



# The National Agricultural Law Center

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Farm Ownership & Corporate Farming Laws:

*West Virginia*



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# A National Agricultural Law Center Research Publication

## Farm Ownership & Corporate Farming Laws: West Virginia

### Fast Find:

- 1) Prohibition: WV Code §§ 37-3A-1; 2; 3; 4; 5
- 2) Permission: WV Const. art. II, § 5; WV Code § 36-1-21
- 3) Reporting: None
- 4) Corporate Farming: WV Code §§ 37-3A-1; 2; 3; 4; 5

WV Const. art. II, § 5  
WV Code § 11A-3-45a  
WV Code § 11A-3-48a  
WV Code § 36-1-21  
WV Code §§ 37-3A-1 through 5

*Current through laws passed by the 2025 Regular Session of the 87th West Virginia State Legislature. Some statute sections may be more current.*

### **WV Const. art. II, § 5. Provisions regarding property.**

No distinction shall be made between resident aliens and citizens, as to the acquisition, tenure, disposition or descent of property.

### **WV Code § 11A-3-45a. Certain parties barred from participating in public auctions.**

(a) Citizens of or entities organized in or controlled by citizens or governments of any country designated as a Country of Particular Concern by the Department of State of the United States of America are ineligible from participating in any public auction held pursuant to § 11A-3-45 of this code.

(b) For purposes of this section, a “Country of particular concern” means a country that has been designated as such by the Department of State of the United States of America pursuant to Section 408(a) of 22 USC 6448.

### **WV Code § 11A-3-48a. Certain parties barred from purchasing unsold lands.**

(a) Citizens of or entities organized in or controlled by citizens or governments of any country designated as a country of particular concern by the United States Department of State shall be barred from purchasing unsold lands pursuant to § 11A-3-48 of this code.



(b) For purposes of this section, a “Country of particular concern” means a country that has been designated as such by the Department of State of the United States of America pursuant to Section 408(a) of 22 USC 6448.

### **WV Code § 36-1-21. Alien may own land.**

Any alien may take by devise, inheritance, gift or purchase, and hold, convey, devise or otherwise dispose of land within this State as if he were a citizen, and if an alien owner of land within this State shall die, his land shall descend in the same manner as if he were a citizen.

### **WV Code § 37-3A-1. Ownership of real estate in West Virginia.**

Except as otherwise provided in this article, any resident alien or citizen may acquire, hold, and transfer real estate in this state by deed, will, or other instrument, including in fee simple or any lesser estate.

### **WV Code § 37-3A-2. Definitions.**

As used in this section:

“Control” means the power, direct or indirect, whether or not exercised, to determine, direct, or decide important matters affecting an entity, including but not limited to through ownership of at least 20 percent of the total outstanding voting interest, board representation, the ability to appoint or remove board members, proxy voting rights, special shares, contractual arrangements, legal obligations, or other formal or informal mechanisms to act in concert.

“Controlling interest” means an ownership interest of 50 percent or more in the aggregate. “Owned or operated in whole or in part” means:

(A) For a publicly traded company, the person or entity has the ability to control the company, access any material nonpublic technical information in the possession of the company, or exercise any other rights or involvement in substantive decision-making beyond those of a retail investor holding an equivalent ownership share;

(B) For a privately held company, the person or entity possesses any ownership interest.

“People’s Republic of China” means all provinces and autonomous regions of the People’s Republic of China, including the Hong Kong Special Administrative Region and the Macao Special Administrative Region, but does not include Taiwan.

“Prohibited foreign party” means:

(A) A citizen or resident of the People’s Republic of China who is not a resident alien or citizen of the United States;



(B) The government of the People’s Republic of China or any of its political subdivisions;

(C) Any party other than an individual or government:

(i) Created or organized under the laws of any state or foreign country; and

(ii) In which a significant interest or substantial control is held directly or indirectly by:

(I) A person described in paragraph (A) of this subdivision;

(II) A government described in paragraph (B) of this subdivision;

(III) Any combination of the above; or

(IV) An agent, trustee, fiduciary, or other entity acting on behalf of any of the foregoing;

(D) Any foreign government, entity, or individual identified by a majority of the Governor, Treasurer, Agriculture Commissioner, Auditor, Attorney General, and Secretary of State, in consultation with the Secretary of Homeland Security, as hostile to the interests of the United States or the State of West Virginia: Provided, That in the event of a tie, the Governor’s vote shall serve as the tie-breaking vote.

“Prohibited foreign-party-controlled business” means a corporation, company, association, firm, partnership, joint-stock company, trust, estate, or other legal entity in which a controlling interest is owned or operated, in whole or in part, by a prohibited foreign party.

### **WV Code § 37-3A-3. Prohibition on Ownership by Prohibited Foreign Parties.**

(a) A prohibited foreign-party-controlled business may not acquire or own, directly or indirectly, any interest in any real estate in this state, including mineral rights.

(b) A person may not hold any interest in real estate as an agent, trustee, or fiduciary on behalf of a prohibited foreign-party-controlled business.

(c) Any interest in any real estate that is held on the effective date of this article shall be divested within six months of the effective date of this article.

### **WV Code § 37-3A-4. Enforcement; Judicial Sale.**

(a) A prohibited foreign-party-controlled business that acquires real estate in violation of this article shall divest that interest within six months of acquisition.



(b) If the business fails to divest, the Attorney General shall file a civil action in the circuit court of the county where the real estate is located.

(c) Upon a circuit court finding by a preponderance of the evidence that a violation of the provisions of this article have occurred, the circuit court shall order the real estate to be sold through judicial sale under terms and conditions that are to be set by the circuit court.

(d) Proceeds of the sale shall first be distributed to lienholders according to priority, excluding liens that remain on the real estate under the terms of the sale, and any remaining funds shall be remitted to the prohibited foreign party. Lienholders may credit bid at the sale.

(e) If there are no liens against the property, then the full proceeds shall be remitted to the prohibited foreign party.

(f) The Attorney General shall promptly file in the office of the county clerk where the real estate is located the following:

(1) A notice of the pending action in the county in which the real estate is located upon commencement of the civil action filed pursuant to this article; and

(2) Once all appellate rights have been exhausted by the parties, the circuit court's final order that directs the sale of the real estate.

#### **WV Code § 37-3A-5. Good-Faith Protections.**

(a) Title to real estate is not rendered invalid or subject to divestiture solely due to a prior violation of this article by a previous owner.

(b) A person who is not subject to the prohibitions contained in this article is not required to investigate whether another person or entity is subject to the prohibitions contained in this article.

