

REFERENCE TITLE: foreign entities; land ownership; prohibition

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

HB 2761

Introduced by
Representatives Gillette: Kolodin, Wilmeth

AN ACT

AMENDING TITLE 33, CHAPTER 4, ARTICLE 4, ARIZONA REVISED STATUTES, BY
ADDING SECTION 33-459; AMENDING SECTIONS 37-231 AND 37-240, ARIZONA
REVISED STATUTES; RELATING TO LAND SALES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 33, chapter 4, article 4, Arizona Revised
3 Statutes, is amended by adding section 33-459, to read:

4 33-459. Conveyance to foreign entity; prohibition; definition

5 A. BEGINNING FROM AND AFTER THE EFFECTIVE DATE OF THIS SECTION,
6 LAND IN THIS STATE MAY NOT BE CONVEYED TO A FOREIGN ENTITY.

7 B. FOR THE PURPOSES OF THIS SECTION, "FOREIGN ENTITY":

8 1. MEANS A FOREIGN GOVERNMENT, A STATE-CONTROLLED ENTERPRISE OF A
9 FOREIGN GOVERNMENT OR AN ENTITY ACTING AS AN AGENT FOR A FOREIGN
10 GOVERNMENT OR STATE-CONTROLLED ENTERPRISE OF A FOREIGN GOVERNMENT.

11 2. DOES NOT INCLUDE THE UNITED STATES GOVERNMENT OR ITS STATES,
12 TERRITORIES OR POSSESSIONS.

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

15 37-231. State lands subject to sale; rights reserved in lands
16 sold; state lands not subject to sale; development
17 agreements

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

21 B. Any person over eighteen years of age is entitled to purchase
22 any of ~~the state~~ THIS STATE'S lands EXCEPT AS PROVIDED IN SECTION 37-240.

23 C. All sales, grants, deeds or patents to any state lands sold
24 between July 9, 1954 and March 18, 1968 shall be subject to and shall
25 contain a reservation to ~~the~~ THIS state of an undivided one-sixteenth of
26 all oil, gases and other hydrocarbon substances, coal or stone, metals,
27 minerals, fossils and fertilizer of every name and description, together
28 with all uranium, all thorium, or any other material ~~which~~ THAT is or may
29 be determined by the laws of ~~the~~ THIS state or the United States or
30 decisions of courts to be peculiarly essential to the production of
31 fissionable materials, whether or not of commercial value, subject to the
32 following:

33 1. For the purpose of promoting the sale of state lands and the
34 more active cooperation of the owner of the soil, and to facilitate the
35 development of its mineral resources, the state constitutes the purchaser
36 of the land its agent for the purposes specified in this section, and in
37 consideration hereof, relinquishes to and vests in the purchaser of the
38 state land an undivided fifteen-sixteenths of all oil, gas and the value
39 thereof which may be ~~upon~~ ON or within any state land purchased after
40 July 9, 1954 and before March 18, 1968.

41 2. The purchaser of the soil may sell or lease to any person, firm
42 or corporation the oil and gas and other minerals ~~which~~ THAT may be on or
43 in the land, ~~upon~~ ON terms and conditions the purchaser and the owner deem
44 best, subject to the provisions and reservations of this section, but the
45 lessee or purchaser shall pay to ~~the~~ THIS state an undivided one-sixteenth

1 of the mineral produced or the value of the mineral produced at the well
 2 or mine as determined by the ~~state land~~ department.

3 3. ~~upon~~ ON discovery of oil and gas in paying quantities on land
 4 adjoining state lands purchased under the authority of this section, the
 5 purchaser or the purchaser's lessee shall drill and produce all wells
 6 necessary to protect the land so purchased from drainage by wells on lands
 7 in which ~~the~~ THIS state has no royalty interest, ~~or~~ has a lesser royalty
 8 interest. If the purchaser or the purchaser's lessee fails to protect
 9 against such drainage, ~~the~~ THIS state, acting through the ~~state land~~
 10 department, ~~may~~, three months after demand therefor in writing by the
 11 ~~state land~~ department to such purchaser and the purchaser's lessee, MAY
 12 enter ~~upon~~ ON such lands and drill all wells necessary to protect ~~the~~ THIS
 13 state against such drainage.

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

31 D. State lands known to contain oil, gases and other hydrocarbon
 32 substances, geothermal resources, coal or stone, metals, minerals, fossils
 33 and fertilizer of every name and description, in paying quantities, or
 34 uranium, thorium or any other material ~~which~~ THAT is or may be determined
 35 by the laws of ~~the~~ THIS state OR the United States or BY decisions of
 36 court to be peculiarly essential to the production of fissionable
 37 materials, whether or not of commercial value, and state lands adjoining
 38 lands ~~upon~~ ON which there are producing oil, gas or geothermal wells or
 39 adjoining lands known to contain any of such substances in paying
 40 quantities, or uranium, thorium or any other material peculiarly essential
 41 to the production of fissionable materials, whether or not of commercial
 42 value, shall not be sold. The prohibition against sale shall not operate
 43 to prevent the sale of lands known to contain, in paying quantities,
 44 common variety minerals as defined in section 27-271 or to prevent the
 45 sale of lands where ~~the~~ THIS state does not own such substances, minerals

1 or metals in the lands sought to be sold. ~~The provisions of~~ This
2 subsection ~~shall~~ DOES not prohibit the sale of such lands located within
3 the exterior boundaries of an incorporated city or town, in which case the
4 commissioner may offer the land for sale, provided the land shall be used
5 solely for a public purpose. Such land shall revert to ~~the~~ THIS state if
6 it is used other than for a public purpose.

7 E. Notwithstanding ~~the provisions of~~ subsection C of this section,
8 all state lands sold after March 18, 1968 shall be sold with the
9 reservation that all oil, gas, other hydrocarbon substances, helium or
10 other substances of a gaseous nature, geothermal resources, coal, metals,
11 minerals, fossils, fertilizer of every name and description, together with
12 all uranium, all thorium or any other material ~~which~~ THAT is or may be
13 determined by the laws of the United States or of this state, ~~or~~ BY
14 decisions of court, ~~to~~ be peculiarly essential to the production of
15 fissionable materials, whether or not of commercial value, and the
16 exclusive right thereto, on, in, or under such land, shall be and remain
17 and be reserved in and retained by ~~the~~ THIS state, regardless of any sale
18 under this section and the issuance of any certificate of purchase to any
19 purchaser of state lands pursuant to this section, provided, that the
20 reservation shall not include common variety minerals as defined in
21 section 27-271, subject to the following:

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

33 2. The mineral rights reserved to ~~the~~ THIS state in the lands sold
34 shall be closed to entry and location as a mineral claim or claims, but
35 the department may issue, ~~upon~~ ON application, mineral exploration permits
36 embracing the reserved mineral rights when such issuance is deemed in the
37 best interest of ~~the~~ THIS state, provided that the surface owner or owners
38 shall have the first right of refusal to acquire such mineral exploration
39 permits.

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

42 37-240. Limits on sales of state lands; definition

43 A. ~~No~~ A person may NOT purchase more than six hundred forty acres
44 of grazing land, ~~or~~ more than one hundred sixty acres of agricultural
45 land.

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

4 C. BEGINNING FROM AND AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO
5 THIS SECTION, SALES OF STATE LANDS MAY NOT BE MADE TO A FOREIGN ENTITY.

6 D. FOR THE PURPOSES OF THIS SECTION, "FOREIGN ENTITY":

7 1. MEANS A FOREIGN GOVERNMENT, A STATE-CONTROLLED ENTERPRISE OF A
8 FOREIGN GOVERNMENT OR AN ENTITY ACTING AS AN AGENT FOR A FOREIGN
9 GOVERNMENT OR STATE-CONTROLLED ENTERPRISE OF A FOREIGN GOVERNMENT.

10 2. DOES NOT INCLUDE THE UNITED STATES GOVERNMENT OR ITS STATES,
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