

REFERENCE TITLE: agricultural land; foreign ownership; prohibition

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

## **HB 2376**

Introduced by  
Representatives Biasiucci: Bliss, Cook, Gillette, Gress, Jones, Marshall,  
Martinez, McGarr, Smith

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 BOTH OF THE FOLLOWING:

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

27 (ii) ANY LEGAL ENTITY, INCLUDING A CORPORATION, LIMITED LIABILITY  
28 COMPANY OR PARTNERSHIP, THAT IS ESTABLISHED PURSUANT TO THE LAWS OF A  
29 FOREIGN GOVERNMENT AND THE LEGAL ENTITY'S AFFILIATES AND SUBSIDIARIES.

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

32 ~~7.~~ 8. "Grazing lands" means lands ~~which~~ THAT can be used only for  
33 the ranging of livestock.

34 ~~8.~~ 9. "Holding lease" means a commercial lease issued solely to  
35 grant a limited use leasehold interest in state land in anticipation of  
36 future development.

37 ~~9.~~ 10. "Homesite lands" means lands ~~which~~ THAT are suitable for  
38 residential purposes.

39 ~~10.~~ 11. "Improvements" means anything permanent in character ~~which~~  
40 THAT is the result of labor or capital expended by the lessee or ~~his~~ THE  
41 LESSEE'S predecessors in interest on state land in its reclamation or  
42 development, and the appropriation of water ~~thereon~~ ON THAT STATE LAND,  
43 and ~~which~~ THAT has enhanced the value of the land.

1       ~~11.~~ 12. "Infrastructure" means facilities or amenities, such as  
2 streets, utilities, landscaping and open space, ~~which~~ THAT are constructed  
3 or located on state lands and ~~which~~ THAT are intended to benefit more than  
4 the land on which they are immediately located by enhancing the  
5 development potential and value of the state lands impacted by the  
6 facility or amenities.

7       ~~12.~~ 13. "Leapfrog development" means the development of lands in a  
8 manner requiring the extension of public facilities and services from  
9 their existing terminal point through intervening undeveloped areas that  
10 are scheduled for development at a later time, according to the plans of  
11 the local governing body having jurisdiction for the area and ~~which~~ THAT  
12 is responsible for the provision of these facilities and services.

13       ~~13.~~ 14. "Leased school or university land" means school or  
14 university land for which a lease has been issued by ~~the~~ THIS state, or  
15 the territory of Arizona, under which the lessee retains rights.

16       ~~14.~~ 15. "Master developer" means a person who assumes, as a  
17 condition of a land disposition, the responsibilities prescribed by the  
18 department for infrastructure or community identity package amenities, or  
19 both, or for implementing a development plan containing a master plan  
20 area.

21       ~~15.~~ 16. "Participation contract" means a contract arising out of a  
22 sale together with other rights and obligations in trust lands whereby the  
23 department receives a share of the revenues generated by subsequent sales  
24 or leases.

25       ~~16.~~ 17. "Section of land" means an area of land consisting of six  
26 hundred forty acres.

27       ~~17.~~ 18. "State lands" means any land owned or held in trust, or  
28 otherwise, by ~~the~~ THIS state, including leased school or university land.

29       ~~18.~~ 19. "Sublease" means an agreement in which the lessee  
30 relinquishes control of the leased land to another party for the purposes  
31 authorized in the lease.

32       ~~19.~~ 20. "Urban lands" means any state lands ~~which~~ THAT are  
33 adjoining existing commercially or homesite developed lands and ~~which~~ THAT  
34 are either:

- 35       (a) Within the corporate boundaries of a city or town.
- 36       (b) Adjacent to the corporate boundaries of a city or town.
- 37       (c) Lands ~~for which the designation~~ THAT ARE DESIGNATED as urban  
38 lands ~~is~~ AS requested pursuant to section 37-331.01.

39       ~~20.~~ 21. "Urban sprawl" means the development of lands in a manner  
40 requiring the extension of public facilities and services on the periphery  
41 of an existing urbanized area where such extension is not provided for in  
42 the existing plans of the local governing body having the responsibility  
43 for the provision of these facilities and services to the lands in  
44 question.

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

3           37-231. State lands subject to sale; rights reserved in lands  
4                     sold; state lands not subject to sale; development  
5                     agreements

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

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

11           C. All sales, grants, deeds or patents to any state lands sold  
12 between July 9, 1954 and March 18, 1968 shall be subject to and shall  
13 contain a reservation to ~~the~~ **THIS** state of an undivided one-sixteenth of  
14 all oil, gases and other hydrocarbon substances, coal or stone, metals,  
15 minerals, fossils and fertilizer of every name and description, together  
16 with all uranium, all thorium, or any other material ~~which~~ **THAT** is or may  
17 be determined by the laws of ~~the~~ **THIS** state or the United States or  
18 decisions of courts to be peculiarly essential to the production of  
19 fissionable materials, whether or not of commercial value, subject to the  
20 following:

21           1. For the purpose of promoting the sale of state lands and the  
22 more active cooperation of the owner of the soil, and to facilitate the  
23 development of its mineral resources, the state constitutes the purchaser  
24 of the land its agent for the purposes specified in this section, and in  
25 consideration hereof, relinquishes to and vests in the purchaser of the  
26 state land an undivided fifteen-sixteenths of all oil, gas and the value  
27 thereof which may be ~~upon~~ **ON** or within any state land purchased after  
28 July 9, 1954 and before March 18, 1968.

29           2. The purchaser of the soil may sell or lease to any person, firm  
30 or corporation the oil and gas and other minerals ~~which~~ **THAT** may be on or  
31 in the land, ~~upon~~ **ON** terms and conditions the purchaser and the owner deem  
32 best, subject to the provisions and reservations of this section, but the  
33 lessee or purchaser shall pay to ~~the~~ **THIS** state an undivided one-sixteenth  
34 of the mineral produced or the value of the mineral produced at the well  
35 or mine as determined by the ~~state land~~ department.

36           3. ~~upon~~ **ON** discovery of oil and gas in paying quantities on land  
37 adjoining state lands purchased under the authority of this section, the  
38 purchaser or the purchaser's lessee shall drill and produce all wells  
39 necessary to protect the land so purchased from drainage by wells on lands  
40 in which ~~the~~ **THIS** state has no royalty interest, ~~or~~ has a lesser royalty  
41 interest. If the purchaser or the purchaser's lessee fails to protect  
42 against such drainage, ~~the~~ **THIS** state, acting through the ~~state land~~  
43 department, ~~may~~, three months after demand therefor in writing by the  
44 ~~state land~~ department to such purchaser and the purchaser's lessee, **MAY**

1 enter ~~upon~~ ON such lands and drill all wells necessary to protect ~~the~~ THIS  
 2 state against such drainage.

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

20 D. State lands known to contain oil, gases and other hydrocarbon  
 21 substances, geothermal resources, coal or stone, metals, minerals, fossils  
 22 and fertilizer of every name and description, in paying quantities, or  
 23 uranium, thorium or any other material ~~which~~ THAT is or may be determined  
 24 by the laws of ~~the~~ THIS state OR the United States or BY decisions of  
 25 court to be peculiarly essential to the production of fissionable  
 26 materials, whether or not of commercial value, and state lands adjoining  
 27 lands ~~upon~~ ON which there are producing oil, gas or geothermal wells or  
 28 adjoining lands known to contain any of such substances in paying  
 29 quantities, or uranium, thorium or any other material peculiarly essential  
 30 to the production of fissionable materials, whether or not of commercial  
 31 value, shall not be sold. The prohibition against sale shall not operate  
 32 to prevent the sale of lands known to contain, in paying quantities,  
 33 common variety minerals as defined in section 27-271 or to prevent the  
 34 sale of lands where ~~the~~ THIS state does not own such substances, minerals  
 35 or metals in the lands sought to be sold. ~~The provisions of~~ This  
 36 subsection ~~shall~~ DOES not prohibit the sale of such lands located within  
 37 the exterior boundaries of an incorporated city or town, in which case the  
 38 commissioner may offer the land for sale, provided the land shall be used  
 39 solely for a public purpose. Such land shall revert to ~~the~~ THIS state if  
 40 it is used other than for a public purpose.

41 E. Notwithstanding ~~the provisions of~~ subsection C of this section,  
 42 all state lands sold after March 18, 1968 shall be sold with the  
 43 reservation that all oil, gas, other hydrocarbon substances, helium or  
 44 other substances of a gaseous nature, geothermal resources, coal, metals,

1 minerals, fossils, fertilizer of every name and description, together with  
2 all uranium, all thorium or any other material ~~which~~ THAT is or may be  
3 determined by the laws of the United States or of this state, ~~or~~ BY  
4 decisions of court, ~~to~~ be peculiarly essential to the production of  
5 fissionable materials, whether or not of commercial value, and the  
6 exclusive right thereto, on, in, or under such land, shall be and remain  
7 and be reserved in and retained by ~~the~~ THIS state, regardless of any sale  
8 under this section and the issuance of any certificate of purchase to any  
9 purchaser of state lands pursuant to this section, provided, that the  
10 reservation shall not include common variety minerals as defined in  
11 section 27-271, subject to the following:

12 1. The ~~state land~~ department shall adopt rules providing for the  
13 protection of the patentee or contract purchaser of state lands, or their  
14 successors in interest, and ~~the~~ THIS state ~~of Arizona~~, against damage to  
15 the lands, livestock, water, crops, ~~or~~ other tangible improvements on  
16 lands held by such patentee or contract purchaser, and suffered by reason  
17 of the use or occupation of such lands by lessees or permittees engaged in  
18 mining and oil, gas and geothermal resource exploration and development  
19 under leases or permits executed by the department. The ~~state land~~  
20 department ~~may~~, at any time, MAY require each of its lessees or permittees  
21 to execute a bond in a reasonable principal amount conditioned ~~upon~~ ON  
22 payment for all such damages.

23 2. The mineral rights reserved to ~~the~~ THIS state in the lands sold  
24 shall be closed to entry and location as a mineral claim or claims, but  
25 the department may issue, ~~upon~~ ON application, mineral exploration permits  
26 embracing the reserved mineral rights when such issuance is deemed in the  
27 best interest of ~~the~~ THIS state, provided that the surface owner or owners  
28 shall have the first right of refusal to acquire such mineral exploration  
29 permits.

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

32 37-240. Limits on sales of state lands

33 A. ~~No~~ A person may NOT purchase more than six hundred forty acres  
34 of grazing land, ~~or~~ more than one hundred sixty acres of agricultural  
35 land.

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

39 C. BEGINNING FROM AND AFTER THE EFFECTIVE DATE OF THE AMENDMENT TO  
40 THIS SECTION, SALES OF STATE LAND THAT IS AGRICULTURAL LAND MAY NOT BE  
41 MADE TO A FOREIGN ENTITY.

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

3           37-292. Prohibited leases or subleases of state lands

4           A. LEASES OR SUBLEASES OF STATE LANDS MAY NOT BE MADE TO  
5 CORPORATIONS OR ASSOCIATIONS NOT QUALIFIED TO TRANSACT BUSINESS IN THIS  
6 STATE.

7           B. BEGINNING FROM AND AFTER THE EFFECTIVE DATE OF THIS SECTION,  
8 LEASES OR SUBLEASES OF STATE LAND THAT IS AGRICULTURAL LAND MAY NOT BE  
9 MADE TO A FOREIGN ENTITY.