participate in authorized trusts as a fiduciary for a natural person or an estate.
- (5) Land owned by a corporation on June 5, 1974, including the normal expansion of such ownership, not to exceed 20 percent in any 5-year period.
- (6) Land acquired to meet pollution control requirements.
- (7) Land owned by a trust on May 27, 1978.
- (8) Farms engaged primarily in research, breeding operations, or the production of any crop primarily for seed.
- (9) Land acquired for expansion or other business purposes and such land may be used for farming if leased to a person not prohibited from engaging in farming operations.
- (10) When the farming use is incidental to the principal non-farming purpose for which the property is held.

Wis. Stat. Ann. § 182.001(2).

- b. Enforcement: Any corporation or trust violating this act shall be fined not more than \$1,000 for each violation. Each day of violation is a separate offense. The attorney general may also commence an action to enjoin farming operations and to require divestiture of the land. Id. § 182.001(4).

c. Definitions:

- (1) Authorized corporations and authorized trusts: Any corporation or trust that meets the following requirements:
- (a) Its shareholders or beneficiaries do not exceed 15 in number. Relatives in one family may be considered collectively as one shareholder.
- (b) It does not have more than two classes of shares.

- (c) All the shareholders or beneficiaries are natural persons or estates.

Id. § 182.001(1).

- (2) Farming operations: The production of dairy products not including their processing; the production of cattle, hogs, and sheep; and the production of wheat, field corn, barley, oats, rye, hay, pasture, soy beans, millet, and sorghum. Id. § 182.001(3).

B. Reporting Requirements: None.

WYOMING

I. Aliens

A. Restrictions:

1. A nonresident alien ineligible for citizenship under U.S. law is prohibited from acquiring an interest in real property, unless a reciprocal right is accorded U.S. citizens in the alien's home country. Any transfer of real property to an alien ineligible to take it shall be void. Wyo. Stat. §§ 34-15-101 to -102 (Supp. 1983).
 - a. Exceptions: One acre or less acquired for use as a personal residence. Id. § 34-15-101.
 - b. Penalty: Any nonresident alien ineligible to take real property or any U.S. citizen, who knowingly violates any of the provisions above, shall be deemed guilty of a felony and shall be subject to a fine of not more than \$5,000 or sentenced to not more than 5 years in the State penitentiary or both. Id. § 34-15-103 (1977).
2. A nonresident alien shall not acquire real property by succession or testamentary disposition unless reciprocal rights exist in the alien's country of citizenship. The burden is on the alien to establish the existence of reciprocal rights. Id. §§ 2-4-105, to -106 (1980).

B. Reporting Requirements: None.

II. Corporations and Other Business Entities

No restrictions on reporting requirements.

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F. Morrison, Limitations on Alien Investment in American Real Estate, 60 Minn. L. Rev. 621 (1976).

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