



2026 South Dakota Legislature

Senate Bill 40

Introduced by: The Chair of the Committee on Agriculture and Natural Resources at the request of the Department of Agriculture and Natural Resources

1 **An Act to revise the compliance requirements for limitations on foreign ownership**
 2 **of agricultural land.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 43-2A-2 be AMENDED:**

5 **43-2A-2.** The following provisions apply to the ownership or leasing of agricultural
 6 land in this state:

- 7 (1) A prohibited entity may not own agricultural land in this state;
- 8 (2) A prohibited entity may not lease or hold an easement on agricultural land in this
 9 state, unless:
- 10 (a) The lease is exclusively for agricultural research purposes and encumbers
 11 no more than three hundred and twenty acres; or
- 12 (b) The lease is exclusively for contract feeding of livestock, at an animal
 13 feeding operation, by a family farm unit, a family farm corporation, or an
 14 authorized farm corporation;
- 15 (3) Excluding a prohibited entity, a foreign entity, foreign government, or foreign
 16 person may not own more than one hundred and sixty acres of agricultural land in
 17 this state, provided this limitation does not include:
- 18 ~~(a) Agricultural land acquired by devise or inheritance; or~~
- 19 ~~(b) Agricultural agricultural land held as security for indebtedness; and~~
- 20 (4) Excluding a prohibited entity, there is no restriction on easements or the number
 21 of acres of agricultural land that a foreign entity, foreign government, or foreign
 22 person may lease.

23 This section does not apply to a foreign entity, foreign government, or foreign
 24 person whose right to hold land is secured by treaty.

25 **Section 2. That § 43-2A-6 be AMENDED:**

1 **43-2A-6.** Any agricultural land owned in violation of this chapter is forfeited to the
2 state. Any agricultural land lease, or easement, held by a prohibited entity in violation of
3 this chapter, is terminated.

4 Any agriculture land acquired by devise or descent, wherein a minority owner is in
5 violation of this chapter, is subject to forfeiture of the violating minority owner's interest
6 share, plus an additional civil penalty in an amount equal to the fair market value of the
7 violating minority owner's interest share.

8 The attorney general shall enforce the forfeiture or the termination of a lease or
9 easement. A forfeiture or a termination of a lease or easement may not be adjudged
10 unless the action to enforce is brought within three years after evidence of a violation of
11 this chapter is referred to the attorney general, as provided for in § 43-2A-6.1. No title to
12 land is invalid or liable to forfeiture by reason of the alienage of any former owner or
13 interested person.

14 Any fractional interest in any land forfeited to the state must first be made available
15 to the other equitable owners of the land at fair market value. The attorney general may
16 determine fair market value under this section by an appraisal or a value of two times the
17 assessed taxable valuation of the land.

18 **Section 3. That § 43-2A-7.1 be AMENDED:**

19 **43-2A-7.1.** Any person required to submit a report to the United States
20 Department of Agriculture in accordance with the Agricultural Foreign Investment
21 Disclosure Act of 1978, 7 U.S.C. ~~§ 3501 et seq. (January 1, 2024)~~ §§ 3501 to 3508
22 inclusive (January 1, 2026), shall file a copy of the required report with the secretary of
23 the Department of Agriculture and Natural Resources, within the time period required for
24 submission under 7 U.S.C. § 3501.

25 If the person fails to report as required under this section, the attorney general
26 may impose a civil penalty, not to exceed ten percent of the fair market value of the
27 agricultural land interest held on the date the penalty was assessed. The attorney general
28 shall forward any civil penalty collected under this section to the state treasurer, for
29 deposit in the general fund.

30 The attorney general may bring an action to collect the civil penalty in the Sixth
31 Judicial Circuit Court in Pierre or in the circuit court of any county of this state in which
32 any portion of the relevant agricultural land is located.