



Foreign Ownership of Land: *Legislative Review*

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National Agricultural Law Center

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- *The Feed* is a brief, bi-monthly rundown of ag law and policy developments from around the country, including foreign ownership proposals.
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Foreign Ownership in U.S. Farmland

- Agricultural Foreign Investment Disclosure Act (“AFIDA”) of 1978
- Latest official data is through December 31, 2021
 - Foreign ownership in private ag land: **40,031,308** (3.1% of all private ag land)
 - +2.4 million acres from Dec. 31, 2020
 - 14.3+ million-acre increase (+35.7%) from 2011 to 2021
 - 47% forestland
 - 29% cropland
 - 22% pasture/other ag purposes

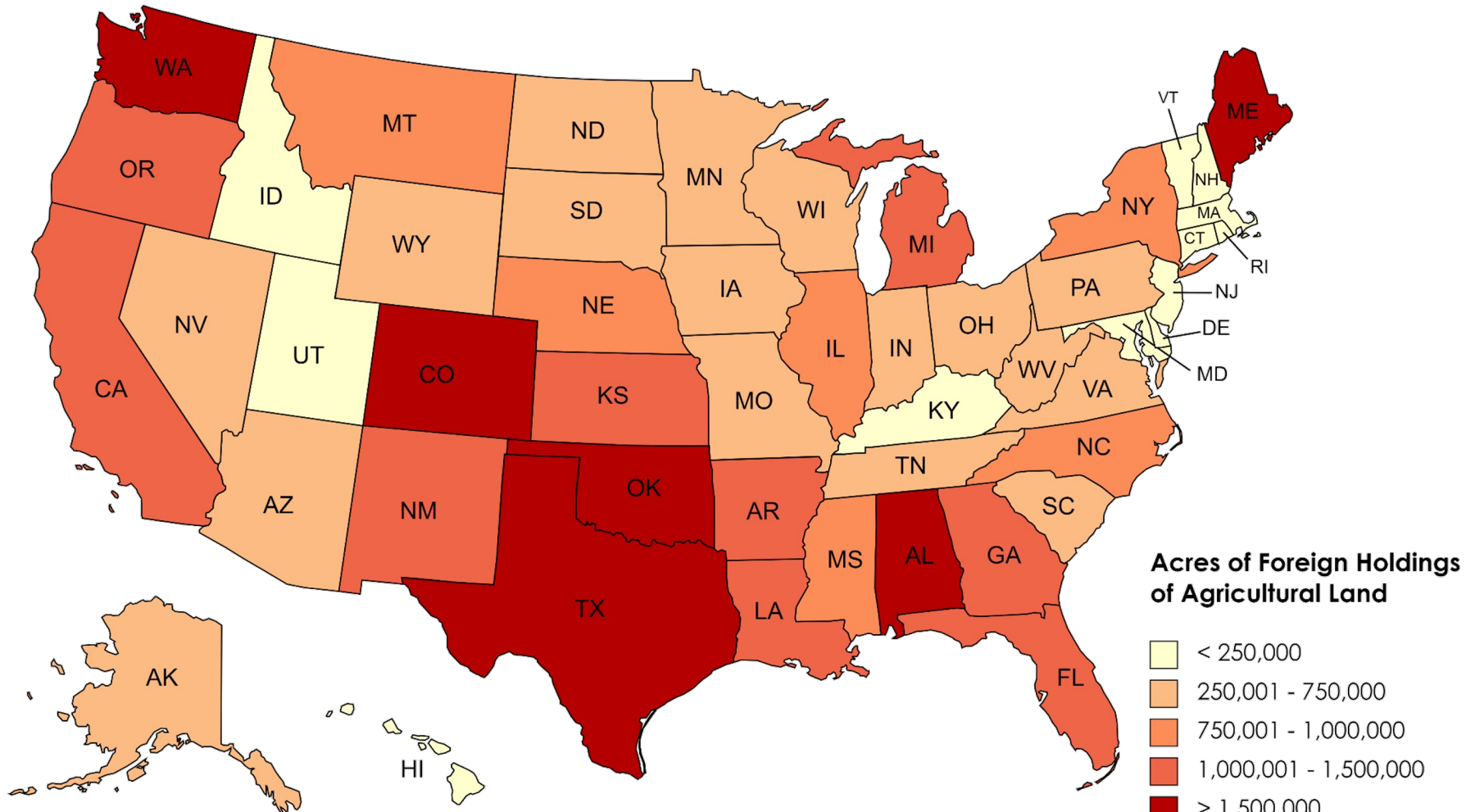


Foreign Ownership in U.S. Farmland

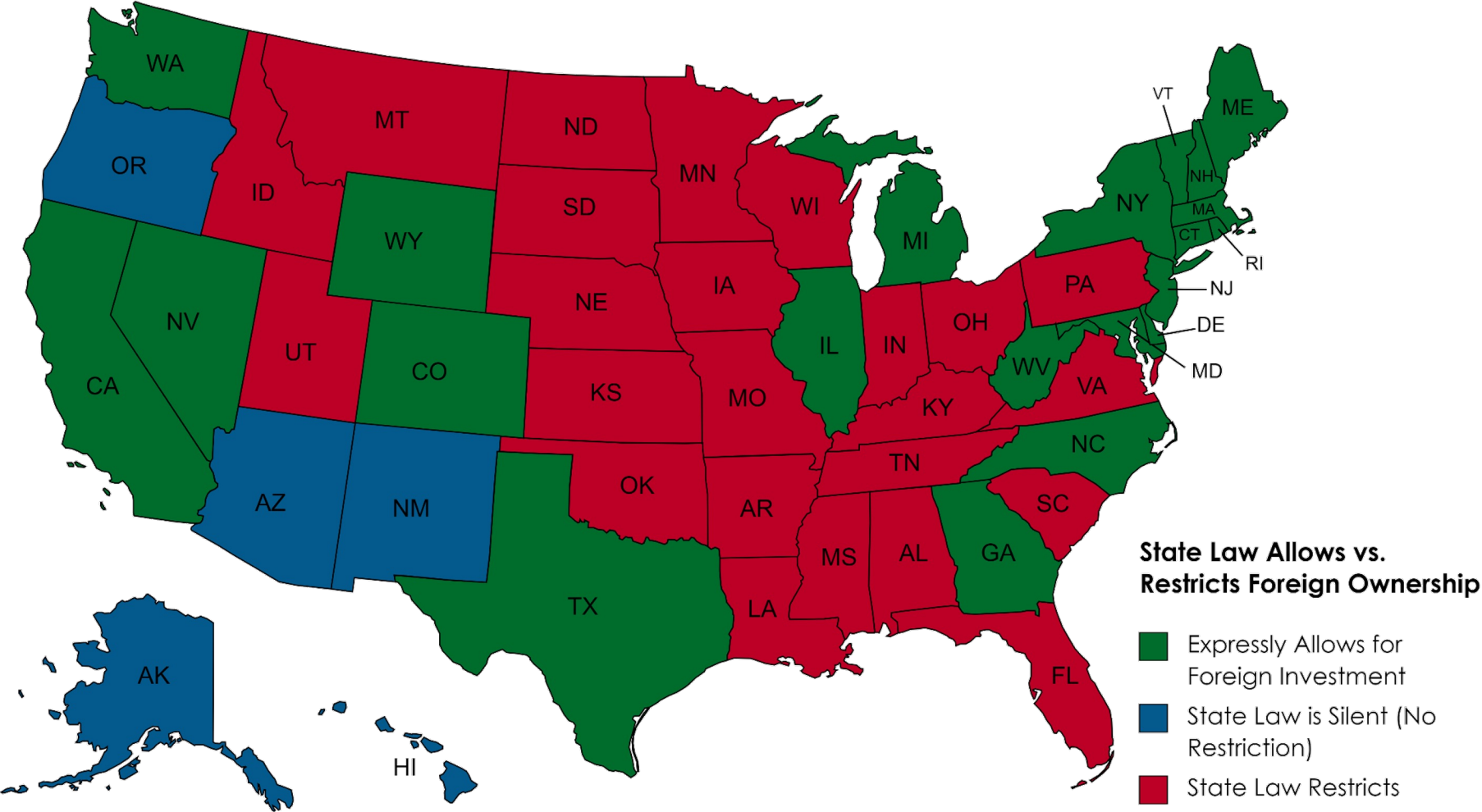
- Top countries of foreign investments?
 1. Canada (31%)
 2. Netherlands (12%)
 3. Italy (7%)
 4. United Kingdom & Germany (6%)
- China reports 0.9% ownership interest in ag and non-ag land
- States with most foreign held ag land acres?
 1. Texas (5.2 million)
 2. Maine (3.6 million)
 3. Colorado (1.9 million)
 4. Alabama (1.8 million)
 5. Oklahoma (1.67 million)
 6. Washington (1.58 million)



Foreign Ownership of U.S. Farmland



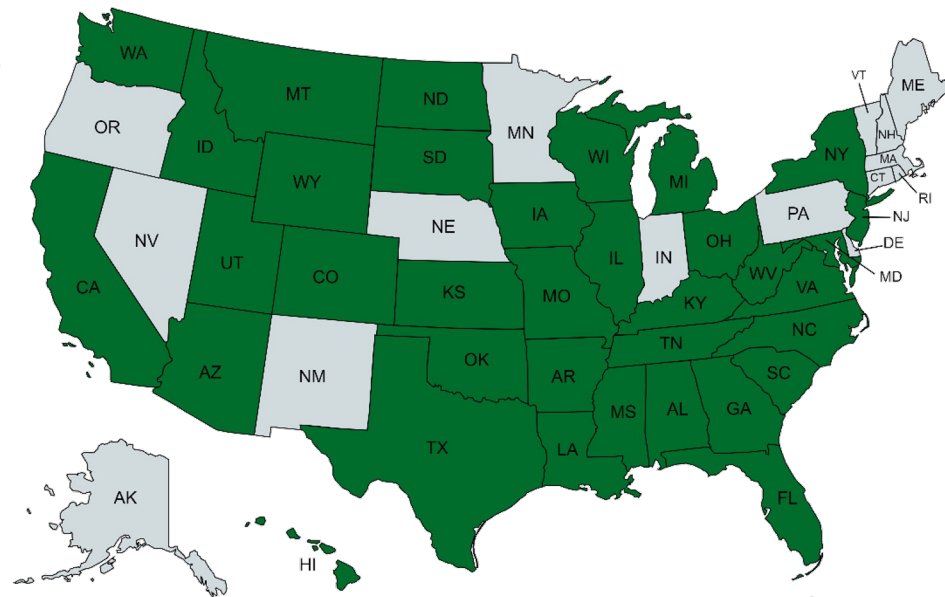
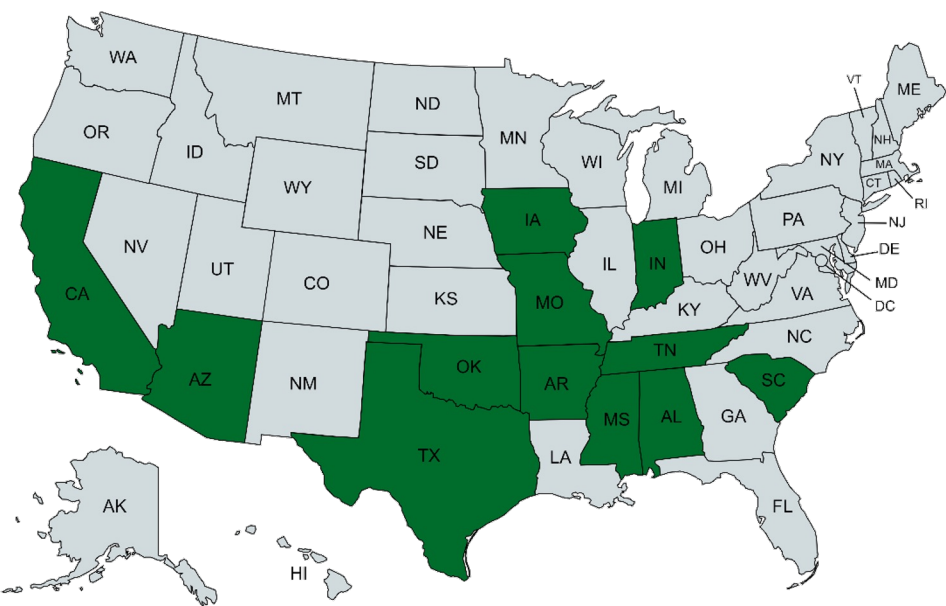
State Law Allows vs. Restricts Foreign Ownership



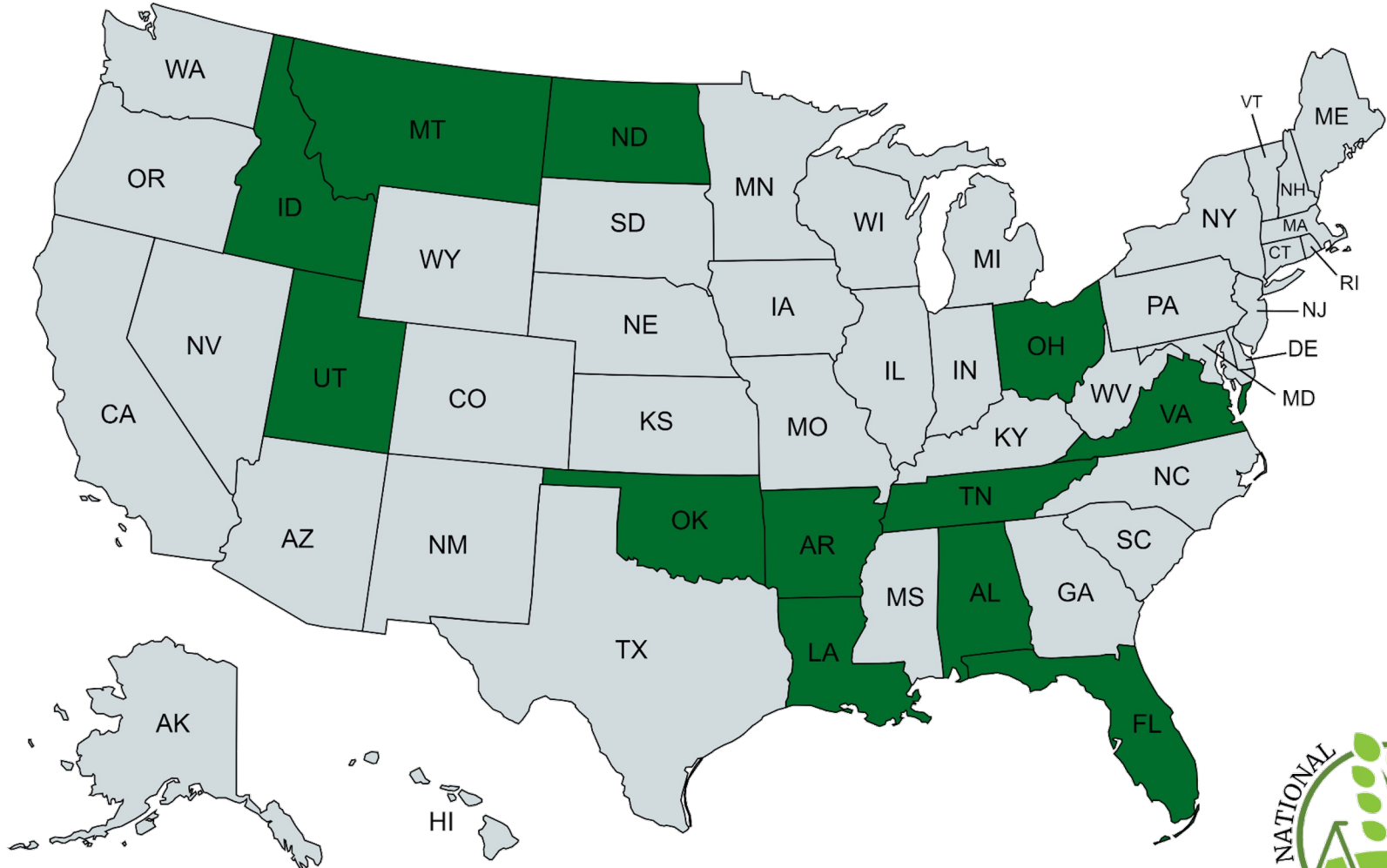
State Foreign Ownership Proposals

2021–2022

2023

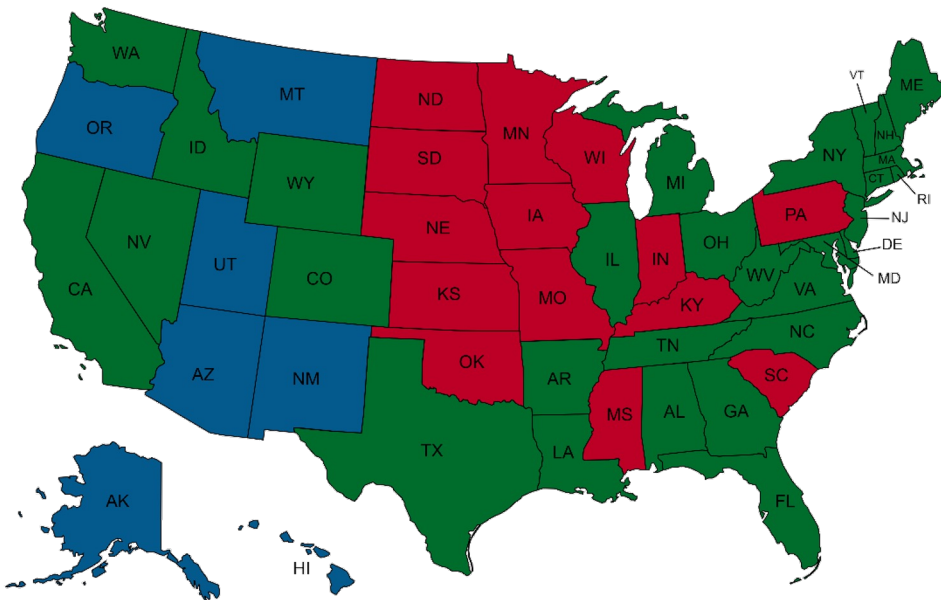


2023 Foreign Ownership Laws: Enacted

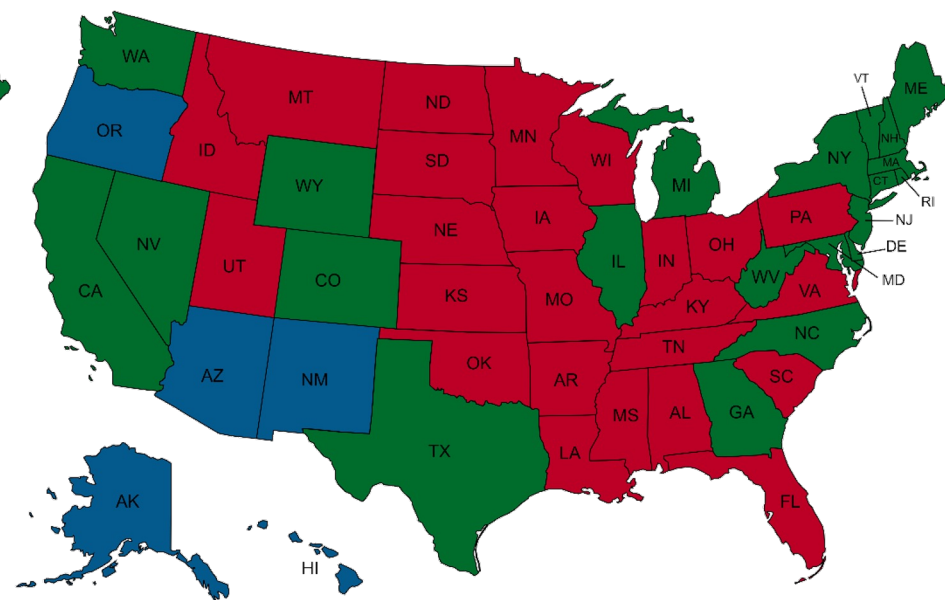


2022 vs. 2023 Foreign Ownership Laws

2022



2023



Alabama: HB 379 (*Enacted*)

- Restricts “**foreign principals**” of “foreign country of concern” from acquiring **agricultural land** (includes forest property)
 - **Gov’t** and **political party** of China, Iran, North Korea, or Russia (the “Big 4”)
- “Purchase or other acquisition of title....”
 - Leases?
- “No title insurer, title agent, real estate licensee, or other settlement provider...shall be liable for any violations....”
- Enforcement/penalty provisions?



Arkansas: SB 383 (*Enacted*)

- Restricts “**prohibited foreign party**” (“PFP”) from acquiring “any interest” in **ag land and forestland** (excludes minerals)
 - **Individual, entity, and gov’t** subject to International Traffic in Arms Regulations (“ITAR”)
 - “Entities of particular concern” (as designated by U.S. SOS)
 - Domestic/non-ITAR foreign entities if PFP has “significant interest or substantial control”
 - Exempts “resident alien” (PFP that resides in AR)
 - No express “grandfather clause”
 - No research/experimentation exception
 - Enforced by AG and “Office of Agricultural Intelligence”
 - Judicial foreclosure
 - **Felony** punishable by up to 2 years imprisonment and/or \$15K fine
- Restricts “**PFP-controlled business**” from acquiring public/private **real estate**
 - PFPCB is PFP with a “controlling interest” (50% or more) in entity



Florida: SB 264 (*Enacted*)

- Restricts “**foreign principal**” from “directly or indirectly owning, holding, or acquiring...any interest” in **ag land** and **forestland**
- **Individual, entity, and gov’t** of “foreign country of concern” (*i.e.*, Big 4)
- Ag land violation enforced by FL Dep’t of Agriculture and Consumer Services
 - Forfeiture
 - **Second-degree misdemeanor** (up to 60 days in prison and/or \$500 fine)
- Restricts Chinese gov’t, Chinese entities, and individuals “domiciled in China” (not a citizen or lawful permanent resident of the U.S.) from acquiring **real property**
 - Forfeiture
 - **Third-degree felony** (up to 5 years in prison and/or \$5K fine)
- Criminal penalties for **knowingly selling** land to prohibited purchaser
- *Shen v. Simpson*, No. 4:23-cv-208 (N.D. Fla. 2023)



Louisiana: HB 537 (*Enacted*)

- Restricts “**foreign adversary**” from purchasing/leasing acquiring **real property**
- Sellers can **rescind a contract** prior to the transfer of the property
- Sellers/lessors are liable if **aiding** foreign adversary to acquire land
- “No attorney, title insurer, title insurance producer, title insurance agency producer, lender, mortgage loan servicer, notary public, real estate agent, real estate broker, seller, or lessor shall have a duty to **make any investigation...**nor shall any person be **liable for failing to identify**” a foreign adversary
- State AG authorized to enforce → court must order property be sold if violation
- Rights in property are not void or voidable because property was held in violation
 - Including mortgage, liens, security interests on the property



Oklahoma: SB 212 (*Enacted*)

- Amends FOL to restrict “alien or any person who is not a citizen” from acquiring title to **land** “either directly or indirectly **through a business entity or trust....**”
- Restriction does not apply to entities “engaged in **regulated interstate commerce** in accordance with federal law”
 - *I.e.*, only restricts federal illegal activities, such as the production of marijuana
- Deeds recorded must include affidavit that attests buyer is in compliance with the law



Tennessee: HB 40 (*Enacted*)

- Restricts **nonresident individuals, foreign business, or foreign gov't** of “sanctioned” countries from acquiring **real property**
 - Sanctions program list (U.S. Treasury Dept.)
- Exempts inheritance/security interest (must divest w/in 2 years)
- All sanctioned investors must **register** landholdings with SOS
 - Including landholdings before July 1, 2023
 - \$2K penalty
- SOS reports potential violations to state AG → AG required to initiate an action
- If violation, land escheats → public sale
- No liability on real estate broker, attorney, title insurance company/agent
 - **BUT only those licensed in Tennessee!**



Virginia: SB 1438/HB 2325 (*Enacted*)

- Restricts “**foreign adversary**” from obtaining **ag land**
- Any acquisition in violation is void
 - Title vests in state on date of FA acquisition (w/o payment)
 - If transferred to non-FA, title vests in non-FA owner on date of FA acquisition
- FA is barred from making **claim for restitution** of purchase price or any loss
- City, county, town attorney, AG, or any non-FA person that was a party to a void transaction or subsequent holder of ag land by file an action:
 - i. Eject FA from possession
 - ii. Quiet title
 - iii. Any other appropriate action to ratify the nullification of the transaction
- Requires VA Dep’t of Agriculture and Consumer Services to publish annual report concerning foreign ownership of agricultural land and energy production



Mississippi: Foreign Ownership Laws

- Miss. Const. Art. 4, § 84
 - “The Legislature shall enact laws to limit, restrict, or prevent the acquiring and holding of **land**...by nonresident aliens, and **may** limit or restrict...holding of **lands** by corporations.”
- Miss. Code Ann. § 29-1-75
 - “[N]either a corporation nor a nonresident alien,...shall directly or indirectly purchase or become the owner of any of the **public lands**....”
- Miss. Code Ann. § 89-1-23
 - “[N]onresident aliens shall not hereafter acquire or hold **land**....”
 - Up to 320 acres for industrial development purposes
 - Up to 5 acres for residential purposes
 - Possibly exempts corporations/entities owned by nonresident aliens



Mississippi: Foreign Ownership Laws

- Miss. Code Ann. § 11-39-1
 - “The remedy by information in the nature of a quo warranto shall lie, in the name of the state, against any person or corporation offending in the following cases,...[w]henver any nonresident alien or corporation shall acquire or hold lands contrary to law.”
- Miss. Code Ann. § 11-39-3
 - “The proceedings in the cases set forth in Section 11-39-1 shall be by complaint, in the name of the state, by the Attorney General or a district attorney,....”
 - “...in the case of an alien or corporation acquiring or holding land contrary to law...the complaint shall be filed in the circuit court...where any of the land is situated.”



NALC Foreign Ownership Resources

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