

House Engrossed

agricultural land; foreign ownership; prohibition

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2376

AN ACT

AMENDING SECTIONS 37-101, 37-231 AND 37-240, ARIZONA REVISED STATUTES;
AMENDING TITLE 37, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY
ADDING SECTION 37-292; RELATING TO STATE LAND ADMINISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 37-101, Arizona Revised Statutes, is amended to
3 read:

4 37-101. Definitions

5 In this title, unless the context otherwise requires:

6 1. "Agricultural lands" means lands ~~which~~ THAT are used or can be
7 used principally for:

8 (a) Raising crops, fruits, grains and similar farm products.

9 (b) Algaculture. For the purposes of this subdivision,
10 "algaculture" means the controlled propagation, growth and harvest of
11 algae.

12 2. "Amortized value" means the value for improvements established
13 pursuant to section 37-281.02, subsection G.

14 3. "Commercial lands" means lands ~~which~~ THAT can be used
15 principally for business, institutional, religious, charitable,
16 governmental or recreational purposes, or any general purpose other than
17 agricultural, grazing, mining, oil, homesite or rights-of-way.

18 4. "Commissioner" means the state land commissioner.

19 5. "Community identity package" means a design theme, including
20 such elements as architecture, landscape, lighting, street furniture,
21 walls and signage.

22 6. "Department" means the state land department.

23 7. "FOREIGN ENTITY":

24 (a) MEANS ANY OF THE FOLLOWING:

25 (i) A FOREIGN GOVERNMENT OR A STATE-CONTROLLED ENTERPRISE OF A
26 FOREIGN GOVERNMENT.

27 (ii) A COMPANY OR OTHER ENTITY THAT IS HEADQUARTERED IN CHINA,
28 CUBA, IRAN, NORTH KOREA, RUSSIA, SAUDI ARABIA, SYRIA OR VENEZUELA.

29 (iii) A COMPANY OR OTHER ENTITY THAT IS DIRECTLY OR INDIRECTLY HELD
30 OR CONTROLLED BY THE GOVERNMENT OF CHINA, CUBA, IRAN, NORTH KOREA, RUSSIA,
31 SAUDI ARABIA, SYRIA OR VENEZUELA.

32 (iv) A COMPANY OR OTHER ENTITY THAT IS OWNED BY OR THE MAJORITY OF
33 STOCK OR OTHER OWNERSHIP INTEREST OF WHICH IS HELD OR CONTROLLED BY
34 INDIVIDUALS WHO ARE CITIZENS OF CHINA, CUBA, IRAN, NORTH KOREA, RUSSIA,
35 SAUDI ARABIA, SYRIA OR VENEZUELA.

36 (v) A COMPANY OR OTHER ENTITY THAT IS OWNED BY OR THE MAJORITY OF
37 STOCK OR OTHER OWNERSHIP INTEREST OF WHICH IS HELD OR CONTROLLED BY A
38 COMPANY OR ENTITY DESCRIBED IN ITEM (ii), (iii) OR (iv) OF THIS
39 SUBDIVISION.

40 (vi) AN INDIVIDUAL WHO IS A CITIZEN OF CHINA, CUBA, IRAN, NORTH
41 KOREA, RUSSIA, SAUDI ARABIA, SYRIA OR VENEZUELA.

42 (b) DOES NOT INCLUDE THE UNITED STATES GOVERNMENT OR ITS STATES,
43 TERRITORIES OR POSSESSIONS.

- 1 ~~7.~~ 8. "Grazing lands" means lands ~~which~~ THAT can be used only for
2 the ranging of livestock.
- 3 ~~8.~~ 9. "Holding lease" means a commercial lease issued solely to
4 grant a limited use leasehold interest in state land in anticipation of
5 future development.
- 6 ~~9.~~ 10. "Homesite lands" means lands ~~which~~ THAT are suitable for
7 residential purposes.
- 8 ~~10.~~ 11. "Improvements" means anything permanent in character ~~which~~
9 THAT is the result of labor or capital expended by the lessee or ~~his~~ THE
10 LESSEE'S predecessors in interest on state land in its reclamation or
11 development, and the appropriation of water ~~thereon~~ ON THAT STATE LAND,
12 and ~~which~~ THAT has enhanced the value of the land.
- 13 ~~11.~~ 12. "Infrastructure" means facilities or amenities, such as
14 streets, utilities, landscaping and open space, ~~which~~ THAT are constructed
15 or located on state lands and ~~which~~ THAT are intended to benefit more than
16 the land on which they are immediately located by enhancing the
17 development potential and value of the state lands impacted by the
18 facility or amenities.
- 19 ~~12.~~ 13. "Leapfrog development" means the development of lands in a
20 manner requiring the extension of public facilities and services from
21 their existing terminal point through intervening undeveloped areas that
22 are scheduled for development at a later time, according to the plans of
23 the local governing body having jurisdiction for the area and ~~which~~ THAT
24 is responsible for the provision of these facilities and services.
- 25 ~~13.~~ 14. "Leased school or university land" means school or
26 university land for which a lease has been issued by ~~the~~ THIS state, or
27 the territory of Arizona, under which the lessee retains rights.
- 28 ~~14.~~ 15. "Master developer" means a person who assumes, as a
29 condition of a land disposition, the responsibilities prescribed by the
30 department for infrastructure or community identity package amenities, or
31 both, or for implementing a development plan containing a master plan
32 area.
- 33 ~~15.~~ 16. "Participation contract" means a contract arising out of a
34 sale together with other rights and obligations in trust lands whereby the
35 department receives a share of the revenues generated by subsequent sales
36 or leases.
- 37 ~~16.~~ 17. "Section of land" means an area of land consisting of six
38 hundred forty acres.
- 39 ~~17.~~ 18. "State lands" means any land owned or held in trust, or
40 otherwise, by ~~the~~ THIS state, including leased school or university land.
- 41 ~~18.~~ 19. "Sublease" means an agreement in which the lessee
42 relinquishes control of the leased land to another party for the purposes
43 authorized in the lease.

1 ~~19.~~ 20. "Urban lands" means any state lands ~~which~~ THAT are
2 adjoining existing commercially or homesite developed lands and ~~which~~ THAT
3 are either:

4 (a) Within the corporate boundaries of a city or town.

5 (b) Adjacent to the corporate boundaries of a city or town.

6 (c) Lands ~~for which the designation~~ THAT ARE DESIGNATED as urban
7 lands ~~is~~ AS requested pursuant to section 37-331.01.

8 ~~20.~~ 21. "Urban sprawl" means the development of lands in a manner
9 requiring the extension of public facilities and services on the periphery
10 of an existing urbanized area where such extension is not provided for in
11 the existing plans of the local governing body having the responsibility
12 for the provision of these facilities and services to the lands in
13 question.

14 Sec. 2. Section 37-231, Arizona Revised Statutes, is amended to
15 read:

16 37-231. State lands subject to sale; rights reserved in lands
17 sold; state lands not subject to sale; development
18 agreements

19 A. All state lands, except as otherwise provided for in this title,
20 including all improvements made or placed on or connected with state
21 lands, shall be subject to appraisal and sale as provided in this title.

22 B. Any person over eighteen years of age is entitled to purchase
23 any of the state lands EXCEPT AS PROVIDED IN SECTION 37-240.

24 C. All sales, grants, deeds or patents to any state lands sold
25 between July 9, 1954 and March 18, 1968 shall be subject to and shall
26 contain a reservation to ~~the~~ THIS state of an undivided one-sixteenth of
27 all oil, gases and other hydrocarbon substances, coal or stone, metals,
28 minerals, fossils and fertilizer of every name and description, together
29 with all uranium, all thorium, or any other material ~~which~~ THAT is or may
30 be determined by the laws of ~~the~~ THIS state or the United States or
31 decisions of courts to be peculiarly essential to the production of
32 fissionable materials, whether or not of commercial value, subject to the
33 following:

34 1. For the purpose of promoting the sale of state lands and the
35 more active cooperation of the owner of the soil, and to facilitate the
36 development of its mineral resources, the state constitutes the purchaser
37 of the land its agent for the purposes specified in this section, and in
38 consideration hereof, relinquishes to and vests in the purchaser of the
39 state land an undivided fifteen-sixteenths of all oil, gas and the value
40 thereof which may be ~~upon~~ ON or within any state land purchased after
41 July 9, 1954 and before March 18, 1968.

42 2. The purchaser of the soil may sell or lease to any person, firm
43 or corporation the oil and gas and other minerals ~~which~~ THAT may be on or
44 in the land, ~~upon~~ ON terms and conditions the purchaser and the owner deem

1 best, subject to the provisions and reservations of this section, but the
2 lessee or purchaser shall pay to ~~the~~ THIS state an undivided one-sixteenth
3 of the mineral produced or the value of the mineral produced at the well
4 or mine as determined by the ~~state land~~ department.

5 3. ~~Upon~~ ON discovery of oil and gas in paying quantities on land
6 adjoining state lands purchased under the authority of this section, the
7 purchaser or the purchaser's lessee shall drill and produce all wells
8 necessary to protect the land so purchased from drainage by wells on lands
9 in which ~~the~~ THIS state has no royalty interest, ~~or~~ has a lesser royalty
10 interest. If the purchaser or the purchaser's lessee fails to protect
11 against such drainage, ~~the~~ THIS state, acting through the ~~state land~~
12 department, ~~may~~, three months after demand therefor in writing by the
13 ~~state land~~ department to such purchaser and the purchaser's lessee, MAY
14 enter ~~upon~~ ON such lands and drill all wells necessary to protect ~~the~~ THIS
15 state against such drainage.

16 4. The interest reserved by ~~the~~ THIS state in any state lands sold
17 may be committed to a drilling unit or cooperative or unit plans of
18 development and operation of oil and gas pools with the United States, its
19 agencies and its and their lessees and permittees, and with private owners
20 and persons holding oil and gas leases on private lands or on state
21 lands. The ~~state land~~ department ~~may~~, insofar as the interest of ~~the~~ THIS
22 state may be affected thereby, MAY join in and consent to any such plan on
23 behalf of ~~the~~ THIS state. Such agreements shall provide for the equitable
24 division on an agreed basis of the oil and gas produced from the unit, but
25 ~~no~~ such agreement shall NOT relieve any operator from the obligation to
26 develop reasonably the lands and leases as a whole committed thereto. The
27 royalties to which ~~the~~ THIS state is entitled on production from land
28 purchased under this section shall be computed only on that part of the
29 production allocated to such tract. When the agreements made under this
30 section provide for the return of gas to a formation underlying the unit,
31 they may provide that no royalties are required to be paid on the gas so
32 returned.

33 D. State lands known to contain oil, gases and other hydrocarbon
34 substances, geothermal resources, coal or stone, metals, minerals, fossils
35 and fertilizer of every name and description, in paying quantities, or
36 uranium, thorium or any other material ~~which~~ THAT is or may be determined
37 by the laws of ~~the~~ THIS state OR the United States or BY decisions of
38 court to be peculiarly essential to the production of fissionable
39 materials, whether or not of commercial value, and state lands adjoining
40 lands ~~upon~~ ON which there are producing oil, gas or geothermal wells or
41 adjoining lands known to contain any of such substances in paying
42 quantities, or uranium, thorium or any other material peculiarly essential
43 to the production of fissionable materials, whether or not of commercial
44 value, shall not be sold. The prohibition against sale shall not operate

1 to prevent the sale of lands known to contain, in paying quantities,
2 common variety minerals as defined in section 27-271 or to prevent the
3 sale of lands where ~~the~~ THIS state does not own such substances, minerals
4 or metals in the lands sought to be sold. ~~The provisions of~~ This
5 subsection ~~shall~~ DOES not prohibit the sale of such lands located within
6 the exterior boundaries of an incorporated city or town, in which case the
7 commissioner may offer the land for sale, provided the land shall be used
8 solely for a public purpose. Such land shall revert to ~~the~~ THIS state if
9 it is used other than for a public purpose.

10 E. Notwithstanding ~~the provisions of~~ subsection C of this section,
11 all state lands sold after March 18, 1968 shall be sold with the
12 reservation that all oil, gas, other hydrocarbon substances, helium or
13 other substances of a gaseous nature, geothermal resources, coal, metals,
14 minerals, fossils, fertilizer of every name and description, together with
15 all uranium, all thorium or any other material ~~which~~ THAT is or may be
16 determined by the laws of the United States or of this state, ~~or~~ BY
17 decisions of court, ~~to~~ be peculiarly essential to the production of
18 fissionable materials, whether or not of commercial value, and the
19 exclusive right thereto, on, in, or under such land, shall be and remain
20 and be reserved in and retained by ~~the~~ THIS state, regardless of any sale
21 under this section and the issuance of any certificate of purchase to any
22 purchaser of state lands pursuant to this section, provided, that the
23 reservation shall not include common variety minerals as defined in
24 section 27-271, subject to the following:

25 1. The ~~state land~~ department shall adopt rules providing for the
26 protection of the patentee or contract purchaser of state lands, or their
27 successors in interest, and ~~the~~ THIS state ~~of Arizona~~, against damage to
28 the lands, livestock, water, crops, ~~or~~ other tangible improvements on
29 lands held by such patentee or contract purchaser, and suffered by reason
30 of the use or occupation of such lands by lessees or permittees engaged in
31 mining and oil, gas and geothermal resource exploration and development
32 under leases or permits executed by the department. The ~~state land~~
33 department ~~may~~, at any time, MAY require each of its lessees or permittees
34 to execute a bond in a reasonable principal amount conditioned ~~upon~~ ON
35 payment for all such damages.

36 2. The mineral rights reserved to ~~the~~ THIS state in the lands sold
37 shall be closed to entry and location as a mineral claim or claims, but
38 the department may issue, ~~upon~~ ON application, mineral exploration permits
39 embracing the reserved mineral rights when such issuance is deemed in the
40 best interest of ~~the~~ THIS state, provided that the surface owner or owners
41 shall have the first right of refusal to acquire such mineral exploration
42 permits.

1 Sec. 3. Section 37-240, Arizona Revised Statutes, is amended to
2 read:

3 37-240. Limits on sales of state lands

4 A. ~~No~~ A person may NOT purchase more than six hundred forty acres
5 of grazing land, ~~or~~ or more than one hundred sixty acres of agricultural
6 land.

7 B. ~~No Sales, leases or subleases~~ of state lands ~~shall~~ MAY NOT be
8 made to corporations or associations not qualified to transact business in
9 ~~the~~ THIS state.

10 C. BEGINNING FROM AND AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO
11 THIS SECTION, SALES OF STATE LANDS MAY NOT BE MADE TO A FOREIGN ENTITY.

12 Sec. 4. Title 37, chapter 2, article 4, Arizona Revised Statutes,
13 is amended by adding section 37-292, to read:

14 37-292. Prohibited leases or subleases of state lands

15 A. LEASES OR SUBLEASES OF STATE LANDS MAY NOT BE MADE TO
16 CORPORATIONS OR ASSOCIATIONS NOT QUALIFIED TO TRANSACT BUSINESS IN THIS
17 STATE.

18 B. BEGINNING FROM AND AFTER THE EFFECTIVE DATE OF THIS SECTION,
19 LEASES OR SUBLEASES OF STATE LANDS MAY NOT BE MADE TO A FOREIGN ENTITY.