

Senate Bill 420

By: Senators Anavitarie of the 31st, Goodman of the 8th, Beach of the 21st, Cowser of the 46th, Gooch of the 51st and others

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Code Section 1-2-11 of the Official Code of Georgia Annotated, relating to rights
2 of aliens generally, purchase, holding, and conveyance of realty, so as to provide for a
3 limitation regarding property rights for certain foreign persons and entities; to amend
4 Chapter 1 of Title 2 of the Official Code of Georgia Annotated, relating to general provisions
5 relative to agriculture, so as to prohibit the acquisition of possessory interest in certain land
6 by certain foreign persons and entities; to provide for definitions; to provide for exceptions;
7 to provide for civil actions; to provide for rules and regulations; to provide for disclosures;
8 to provide for penalties; to provide for statutory construction; to amend Title 44 of the
9 Official Code of Georgia Annotated, relating to property, so as to provide for
10 transfer-on-death deeds; to provide for definitions; to provide for execution and recording
11 of such deeds; to provide for a deed form; to provide for revocation or changing of grantee
12 beneficiaries; to provide that such deeds shall not be revoked by wills; to provide for taking
13 of interests free and clear of claims; to provide for lapsing of transfers; to provide for record
14 owners to retain title; to provide for joint ownership; to provide for related matters; to
15 provide for an effective date; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 420

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SECTION 1.

Code Section 1-2-11 of the Official Code of Georgia Annotated, relating to rights of aliens generally, purchase, holding, and conveyance of realty, is amended by revising subsection (b) as follows:

"(b) Aliens who are subjects of governments at peace with the United States and this state, as long as their governments remain at peace with the United States and this state, shall be entitled to all the rights of citizens of other states who are temporarily in this state and shall have the privilege of purchasing, holding, and conveying real estate in this state except as provided by Code Section 2-1-7.

SECTION 2.

Chapter 1 of Title 2 of the Official Code of Georgia Annotated, relating to general provisions relative to agriculture, is amended by adding a new Code section to read as follows:

"2-1-7.

(a) As used in this Code section, the term:

(1) 'Agent of a foreign government' means:

(A) Any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign government or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign government, and who directly or through any other person:

(i) Engages within the United States in political activities for or in the interests of such foreign government;

(ii) Acts within the United States as a public relations counsel, publicity agent, information service employee, or political consultant for or in the interests of such foreign government;

(iii) Within the United States solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interests of such foreign government; or

(iv) Within the United States represents the interests of such foreign government before any agency or official of the government of the United States; and

(B) Any person who agrees, consents, assumes, or purports to act as, or who is or holds himself or herself out to be, whether or not pursuant to a contractual relationship, a person described in subparagraph (A) of this paragraph.

(2) 'Agricultural land' means any land capable of use in the production of agricultural crops, timber, livestock or livestock products, poultry or poultry products, milk or dairy products, or fruit or other horticultural products, but does not include any land zoned by a local governmental unit for a use other than and nonconforming with agricultural use.

(3) 'Nonresident alien' means:

(A)(i) Any natural person described in subsection (a) of Code Section 1-2-11 who is not a United States citizen or legal resident, is an agent of a foreign government designated as a foreign adversary by the United States Secretary of Commerce pursuant to 15 C.F.R. Section 7.4, and:

(I) Has been physically absent from the United States for more than six months out of the most recent 12 months preceding the acquisition of a possessory interest described in this Code section; or

(II) Has been physically absent from Georgia for more than two months out of the most recent 12 months preceding the acquisition of a possessory interest described in this Code section.

(ii) The provisions of this subparagraph shall not be in conflict with the federal Fair Housing Act.

(B) A corporation, partnership, limited partnership, trustee, or other business entity that is:

(i) Domiciled in a country whose government is designated as a foreign adversary by the United States Secretary of Commerce pursuant to 15 C.F.R. Section 7.4; or

(ii) Domiciled within the United States, but the ownership of at least 25 percent of which is composed of any corporation, partnership, limited partnership, trustee, or other business entity that is domiciled in a country whose government is designated as a foreign adversary by the United States Secretary of Commerce pursuant to 15 C.F.R. Section 7.4;

provided, however, that this subparagraph shall not include a corporation, partnership, limited partnership, trustee, or other business entity leasing land from its owner and using such land for agricultural research and development or experimental purposes, including testing, developing, or producing crop production inputs, including, but not limited to, seeds, plants, pesticides, soil amendments, biologicals, and fertilizers, for sale or resale to farmers; or

(C) A foreign government designated as a foreign adversary by the United States Secretary of Commerce pursuant to 15 C.F.R. Section 7.4.

(4) 'Residential property' means real estate intended to be used as the purchaser's dwelling, as such term is defined in Code Section 8-3-201.

(b)(1) Except as provided by subsections (c) and (d) of this Code section, no nonresident alien shall acquire directly or indirectly any possessory interest in agricultural land or land within a ten-mile radius of any military base, military installation, or military airport.

(2) This subsection shall not apply to residential property.

(c)(1)(A) A nonresident alien may acquire a possessory interest in agricultural land or land within a ten-mile radius of any military base, military installation, or military airport by devise or inheritance, as security for indebtedness, in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise.

95 (B) Any such possessory interest in agricultural land or land within a ten-mile radius
96 of any military base, military installation, or military airport acquired by a nonresident
97 alien in the collection of debts or by any procedure for the enforcement of a lien or
98 claim thereon shall be disposed of within two years after acquiring such possessory
99 interest.

100 (C) Any such possessory interest in agricultural land or land within a ten-mile radius
101 of any military base, military installation, or military airport acquired by a nonresident
102 alien by devise or inheritance shall be disposed of within one year after acquiring such
103 possessory interest.

104 (2) A nonresident alien with any possessory interest in agricultural land or land within
105 a ten-mile radius of any military base, military installation, or military airport as of
106 June 30, 2024, shall dispose of such possessory interest no later than June 30, 2027.

107 (d) A nonresident alien that acquires a possessory interest in agricultural land or land
108 within a ten-mile radius of any military base, military installation, or military airport
109 pursuant to subsection (c) of this Code section may avoid disposing of such interest if,
110 within the time required for disposal, such nonresident alien terminates said nonresident
111 alien status.

112 (e) A broker who is engaged by client who is a prospective buyer or seller of a possessory
113 interest in agricultural land or land within a ten-mile radius of any military base, military
114 installation, or military airport shall timely disclose to said client the requirements and
115 limitations of this Code section. For purposes of this subsection, the terms 'broker,' 'client,'
116 and 'timely' shall have the same meanings as provided in Code Section 10-6A-3.

117 (f) A nonresident alien that purports to acquire any interest in agricultural land or land
118 within a ten-mile radius of any military base, military installation, or military airport in
119 violation of this Code section shall be barred from making any claim against any party for
120 restitution of the purchase price paid by such nonresident alien in connection with such
121 interest in agricultural land or land within a ten-mile radius of any military base, military

installation, or military airport or for any other kind of payment relating to the nonresident alien's loss or lack of title to such interest in agricultural land or land within a ten-mile radius of any military base, military installation, or military airport. The legal counsel of any county, municipality, or consolidated government in which the agricultural land or land within a ten-mile radius of any military base, military installation, or military airport is located, the Attorney General, or any person that is not a nonresident alien that was a party to the void transaction or is a subsequent holder of such interest may file an action to void the conveyance and have the interest revert to the previous owner.

(g) An individual who intentionally violates the provisions of this Code section shall be guilty of a felony and shall be punished by a fine of not more than \$15,000.00 and imprisonment for not less than one year nor more than two years."

SECTION 3.

Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by adding a new chapter to read as follows:

"CHAPTER 17

44-17-1.

As used in this chapter, the term:

(1) 'Interest in real estate' means any estate or interest in, over or under land, including surface, minerals, structures, fixtures, and easements.

(2) 'Joint owner' means a person that owns an interest in real estate as a joint tenant with right of survivorship.

44-17-2.

(a) An interest in real estate may be titled in a transfer-on-death form by recording a deed, signed by the record owner of the interest, designating a grantee beneficiary or beneficiaries of the interest. Such deed shall transfer ownership of such interest upon the death of the record owner. A transfer-on-death deed need not be supported by consideration.

(b) The signature, consent, or agreement of or notice to a grantee beneficiary or beneficiaries of a transfer-on-death deed shall not be required for any purpose during the lifetime of the record owner.

(c) To accept real estate pursuant to a transfer-on-death deed, a designated grantee beneficiary shall execute an affidavit affirming:

(1) Verification of the record owner's death;

(2) Whether the record owner and the designated grantee beneficiary were married at the time of the record owner's death; and

(3) A legal description of the real estate.

(d) The designated grantee beneficiary shall attach a copy of the record owner's death certificate to the affidavit provided for in subsection (c) of this Code section. For a record owner's death occurring on or after July 1, 2024, the designated grantee beneficiary shall record such affidavit and related documents with the office of the clerk of superior court of the county where the real estate is located within nine months of the record owner's death or the interest in the property shall revert to the deceased record owner's estate; provided, however, that for a record owner's death occurring before July 1, 2024, such recording of the affidavit provided for in subsection (c) of this Code section and related documents by the designated grantee beneficiary or beneficiaries shall not be subject to the nine-month time limitation.

168 44-17-3.

169 An interest in real estate may be titled in a transfer-on-death form by executing, attesting,
 170 and recording in the office of the clerk of superior court of the county where the real estate
 171 is located, prior to the death of the record owner, a deed in substantially the following
 172 form:

173 'AFTER RECORDING, PLEASE RETURN TO:

174 _____
 175 (Name)

176 _____
 177 _____
 178 (Address)

179 STATE OF _____

180 COUNTY OF _____

181 TRANSFER-ON-DEATH DEED UNDER O.C.G.A. § 44-17-3

182 THIS INDENTURE is made the _____ day of _____, 20 _____, between
 183 _____ (name of record owner), a resident of _____ (hereinafter
 184 called "Grantor"), and _____, a resident of _____ (hereinafter called
 185 "Grantee").

186 WITNESSETH:

187 Grantor, being of competent mind and having the legal capacity to execute this
 188 document, as record owner, does hereby grant, bargain, sell, transfer, alien, convey, and

189 confirm on death to Grantee, as beneficiary, the following described interest in real
190 estate:

191 (insert description of the interest in real estate).

192 TO HAVE AND TO HOLD the said described property, with all and singular the rights,
193 members and appurtenances thereof, to the same being, belonging, or in anywise
194 appertaining, to the only proper use, benefit and behoof of the said Grantee forever in
195 FEE SIMPLE, but subject to the following limitations: THIS TRANSFER-ON-DEATH
196 DEED IS REVOCABLE. IT DOES NOT TRANSFER ANY OWNERSHIP UNTIL
197 THE DEATH OF THE GRANTOR. IT REVOKES ALL PRIOR BENEFICIARY
198 DESIGNATIONS BY THIS GRANTOR FOR THIS INTEREST IN REAL ESTATE.
199 THE GRANTOR HAS THE RIGHT TO WITHDRAW OR RESCIND THIS DEED AT
200 ANY TIME. ANY BENEFICIARY NAMED IN THIS DEED IS HEREBY ADVISED
201 THAT THIS DEED MAY BE WITHDRAWN OR RESCINDED WHETHER OR NOT
202 MONEY OR ANY OTHER CONSIDERATION WAS PAID OR GIVEN.

203 Grantor will warrant and forever defend the right and title to the said described property
204 unto the said Grantee against the claims of all persons claiming by, under or through
205 Grantor, subject to the restrictions and limitations set forth in this instrument.

206 IN WITNESS WHEREOF, the Grantor(s) declare(s) that this deed is a revocable
207 transfer-on-death deed of the real property described herein and has(ve) signed and sealed
208 this deed, the day and year above written.

209 _____(SEAL)

210 (Signature of Grantor)

211 _____(SEAL)

212 (Signature of Grantor)

213 Signed, sealed, declared and delivered

214 in the presence of:

215 _____

216 Unofficial Witness

217 _____

218 Notary Public

219 My Commission Expires:

220 (SEAL)'

221 44-17-4.

222 (a) A record owner of an interest in real estate who has titled such interest in a
223 transfer-on-death deed form and designated a beneficiary or beneficiaries in the manner
224 provided in this chapter may revoke such designation of the grantee beneficiary or
225 beneficiaries at any time prior to the death of such record owner, by executing,
226 acknowledging, and recording in the office of the clerk of superior court of the county
227 where the real estate is located an instrument revoking such designation. The instrument
228 of revocation shall refer to the initial transfer-on-death deed, shall be signed by the record
229 owner or such record owner's duly authorized attorney-in-fact, and such signature shall be
230 attested by an officer as provided in Code Section 44-2-15 and attested by two other

witnesses. Such revocation may be included in another deed or other instrument of conveyance that is recorded. The signature, consent, or agreement of or notice to the designated grantee beneficiary or beneficiaries to the revocation shall not be required.

(b) A record owner of an interest in real estate who has titled such interest in a transfer-on-death deed form and designated a beneficiary or beneficiaries in accordance with this chapter may change such designation of the grantee beneficiary or beneficiaries at any time prior to the death of such record owner, by executing, acknowledging, and recording in the office of the clerk of superior court of the county where the real estate is located a subsequent transfer-on-death deed in accordance with this chapter. The signature, consent, or agreement of or notice to the designated grantee beneficiary or beneficiaries shall not be required. A subsequent transfer-on-death beneficiary designation revokes all prior designations of grantee beneficiary or beneficiaries by the record owner for the interest in real estate.

(c) A transfer-on-death deed executed, acknowledged, and recorded in accordance with this chapter may not be revoked by the provisions of a will.

44-17-5.

(a) A grantee beneficiary or the beneficiaries of a transfer-on-death deed shall take the interest in real estate of the record owner at the death of such record owner, free and clear of any claims or interest as to a person who became the spouse of the record owner subsequent to the execution of the transfer-on-death deed, subject to all recorded conveyances, assignments, contracts, mortgages, liens, and security pledges made by the record owner or to which the record owner was subject during the lifetime of such record owner including, but not limited to, any recorded executory contract of sale, option to purchase, lease, license, easement, mortgage, deed of trust or lien, and to any interest conveyed by the record owner that is less than all of the record owner's interest in the property; provided, however, that a nonconsensual lien against the grantee beneficiary or

beneficiaries shall not attach to the property until the recording of the affidavit described in Code Section 44-17-2.

(b) If one or more of the designated grantee beneficiaries dies prior to the death of the record owner, the transfer to those beneficiaries who predecease the record owner shall lapse and shall be deemed revoked. In the event the grantee beneficiary or beneficiaries are designated in the deed to be joint tenants with right of survivorship, the death of one or more of the designated grantee beneficiaries prior to the death of the record owner shall not invalidate an otherwise validly created joint tenancy estate as to those designated grantee beneficiaries who are living at the time of the death of the record owner.

44-17-6.

A record joint owner of an interest in real estate may use the provisions of this chapter to title the interest in a transfer-on-death form; provided, however, that title to the interest shall vest in the designated grantee beneficiary or beneficiaries only if the record joint owner is the last to die of all of the record joint owners of the interest. A deed in a transfer-on-death form shall not sever a joint tenancy.

44-17-7.

A record owner who executes a transfer-on-death deed shall remain the legal and equitable owner until the death of such record owner, and during his or her lifetime shall be considered an absolute owner with regard to creditors and purchasers."

SECTION 4.

This Act shall become effective on July 1, 2024.

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.