



# The National Agricultural Law Center

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## Farm Ownership & Corporate Farming Laws: *Arkansas*



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

# A National Agricultural Law Center Research Publication

## Farm Ownership & Corporate Farming Laws: Arkansas

### Fast Find:

- 1) Prohibition: AR Code § 18-11-110; AR Code §§ 18-11-801, 802, 803, 804; AR Code § 18-11-705
- 2) Permission: AR Const. art II § 20; AR Code § 18-11-101
- 3) Reporting: AR Code § 2-3-111
- 4) Corporate Farming: AR Code § 18-11-110; AR Code §§ 18-11-701, 702, 703, 704, 705

**AR Const. art. II § 20**  
**AR Code § 2-3-111**  
**AR Code § 18-11-101**  
**AR Code § 18-11-110**  
**AR Code §§ 18-11-701 to 18-11-705**  
**AR Code §§ 18-11-801 to 18-11-805**

*Current through laws passed by the 2025 Regular Session of the 95th Arkansas General Assembly effective through April 6, 2025, and changes made by the Arkansas Code Revision Commission received through April 10, 2025. Some statute sections may be more current.*

### **AR Const. art. II § 20. Resident aliens and citizens – Property rights.**

No distinction shall ever be made by law, between resident aliens and citizens, in regard to the possession, enjoyment or descent of property.

### **AR Code § 2-3-111. Reporting requirement.**

(a) Beginning October 1, 2021, a foreign person required to make a report to the United States Department of Agriculture under the Agricultural Foreign Investment Disclosure Act, 7 U.S.C. § 3501 et seq., shall also file a copy of the required report with the Secretary of the Arkansas Department of Agriculture within the time period required under the federal law.

(b) The Attorney General:

(1) Shall impose a civil penalty not to exceed twenty-five percent (25%) of the fair market value, on the date of the assessment of the penalty, of the interest in the agricultural land for failure to file a copy of the report with the Secretary of the Arkansas



Department of Agriculture as required under subsection (a) of this section; and

(2) May bring an action to collect the civil penalty in the Pulaski County Circuit Court or in the circuit court of any county in which any portion of the agricultural land acquired is located.

(c) Sections 2-3-101 through 2-3-110 are suspended while the Agricultural Foreign Investment Disclosure Act, 7 U.S.C. § 3501 et seq., is in effect.

(d) This section shall expire upon the repeal of the Agricultural Foreign Investment Disclosure Act, 7 U.S.C. § 3501 et seq.

### **AR Code § 18-11-101. Aliens.**

(a) All aliens shall be capable of taking, by deed or will, lands and tenements in fee simple, or other less estate, and of holding, aliening, and devising them.

(b) Upon the death of any alien having title by purchase or descent, according to this section, to any lands or tenements, the lands and tenements shall descend and pass as if the alien were a citizen of the United States.

(c) It shall be no objection to the husband, widow, or kindred of an alien, or any citizen deceased, taking lands and tenements by virtue of the laws of this state regulating the distribution of estates of intestates, that they are aliens.

### **AR Code § 18-11-110. Land ownership by prohibited foreign-party-controlled business prohibited – Definitions.**

(a) As used in this section:

(1) "Controlling interest" means an ownership interest of fifty percent (50%) or more, in the aggregate;

(2)

(A) "Critical infrastructure" means physical virtual systems and assets that:

(i) If incapacitated or destroyed would have a debilitating impact on security, national economic security, public health or safety, or any combination of security, national economic security, or public health and safety; and

(ii) Are publicly or privately owned.

(B) "Critical infrastructure" includes without limitation:

(i) A military installation or facility;

(ii) An emergency service;

(iii) A power generation or transmission location;



- (iv) A utility;
- (v) A bridge;
- (vi) A tunnel;
- (vii) A railway;
- (viii) A dam;
- (ix) A cybersecurity or classified information storage system; and
- (x) A communication or information technology node or facility;

(3) "Prohibited foreign-party-controlled business" means a corporation, company, association, firm, partnership, society, joint-stock company, trust, estate or other legal entity whose controlling interest is owned by a prohibited foreign party; and

(4) "Prohibited foreign party" means the same as in § 18-11-802.

(b)

(1) A prohibited foreign-party-controlled business shall not acquire by grant, purchase, lease, devise, descent, or otherwise any interest in public or private land in this state.

(2) A party may not hold or retain public or private land as an agent, trustee, or other fiduciary for a prohibited foreign-party-controlled business in violation of this section.

(3) A prohibited foreign-party-controlled business shall not lease any interest in land in this state.

(4) A prohibited foreign party shall not hold any interest in agricultural land located within a ten-mile radius of critical infrastructure.

(c)

(1) A prohibited foreign-party-controlled business entity in violation of this section shall have one (1) year to divest of the public or private land.

(2) If a prohibited foreign-party-controlled business entity does not divest the public or private land as required by subdivision (c)(1) of this section, the Attorney General shall commence an action in the circuit court within the jurisdiction of the public or private land.

(3)

(A) If the public or private land is held in violation of this section, the circuit court shall order that the public or private land be sold through judicial foreclosure.



(B) Proceeds of the sale shall be first disbursed to lien holders, in any, in the order of priority, except for liens which under the terms of the sale are to remain on the public or private land.

(4) The Attorney General shall promptly record a copy of the 24 following in the local land records:

(A) Upon commencement, notice of the pendency of an action brought under subdivision (c)(2) of this section; and

(B) The order for the sale of the public or private land under subdivision (c)(3)(A) of this section.

(d) A prohibited foreign-party-controlled business entity that violates this section upon conviction is guilty of an unclassified felony punishable by not more than two (2) years imprisonment in the custody of the Division of Correction or a fifteen thousand dollar (\$15,000) fine, or both.

(e) It is an affirmative defense to prosecution under this section that a prohibited foreign-party-controlled business entity is a resident alien of the State of Arkansas.

(f) Title to public or private land is not invalid or subject to divestiture due to a violation of this section by:

(1) Any former owner; or

(2) Other person holding or owning a former interest in the public or private land.

(g) No person not subject to this section shall be required to determine or inquire into whether another person is or may be subject to this section.

#### **AR Code § 18-11-701. Short title.**

This subchapter may be cited as the Uniform Easement Relocation Act.

#### **AR Code § 18-11-702. Definitions.**

In this subchapter:

(1) "Appurtenant easement" means an easement tied to or dependent on ownership or occupancy of a unit or a parcel of real property.

(2) "Conservation easement" means a nonpossessory property interest created for one or more of the following conservation purposes:

(A) retaining or protecting the natural, scenic, wildlife, wildlife-habitat, biological, ecological, or open-space values of real property;

(B) ensuring the availability of real property for agricultural, forest, outdoor-recreational, or open-space uses;



- (C) protecting natural resources, including wetlands, grasslands, and riparian areas;
  - (D) maintaining or enhancing air or water quality; or
  - (E) preserving the historical, architectural, archeological, paleontological, or cultural aspects of real property.
- (3) "Dominant estate" means an estate or interest in real property benefitted by an appurtenant easement.
- (4) "Easement" means a nonpossessory property interest that:
- (A) provides a right to enter, use, or enjoy real property owned by or in the possession of another; and
  - (B) imposes on the owner or possessor a duty not to interfere with the entry, use, or enjoyment permitted by the instrument creating the easement or, in the case of an easement not established by express grant or reservation, the entry, use, or enjoyment authorized by law.
- (5) "Easement holder" means:
- (A) in the case of an appurtenant easement, the dominant estate owner; or
  - (B) in the case of an easement in gross, public-utility easement, telecommunications easement, conservation easement, or negative easement, the grantee of the easement or a successor.
- (6) "Easement in gross" means an easement not tied to or dependent on ownership or occupancy of a unit or a parcel of real property.
- (7) "Lessee of record" means a person holding a lessee's interest under a recorded lease or memorandum of lease.
- (8) "Negative easement" means a nonpossessory property interest whose primary purpose is to impose on a servient estate owner a duty not to engage in a specified use of the estate.
- (9) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.
- (10) "Public-utility easement" means a nonpossessory property interest in which the easement holder is a publicly regulated or publicly owned utility under federal law or law of this state or a municipality. The term includes an easement benefiting an intrastate utility, an interstate utility, utility cooperative, or a Class I, Class II, or Class III railroad.
- (11) "Real property" means an estate or interest in, over, or under land, including structures, fixtures, and other things that by custom, usage, or law pass with a conveyance of land whether or not



described or mentioned in the contract of sale or instrument of conveyance. The term includes the interest of a lessor and lessee and, unless the interest is personal property under law of this state other than this subchapter, an interest in a common-interest community.

(12) "Record", used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(13) "Security instrument" means a mortgage, deed of trust, security deed, contract for deed, lease, or other record that creates or provides for an interest in real property to secure payment or performance of an obligation, whether by acquisition or retention of a lien, a lessor's interest under a lease, or title to the real property. The term includes:

(A) a security instrument that also creates or provides for a security interest in personal property;

(B) a modification or amendment of a security instrument; and

(C) a record creating a lien on real property to secure an obligation under a covenant running with the real property or owed by a unit owner to a common-interest community association.

(14) "Security-interest holder of record" means a person holding an interest in real property created by a recorded security instrument.

(15) "Servient estate" means an estate or interest in real property that is burdened by an easement.

(16) "Telecommunications easement" means a nonpossessory property interest in which the easement holder is a telecommunications, cable, or broadband provider.

(17) "Title evidence" means a title insurance policy, preliminary title report or binder, title insurance commitment, abstract of title, attorney's opinion of title based on examination of public records or an abstract of title, or any other means of reporting the state of title to real property which is customary in the locality.

(18) "Unit" means a physical portion of a common-interest community designated for separate ownership or occupancy with boundaries described in a declaration establishing the common-interest community.

(19) "Utility cooperative" means a non-profit entity whose purpose is to deliver a utility service, such as electricity, oil, natural gas, water, sanitary sewer, storm water, or telecommunications, to its customers or members and includes an electric cooperative, rural electric cooperative, rural water district, and rural water association.

#### **AR Code § 18-11-703. Scope – Exclusions.**



(a) Except as otherwise provided in subsection (b), this subchapter applies to an easement established by express grant or reservation or by prescription, implication, necessity, estoppel, or other method.

(b) This subchapter may not be used to relocate:

(1) a public-utility easement, telecommunications easement, conservation easement, or negative easement;

(2) an easement if the proposed location would encroach on an area of an estate burdened by a conservation easement or would interfere with the use or enjoyment of a public-utility easement, telecommunications easement, or an easement appurtenant to a conservation easement;

(3) An easement used by the State Highway Commission for highway purposes; or

(4) An easement or right-of-way held by a public entity.

(c) This subchapter does not apply to relocation of an easement by consent.

#### **AR Code § 18-11-704. Right of servient estate owner to relocate easement.**

A servient estate owner may relocate an easement under this subchapter only if the relocation does not materially:

(1) lessen the utility of the easement;

(2) after the relocation, increase the burden on the easement holder in its reasonable use and enjoyment of the easement;

(3) impair an affirmative, easement-related purpose for which the easement was created;

(4) during or after the relocation, impair the safety of the easement holder or another entitled to use and enjoy the easement;

(5) during the relocation, disrupt the use and enjoyment of the easement by the easement holder or another entitled to use and enjoy the easement, unless the servient estate owner substantially mitigates the duration and nature of the disruption;

(6) impair the physical condition, use, or value of the dominant estate or improvements on the dominant estate; or

(7) impair the value of the collateral of a security-interest holder of record in the servient estate or dominant estate, impair a real-property interest of a lessee of record in the dominant estate, or impair a recorded real-property interest of any other person in the servient estate or dominant estate.

#### **AR Code § 18-11-705. Commencement of civil action.**



(a) To obtain an order to relocate an easement under this subchapter, a servient estate owner must commence a civil action.

(b) A servient estate owner that commences a civil action under subsection (a):

(1) shall serve a summons and petition on:

(A) the easement holder whose easement is the subject of the relocation;

(B) a security-interest holder of record of an interest in the servient estate or dominant estate;

(C) a lessee of record of an interest in the dominant estate; and

(D) except as otherwise provided in paragraph (2), any other owner of a recorded real-property interest if the relocation would encroach on an area of the servient estate or dominant estate burdened by the interest; and

(2) is not required to serve a summons and petition on the owner of a recorded real-property interest in oil, gas, or minerals unless the interest includes an easement to facilitate oil, gas, or mineral development.

(c) A petition under this section must state:

(1) the intent of the servient estate owner to seek the relocation;

(2) the nature, extent, and anticipated dates of commencement and completion of the proposed relocation;

(3) the current and proposed locations of the easement;

(4) the reason the easement is eligible for relocation under § 18-11-703;

(5) the reason the proposed relocation satisfies the conditions for relocation under § 18-11-704; and

(6) that the servient estate owner has made a reasonable attempt to notify the holders of any public-utility easement, telecommunications easement, conservation easement, or negative easement on the servient estate or dominant estate of the proposed relocation.

(d) At any time before the court renders a final order in an action under subsection (a), a person served under subsection (b)(1)(B), (C), or (D) may file a document, in recordable form, that waives its rights to contest or obtain relief in connection with the relocation or subordinates its interests to the relocation. On filing of the document, the court may order that the person is not required to answer or participate further in the action.

**AR Code § 18-11-801. Purpose.**



Under § 2-4-101, "It is the declared policy of the state to conserve, protect, and encourage the development and improvement of its agricultural and forest lands and other facilities for the production of food, fiber, and other agricultural and silvicultural products".

### **AR Code § 18-11-802. Definitions.**

As used in this subchapter:

(1)

(A) "Agricultural land" means any Arkansas land that is:

(i) Used for forestry production, including without limitation land exceeding ten (10) acres in which ten percent (10%) of the land is stocked by trees of any size, including land that formerly had trees of any size covering the land that will be naturally or artificially regenerated; or

(ii) Currently used for, or, if currently idle, land last used within the past five (5) years, for farming, ranching, or timber production, except land not exceeding ten (10) acres in the aggregate, if the annual gross receipts from the sale of the farm, ranch, or timber products produced on the land do not exceed one thousand dollars (\$1,000), including without limitation land used for activities described in the Standard Industrial Classification Manual (1987), Division A, exclusive of industry numbers 0711-0783, 0851, and 0912-0919 which cover animal trapping, game management, hunting carried on as a business enterprise, trapping carried on as a business enterprise, and wildlife management.

(B) "Agricultural land" does not include oil, gas, and all other minerals, including coal, lignite, brine, and all minerals known and recognized as commercial minerals underlying the land;

(2)

(A) "Critical infrastructure" means physical virtual systems and assets that:

(i) If incapacitated or destroyed would have a debilitating impact on security, national economic security, public health or safety, or any combination of security, national economic security, or public health and safety; and

(ii) Are publicly or privately owned.

(B) "Critical infrastructure" includes without limitation:

(i) A military installation or facility;



- (ii) An emergency service;
  - (iii) A power generation or transmission location;
  - (iv) A utility;
  - (v) A bridge;
  - (vi) A tunnel;
  - (vii) A railway;
  - (viii) A dam;
  - (ix) A cybersecurity or classified information storage system; and
  - (x) A communication or information technology node or facility;
- (3) "Foreign government" means the same as provided by § 2-3-102;
- (4) "Interest in agricultural land" means all direct interest acquired, transferred, or held in agricultural land, including without limitation a lease of agricultural land;
- (5) "Party" means the same as provided by § 2-3-102;
- (6) "Prohibited foreign party" means:
- (A) A citizen or resident of a country subject to International Traffic in Arms Regulations, 22 C.F.R. § 126.1, unless the person is also a citizen of the United States;
  - (B) A foreign government formed within a country subject to International Traffic in Arms Regulations, 22 C.F.R. § 126.1;
  - (C) A party or entity other than an individual or a government, that is created or organized under the laws of a foreign government within a country subject to International Traffic in Arms Regulations, 22 C.F.R. § 126.1; or
  - (D) Any party or entity other than an individual or a government:
    - (i) That is created or organized under the laws of any state; and
    - (ii) In which a significant interest or substantial control is directly or indirectly held or is capable of being exercised by:
      - (a) An individual referred to in subdivision (6)(A) of this section;
      - (b) A foreign government referred to in subdivision (6)(B) of this section;
      - (c) A party referred to in subdivision (6)(C) of this section;



(d) A combination of the individuals, parties, or governments referred to in this subdivision (6)(D)(ii) of this section;

(E) An Entity of Particular Concern designated by the United States Department of State; or

(F) An agent, trustee, or other fiduciary of a person or entity enumerated in subdivisions (6)(A)-(E) of this section;

(7) "Residence" means a person's principal dwelling place where the person intends to remain permanently for an indefinite period of time;

(8) "Resident alien" means a person who:

(A) Is not a citizen of the United States; and

(B) Is a resident of a:

(i) State of the United States;

(ii) Territory of the United States;

(iii) Trusteeship of the United States; or

(iv) Protectorate of the United States; and

(9) "Significant interest" or "substantial control" means:

(A) An interest of thirty-three percent (33%) or more held by:

(i) A party referred to in subdivision (6)(D) of this section;

(ii) An individual referred to in subdivision (6)(A) of this section;

(iii) A party referred to in subdivision (6)(C) of this section; or

(iv) A single government referred to in subdivision (6)(B) of this section;

(v) A party acting in concert with one (1) or more prohibited foreign parties;

(B) An interest of thirty-three percent (33%) or more held whenever the parties, individuals, or governments referred to in subdivision (6) of this section are acting in concert with respect to the interest even though no single individual, party, or government holds an interest of thirty-three percent (33%) or more; or

(C) An interest of fifty percent (50%) or more, in the aggregate, held by parties, individuals, or governments referred to in subdivision (6) of this section even though the individuals, parties, or foreign governments may not be acting in concert.



### **AR Code § 18-11-803. Limitations on owning agricultural land – Violation.**

(a)

(1) Except as provided in § 18-11-804, a prohibited foreign party shall not acquire by grant, purchase, lease, devise, descent, or otherwise any interest in agricultural land in this state.

(2) A party may not hold agricultural land as an agent, trustee, or other fiduciary for a prohibited foreign party in violation of this subchapter.

(3) A prohibited foreign party shall not hold any interest in agricultural land located within a ten-mile radius of critical infrastructure.

(b) A prohibited foreign party that acquires agricultural land in violation of this subchapter remains in violation as long as the prohibited foreign party holds an interest in the agricultural land.

### **AR Code § 18-11-804. Interest in agricultural land owned by prohibited foreign parties – Exceptions – Penalty.**

(a) A prohibited foreign party who is a resident alien of the United States shall have the right to acquire and hold agricultural land in the state upon the same terms as a citizen of the United States during the continuance of his or her residence in the State of Arkansas.

(b)

(1) If a prohibited foreign party is no longer a resident alien under subsection (a) of this section, he or she shall have one (1) year to divest of the agricultural land.

(2) If the prohibited foreign party does not divest of the agricultural land as required by subdivision (b)(1) of this section, the Attorney General shall commence an action in circuit court within the jurisdiction of the agricultural land.

(3) If the agricultural land is held in violation of this section, the circuit court shall order that the agricultural land be sold through judicial foreclosure.

(c)

(1) When the Office of Agricultural Intelligence determines a prohibited foreign party has acquired agricultural land in Arkansas in violation of this subchapter, the office shall report the violation to the Attorney General.

(2) Upon receiving notice under subdivision (c)(1) of this section or upon receipt of information that leads the Attorney General to believe that a violation of this subchapter may exist, the Attorney General may issue subpoenas requiring the:



- (A) Appearance of witnesses;
- (B) Production of relevant records; and
- (C) Giving of relevant testimony.

(3) If as a result of the investigation under subdivision (c)(2) of this section the Attorney General concludes that a violation of this subchapter has occurred, the Attorney General shall commence an action in circuit court within the jurisdiction of the agricultural land.

(4) If the agricultural land is held in violation of this subchapter, the circuit court shall order that the agricultural land be sold through judicial foreclosure.

(d)

(1) The proceeds of the sale of agricultural land by judicial foreclosure authorized under this section shall be disbursed to lien holders, in the order of priority, except for liens which under the terms of the sale are to remain on the agricultural land.

(2) The Attorney General shall promptly record a copy of the following in the local land records:

- (A) Upon commencement, notice of the pendency of an action brought under subdivisions (b)(2) and (c)(2) of this section; and
- (B) The order for the sale of the agricultural land under subdivisions (b)(3) and (c)(3) of this section.

(e) A prohibited foreign party or other party acting in concert with a prohibited foreign party as an agent, trustee, or other fiduciary owning agricultural land subsequent to the passage of this subchapter and not listed under one (1) of the exceptions set out in subsections (a) and (b) of this section shall upon conviction be guilty of a felony punishable by not more than two (2) years imprisonment in the custody of the Division of Correction or a fifteen thousand dollar (\$15,000) fine, or both.

(f) It is an affirmative defense to prosecution under this section that a prohibited foreign party is a resident alien of the State of Arkansas.

(g) Title to agricultural land is not invalid or subject to divestiture due to a violation of this subchapter by:

- (1) Any former owner; or
- (2) Other person holding or owning a former interest in the agricultural land.

(h) No person not subject to this subchapter shall be required to determine or inquire into whether another person is or may be subject to this subchapter.



**AR Code § 18-11-805. Office of Agricultural Intelligence – Creation – Duties.**

- (a) There is created within the Department of Agriculture the Office of Agricultural Intelligence.
- (b) The office is authorized and directed to:
  - (1) Collect and analyze information concerning the unlawful sale or possession of agricultural land by prohibited foreign parties; and
  - (2) Administer and enforce the provisions of this subchapter, including without limitation the reporting of a violation of this subchapter to the Attorney General under § 18-11-804(c).
- (c) The Secretary of the Department of Agriculture may designate employees of the Department of Agriculture who meet the requirements of § 25-38-203(a)(12) to perform the duties of the office under subsection (b) of this section.
- (d) The office shall operate under the direction of the Secretary of the Department of Agriculture.

