What Buyers, Sellers and REALTORS® Need to Know about Buying Agricultural Land and Land Near Military Bases, Installations and Airports

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1. What does O.C.G.A. § 2-1-7 prohibit?

This Georgia statute prohibits certain persons from buying or acquiring certain interests in any agricultural land in Georgia and land within 10 miles form a military base, installation or airport ("restricted land").

2. How is the 10 miles calculated?

The restricted land near military installations is that property within a 10-mile radius of a military base, installation or airport.

3. Who cannot purchase restricted land?

The restrictions apply to nonresident aliens, foreign corporations and other foreign businesses and foreign governments designated by the U.S. Secretary of Commerce as a foreign adversary ("prohibited owner"). All such persons and companies are prohibited from buying restricted land. Whether a person or company is a prohibited owner is further defined in the code section.

https://www.state.gov/countries-of-particular-concern-special-watch-list-countries-entities-of-particular-concern/

4. Do the restrictions apply to all agricultural land and land within 10 miles of a military base, installation or airport?

No. If the land is not zoned for and cannot be used for agricultural purposes or is a residential property intended to be used as a purchaser's dwelling, it can be acquired by a prohibited owner, regardless of where it is located in Georgia.

5. Could it be argued that the law violates our fair housing laws?

The statute includes the statement that it "shall not be in conflict with the federal Fair Housing Act". However, REALTORS® are advised not to inquire about a person's background when selling property within the restricted area but to simply point out that certain persons are not permitted to buy land within this area and advising the buyer to then determine for themselves whether they would be a prohibited owner.

6. Does the law just apply to the ownership of restricted land?

No. The law does not allow a prohibited owner from directly or indirectly acquiring any "possessory interest" in restricted land. While the term "possessory interest" is not defined in the statute, it generally means the right to possess real property in a manner giving the person control over the land and an ability to exclude others from occupying the property. So, for example, both owners and tenants normally have a possessory interest in land.

7. Are there any exceptions to the law?

A prohibited owner may acquire a possessory interest in restricted land as security for indebtedness, in the collection of debts. An example this would be acquiring an interest in property through foreclosure. However, property acquired this way must be disposed of by a prohibited owner within two years after acquiring such a possessory interest.

8. What should I do if I am a prohibited owner and already own agricultural land or land near a military installation?

Prohibited owners who presently own restricted land are required to dispose of it not later than by June 30, 2027. If a prohibited owner inherits restricted land, they are required to dispose of it within one year.

9. What are the penalties for violating the law?

Any individual who intentionally violates the provisions of the law is guilty of a felony and is subject to a fine of not more than $15,000 and imprisonment for not less than one (1) year nor more than two (2) years.

Attorneys for local governments can also bring legal action against violators to void transactions that violate the law in which case the property would revert to the previous owner.

10. What is the duty of real estate brokers and licensees under the law?

Brokers who are working with buyers or sellers of restricted land in a client capacity are required to disclose the requirements and limitations of the statute.

11. Can a prohibited owner avoid the requirement to dispose of the property?

Yes, if a nonresident terminates their nonresident alien status, they can avoid complying with the requirement to dispose of restricted property.

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