

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1261

H. P. 976

House of Representatives, March 14, 1979

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Hall of Sangerville.

Cosponsors: Mr. J. Martin of Eagle Lake and Mr. Michael of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT Relating to the Acquisition and Ownership of Real Property by Aliens
and Businesses of Foreign Countries.**

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 7 MRSA § 2, first sentence, as amended by PL 1973, c. 598, § 1, is further amended to read:

The commissioner is the chief executive charged with the enforcement of this Title ~~and~~, Title 17, chapter 43 ~~and~~ Title 33, **chapter 7, subchapter IX** and shall be vigilant in discovering violations thereof and making complaint to the proper authorities.

Sec. 2. 7 MRSA § 12, first sentence, as last amended by PL 1977, c. 694, § 41, is further amended to read:

The commissioner shall adopt, consistent with the Maine Administrative Procedure Act, rules and regulations for carrying out this Title, Title 10, chapter 309, Title 17, chapter 43 ~~and~~, Title 32, chapter 61 ~~and~~ Title 33, **chapter 7, subchapter IX**.

Sec. 3. 7 MRSA § 13, first sentence, as amended by PL 1973, c. 598, § 4, is further amended to read:

The commissioner shall diligently enforce all provisions of this Title, Title 17, chapter 43 and, Title 32, chapter 27 and Title 33, chapter 7, subchapter IX and shall be entitled to and shall receive the assistance of the Attorney General and of the several county attorneys.

Sec. 4. 33 MRSA § 451 is repealed.

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.

§ 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 capable of supporting an agricultural enterprise, including, but not limited to, 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, but does not include any tract of land zoned by a governmental unit for use other than, and nonconforming with, agricultural use. Adjacent parcels of land under the same or substantially the same ownership shall be deemed to be a single tract.

2. Commissioner. "Commissioner" means the Commissioner of Agriculture.

3. Foreign business. "Foreign business" means any business entity whether or not incorporated, including, but not limited to, corporations, partnerships, limited partnerships, associations, estates and trusts, in which a controlling beneficial interest is owned by natural persons neither citizens of the United States nor permanent resident aliens of the United States. In determining ownership of a foreign business, legal fictions shall be disregarded.

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

1. Prohibition. Except as provided in section 484 and this section, no foreign business or alien not a permanent resident alien of the United States 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 not a permanent resident alien of the United States.

2. **Exceptions for certain means of acquisition.** This section shall not apply to any interest in agricultural land that may be 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.

Any interest in agricultural land acquired by a foreign business or alien not a permanent resident alien of the United States 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 one year 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. **Nonapplicability to short term leasehold interests.** This subchapter shall not apply to any leasehold interest of a term less than 10 years or any lease renewable at the option of the lessee for terms which will not total 10 years or longer.

§ 484. **Agricultural land now owned by aliens**

This subchapter shall not apply to:

1. Interest held by present owner. Any interest in agricultural land held as of January 1, 1980, so long as it is held by the present owner; or

2. Interest acquired from present foreign owner. Any interest in agricultural land acquired from a foreign business or alien not a permanent resident alien of the United States which held the interest as of January 1, 1980.

§ 485. **Enforcement**

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, who shall commence an action in the District Court or Superior Court in the division or county wherein any agricultural land relative to the noncompliance is situated, or if situated in 2 or more divisions or counties, in any division or county in which a substantial part of the land is situated.

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 thereof in each registry of deeds in which the title to the land is or by law ought to be recorded; this recording shall thereafter constitute record notice of commencement of the action. The complaint shall describe the land in question with reasonable specificity. Service of process on all parties in interest and all proceedings shall be in accordance with the Maine Rules of Civil Procedure.

If the court after hearing finds that the interest in the land in question 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 one year. The one year limitation period shall be deemed a covenant running with the title to the land against any grantee or assignee or successor in interest.

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

STATEMENT OF FACT

The purpose of this bill is to deter speculative investment in Maine farmland by nonresident aliens and foreign business interests. The bill preserves the statutory right of aliens to acquire, hold and dispose of other types of real estate. Farmland now held by foreign investors, or foreign corporations which produce farm products in Maine, is not affected by the restrictions of the bill, nor is farmland acquired by means other than purchase or lease. The bill does not ban outright the acquisition of farmland by foreign purchasers, but requires divestiture of any interest held in farmland within one year after a court finding of foreign ownership in noncompliance with the subchapter proposed by this bill.

The restrictions will be enforced by the Maine Commissioner of Agriculture, who will report any alleged cases of noncompliance to the Attorney General, who will proceed with an action seeking an order of divestiture. Any farmland not divested as ordered or otherwise prescribed in the bill will be sold at public sale in the manner of a foreclosure sale.

The commissioner's role in discovering and reporting foreign ownership of farmland will be aided by regular reports of such farmland ownership to the commissioner from the United States Secretary of Agriculture under regulations prescribed by a recent Act of Congress entitled "Agricultural Foreign Investment Disclosure Act of 1978."