



HOUSE BILL 40

By Reedy

AN ACT to amend Tennessee Code Annotated, Title 43; Title 44; Title 47; Title 48 and Title 66, relative to property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 66-2-101, is amended by deleting the section and substituting the following:

Except as provided in part 3 of this chapter, an alien, resident, or nonresident of the United States, may take and hold property, real or personal, in this state and dispose of or transmit the same as a native citizen.

SECTION 2. Tennessee Code Annotated, Section 66-2-102, is amended by deleting the section and substituting the following:

Except as provided in part 3 of this chapter, the heir or heirs, or devisee or devisees, of an alien, resident, or nonresident of the United States, may take lands, held by descent or otherwise, as if a citizen or citizens of the United States.

SECTION 3. Tennessee Code Annotated, Title 66, Chapter 2, is amended by adding the following as a new part:

66-2-301.

As used in this part:

(1) "Foreign business" means a corporation incorporated under the laws of a foreign country, or a business entity whether or not incorporated, in which a majority interest is owned directly or indirectly by nonresident aliens. As used in this subdivision (1), the determination of "owned," in terms of ownership or control of a foreign business, is not affected by legal entities, including, but not

limited to, trusts, holding companies, multiple corporations, and other business arrangements;

(2) "Foreign government" means a government other than the government of the United States, its states, its territories, or its possessions;

(3) "Nonresident alien" means an individual who is not any of the following:

(A) A citizen of the United States; or

(B) A person lawfully admitted into the United States for permanent residence by the United States immigration and naturalization service, even if such status is conditional; and

(4) "Real property":

(A) Means one (1) or more defined parcels or tracts of land or interests, benefits, and rights inherent in the ownership of real estate; and

(B) Includes easements, water rights, agricultural land, or any other interest in real property.

66-2-302.

(a) Except as provided in subsection (c), a nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, shall not purchase or otherwise acquire real property in this state if the laws of the country where the nonresident alien resides, the foreign business is located, or the official foreign government representing the country, or agents, trustees, or fiduciaries thereof, prohibit citizens of the United States or its territories or possessions from purchasing real property located within that country.

(b) The restriction in subsection (a) does not apply to:

(1) Real property acquired by devise or descent;

(2) A bona fide encumbrance on real property taken for purposes of security; and

(3) Real property acquired by a process of law in the collection of debts; by a deed in lieu of foreclosure, pursuant to a forfeiture of a contract for deed; or by a procedure for the enforcement of a lien or claim on the real property, whether created by mortgage or otherwise. However, real property so acquired must be sold or otherwise disposed of within two (2) years after title is transferred. Pending the sale or disposition, the real property must not be used for a purpose other than what it was used for immediately prior to the time the property was put up for sale, and the property must not be used except under lease to an individual, trust, corporation, partnership, or other business entity not subject to the restriction imposed by subsection (a).

(c) A nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, who holds real property in this state on July 1, 2023, may continue to own or hold the real property, but shall not purchase or otherwise acquire additional real property in this state on or after July 1, 2023.

(d) A nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, shall not transfer title to, or an interest in, real property to a nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, except by devise or descent.

66-2-303.

(a) A nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, who acquires real property or an interest in real property, by devise or descent after July 1, 2023, shall divest itself of all right, title, and interest in the real property within two (2) years from the date of acquiring the real property or interest.

(b) This section does not require divestment of real property or an interest in real property, acquired by devise or descent from a nonresident alien, if the real property or an interest in the real property was acquired by a nonresident alien prior to July 1, 2023.

66-2-304.

A person, business, or other entity who purchases or otherwise acquires real property in this state except by devise or descent, after July 1, 2023, and whose status changes so that it becomes a nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, subject to this part, shall divest itself of all right, title, and interest in the real property within two (2) years from the date that its status changed.

66-2-305.

A nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, who owns an interest in real property in this state on or after July 1, 2023, shall register the real property with the secretary of state. The registration must be made within sixty (60) days after July 1, 2023, or within sixty (60) days after acquiring the real property or the interest in real property, whichever time is the later. The registration must be in the form and manner prescribed by the secretary of state and contain the name of the owner and the location and number of acres of the real property by municipality and county. If the owner of the real property or owner of the interest in real property is an agent, trustee, or fiduciary of a nonresident alien, foreign business, or foreign government, then the registration must also include the name of any principal for whom that real property, or interest in real property was purchased as agent, trustee, or fiduciary.

66-2-306.

(a) If the secretary of state finds that a nonresident alien, foreign business, foreign government, or an agent, trustee, or other fiduciary thereof, has acquired or holds title to or interest in real property in this state in violation of this part, the secretary of state shall report the violation to the attorney general and reporter.

(b) Upon receipt of a report from the secretary of state under subsection (a), the attorney general and reporter shall initiate an action in the circuit court of any county in which the real property is located.

(c) The attorney general and reporter shall file a notice of the pendency of an action initiated under subsection (b) with the recorder of deeds of each county in which any of the real property is located.

(d)

(1) In an action initiated under subsection (b), if the court finds that the real property in question has been acquired or held in violation of this part, then the court shall enter an order so declaring and shall file a copy of the order with the recorder of deeds of each county in which any portion of the real property is located.

(2) If the court finds that the real property in question has been acquired in violation of this part, then the court shall declare the real property escheated to the state and order the sale of the real property in the manner provided by law for the foreclosure of a mortgage on real estate for default of payment. The proceeds of the sale must be used to pay court costs, and the remaining funds, if any, must be paid to the person divested of the real property.

(e) If the secretary of state finds that a nonresident alien, foreign business, foreign government, or an agent, trustee, or other fiduciary thereof, violated this part by

failing to timely register as required under § 66-2-305, the secretary of state shall assess a civil penalty not to exceed two thousand dollars (\$2,000) for each violation.

SECTION 4. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act are severable.

SECTION 5. This act takes effect July 1, 2023, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 122

House Bill No. 40*

by deleting all language after the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 66-2-101, is amended by deleting the section and substituting the following:

Except as provided in part 3 of this chapter, an alien, resident, or nonresident of the United States, may take and hold property, real or personal, in this state and dispose of or transmit the same as a native citizen.

SECTION 2. Tennessee Code Annotated, Section 66-2-102, is amended by deleting the section and substituting the following:

Except as provided in part 3 of this chapter, the heir or heirs, or devisee or devisees, of an alien, resident, or nonresident of the United States, may take lands, held by descent or otherwise, as if a citizen or citizens of the United States.

SECTION 3. Tennessee Code Annotated, Title 66, Chapter 2, is amended by adding the following as a new part:

66-2-301.

As used in this part:

(1) "Real property" means one (1) or more defined parcels or tracts of land or interests, benefits, and rights inherent in the ownership of real estate, including easements, water rights, agricultural land, or any other interest in real property;

(2) "Sanctioned foreign business" means:



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(A) A corporation incorporated under the laws of a foreign country of a sanctioned foreign government;

(B) A business entity whether or not incorporated, in which a majority interest is owned directly or indirectly by sanctioned nonresident aliens. As used in this subdivision (1)(B), the determination of "owned," in terms of ownership or control of a foreign business, is not affected by legal entities, including, but not limited to, trusts, holding companies, multiple corporations, and other business arrangements; or

(C) A corporation or business entity, whether or not incorporated, that is identified on the office of foreign assets control of the U.S. department of the treasury's sanctions programs and country information list;

(3) "Sanctioned foreign government" means a government other than the government of the United States, its states, its territories, or its possessions, that is identified by the office of foreign assets control of the U.S. department of the treasury's sanctions programs and country information list; and

(4)

(A) "Sanctioned nonresident alien" means an individual who is either:

(i) A citizen of a sanctioned foreign government; or

(ii) A person identified on the office of foreign assets control of the U.S. department of the treasury's sanctions programs and country information list; and

(B) "Sanctioned nonresident alien" does not include:(i) A citizen of the United States; or (ii) A person lawfully admitted into the United

States for permanent residence by the United States immigration and naturalization service, even if such status is conditional.

66-2-302.

(a)

(1) A sanctioned nonresident alien, sanctioned foreign business, or sanctioned foreign government, or an agent, trustee, or fiduciary thereof, shall not purchase or otherwise acquire real property in this state if the country where the sanctioned nonresident alien resides, the sanctioned foreign business is located, or the official sanctioned foreign government representing the country, or agents, trustees, or fiduciaries thereof, is on the office of foreign assets control of the U.S. department of the treasury's sanctions programs and country information list.

(2) This part applies to the extent that the purchase of real property is not prohibited under subdivision (a)(1).

(b) The restriction in subsection (a) does not apply to:

(1) Real property acquired by devise or descent;

(2) A bona fide encumbrance on real property taken for purposes of security; and

(3) Real property acquired by a process of law in the collection of debts; by a deed in lieu of foreclosure, pursuant to a forfeiture of a contract for deed; or by a procedure for the enforcement of a lien or claim on the real property, whether created by mortgage or otherwise. However, real property so acquired must be sold or otherwise disposed of within two (2) years after the title is transferred. Pending the sale or disposition, the real property must not be used for a purpose other than what it was used for immediately prior to the time the property was put up for sale, and the property must not be used except under

lease to an individual, trust, corporation, partnership, or other business entity not subject to the restriction imposed by subsection (a).

(c) Notwithstanding subdivision (a)(2), a sanctioned nonresident alien, sanctioned foreign business, or sanctioned foreign government, or an agent, trustee, or fiduciary thereof, who holds real property in this state on July 1, 2023, may continue to own or hold the real property, but shall not purchase or otherwise acquire additional real property in this state on or after July 1, 2023.

(d) A sanctioned nonresident alien, sanctioned foreign business, or sanctioned foreign government, or an agent, trustee, or fiduciary thereof, shall not transfer title to, or an interest in, real property to a sanctioned nonresident alien, sanctioned foreign business, or sanctioned foreign government, or an agent, trustee, or fiduciary thereof, except by devise or descent.

66-2-303.

(a) A sanctioned nonresident alien, sanctioned foreign business, or sanctioned foreign government, or an agent, trustee, or fiduciary thereof, who acquires real property or an interest in real property, by devise or descent after July 1, 2023, shall divest itself of all right, title, and interest in the real property within two (2) years from the date of acquiring the real property or interest.

(b) This section does not require divestment of real property or an interest in real property, acquired by devise or descent from a sanctioned nonresident alien, if the real property or an interest in the real property was acquired by a sanctioned nonresident alien prior to July 1, 2023.

66-2-304.

A person, business, or other entity who purchases or otherwise acquires real property in this state except by devise or descent, after July 1, 2023, and whose status changes so that it becomes a sanctioned nonresident alien, sanctioned foreign business, or sanctioned foreign government, or an agent, trustee, or fiduciary thereof, subject to

this part, shall divest itself of all right, title, and interest in the real property within two (2) years from the date that its status changed.

66-2-305.

A sanctioned nonresident alien, sanctioned foreign business, or sanctioned foreign government, or an agent, trustee, or fiduciary thereof, who owns an interest in real property in this state on or after July 1, 2023, shall register the real property with the secretary of state. The registration must be made within sixty (60) days after July 1, 2023, or within sixty (60) days after acquiring the real property or the interest in real property, whichever time is the later. The registration must be in the form and manner prescribed by the secretary of state and contain the name of the owner and the location and number of acres of the real property by municipality and county. If the owner of the real property or owner of the interest in real property is an agent, trustee, or fiduciary of a sanctioned nonresident alien, sanctioned foreign business, or sanctioned foreign government, then the registration must also include the name of any principal for whom that real property, or interest in real property, was purchased as agent, trustee, or fiduciary.

66-2-306.

(a) If the secretary of state finds that a sanctioned nonresident alien, sanctioned foreign business, sanctioned foreign government, or an agent, trustee, or other fiduciary thereof, has acquired or holds title to or interest in real property in this state in violation of this part, the secretary of state shall report the violation to the attorney general and reporter.

(b) Upon receipt of a report from the secretary of state under subsection (a), the attorney general and reporter shall initiate an action in the circuit court of any county in which the real property is located.

(c) The attorney general and reporter shall file a notice of the pendency of an action initiated under subsection (b) with the recorder of deeds of each county in which any of the real property is located.

(d)

(1) In an action initiated under subsection (b), if the court finds that the real property in question has been acquired or held in violation of this part, then the court shall enter an order so declaring and shall file a copy of the order with the recorder of deeds of each county in which any portion of the real property is located.

(2) If the court finds that the real property in question has been acquired in violation of this part, then the court shall declare the real property escheated to the state and order the sale of the real property in the manner provided by law for the foreclosure of a mortgage on real estate for default of payment. The proceeds of the sale must be used to pay court costs, and the remaining funds, if any, must be paid to the person divested of the real property.

(e) If the secretary of state finds that a sanctioned nonresident alien, sanctioned foreign business, sanctioned foreign government, or an agent, trustee, or other fiduciary thereof, violated this part by failing to timely register as required under § 66-2-305, the secretary of state shall assess a civil penalty not to exceed two thousand dollars (\$2,000) for each violation.

(f) There shall be no liability on any real estate licensee involved in a transaction in which a sanctioned nonresident alien, sanctioned foreign business, sanctioned foreign government, or an agent, trustee, or other fiduciary acquired property in violation of this part.

SECTION 4. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that

can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 5. This act takes effect July 1, 2023, the public welfare requiring it.