

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-548)
109TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 976, L.D. 1261, Bill, "AN ACT Relating to the Acquisition and Ownership of Real Property by Aliens and Businesses of Foreign Countries."

Amend the Bill by striking out all of section 5 and inserting in its place the following:

'Sec. 5. 33 MRSA c. 7, sub-c. IX is enacted to read:

SUBCHAPTER IX

RIGHTS OF ALIENS AND CORPORATIONS OF FOREIGN COUNTRIES

§481. Rights of aliens; exception

Except as provided in this subchapter, an alien may take, hold, convey and devise real estate or any interest therein. All conveyances and devises of an estate or interest made prior to the effective date of this chapter by or to an alien are valid, and all conveyances and devises made after that date that are not prohibited or limited by this subchapter are also valid.

§482. Definitions

As used in this subchapter, unless the context indicates otherwise, the following terms shall have the following meanings.

1. Agricultural land. "Agricultural land" means any tract of land in this State consisting of more than 5 acres which is without substantial modification to the character of the land, capable of supporting, an agricultural enterprise, including the

production of agricultural crops, timber or forest products, livestock or livestock products, poultry or poultry products, milk or dairy products, or fruit or other horticultural products. It does not include any tract of land zoned by a governmental unit for use other than, and nonconforming with, agricultural use. Abutting parcels of land under the same or substantially the same ownership shall be deemed to be a single tract.

2. Alien. "Alien" means a natural person who is not a citizen of the United States or any of its territories or possessions, and who is not a permanent resident alien residing in the United States.

3. Commissioner. "Commissioner" means Commissioner of Agriculture.

4. Foreign business. "Foreign business" means any business entity, whether or not incorporated, including corporations, joint stock companies, partnerships, limited partnerships, associations, trusts or any other legal or commercial entity, in which a controlling beneficial interest is owned by an alien. In determining ownership of a foreign business, legal fictions shall be disregarded.

§483. Prohibition on acquisition and ownership of interests in agricultural land

Except as provided in section 484, no foreign business or alien may acquire or hold any interest in agricultural land in this State. No person may hold any interest in agricultural

land as an agent, trustee or other fiduciary for a foreign business or alien, if the foreign business or alien is prohibited from holding that interest.

§484. Exceptions to prohibition

The prohibitions in section 483 shall not apply to:

1. Interest held by present owner. Any interest held by a foreign business or alien as of January 1, 1980, so long as it is held by the present owner;

2. Interest acquired through legal proceedings:

A. Any interest acquired by gift, devise, inheritance, as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise; and

B. Any interest acquired by a foreign business or alien in the collection of debts or by the enforcement of a lien or claim shall be disposed of by the holder of the interest within 5 years of acquiring ownership. Any interest not so disposed of shall be ordered sold by the court at a public sale in the manner prescribed by law for the foreclosure of a mortgage by civil action;

3. Short term leasehold interests. Any leasehold interest of a term less than 10 years or any lease renewable at the option of the lessee for terms which will total less than 10 years; and

4. Interest acquired for manufacturing or commercial purposes
Any interest acquired for the purpose of:

A. Supplying raw materials or their products to^a manufacturing enterprise located or to be located in the state and owned by the interest holder; or

B. Conducting a commercial enterprise on the acquired land.

§485. Enforcement

1. Reporting noncompliance. If the commissioner has reason to believe that any person is in noncompliance with this subchapter, he shall report the noncompliance to the Attorney General. On receiving the report, the Attorney General shall commence an action in the District Court or Superior Court in the division or county wherein any land relative to the noncompliance is situated or, if the land^{is} situated in 2 or more divisions or counties, in any division or county in which a substantial part of the land is situated.

2. Commencing the action; recording; complaint. The action shall be commenced by filing a complaint with the court and recording a copy of the complaint or a clerk's certificate of the filing in each registry of deeds in which the title to the land is or by law ought to be recorded. This recording shall constitute record notice of commencement of the action. The complaint shall describe the land with reasonable specificity. Service of process and all proceedings shall be in accordance with the Maine Rules of Civil Procedure.

3. Decision; sale within 5 years. If the court after hearing finds that the interest in the land has been acquired

or is being held in noncompliance with this subchapter, it shall enter an order so declaring and shall order the holder of the interest to divest himself of the interest within 5 years. The limitation period shall continue, without interruption, to run against the next grantee or assignee or successor in interest if that person would be prohibited from holding an interest in that land.

4. Recording orders; public sale. The court shall file any order in the registry of deeds for each county wherein any part of the land subject to the order is located. Any interest in land not divested in accordance with the order shall be sold at public sale in the manner prescribed by law for the foreclosure of a mortgage by civil action.'

Fiscal Note

The administrative cost to the Department of Agriculture probably will be insignificant.

Statement of Fact

This amendment clarifies the provisions of this bill, and adds exceptions for land acquired by an alien or foreign business to provide material for manufacturing facilities located in the State and for land acquired for commercial enterprises. The purpose of this amendment is to stabilize social conditions in rural communities.

Reported by the Majority of the Committee on Judiciary
 Reproduced and distributed under the direction of the
 Clerk of the House.

5/30/79 (Filing No. H-548)