

LEGISLATIVE RESEARCH COMMISSION

ALIEN LANDHOLDING



REPORT TO THE
1983 GENERAL ASSEMBLY
OF NORTH CAROLINA

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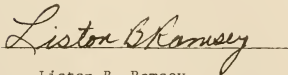
January 12, 1983

TO THE MEMBERS OF THE 1983 GENERAL ASSEMBLY:

The Legislative Research Commission herewith reports to the 1983 General Assembly on the matter of the ownership of land in North Carolina by aliens or foreign (alien) corporations. The report is made pursuant to Resolution 61 of the 1981 General Assembly.

This report was prepared by the Legislative Research Commission's Alien Landholding Study Committee and is transmitted by the Legislative Research Commission for your consideration.

Respectfully submitted,


Liston B. Ramsey


W. Craig Lawing

Cochairmen
Legislative Research Commission

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INTRODUCTION

The Legislative Research Commission, created by Article 6B of General Statutes Chapter 120, is authorized pursuant to the direction of the General Assembly "to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" and "to report to the General Assembly the results of the studies made," which reports "may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations." G.S. 120-30.17. The Commission is chaired by the Speaker of the House and the President Pro Tempore of the Senate, and consists of five Representatives and five Senators, who are appointed respectively by the Cochairmen. G.S. 120-30.10(a).

At the direction of the 1981 General Assembly, the Legislative Research Commission has undertaken studies of twenty-seven matters, which have been arranged into eleven groups according to related subject matter. See Appendix A for a list of the Commission members. Pursuant to G.S. 120-30.10(b) and (c), the Commission Cochairmen appointed study committees consisting of legislators and public members to conduct the studies. Each member of the Legislative Research Commission was delegated the responsibility of overseeing one group of studies and causing the findings and recommendations of the various committees to be reported to the Commission. In addition, one Senator and one Representative from each study committee were designated Cochairmen. See Appendix B for a list of the Study Committee members.

The 1979 General Assembly authorized the Legislative Research Commission to study the ownership of land in North Carolina by aliens or foreign corporations. Resolution 61 (Senate Joint Resolution 897) authorized the Commission to include in its study "a review of the amount of land presently owned in North Carolina by aliens or foreign corporations, the short and long-term effects of such ownership on citizens of North Carolina, and any other pertinent matter the Legislative Research Commission deems relevant to this area." See Appendix C.

The 1979-81 study was authorized in order to determine the nature and extent of alien investment in agricultural land in North Carolina. During the 1979 General Assembly's First Session, a bill that would have restricted alien ownership of agricultural land (HB 875) was introduced and referred to the House Committee on Agriculture. Because of the lack of information about alien ownership of and investments in agricultural land in North Carolina and the other states, the 1979 General Assembly decided to initiate the 1979-81 study rather than act on the bill. It was known at the time that such information would be soon available as a result of Public Law 95-460, the Agricultural Foreign Investment Disclosure Act of 1978.

During the 1981 General Assembly's First Session, identical SB 496 and HB 926 were introduced. These bills would have limited the rights of nonresident aliens, foreign governments, alien corporations, and alien-controlled domestic corporations to possess interests in agricultural land in North Carolina. Rather than favorably act upon these measures, the 1981 General Assembly decided to authorize the Legislative Research Commission to continue its evaluation of the subject. SJR 714, which

would have authorized the continuation study, was incorporated by reference into ratified Resolution 61, which authorized numerous Commission studies.

Because of budget limitations, the 1981-83 study was allocated only enough funds for two meetings. The Cochairmen therefore decided to postpone the two meetings until the latest possible dates in order to collect the most data on foreign investments in North Carolina agricultural land.

COMMITTEE PROCEEDINGS

The Alien Landholding Study Committee held meetings on December 1 and 10, 1982.

At the December 1 meeting the Committee was given information from the federal report summaries compiled by the State Department of Agriculture as of November 24, 1982. The data contained breakdowns of acreage owned by nationality, type of land, and counties. The Committee was also given a briefing of the 1981 report and a summary of the provisions of S.B. 496 and amendments that were tentatively adopted by the Senate Agriculture Committee in 1981. The Committee then discussed those provisions, and suggestions were made by members to improve the bill. Finally, Mr. William Rich, of the Rich Company in Elizabeth City, spoke in opposition to any statutory restrictions on foreign investment in agricultural land. He stated that such investment was beneficial to the agricultural economy and that the most common fears of foreign investment had not been realized.

At the December 10 meeting the legislation was further discussed and refined. The Committee then decided to recommend to the Legislative Research Commission that it forward the Committee's recommendations on

to the 1983 General Assembly for its consideration.

The subjects reviewed and discussed by the Committee during its meetings are described in more detail in this report under FINDINGS and RECOMMENDATIONS. Procedural details of the meetings can be found in the minutes of the Committee, which are on file in the Legislative Library.

FINDINGS

1. What are the factors that might account for the recent investments in real property in the United States by foreign businesses and individuals? Two simultaneous economic phenomena that occurred in the early to mid-1970's apparently provided a number of foreign nations with a plentiful supply of cheaper United States dollars. First, the decision by OPEC to raise the price of crude oil sent to the United States (following the OPEC embargo), coupled with the historical American dependency on that import, caused in the United States an acceleration in the rate of inflation, a deceleration in the rate of economic growth, and large deficits of payments in the balance of trade. Second, when the United States permitted its dollar to float against other world currencies by ceasing the practice of pegging its currency exchange rates, the first result was a devaluation of the dollar against currencies such as the Dutch guilder, the Swiss franc, the German mark, and the Japanese yen.

Foreign holdings of United States dollars increased dramatically, but these were inflated and devalued dollars. The next logical and economically sound step for foreigners holding these dollars was to convert them into assets that would not depreciate in value.

The devaluation of the United States dollar against other world currencies meant that United States land was comparatively cheaper than foreign real estate. These foreign holders of United States dollars had little incentive to purchase goods or services from the United States because the balance of trade was in their favor.

2. Are there other incentives for foreign investment in United States real property? Land, especially in the United States, has historically been purchased as a hedge against inflation. Land values have and are predicted to keep up with or surpass other kinds of investments because of the scarcity and diverse uses of land in the United States. The recent inflationary trend has resulted in an abnormal division between productive fixed asset values and current cash flows of individual United States businesses: The former appreciate while the latter are diminished. Investment in a fixed asset, especially land, is therefore more attractive to the potential foreign investor holding cheap United States dollars.

Foreign investors whose nations have signed reciprocal tax treaties with the United States are naturally attracted to United States land. Such treaties were entered into at times when United States concerns were large investors in properties and businesses around the world. The tax advantages accruing to foreign investors under these treaties as well as federal tax laws provide potential investors with many incentives: Preferential capital gains and income tax treatment in the United States coupled with very high rates of taxation in their own nations mean that investments in United States land will yield the highest possible rate of return. It is possible to some extent that foreign business entities may be backed

by United States citizens seeking more favorable tax treatment than they would receive by forming and capitalizing business entities under the laws of the United States.

The relative stability of the American political, social, and economic systems coupled with the historical reverence for property rights of landowners provide additional incentives for investment in American soil. These factors apparently guarantee more economic stability for land investments in America than in many other countries.

3. What are the incentives for investing in United States agricultural land? One might wonder why foreign nationals and businesses would want to invest in agriculture with its relatively low rate of return and complicated production processes. The scarcity and resultant appreciation of value of agricultural land are evidently sufficient incentives for such investment; the income from farming is relegated to secondary importance. The fact that there is a finite amount of arable land in the United States has led to an uninterrupted trend of increasing farmland values regardless of the profitability of agricultural enterprises; profitability, however, did improve substantially during the 1970's.
4. What has been North Carolina's experience with foreign investment in its agricultural land? Prior to the enactment by Congress of the Agricultural Foreign Investment Disclosure Act of 1978 (P.L.95-460), which requires the reporting of ownership and transfer of interests in United States agricultural land by foreign individuals, businesses, and governments, very little was known about the extent of foreign investment in North Carolina farmland. The Act became effective on

October 14, 1978, and the U. S. Secretary of Agriculture was delegated the duty of prescribing reporting regulations not later than 90 days after that date. The Act also requires the Secretary to transmit at six-month intervals to each state a copy of each report received by him during the previous six months that involves agricultural land located in the state. The North Carolina Department of Agriculture received these reports, compiled the information contained in the reports, and reported such to the Committee at each Committee meeting.

The first summary, as of January 14, 1980, shows that a total of 195,711 acres of North Carolina agricultural land was held by foreign persons and businesses subject to the federal reporting requirements; the second summary, as of February 25, 1980, shows a total of 197,294 acres; the third summary, as of June 20, 1980, shows a total of 206,535 acres; the fourth summary, as of September 15, 1980, shows a total of 208,440 acres; the fifth summary, as of December 5, 1980, shows a total of 219,613 acres; and the final summary, as of November 24, 1982, shows a total of 270,366 acres. Of the most recent total, the predominant holdings are of forest or timber land (73%); crop land follows (18%); and pasture land is a distant third (2%). The nationalities of the predominant landholders are as follows: United Kingdom - 38%, Netherlands - 29%, Italy - 16%, Canada - 5%, and Switzerland - 5%.

The reports evidence a trend from January 14, 1980 to November 24, 1982, of an increase of 74,655 acres held by foreign interests. The rate of foreign acquisition of agricultural land in North Carolina before the federal reporting requirement cannot easily be

measured. The rate of increase of foreign investment in such land since the data has become available cannot therefore be accurately compared against any previous trends.

Although it appears that foreign interest in North Carolina agricultural land is on the increase, it has not yet reached the proportions of investment in other states. Officials from the State Department of Agriculture have indicated that North Carolina's varied topography, soil, and climate may be factors in that they make it difficult to put together large tracts of homogenous land. The average size of a North Carolina farm is approximately 125 acres, whereas the national average is over 300 acres and the midwest average exceeds 500 acres. This does not necessarily mean that North Carolina is immune to or protected from foreign investment; but it does imply that the probability of foreign purchases of large tracts of agricultural land in the State is remote.

5. What legal aspects should be addressed in the consideration of proposed legislation that would restrict the rights of alien individuals and corporations to own land in the United States? The states that have laws restricting the rights of nonresident aliens to hold agricultural land are the states whose laws are more likely to survive constitutional attacks. Historically, state laws that have been found to unfairly discriminate against aliens were laws that denied aliens certain fundamental rights, such as welfare benefits, employment by the State, and eligibility for a profession, and as a consequence adversely affected the ability of aliens to survive. Under the Equal Protection Clause of the United States Constitution, there has to be a compelling state interest to justify a

state law that discriminates against a class of persons such as resident aliens. With regard to a nonresident foreign investor or foreign investment company, as long as a proprietary interest is not coupled with a fundamental personal right, a state needs only a rational relationship between the purpose of the law and a legitimate state interest, or interests, which in this case would be to (1) exclude or restrict foreign influence in the local economy and (2) preserve the state's natural resources for the use and benefit of the residents and citizens of the state. Any state restrictions on resident aliens' economic activities would in effect defeat the privilege of free admission that the federal government has granted those aliens and therefore conflict with the federal immigration laws. The Supremacy Clause of the United States Constitution says that federal law, including federal treaties, is the supreme law of the land; and the federal courts have said that in the event of any conflict between a state law and federal treaty of federal law, the federal measure would prevail.

The factors that would have the most significant impact on a state law that generally restricts alien landholding would be the provisions of the bilateral treaties of friendship, commerce, and navigation that the federal government has entered into with about 40 other nations. The United States has such treaties with most of the investing nations, and the treaties have incidental provisions regarding land ownership and related rights. The Supremacy Clause of the United States Constitution would render conflicting state laws inapplicable to aliens covered by those provisions because the treaty provisions would control. Many treaties contain

"most favored nation" clauses, which mean that citizens of the nation with which the United States has a treaty are guaranteed the most favorable treatment afforded any alien by the United States (For example, Saudi Arabians would receive as favorable treatment as Danes under the laws of the United States.) These treaties legitimate most alien ownership of urban land, that is, for commercial, industrial, and residential purposes. They do not generally extend to ownership of land for agricultural development or for exploitation of natural resources.

6. What are the most common fears of the effects of foreign investment in United States agricultural land?

(a) Absentee ownership: The foreign investor might not understand the physical capabilities of the land. There is a possibility of overexploitation of the land's capacity to produce; more interest in capital appreciation than production; expectation of a minimum acceptable annual rate of return that would prevent agriculturally sound adjustments to changing economic or agricultural situations; that productivity will be reduced because of a lower management level; irreparable or long-term damage to the land or its environs resulting from rapid depletion, erosion, sedimentation pollution, or failure to maintain drainage; an unfavorable environmental impact because of a change in the nature or type of agricultural enterprise or the use of the land; and an increase in production costs because of the employment of professional farm managers.

(b) Effect on locality and land prices: A possibility that local businesses or institutions will be bypassed in the production

and marketing of the agricultural enterprise; that the purchase will unduly reduce the number of acres of agricultural land available for domestic purchase or disproportionately or artificially increase the price of similar agricultural land; and that the business structure or capitalization of the foreign person will lessen or destroy competition in the agricultural marketplace.

(c) Effect on locality and market: The foreign investor may intend to export either raw or finished products derived from the agricultural land. If raw products are exported for processing, there is a possibility of an adverse effect on local employment or local fixed capital; a possibility that the exportation of raw or finished products will reduce the local supply and raise the local market price of the products; and a possibility that an intended change in the nature or type of agricultural enterprise or the use of the land will adversely affect the local market.

RECOMMENDATIONS

1. The 1983 General Assembly should consider and hold public hearings on legislation that would prohibit ownership of interests in agricultural land by nonresident alien individuals, business entities, and governments. The Committee bases this recommendation on the realistic consideration that public input is more readily elicited on a given issue when proposed legislation is being considered while the General Assembly is in session than while an interim study group is looking at such proposals. There is considerably more news media coverage of the legislative process during regular legislative sessions, which brings to the public's attention all potentially controversial legislative matters.

2. If this legislation is enacted, the provisions of present General Statutes Chapter 64 (Aliens) should be modified accordingly and incorporated into the new legislation.
3. In any event, present G.S. 64-1.1 should be repealed. At the time of the enactment of this law in 1979, the General Assembly assumed that the U. S. Secretary of Agriculture would be forwarding reports he receives under the Agricultural Foreign Investment Disclosure Act to the Secretary of State of North Carolina. The U. S. Secretary of Agriculture in fact has been forwarding these reports to the North Carolina Commissioner of Agriculture, who in turn compiles, classifies, and evaluates the information contained in the reports. This information and the reports from which it is derived are open for public inspection in the office of the Commissioner. Requiring the Secretary of State of North Carolina to maintain a similar file for the same purpose is a duplication of effort and is therefore unnecessary.

Appendices D and E respectively contain present General Statutes on aliens and the draft legislation recommended for consideration by the 1983 General Assembly.

APPENDIX A

STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
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1981-1983

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Senate President Pro Tempore W. Craig Lawing

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New Bern

Representative John T. Church
Henderson

Representative Gordon H. Greenwood
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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



ALIEN LANDHOLDING STUDY COMMITTEE

1981-83

LRC Member Responsible for Study:

Representative Gordon H. Greenwood
Black Mountain

Committee Cochairmen:

Representative Vernon G. James
Elizabeth City

Senator Vernon E. White
Winterville

Committee Members:

Representative William C. Gay
Lumberton

Senator Joseph J. Harrington
Lewiston

Representative Thomas B. Hunter
Rockingham

Senator Anthony E. Rand
Fayetteville

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

RESOLUTION 61

SENATE JOINT RESOLUTION 897

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE OWNERSHIP OF LAND IN NORTH CAROLINA BY ALIENS OR FOREIGN CORPORATIONS.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission is authorized to study the ownership of North Carolina real property by aliens or foreign corporations. Such study may include, but not be limited to, a review of the amount of land presently owned in North Carolina by aliens or foreign corporations, the short and long-term effects of such ownership on citizens of North Carolina, projected effects of such ownership on the general economy of North Carolina, and any other pertinent matter the Legislative Research Commission deems relevant to this area.

Sec. 2. The Legislative Research Commission may report its findings and recommendations to the 1981 Session of the General Assembly.

Sec. 3. This resolution shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

GENERAL STATUTES OF NORTH CAROLINA

Chapter 64.**Aliens.****§ 64-1. Rights as to real property.**

It is lawful for aliens to take both by purchase and descent, or other operation of law, any lands, tenements or hereditaments, and to hold and convey the same as fully as citizens of this State can or may do, any law or usage to the contrary notwithstanding. (1870-1, c. 255; Code s. 7; Rev., s. 182; C. S., s. 192; 1935, c. 243; 1939, c. 19.)

§ 64-1.1. Secretary of State to collect information as to foreign ownership of real property.

The Secretary of State is authorized and directed to collect all information obtainable from reports by aliens made to agencies of the federal government on ownership of real property interests in North Carolina, to be updated every three months, and to maintain a file on such information which shall be available to the members of the General Assembly and the public. (1979, c. 610.)

§ 64-2. Contracts validated.

All contracts to purchase or sell real estate by or with aliens, heretofore made, shall be deemed and taken as valid to all intents and purposes. (1870-1, c. 255, s. 2; Code, s. 8; Rev., s. 183; C. S., s. 193.)

§ 64-3. Nonresident aliens; right to take real or personal property; reciprocity.

The right of aliens not residing within the United States or its territories to take real property in this State by succession or testamentary disposition, upon the same terms and conditions as residents and citizens of the United States is dependent in each case upon the existence of a reciprocal right upon the part of citizens of the United States to take real property upon the same terms and conditions as residents and citizens of the respective countries of which such aliens are residents and the right of aliens not residing in the United States or its territories to take personal property in this State by succession or testamentary disposition, upon the same terms and conditions as residents and citizens of the United States is dependent in each case upon the existence of a reciprocal right upon the part of citizens of the United States to take personal property upon the same terms and conditions as residents and citizens of the respective countries of which such aliens are residents. (1959, c. 1208.)

§ 64-4. Burden of establishing reciprocal rights.

The burden shall be upon such nonresident aliens to establish the fact of existence of the reciprocal rights set forth in G.S. 64-3. (1959, c. 1208.)

§ 64-5. Nonresident aliens; absence of reciprocity; escheat.

If such reciprocal rights are not found to exist and if no heirs other than such aliens are found eligible to take such property, the property shall be disposed of as escheated property. (1959, c. 1208.)

APPENDIX E

DRAFT LEGISLATION RECOMMENDED FOR CONSIDERATION BY THE 1983 GENERAL ASSEMBLY

A BILL TO BE ENTITLED

AN ACT TO RESTRICT THE ACQUISITION OF INTERESTS IN NORTH CAROLINA
AGRICULTURAL LAND BY NONRESIDENT ALIENS.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a
new Chapter 64A to read:

"Chapter 64A.

"Alien Landholding.

"§ 64A-1. Short title.--This Chapter shall be known and may be
cited as the Alien Landholding Act.

"§ 64A-2. Legislative purpose, policy, and intent.--The
General Assembly finds and declares that:

(1) The wise and efficient use of agricultural land as a
finite natural resource of this State is of paramount interest to
the welfare of producers and consumers of agricultural products,
to the future availability of food and open space in this State
and the nation, and to the welfare and economy of the State of
North Carolina;

(2) The wise and efficient use of agricultural land is best
encouraged through local ownership, that certain foreign absentee

ownership is detrimental to such purposes, and that foreign investment in North Carolina agricultural land can increase speculation in and exploitation of agricultural land and products, resulting in higher prices to consumers for agricultural products, greater instability of market conditions, and the further decline of farming and wise rural development in this State; and

(3) It is the policy of the General Assembly, for the purpose of preserving and maintaining North Carolina's agricultural land in the public interest, preserving the present farm system, and assuring that the people of this State and the nation continue to have an adequate supply of agricultural products, to restrict the acquisition of interests in North Carolina's agricultural land by foreign persons.

"§ 64A-3. Definitions.--As used in this Chapter, unless the context clearly requires otherwise:

(1) 'Agricultural enterprise' means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing, or the production of livestock, and includes the production of timber, forest products, nursery products, or sod. 'Agricultural enterprise' does not include a contract where a processor or distributor of farm products or supplies provides spraying, harvesting, or other farm services.

(2) 'Agricultural land' means any tract of real property situated in the State of North Carolina, whether inside or

outside the corporate limits of any municipality, that is capable, without substantial modification to the character of the real property, of supporting an agricultural enterprise. 'Agricultural land' does not include any real property zoned by a municipality for a use other than, and nonconforming with, that of an agricultural enterprise.

(3) 'Attorney General' means the Attorney General of North Carolina.

(4) 'Board' means the Board of Agriculture, created by G.S. 106-2.

(5) 'Commissioner' means the Commissioner of Agriculture of North Carolina.

(6) 'Controlling interest' means the possession, direct or indirect, of the power to direct or cause the direction of the management of policies of a foreign person.

(7) 'Foreign person' means:

- (a) a corporation incorporated under the laws of a foreign country, or a business entity whether or not incorporated, in or through which (1) a controlling interest is owned directly or indirectly by foreign persons, or (2) the majority of the entity's equity capital is supplied directly or indirectly by foreign persons. Legal entities, including but not limited to trusts, holding companies, multiple corporations, and other business arrangements, do not affect the determination of ownership or control of a foreign

person; or

- (b) any government other than the government of a state, the government of a political subdivision of a state, or the government of the United States or of its territories or possessions; or
- (c) a natural person who is not a citizen of the United States and is either not a lawful resident of the United States or is within one of the class of nonimmigrant aliens specified in 8 U.S.C. § 1101(a)(15), as amended; or
- (d) an agent, trustee, or other fiduciary or representative who knowingly becomes such for a foreign person.

(8) 'Interest in agricultural land' means a legal or beneficial interest in agricultural land, including contracts for sale and similar arrangements, and leaseholds and other arrangements that are of sufficient duration or that have other characteristics, that effectively convey an ownership interest in, or control of the use of, the land. 'Interest in agricultural land' does not include easements, security interests, or other leases; and does not include oil, gas, mineral, or other mining rights or leases.

(9) 'Person' includes any natural person, corporation, company, trust, association, firm, partnership, society, joint stock company, trust, estate, cooperative, mutual funds, government, or legal entity.

(10) 'State' means a state of the United States, the District

of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

"§ 64A-4. Alien rights.--A foreign person may acquire any interest in real property, except agricultural land; may own, hold, devise, or alienate such interest; and shall incur the same duties and liabilities in relation thereto as a citizen and resident of the United States.

"§ 64A-5. Restriction on agricultural land holdings.--(a) Except as provided in G.S. 64A-7, 64A-10, or 64A-14, a foreign person shall not acquire any interest in agricultural land. A foreign person that owns or holds any interest in agricultural land prior to the effective date of this Chapter may continue to do so, but shall not thereafter acquire any additional interests in agricultural land, except as provided in G.S. 64A-7, 64A-10, or 64A-14.

(b) A person who acquires any interest in agricultural land in violation of this Chapter remains in violation of this Chapter for as long as the person holds the interest.

"§ 64A-6. Change of status; divestment.--Any person that acquires any interest in agricultural land after the effective date of this Chapter, and whose status changes so that it becomes a foreign person subject to this Chapter, must divest itself of the interest within two years from the date that its status changes.

"§ 64A-7. Development of land acquired for nonagricultural

purposes.--A foreign person may acquire any interest in agricultural land for a purpose other than that of an agricultural enterprise, and shall use the interest therein for that other purpose within 10 years after the acquisition of the interest. Pending the development of the agricultural land for the purpose other than an agricultural enterprise, the interest therein shall not be used for an agricultural enterprise except under lease to a person not subject to the restrictions imposed by G.S. 64A-5.

"§ 64A-8. Reports.--A foreign person that acquires any interest in agricultural land pursuant to G.S. 64A-7 shall file a report with the Commissioner before March 31 of each year. The report shall be in the form and manner prescribed by the Commissioner and shall contain the following:

- (1) the name of the owner of the agricultural land or interest therein;
- (2) if the owner of the agricultural land or interest therein is an agent, trustee, or fiduciary of a foreign person, the name of any principal for whom that land or interest therein was acquired as agent, trustee, or fiduciary;
- (3) the location and number of acres of the agricultural land by county;
- (4) the date the interest in agricultural land was acquired;
- (5) the immediate or pending use other than an agricultural enterprise for which the interest in agricultural land was acquired, and the status of the land's development for the purpose other than an agricultural enterprise; and

(6) the present use of the agricultural land.

"§ 64A-9. Penalty; failure to timely file report.--A foreign person who fails to timely file a report required by G.S. 64A-8 shall, for each offense, be punished by a fine of not more than two thousand dollars (\$2,000).

"§ 64A-10. Permits for extension of time for conversion of use to purpose other than agricultural enterprise.--(a) A foreign person that acquires any interest in agricultural land in accordance with G.S. 64A-7 may apply to the Board for one extension of time, not to exceed 10 years, during which that foreign person may continue to hold such interest in the land in accordance with G.S. 64A-7.

(b) In making a determination of whether to grant or refuse such extension of the amount of time required by the foreign person to convert the use of the land to a purpose other than an agricultural enterprise, the Board shall be guided by the provisions of G.S. 64A-2 and consider the following:

- (1) The information contained in the reports that have been previously filed with the Commissioner under G.S. 64A-8;
- (2) Any economic factors that account for the need of the foreign person for the time extension;
- (3) Any State or local governmental action that accounts for the need of the foreign person for the time extension; and
- (4) Any other factors deemed by the Commissioner or the Board to be relevant.

(c) The application for an extension of time shall be in a form prescribed by the Board and shall be filed prior to the expiration of the 10-year period prescribed in G.S. 64A-7. The expiration of the 10-year period prescribed in G.S. 64A-7 shall be stayed pending the outcome of the Board's consideration of the application for extension.

(d) All proceedings under this section shall be governed by the provisions of General Statutes Chapter 150A, as amended.

(e) In the event a foreign person seeks judicial review of the final decision of the Board, the expiration of the 10-year period prescribed in G.S. 64A-7 shall be stayed pending the outcome of the review.

"§ 64A-11. Monitoring of reports; evidence of noncompliance; enforcement.--(a) The Commissioner shall monitor, for compliance with this Chapter, reports transmitted to the Commissioner by the United States Secretary of Agriculture pursuant to 7 U.S.C. §3505, as amended, and shall evaluate and classify the information contained in those reports. If the Commissioner finds that a foreign person has acquired any interest in agricultural land in violation of this Chapter, the Commissioner shall report the violation to the Attorney General. Upon receipt of the report from the Commissioner, the Attorney General shall initiate an action in the superior court of any county in which the land is located.

(b) The Attorney General shall (1) file a notice of the pendency of the action with the register of deeds of each county in which any of the land is located and (2) serve notice upon the

foreign person in accordance with G.S. 1A-1, Rule 4. If, after notice and hearing, the court finds that the interest in question has been acquired in violation of this Chapter, it shall enter an order so declaring and shall file a copy of the order with the register of deeds of each county in which any portion of the land is located. Thereafter, the foreign person that acquired the interest shall have a period of one year from the date of the order to divest itself of the lands. The one-year limitation period shall be deemed to be a covenant running with the title to the land against any grantee, assignee, or successor of the foreign person. Any land not so divested within the time prescribed shall be sold at public sale in the manner prescribed by law for the foreclosure of a mortgage by court action. In addition, any prospective or threatened violation may be enjoined by an action brought by the Attorney General in the manner provided by law. No title to land shall be invalid or subject to forfeiture by reason of the alienage of any person having a former interest therein.

"§ 64A-12. Contracts validated.--All contracts to purchase or sell any interest in real estate by or with foreign persons made before the effective date of this Chapter are deemed and taken as valid to all intents and purposes.

"§ 65A-13. Foreign persons' rights to take real or personal property.--(a) The rights of foreign persons to take personal property or real property under G.S. 64A-14(d) in this State by succession or testamentary disposition, upon the same terms and conditions as residents and citizens of the United States, are

dependent in each case upon the existence of a reciprocal right upon the part of citizens of the United States to take real or personal property upon the same terms and conditions as residents and citizens of the respective countries of which such foreign persons are residents.

(b) The burden shall be upon such foreign persons to establish the fact of existence of the reciprocal rights set forth in subsection (a) of this section.

(c) If such reciprocal rights are not found to exist and if no heirs other than such foreign persons are found eligible to take such property, the property shall be disposed of as escheated property.

"§ 64A-14. Exceptions.--(a) The provisions of this Chapter shall not apply to any interest in agricultural land that may be acquired by any foreign person as security for indebtedness, by process of law in the collection of debts, or by the enforcement of a lien or claim thereon, whether created by mortgage or otherwise: Provided that any interest so acquired must be disposed of within two years after the date of acquisition.

(b) The provisions of this Chapter shall not apply to:

(1) Agricultural land operated for research or experimental purposes, provided that the interest in the agricultural land is incidental to the research or experimental objectives of the foreign person;

(2) Agricultural land used for the disposal of biodegradable waste from industrial facilities,

provided that any agricultural enterprise supported by such land is incidental to such disposal and not the primary source of revenue or income of the foreign person;

(3) Agricultural land that is contiguous to land held for a principal purpose other than an agricultural enterprise provided that any agricultural enterprise supported by such land is incidental to that principal purpose and is not the primary source of revenue or income of the foreign person; nor

(4) Agricultural land that is used for the extraction, mining, or processing of peat, phosphate, oil, natural gas, coal, or of any minerals; provided that any agricultural enterprise supported by such land is incidental to such extraction, mining, or processing and not the primary source of revenue or income of the foreign person.

(c) Any foreign person who is or becomes a bona fide resident of North Carolina or any other state shall have the right to acquire any interest in agricultural land upon the same terms as citizens of North Carolina during the continuance of such bona fide residence. However, if such person ceases to be a bona fide resident, he shall have two years from the time of termination of residency in which to dispose of such interest.

(d) A natural foreign person, as defined in G.S. 64A-3(7) (c), may acquire any interest in agricultural land by succession or

testamentary disposition after the effective date of this Chapter.

"§ 64A-15. Limitation.--The provisions of this Chapter shall not be applied in any manner inconsistent with any provision of any existing treaty between the United States and another nation."

Sec. 2. General Statutes Chapter 64 is repealed.

Sec. 3. G.S. 106-22 is amended by adding a new subsection to read:

"(18) Alien Landholding. Receive, review, and grant or refuse to grant extension permits to foreign persons in accordance with the provisions of G.S. 64A-10."

Sec. 4. The provisions of this act shall not affect any pending litigation.

Sec. 5. This act shall become effective July 1, 1983.

