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FOREIGN OWNERSHIP OF PROPERTY IN THE UNITED STATES: FEDERAL AND STATE RESTRICTIONS

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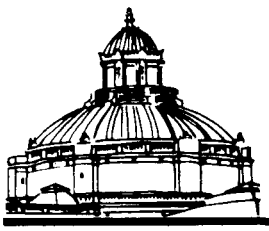

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ABSTRACT

This report examines various legal issues raised by Federal and State laws restricting foreign ownership in U.S. property. The report examines the constitutional barriers to Federal and State laws restricting such ownership, and the possible constitutional predicates for Federal legislation regulating foreign ownership of property in the United States. The impact of treaties to which the United States is a party on both Federal and State restrictions on the rights of foreign persons to own U.S. property is also discussed. Furthermore, the report contains a summary of all existing Federal laws which restrict the right of foreign persons to own interests in various U.S. enterprises, and the State laws restricting foreign investment in real property located within the State. A selected bibliography is also included.

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FOREIGN OWNERSHIP OF REAL PROPERTY IN THE UNITED STATES: FEDERAL AND STATE RESTRICTIONS

Both the Federal Government and some of the individual States impose statutory restrictions on the ownership of domestic real properties by foreign individuals and corporations. The limitations imposed by the various States generally affect the ownership of real property, often limited to agricultural property, and vary significantly with respect to scope and effect. The present limitations imposed by the Federal Government are more narrow and normally relate to specific industries. This report examines the limitations imposed by the United States Constitution on State and Federal legislation regulating foreign ownership of property, and summarizes the present Federal laws regulating foreign investment in this country and the State laws on foreign ownership of property. The summary of Federal laws will include some laws limiting foreign investment and participation in certain activities within the United States which may only indirectly affect ownership of real property.

I. Constitutional Limitations on State and Federal Statutory Restrictions on Foreign Ownership of Property

State legislation is subject to review under the Due Process and Equal Protection Clauses of the Fourteenth Amendment of the United States Constitution and the exclusive Federal jurisdiction over matters concerning foreign affairs. Federal legislation is subject to review for existence of an affirmative power under which it could be adopted and for satisfaction of the Due Process Clause of the Fifth Amendment.

A. Constitutional Limitations on State Legislation Restricting Foreign Ownership of Property

1. The Fourteenth Amendment: Due Process, Equal Protection, and State Restrictions on Foreign Property Ownership

Both the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution apply to "persons," rather than "citizens." Consequently, these protections extend to foreign nationals lawfully within the United States.[1/] These protections notwithstanding, the United States Supreme Court has historically upheld State limitations on property ownership by aliens.[2/]

In recent years, however, the Court has repeatedly voided State laws which established classifications in government actions solely on the basis of citizenship. The Court has stated that a classification based solely upon citizenship or nationality is inherently suspect and subject to "strict scrutiny." It will be upheld only upon a finding of a compelling State interest which can only be satisfied through this particular classification. In Graham v. Richardson,[3/] for example, the Court ruled that a number of State laws which denied welfare benefits to resident aliens and to aliens who had not

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1/ Levy v. Louisiana, 391 U.S. 68 (1963); Hines v. Davidowitz, 312 U.S. 52 (1941); Terrace v. Thompson, 263 U.S. 197 (1923); and Yick Wo v. Hopkins, 118 U.S. 356 (1886).

2/ Cockrill v. California, 268 U.S. 258 (1925); Frick v. Webb, 263 U.S. 326 (1923); Porterfield v. Webb, 263 U.S. 225 (1923); and Terrace v. Thompson, 263 U.S. 197 (1923).

3/ 403 U.S. 365 (1971).

resided in the United States for a specified number of years were unconstitutional because they deprived these persons of equal protection of the laws. The Court noted:

> Under traditional equal protection principles, a State retains broad discretion to classify as long as its classification has a reasonable basis. (citations omitted) This is so in "the area of economics and social welfare." (citations omitted) But the Court's decisions have established that classifications based on alienage, like those based on nationality or race, are inherently suspect and subject to close judicial scrutiny. Aliens as a class are a prime example of a "discrete and insular" minority (citation omitted) for whom such heightened judicial solicitude is appropriate. Accordingly, it was said in Takahashi, 334 U.S. at 420, that "the power of a state to apply its laws exclusively to its alien inhabitants as a class is confined within narrow limits." 4/

Citizenship was also rejected as a legitimate classification with respect to membership in a State Bar, in which the Court noted that the State had not met its "heavy burden" of showing that the denial of admission to aliens was necessary to accomplish a constitutionally permissible and substantial interest. While the Court admitted that the State had an interest in assuring the requisite qualifications of persons licensed to practice law, this interest could be served adequately by a case-by-case review. A flat prohibition was unnecessary and unconstitutional.[5/] Similarly, flat bans on employment of aliens in the State civil service system,[6/]

4/ Id. at 371.

5/ In Re Griffiths, 413 U.S. 717 (1973).

6/ Sugarman v. Dougall, 413 U.S. 634 (1973).

as civil engineers,[7] as real estate salespersons,[8] or on the granting of educational benefits to aliens,[9] were also found to be excessive in light of the State interest protected. As noted by the Court in Mathews v. Diaz,[10]

> Insofar as state welfare policy is concerned, there is little, if any, basis for treating persons who are citizens of another State differently from persons who are citizens of another country. Both groups are noncitizens as far as the State's interests in administering its welfare programs are concerned. 11/

The Supreme Court, however, has somewhat limited the scope of these protective doctrines in two recent cases. In one, it upheld a New York statute limiting appointment to the State police force to citizens of the United States. The Court found that when the classification related to "important nonelective . . . positions" held by "officers who participate directly in the formulation, execution or review of broad public policy," strict scrutiny was not required with regard to qualifications of citizenship.[12] The Court noted that:

> The practical consequence of this theory is that "our scrutiny will not be so demanding where we deal with matters firmly within a State's constitutional perogatives." Dougall, supra. at 648. The State need only justify its classification by a showing of some rational relationship

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7/ Examining Board of Engineers, etc. v. Flores de Otero, 426 U.S. 572 (1976).

8/ Indiana Real Estate Commission v. Satoskar, 417 U.S. 938 (1974).

9/ Nyquist v. Mauclet, 432 U.S. 1 (1977).

10/ 426 U.S. 67 (1977).

11/ Id. at 85.

12/ Foley v. Connelie, 435 U.S. 291 (1978).

> between the interest sought to be protected and the limiting classification. This . . . is no more than recognition of the fact that a democratic society is ruled by its people. Thus, it is clear that a State may deny aliens the right to vote, or to run for elective office, for these lie at the heart of our political institutions. See id., at 647-649. Similar considerations support a legislative determination to exclude aliens from jury service. 13/

In Ambash v. Norwich, 14/ furthermore, the Court upheld a New York State statute forbidding certification of a non-citizen as a public school teacher unless that person had evidenced intent to become a citizen. In that decision, the Court held that classification on the basis of citizenship would generally be permissible with respect to government employment where a rational basis existed between the classification and the government's legitimate policies. The Court also stated that:

> Public education, like the police function, "fulfills a most fundamental obligation of government to its constituency." [citation omitted] The importance of public schools in the preparation of individuals as citizens, and in the preservation of the values on which our society rests, long has been recognized in our decisions. . . . 15/

Taking into consideration the role of public education, the Court found that a prohibition on non-citizens who had not evidenced an intent to become a citizen was permissible under the United States Constitution.

Thus, the Court appears to have carved out an exception to the general rule that a classification based on citizenship is subject to strict judicial scrutiny, for those situations in which the classification relates to an

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13/ Id. at 296.

14/ 441 U.S. 68 (1979).

15/ 441 U.S. at 76.

essential governmental, political and constitutional function, such as voting, legislating, law enforcement, or teaching. In those situations, it appears that the less strict, rational basis test would be applied.

In Baldwin v. Fish and Game Commission of Montana,[16/] the Court recently held that a State could draw a distinction in the license fees charged resident and nonresident elk-hunters. The Court found that the State distinction was not violative of either the Privileges and Immunities or Equal Protection Clauses of the Constitution, because the classification between residents and nonresidents bore a rational relationship to the legitimate State interest in protecting its limited natural resources. In this case, the Court appears to be recognizing a strong State interest in protecting its limited natural resources, which interest could come into play in distinguishing between citizens and aliens with respect to ownership of property.

Consequently, while the Court in recent years appears to have provided rigid standards of constitutional review of State legislation distinguishing between citizens and aliens in the granting of rights and benefits, it is clear that some such statutes are subject to a less strict review which can be met. This appears to be especially true if a State is attempting to protect its limited natural resources. Although it appears that State laws distinguishing between resident aliens and citizens with respect to property ownership could be invalid under existing precedents, they might be sustained under newly evolving doctrines.

16/ 436 U.S. 371 (1978).

The constitutional safeguards and protections discussed above have generally been afforded resident aliens only. The constitutional protections afforded aliens legally within the United States have generally not been granted nonresident aliens. Although a precise definition of the extent of constitutional protections afforded to nonresident aliens has not been made by the Court, review of such classifications would seem to require even less than the rational basis required in review of non-suspect classifications under the Fourteenth Amendment. State legislation regulating the property rights of nonresident aliens, therefore, would certainly seem to be more likely constitutional than those regulating the rights of resident aliens.[17/]

2. Exclusivity of the Federal Foreign Relations Power and State Restrictions on Foreign Property Ownership

In Zschernig v. Miller,[18/] the United States Supreme Court struck down a statute of the State of Oregon which provided for the escheat of property which would otherwise pass to a nonresident alien, unless certain requirements were met respecting the laws of the foreign country in which the alien resides. Under the Oregon statute, the laws of the foreign nation had to provide reciprocal rights of United States citizens to inherit property and

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17/ See, e.g., Fiallo v. Bell, 430 U.S. 787 (1977); Shaughnessy v. United States ex rel. Mezei, 345 U.S. 206 (1953); and Johnson v. Eisentrager, 339 U.S. 763 (1949). See also discussion in Mathews v. Diaz, 426 U.S. 67, at 77-78 (1977).

18/ 389 U.S. 429 (1967).

to receive payments of funds from such estates. Additionally, the foreign heirs had to receive the property without confiscation, in whole or in part, by the government of the foreign nation. The Court held that this statute was unconstitutional because it infringed on the exclusive authority of the Congress and the Federal executive branch to deal in foreign affairs.

The Court noted that the Oregon statute required the local probate courts to inquire into:

> the type of governments that obtain in particular foreign nations--whether aliens under their law have enforceable rights, whether the so-called "rights" are merely dispensations turning upon the whim or caprice of government officials, whether the representation of consuls, ambassadors, and other representatives of foreign nations is credible or made in good faith, whether there is in the actual administration in the particular foreign system of law any element of confiscation.
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> As we read the decisions that followed in the wake of Clark v. Allen, we find that they radiate some of the attitudes of the "cold war," where the search is for the "democracy quotient" of a foreign regime as opposed to the Marxist theory. The Oregon statute introduces the concept of "confiscation," which is of course opposed to the Just Compensation Clause of the Fifth Amendment. And this has led into minute inquiries concerning the actual administration of foreign law, into the credibility of foreign diplomatic statements, and into speculation whether the fact that some received delivery of funds should "not preclude wonderments as to how many may have been denied 'the right to receive' . . ." 19/

Therefore, the Court found the Oregon statute unconstitutional because it infringed on the exclusively Federal jurisdiction over foreign affairs. Other State laws which attempt to restrict the ownership of property or its passage at the owner's death would similarly have to be examined in light of the exclusive Federal jurisdiction over foreign affairs.

19/ Id. at 434-35.

B. Constitutional Predicate and Limitations on Federal Restrictions on Foreign Ownership of Property

While States may be able to restrict the property rights of nonresident aliens in the exercise of their police powers, the Federal Government is one of limited powers which must legislate on the basis of a power enumerated in the U.S. Constitution. As there is no express Federal power to regulate the purchase, sale or ownership of agricultural property, other than, perhaps, with respect to territories or the District of Columbia,[20/] other powers must be utilized to support such legislation. The most likely sources of such legislation are the Federal power over naturalization,[21/] the power to regulate interstate and foreign commerce,[22/] and the power to provide for the national defense.[23/] An examination of these powers appears to substantiate the existence of a significant basis for such Federal legislation.

The Congress has exclusive power to set the requirements for naturalization and citizenship, and to admit and expel aliens. It may also establish those requirements it deems proper for the admission or deportation of aliens. As the Court has noted in the past:

> That the government of the United States, through the action of the legislative department, can exclude aliens from its territory is a proposition which we do not think open to controversy. Jurisdiction over its own territory to that extent is an incident of every independent

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20/ United States Constitution, Art. 1, Sec. 8, Clause 18.

21/ Id., Art. 1, Sec. 8, Clause 4.

22/ Id., Art. 1, Sec. 8, Clause 3.

23/ Id., Art. 1, Sec. 8, Clause 12.

> nation. It is a part of its independence. If it could not exclude aliens, it would be to that extent subject to the control of another power. . . The United States, in their relation to foreign countries and their subjects or citizens, are one nation, invested with powers which belong to independent nations, the exercise of which can be invoked for the maintenance of its absolute independence and security throughout its entire territory. 24/

In addition to the obvious powers of Congress to regulate the admission and exclusion of aliens, this power has been held to encompass the power to regulate the conduct of alien residents and the terms of their admission and residency. 25/ Certainly, it would appear from the precedents that the Congress could make entrance of an alien into the United States and residency of such individual conditioned upon his or her not acquiring any interest in domestic land. 26/

The Constitution also grants the Congress exclusive power to "regulate Commerce with foreign Nations, and among the Several States." 27/ The power to regulate interstate commerce and the power to regulate foreign commerce are

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24/ Chinese Exclusion Case (Chae Chan Ping v. United States), 130 U.S. 581, 603, 604 (1889).

25/ See, Fiallo v. Bell, 430 U.S. 787 (1977); Kleindeinst v. Mandel, 408 U.S. 753 (1972); and Oceanic Navigation Co. v. Stranahan, 214 U.S. 320 (1909).

26/ In Matthews v. Diaz, 426 U.S. 67 (1976), furthermore, the Supreme Court upheld the right of Congress to make eligibility for citizenship dependent upon both character and the duration of an alien's residence in an effort to draw the line qualifying those aliens with a greater affinity to the United States. The Court noted that while aliens and citizens are both entitled to the benefit of constitutional safeguards, including that of the Fifth Amendment's prohibition against denial of due process of law, Congress has no constitutional duty to provide all aliens with those same benefits provided to citizens.

27/ See fn. 20, supra.

generally viewed as coextensive and equal.[28] The Commerce Clause has been the foundation for extensive legislation both regulating interstate and foreign commerce and prohibiting it. The power of the Congress under this Clause has been utilized to restrict the import of undesired items,[29] to impose high tariffs on certain goods,[30] and to regulate numerous industries.[31] Based on these precedents, the Congress would appear to possess the power to restrict the use of instrumentalities of interstate or foreign commerce to transact the sale or exchange of property to a foreign person or representative of a foreign person.[32]

A third basis for Federal enactments restricting foreign ownership of real properties could be the Congress's constitutional power to "raise and

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28/ United States v. Carolene Products Co., 304 U.S. 144 (1938); Pittsburgh & Southern Coal Co. v. Bates, 156 U.S. 577 (1895); and The License Cases, 5 How. (46 U.S.) 504 (1847); but also see Brolan v. United States, 236 U.S. 216 (1915).

29/ Weber v. Freed, 239 U.S. 325 (1915); The Abby Dodge, 223 U.S. 166 (1912); and Butterfield v. Stranahan, 192 U.S. 470 (1904).

30/ Board of Trustees v. United States, 289 U.S. 48 (1933); Groves v. Slaughter, 15 Pet. (40 U.S.) 449 (1841).

31/ See, e.g., the Interstate Commerce Act, 24 Stat. 379 (1887), Interstate Commerce Commission v. Brimson, 154 U.S. 447 (1894); the Sherman Antitrust Act, 26 Stat. 531 (1890), United States Steel v. E. C. Knight Co., 156 U.S. 1 (1895); and the Civil Rights Act of 1964, 42 U.S.C. §§ 2000a et seq., Heart of Atlanta Motel v. United States, 379 U.S. 241 (1964); and Katzenbach v. McClung, 379 U.S. 294 (1964).

32/ See, e.g., 15 U.S.C. §§ 77e, 78e, and 1701 et seq.; also North American Company v. Securities Exchange Commission, 327 U.S. 686 (1946); and Electric Bond Company v. Securities Exchange Commission, 303 U.S. 419 (1938).

support Armies."[33] While this power is expressed solely in terms of providing armies, the Supreme Court has held that it also permits Congress to make such peacetime provisions as it deems necessary to provide for the national defense. In Ashwander v. Tennessee Valley Authority,[34] the Court upheld legislation providing for the construction of a dam and electricity generating plant, finding that such energy supplies were an important national defense factor. If a legislative finding were made that ownership of a significant amount of U.S. property by foreign persons impaired national preparedness, it appears that the regulation or prohibition of such ownership could be construed as constitutional.

In addition to acting upon an express power under the Constitution, Federal legislation must also satisfy the standards of Due Process and Equal Protection embodied in the Due Process Clause of the Fifth Amendment of the Constitution.[35] The standard of review of Federal legislation classifying persons on the basis of citizenship, however, differs significantly from that to which State laws are subject.

In Matthews v. Diaz,[36] for example, the Supreme Court upheld the Federal denial of supplemental medical benefits under Social Security to aliens who

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33/ United States Constitution, Art. 1, Sec. 8, Clause 11.

34/ 297 U.S. 288 (1936).

35/ The Due Process Clause of the Fifth Amendment has also been held to provide a protection against Federal denial of Equal Protection of the Laws. See Buckley v. Valeo, 424 U.S. 1 (1976); and Weinberger v. Weisenfeld, 420 U.S. 636, 638, fn. 2 (1975).

36/ 426 U.S. 67 (1977).

had not been residents of the United States for five years, in spite of its earlier voiding of a similar requirement applied to State welfare benefits.[37/] Speaking for the Court, Mr. Justice Stevens noted that:

> Insofar as state welfare policy is concerned, there is little, if any, basis for treating persons who are citizens of another State differently from persons who are citizens of another country. Both groups are noncitizens as far as the State's interest is concerned. Thus, a division by a State of the category of persons who are not citizens of that State into subcategories of United States citizens and aliens has no apparent justification, whereas, a comparable classification by the Federal Government is a routine and normally legitimate part of its business. Furthermore, whereas the Constitution inhibits every State's power to restrict travel across its own borders, Congress is explicitly empowered to exercise that type of control over travel across the borders of the United States. [38/]

Therefore, it would appear that Federal legislation restricting the sale to or ownership by foreign persons of real or other properties in the United States would satisfy the constitutional requisites of due process and equal protection, under the standards applied to such laws by the United States Supreme Court.

II. Impact of Treaties on State and Federal Restrictions on Foreign Ownership of Property in the United States

Generally, treaties between the United States and other nations are a part of Federal law. As such, they govern over inconsistent State laws and

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37/ Graham v. Richardson, 403 U.S. 365 (1971).

38/ 426 U.S. at 85. See also, Perkins v. Smith, 426 U.S. 913 aff'g 370 F. Supp. 134 (D. Md. 1974), upholding exclusion of aliens from both grand and petit Federal juries.

prior inconsistent Federal statutes.[39] Although few treaties to which the United States is a party, directly grant or deny foreign nationals the right to own property in the United States,[40] many U.S. treaties may impact upon the validity of State or Federal laws restricting the rights of foreign persons to hold property in the United States.

Perhaps the treaty provisions most affecting the validity of State or Federal legislation restricting the rights of foreign nationals to own real property in the United States are the so-called "nationals clauses" of many trade treaties. Under these clauses, the citizens of the beneficiary country are afforded the right to establish and maintain agencies, offices, factories and other operations in the United States. The nationals clause in our trade treaty with Japan states, for example:

> 1. Nationals and companies of either Party shall be accorded national treatment with respect to engaging in all types of commercial, industrial, financial and other business activities within the territories of the other Party, whether directly or by agent or through the medium of any form of lawful juridical entity. Accordingly, such nationals and companies shall be permitted within such territories (a) to establish

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39/ See, Missouri v. Holland, 252 U.S. 416 (1920).

40/ An exception is a treaty with France which requires the nationals of both countries to apply for and receive prior government approval before purchasing real property in that country. See, Protocol to Convention of Establishment, United States-France, Nov. 25, 1959, ¶ 14 (1960), 11 U.S.T. 2398, 2423, T.I.A.S. No. 4625. Certain treaties also contain clauses assuring the rights of nationals of other countries to inherit property from relatives dying in the United States. See, Hauerstein v. Lynham, 100 U.S. 483 (1880; Geogroy v. Riggs, 133 U.S. 258 (1890); Sullivan v. Kidd, 254 U.S. 433 (1921); Neilson v. Johnson, 279 U.S. 47 (1929); and Kolovrat v. Oregon, 336 U.S. 187 (1961).

> and maintain branches, agencies, offices, factories and other establishments appropriate to the conduct of their business; (b) to organize companies under the general company laws of such other Party, and to acquire majority interests in companies of such other Party; and (c) to control and manage enterprises which they have established or acquired. Moreover, enterprises which they control, whether in the form of individual proprietorships, companies or otherwise, shall, in all that relates to the conduct of the activities thereof, be accorded treatment no less favorable than that accorded like enterprises controlled by nationals and companies of such other Party. 41/

Additionally, the United States has signed numerous "Treaties of Friendship," containing "most favored nations" (MFN) clauses. Under the MFN clauses, the citizens of the beneficiary country are entitled to the same treatment under the laws of the United States as may be accorded the nationals of any other nation. The applicable MFN clause of our treaty with Japan, which follows the nationals clause of that treaty, states, for example:

> 4. Nationals and companies of either Party, as well as enterprises controlled by such nationals and companies, shall in any event be accorded most-favored-nation treatment with reference to the matters treated in the present Article. 42/

Because Federal laws and treaties are the supreme law of the land, prior inconsistent Federal statutes and all inconsistent State statutes are invalid. 43/ Therefore, it appears that a contemporary State law or prior Federal law which restricts the real property ownership rights of the nationals of countries with which the United States has a treaty containing a "nationals clause"

41/ United States-Japan Treaty of April 2, 1953, Article VII, 4 U.S.T. 2069. It may be noted that such treaties often also contain some limitations with respect to foreign control of certain special industries, such as shipping, transportation, banking, and exploitation of natural resources.

42/ See cases cited in footnote 40/.

43/ Id. at 4 U.S.T. 2070.

would be invalid. Similarly, an inconsistent State law or a prior inconsistent Federal law under which the nationals of a country entitled to most favored nations status was more severely restricted in their rights to hold real property than than the citizens of other countries would appear to be invalid.

III. Summary of Federal Statutes Regulating or Limiting Foreign Investment in the United States

The third section of this report summarizes the Federal statutes which restrict or require reporting or study of foreign investment in the United States. These statutes are divided into two categories: those which require only reporting and disclosure and those which restrict foreign direct or portfolio investment in the United States. With respect to both types of statutes, this list shall not be limited to laws relating to foreign investment in United States real estate, but shall discuss laws relating to foreign investment in all aspects of United States enterprise.

A. Laws Respecting Reporting and Disclosure

Public Law 95-460, 95th Cong., 2d Sess. (1978) [Agriclutural Foreign Investment Disclosure Act of 1978] Requires any "foreign person" who acquires, transfers, or holds any interest in agricultural lands, other than a security interest such as a mortgage, to report such holding or transfer to the Secretary of Agriculture (Form ASCS-153). Holdings of agricultural land by foreign persons on February 1, 1979, were also required to be

reported to the Secretary of Agriculture on or before August 6, 1979. Reports are filed in the county where the land is located.

All transfers of agricultural land to foreign persons must be reported within 90 days after the date of acquisition of the land by a foreign person.[44/] For this purpose, a foreign person includes any individual who is not lawfully residing in the United States (having applied for or received parole or permanent resident status under the Immigration and Nationality Act) and who are not citizens of the United States, the Northern Mariana Islands, or the Trust Territories of the Pacific Islands. A foreign person also includes an organization (other than a foreign government) which is created under the laws of a foreign country or in which a significant interest or substantial control is owned by foreign persons. Therefore, United States corporations in which foreign investors own a substantial or significant interest and foreign corporations would be foreign persons for purpose of these reporting and disclosure rules.

In determining ownership for reporting purposes, all direct and indirect ownership is taken into account. If ownership of U.S. land is through a legal entity, a report is required only if the foreign person owns, directly or indirectly, at least five percent of the entity. Also, ownership includes any leasehold for ten years or more and any noncontingent remainder or other future interest.

44/ See 7 C.F.R. §§ 781, 781.3(c).

The reporting requirements apply to agricultural lands only. This includes property currently used for agriculture, timber, or forestry, or which is currently idle but which has been used for such a purpose during the past five years. Agricultural land does not include property under one acre, which produces less than $1,000 annual gross sales of agricultural products, and land the products of which are produced for personal or household consumption.

The Secretary of Agriculture may impose civil penalties for failure to file the required declarations. The penalties may be as great as twenty-five percent (25%) of the fair market value of the property.

The Act also requires the Secretary of Agriculture to analyze the collected information within six months of the effective date of the reporting requirements, to determine the effects of foreign ownership of United States agricultural properties, particularly with respect to family farms and rural communities, and to report the findings to the Congress and the President. Similar reports are required at the end of the twelve month period beginning on the effective date of the reporting requirements.

12 U.S.C. § 3101. The International Banking Act of 1978 requires registration with the Secretary of the Treasury of "any foreign bank that maintains an office other than a branch or agency in any State" of the United States. A "branch" is any place where "deposits are received" and an "agency" is any place "at which credit balances are maintained incidental to or arising out of the exercise of banking powers, checks are

paid, or money is lent," but at which deposits may not be accepted from U.S. citizens or residents.

15 U.S.C. § 78a note. [Domestic and Foreign Investment Improved Disclosure Act of 1977] Expands the disclosure requirements under the Securities Act of 1933, applicable to persons who propose to acquire through a tender offer or already possess beneficial ownership of more than five percent (5%) of the voting stock of a corporation, to require disclosure of citizenship, residence and nature of the beneficial control. This was enacted as an amendment to the Foreign Corrupt Practices Act of 1977.[45/]

15 U.S.C. § 78b note. [The Foreign Investment Study Act of 1974] Instructs the Secretaries of the Treasury and Commerce to engage in a detailed and thorough study of foreign direct and portfolio investment in the United States. The Department of Commerce was directed to examine the scope and impact of foreign direct investment in the United States and the Department of the Treasury was directed to examine the scope and impact of foreign portfolio investment in the United States. For the purpose of these studies, foreign direct investment was defined as the ownership of ten percent (10%) or more of the voting shares or its equivalent (in the case of an unincorporated enterprise), and foreign portfolio investment was defined as the investment in voting stocks involving less than ten percent (10%) ownership by a foreign investor,

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45/ Pub. L. 95-213, Title I, 95th Cong., 1st Sess. (1977).

and the investment in non-voting stocks.[46] The studies were conducted by extensive survey questionnaires (Treasury Form FPI-1 and FPI-2, and Commerce Form B-12), the response to which was required under regulations issued by the Commerce and Treasury Departments.[47] In 1976, both departments issued multi-volume reports of their findings to the Congress.[48]

15 U.S.C. § 785. Requires the Federal Energy Administrator (transferred to the Secretary of Energy in 1977),[49] to conduct a comprehensive review of foreign ownership of, influence on and control of domestic energy sources, and to report to the Congress on such investigation. The legislation was enacted in 1974 and the report was filed in December of that year.[50]

22 U.S.C. § 3101 to 3108. [The International Investment Study Act of 1976] This Act grants the President "clear and unambiguous authority" to conduct general investigations and requires periodic investigations every

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46/ 1 Commerce Department, Report to the Congress on Foreign Direct Investment in the United States, p. 4-5 (1976); and 1 Treasury Department, Report to the Congress on Foreign Portfolio Investment in the United States, p. vii, 139-41 (1976).

47/ 31 C.F.R., Part 129 (1977) (Treasury Department); and 15 C.F.R., Part 804 (1978)(Commerce Department).

48/ Commerce Department, Report to the Congress on Foreign Direct Investment in the United States, Volumes 1-9 (1976); Treasury Department, Report to the Congress on Foreign Portfolio Investment in the United States, Volumes 1-2 (1976).

49/ See Pub. L. 95-91, 95th Cong., 1st Sess. (1977).

50/ Federal Energy Administration, Office of International Energy Affairs, Report to Congress on Foreign Ownership Control and Influence on Domestic Energy Sources and Supply (1974).

five years into the extent and impact of foreign investment in the United States and into United States investment abroad.[51/] The President was empowered to delegate by executive order, power to the Commerce and Treasury Departments to study foreign direct and portfolio investment, respectively, and the act required benchmark surveys by these departments at least once every five years, as well as providing for continuing and ongoing studies.[52/] The Act empowered the requirement of reporting and recordkeeping, as necessary to effectuate the purposes of the Act. The Act also authorizes the President to study the feasibility of a monitoring system to study foreign investment in land. Both civil and criminal penalties apply to those failing to reply to such requests for reporting or information.

46 U.S.C. § 41. The sale of any vessel registered as a United States vessel to any foreign country or person must be reported to the United States government, or the ship will escheat.

51/ Presumably, the authority provided by this law was to be construed as "clear and unambiguous" by comparison with Executive Order No. 11858 (May 7, 1975), by which the President established an interdepartmental Committee on Foreign Investment in the United States," to monitor foreign investment activities in the United States and to initiate legislative and regulatory actions in this area.

52/ See Executive Order No. 11961 (Jan. 19, 1977), 3 C.F.R. 86; and Executive Order No. 11962, 3 C.F.R. 86, implementing this authority.

B. Federal Laws Directly Impacting upon Foreign Investment in the United States

10 U.S.C. §§ 2271-72, 2279. Design contests are held to determine who shall receive a contract to design aircraft, aircraft parts, and aeronautical accessories. No contract under these contests shall be awarded to an individual who is not a U.S. citizen, a corporation in which less than seventy-five percent (75%) of the capital stock is held by and all of the directors of which are U.S. citizens, or an individual or corporation without a manufacturing plant in the United States. Additionally, an alien employee of a contractor cannot have access ot plans or specifications, unless approval is given by the Secretary of the military department involved in the contract.

10 U.S.C. § 7435. Citizens of a foreign country which does not, by law, custom or regulation, permit U.S. citizens the privilege of leasing public lands therein, shall be denied the right to own or benefit from, either directly or by stock ownership, the lease of any land in the naval petroleum or other naval fuel reserves. The Secretary of the Navy can cancel any leases made in violation of this prohibition.

12 U.S.C. §§ 26, 72. The National Bank Act requires a foreign bank which wishes to do business in the United States by means of a subsidiary national bank to seek approval of the Comptroller of the Currency, and all directors of the institution would have to be U.S. citizens, except when the association is a subsidiary or affiliate of a foreign bank, the Comptroller has discretion to waive the citizenship requirement for a minority of the board members. Furthermore, at least two-thirds of the

directors must reside, and must have resided for at least one year preceding their election, in or within 100 miles of the State or territory in which the bank is located. A limitation on citizenship of directors is not a limitation on the citizenship of the owners, however, except insofar as every director "must own in his own right shares of the capital stock of the association of which he is a director the aggregate par value of which shall not be less than $1,000," (or $500 for certain smaller banks). Thus, at least a small percentage of the shares of every national bank must be owned by U.S. citizens.

12 U.S.C. §§ 1813 to 1815. The Federal Deposit Insurance Act provides that national member banks (i.e., of the Federal Reserve System) must be insured. National nonmember banks and State banks may be insured, but other banks (as opposed to branches) may not be insured. (There is no Federal requirement that banks incorporated under State law be insured). The terms "State nonmember bank" and "national nonmember banks" are limited to those banks incorporated under the laws of or located in a State of the United States, a territory of the United States, Puerto Rico, Guam or the Virgin Islands. Therefore, while foreign investment in U.S. banks is not precluded entirely, the banks must be incorporated in the United States or located therein.

12 U.S.C. §§ 3101-02. Under the International Banking Act of 1978, a foreign bank may enter the U.S. markets by establishing a federal "branch or agency" (see discussion of these terms regarding the reporting requirements, supra), as an alternative to qualifying under state law. A foreign bank may not exercise fiduciary powers as a federal agency.

16 U.S.C. § 742c. The Secretary of the Interior may lend money for the purchase, construction and operation of commercial fishing vessels and gear, but only if the loan applicant is a U.S. citizen or corporation owned 75 percent by U.S. citizens.

16 U.S.C. § 797(e). The Federal Energy Regulatory Commission is authorized to issue licenses for construction of dams, conduits and reservoirs only to citizens, associations of citizens, domestic corporations and State and local governments.

16 U.S.C. § 1821-1824. Foreign fishing within the fishery conservation zone (the area between the coastline of the United States and the 200 mile limit) or the Continental Shelf fishery resources is prohibited, except under permits issued by the Secretary of Commerce, and such permits can be issued to vessels of foreign nations (not documented in the United States), only pursuant to valid International Fishery Agreement, and only if that nation extends reciprocal rights to U.S. fishing vessels.

22 U.S.C. § 2198(c). An investor eligible for insurance by the Overseas Private Investment Corporation may be a U.S. individual, a U.S. corporation, partnership or association, or a foreign organization at least ninety-five percent (95%) of which is owned by a U.S. person.

30 U.S.C. §§ 22, 24. No person may explore for or extract mineral deposits on Federal lands unless they are U.S. citizens, aliens who have declared their intent to become U.S. citizens, or domestic corporations owned by foreign persons.

30 U.S.C. § 181. Leases of mineral lands of the United States, under the Mineral Lands Leasing Act of 1920, may only be made to U.S. citizens,

associations and corporations of U.S. citizens, and to citizens of another country which affords U.S. citizens similar rights under its law, customs or regulations. Those foreign persons not qualifying accordingly cannot take such interests indirectly, through stock ownership or otherwise.

30 U.S.C. § 1015. Geothermal production leases on Federal lands may be issued only to U.S. citizens, associations of such citizens, domestic corporations and State or local governments.

33 U.S.C. § 1503(g), 1502(5). The Secretary of Transportation may issue a license to construct, operate or own a deepwater port only to a U.S. citizen. A "United States citizen" includes a group or association organized in the United States which has as its president or other chief executive officer, its chairperson of the board of directors, and a majority of a quorum of its directors U.S. citizens.

40 U.S.C. § 782. The Secretary of Defense may not dispose of long-line communications facilities in Alaska in a manner which would place their direct or indirect control in an alien or representative of an alien, a foreign government or its representative, a corporation organized under the laws of a foreign government, a corporation of which any officer or director or owner of one-fifth or more of the capital stock is an alien, a foreign government, or a representative of either. Disposition may also not be made to a corporate subsidiary of a corporation at least one-fifth of the capital stock of which is owned by an alien, a foreign government, or a representative of either.

42 U.S.C §§ 2133, 2134. The Nuclear Regulatory Commission (NRC) is expressly

authorized to issue licenses to persons to transport, produce, acquire, and use atomic energy utilization or production facilities for commercial purposes, research and development or for medical therapy, but no licenses may be given to any alien or corporation controlled, owned or dominated by an alien or foreign government or corporation.

43 U.S.C. § 161. Until October 21, 1986, the Homestead Act of 1862 continues in effect for certain lands in Alaska and only U.S. citizens and persons intending to become U.S. citizens may enter public lands for the purpose of homesteading.

43 U.S.C. § 321. Under the Desert Land Act of 1877, as amended, only U.S. citizens and persons who are entitled to become citizens and have declared their intent to do so, and who are also a resident citizen of the state in which the land is located, may enter onto U.S. desert lands in certain western states.

46 U.S.C. § 11. A ship must be wholly owned by citizens of the United States in order to be documented in the United States and to conduct international cargo transport under an American flag. A corporation is a U.S. citizen only if it is organized in the United States, has a chief executive officer, chairperson of the board and a majority of a quorum of its directors who are U.S. citizens.

46 U.S.C. §§ 316, 1241(b). No salvage, dredging, and towing with U.S. waters and no transportation of government-financed commodities for export, can be done by the ships owned by any corporation unless it meets the requirements of 46 U.S.C. § 11.

46 U.S.C. §§ 802, 803 to 842, 883, and 888. The Shipping Act of 1916 and the

Jones Act limit domestic cargo and passenger trade to ships owned by U.S. citizens. For this purpose, a U.S. citizen includes a corporation, partnership or association in which U.S. citizens own controlling interests and in which the chief executive officer, chairperson of the board and a majority of a quorum of the directors are U.S. citizens, and the corporation is itself organized under the laws of the United States or a State, Territory, District or possession of the United States. In the case of a corporation association or partnership operating any vessel in the coastwise trade, the U.S. citizens must own at least seventy-five percentum (75%) of the entity interests. Rules governing treatment of indirect ownership are provided.

46 U.S.C. § 835. During wartime or national emergency declared by the President, shipping facilities may not be transferred to foreign control without prior approval of the Secretary of Commerce.

46 U.S.C. §§ 1151 to 52. Under the Merchant Marine Act of 1936, the operating differential subsidies paid by the United States to ship purchasers or shipbuilders to defray part of the cost of acquiring new ships for use in foreign commerce, can be made only to to U.S. citizens (as defined in the Shipping Act of 1916, except that all of a corporation's directors must be U.S. citizens), and U.S. shipyards.

46 U.S.C. § 1160. The Secretary of Commerce is authorized to purchase obsolete vessels in exchange for a credit towards new vessels, but a vessel is "obsolete" only if it has been owned by U.S. citizens (as defined in the Shipping Act of 1916), for at least three years immediately before the date of acquisition.

46 U.S.C. § 1274. The Secretary of Commerce is authorized to provide insurance in connection with maritime activities, but only to vessels of U.S. citizens (as defined in the Shipping Act of 1916).

47 U.S.C. § 17. No telegraph or cable lines owned or operated or controlled by persons who are not citizens of the United States, or by foreign corporations or governments, may be established in or permitted to enter the State of Alaska.

47 U.S.C. § 222. No proposed merger or consolidation of telegraph carriers will be approved by the Federal Communications Commission where if, as a result of the merger, more than one-fifth of the stock of a carrier will be owned, controlled, voted or otherwise directed by an alien, foreign government, or representative of either, or by a corporation of which any officer or director is an alien or more than one-fifth of the capital stock is held by aliens or their representatives.

47 U.S.C. § 310. No radio station license will be granted to an alien, a foreign government, a representative of either an alien or foreign government, a foreign corporation, a corporation in which any officer or director or stockholders of more than one-fifth of the capital stock are aliens, or a subsidiary corporation of a parent corporation of which an officer or holders of one-fourth of the shares are aliens, foreign governments, or representatives of either. Exception is made for holders of U.S. pilot certificates or foreign aircraft pilot certificates.

47 U.S.C. §§ 733, 734. The officers of the Communications Satellite Corporation must be U.S. citizens. Similarly, not more than twenty percent (20%) of the aggregate of the shares of stock of the corporation may be

held by aliens or other related persons, as described in 47 U.S.C. § 310(a). See above.

48 U.S.C. §§ 1501 to 1508. Under the Natural Resources Act of 1887, as amended, only a person who is a U.S. citizen or an alien who has declared his or her intention to become a U.S. citizen may acquire title to any land in any of the U.S. territories, other than as such rights may be provided by treaties of the United States. Land acquired by an alien by inheritance, distribution, or foreclosure of a lien secured by the real property can provide good title but must be disposed of within ten years from acquisition or it will escheat. These same restrictions apply with respect to alien acquisition of land in the District of Columbia.

48 U.S.C. §§ 1509 to 1512. Public lands in Hawaii may not be transferred to an alien person who has not declared his or her intention to become a citizen. An alien who has declared his or her intention to become a citizen and acquires title to such lands must become a citizen within five years thereof or the land escheats. Agricultural lands in Hawaii may be sold in blocks of up to three acres, to aliens who have declared intent to become U.S. citizens.

49 U.S.C. §§ 1301, 1371, 1378. No air carrier may engage in air transportation unless there is a certificate of the Civil Aeronautics Board (CAB) in effect for such carrier nor may any air carriers merge, consolidate, acquire another or be acquired without CAB approval. No approval for a certificate or merger will be allowed for an entity which is not a U.S. citizen. A U.S. citizen, for this purpose, includes an individual who is a citizen of the United States or a territory, a partnership in

which each partner is a citizen, or a corporation or association organized under the laws of the United States, a territory or State, in which the president, two-thirds or more of the directors and other managing officers, and the holders of at least seventy-five percent (75%) of the stock are citizens.

49 U.S.C. § 1401. No aircraft is eligible for U.S. registry unless it is owned by a U.S. citizen or resident alien, or a corporation lawfully organized and doing business in the United States.

50 U.S.C. Appendix § 4. [Trading with the Enemy Act] Permits the President or a designated agency to regulate and license enemy aliens engaged in the business of insurance.

50 U.S.C. Appendix § 5. [Trading with the Enemy Act] This Act permits the President or a designated agency, during time of war, to investigate, regulate, or prohibit transactions in foreign exchange, or the holding or acquisition or use of any property in which a foreign country has an interest.

50 U.S.C. Appendix §§ 6 to 9. [Trading with the Enemy Act] Permits the President to appoint and establish the duties of an alien property custodian for an enemy alien.

50 U.S.C. Appendix §§ 1735 to 1746. Only U.S. citizens may purchase surplus war-built vessels sold by the United States.

IV. Summary of State Statutes Restricting Foreign Ownership of Property

There are a number of States which have adopted statutory restrictions on foreign ownership of real property. Generally, these restrictions vary in scope and severity, with some States having nearly general prohibitions on alien land ownership, and others only limiting alien acquisition of State-owned lands. Three States require registration of foreign property ownership in certain situations. Sometimes the property rights of foreign corporations are restricted. The fourth section of this report will summarize these various State statutes.

A. State Statutes Restricting Foreign Ownership of Property

ALASKA STATUTES § 38.05.190. No aliens, other than those who have declared their intent to become citizens, may acquire exploration and mining rights on State lands unless their nation grants reciprocal rights to United States citizens. Corporations may not acquire such rights if 50 percent or more of their stock is owned by unqualified aliens.

ARKANSAS STATUTES § 10-926. An alien who is not naturalized may not obtain from the State a deed to tax-forfeited agricultural lands.

CALIFORNIA PUBLIC RESOURCES CODE § 6801. Leases and prospecting permits on public lands can be issued only to persons or associations of persons who are United States citizens, or who have declared their intent to become U.S. citizens, or whose country grants a reciprocal right by treaty. Foreign corporations are eligible to hold such leases and permits only if 90 percent or more of their shares are owned by eligible

persons or corporations.

CONNECTICUT GENERAL STATUTES §§ 45-278, 47-57 & 47-58. Nonresident aliens may not, generally, acquire or hold real property within the State of Connecticut. Exceptions are made for citizens of France, as long as France provides reciprocal rights, and for all nonresidents who use the property for "quarrying, mining, dressing or smelting ores . . . or converting the products of such quarries and mines into articles of trade and commerce." If a legatee, distributee, or beneficiary is not a resident of the United States and would not, therefore, be entitled to benefit from property bequeathed or devised, the probate court may hold the property for the benefit of that person.

DISTRICT OF COLUMBIA CODE §§ 29-201, 29-902, 45-1501 & 48 UNITED STATES CODE § 1501-1503. Aliens have the same property rights in the District of Columbia as they have in the territories of the United States. Land in the territories of the United States may be owned only by citizens, resident aliens and aliens who have declared their intent to become citizens.

Foreign corporations have the same rights as domestic corporations, but neither may be organized specifically "to buy, sell, or deal in real estate, except ocorporations to transact the business ordinarily carried on by real estate agents or brokers."

HAWAII REVISED STATUTES §§ 171-68, 206-9. Aliens who have not declared their intent to become citizens and resided in the State for at least five years may not acquire certain subsidized residential lots. Additionally,

the law provides that the purchase or lease of lands under the authority of the Board of Land and Natural Resources may be restricted to residents and to citizens.

IDAHO CODE § 58-313. Aliens who have not declared their intent to become citizens may not purchase Idaho State lands.

ILLINOIS STATUTES, CHAPTER 6 §§ 1, 2. While aliens may purchase or inherit land in the State of Illinois, they must sell or otherwise dispose of it to a citizen within six years or it is sold by the State, which will take the proceeds.

INDIANA CODE §§ 32-1-7-1, 32-1-8-2. Aliens may generally acquire and convey real estate in Indiana, but if an alien acquires more than 320 acres, the property must be disposed of within five years of its acquisition or of the alien's eighteenth birthday, unless the alien becomes a citizen. The penalty is escheat of the lands to the State.

IOWA CODE §§ 172C.5 et seq., 567.1, 567.2. Aliens may generally acquire without restriction land within the corporate limits of an Iowa city or town, or up to 640 acres of land outside such corporate limits. Nonresident aliens mayhold real property in Iowa if acquired by the laws of descent, if the country of that alien's citizenship provides a reciprocal right. Property acquired by devise or descent must be disposed of within twenty years, under penalty of escheat.

For five years following August 15, 1975, no corporation, foreign or domestic, may acquire or lease, directly or indirectly, agricultural land in Iowa.

KANSAS STATUTES §§ 17-5901, 59-511. Aliens ineligible for citizenship may own property in Kansas, but may only inherit it as provided by United States treaty.

Generally, corporations may not engage in the business of agriculture or horticulture, but certain domestic corporations in which all of the incorporators are natural persons residing in the State may own up to 5,000 acres of land and engage in certain agricultural and horticultural activities.

KENTUCKY REVISED STATUTES §§ 271A.705, 381.300 to 381.330. Aliens who have declared their intent to become citizens may acquire or inherit land but, if the alien has not become a citizen within eight years, he or she must dispose of the land, under penalty of escheat. A resident alien may take and hold land as a residence or business for up to twenty-one years.

No corporation can hold any real estate for a period of more than five years, except as may be proper and necessary for carrying on its legitimate business.

MINNESOTA STATUTES §§ 500.24, 500.221. Only citizens and aliens who are permanent residents may acquire agricultural land within the State of Minnesota. Nonresidents who acquire agricultural land through foreclosure, devise, or inheritance must dispose of it within three years.

No domestic or foreign corporation may acquire an interest in Minnesota agricultural land, unless eighty percent (80%) of its stock is held by U.S. citizens.

MISSISSIPPI CODE §§ 29-1-75, 89-1-23, MISSISSIPPI STATE CONSTITUTION ARTICLE 4, SECTION 84(19). The Mississippi State Constitution requires the legislature to enact laws to "limit, restrict, or prevent" non-resident aliens from owning Mississippi lands. The statutory law of Mississippi provides that nonresident aliens who have not declared their intent to become citizens may not, generally, hold real estate in Mississippi, under penalty of escheat. Such disqualified persons may, however, hold real property to secure a debt and, citizens of Lebanon or Syria may acquire Mississippi property through inheritance.

Nonresident aliens and corporations composed, in whole or in part, of nonresident aliens may not acquire, directly or indirectly, Mississippi public lands.

MISSOURI REVISED STATUTES §§ 442.560 to 442.592. Nonresident aliens and foreign corporations may not acquire or hold more than five acres of agricultural land in Missouri, and lands acquired by such persons must be divested within two years.

No corporation, domestic or foreign, may hold agricultural land or engage in farming, directly or indirectly.

MONTANA REVISED CODES § 91A-2-111. The right of an alien to inherit real estate is dependent upon a reciprocal right afforded United States citizens by the alien's nation of citizenship.

NEBRASKA REVISED STATUTES §§ 76-402 to 76-414. Aliens may acquire and hold title to land within three miles of a village, but any other land to which they may acquire title must be sold after five years. Corporations

may hold Nebraska land within the city limits of a city or village or within three miles of those limits, and as required for manufacturing plants, petroleum service stations, public utilities, common carriers, or bulk stations.

Corporations not incorporated in Nebraska may hold no land if a majority of their directors, executive officers or stockholders are nonresident aliens.

NEVADA REVISED STATUTES § 134-230. Nonresident aliens may not inherit land in Nevada unless their country of citizenship affords U.S. citizens reciprocal rights.

NEW HAMPSHIRE REVISED STATUTES §§ 477.20 & 477.21. Nonresident aliens may not take or convey real property in the State of New Hampshire.

NEW JERSEY STATUTES, TITLE 3A § 25-10. Where it appears that a nonresident alien legatee, beneficiary, or heir, would not have the benefit and control over New Jersey property passing to such alien, the New Jersey court may hold the property for the benefit of the alien

NEW MEXICO STATE CONSTITUTION, ARTICLE II, SECTION 22. Under the New Mexico State Constitution, aliens "ineligible to citizenship under the laws of the United States" and corporations in which a majority of the stock is owned by such aliens are not permitted to acquire any interest in real estate, unless otherwise provided by law. A New Mexico prior statute which provides that "foreigners" may otherwise hold land has been interpreted as inapplicable to nonresident aliens. N. M. Code § 70-1-24; 1929-30 Atty. Gen. Op. 11.

NORTH CAROLINA GENERAL STATUTES § 64-3. The right of a nonresident alien to inherit North Carolina properties is dependent upon a reciprocal right under the law of that person's country.

NORTH DAKOTA CENTURY CODE § 10-06-01. No corporation, domestic or foreign, may engage in the businesses of farming and agriculture.

OKLAHOMA STATUTES TITLE 18 §§ 1.20, 951 to 953, and TITLE 60 §§ 121-124. No aliens except bona fide residents may hold title to land in Oklahoma, and any land held by nonresident aliens must be disposed of within five years of acquisition.

No corporation can own real estate within the State located outside of an incorporated city or town, except as necessary and proper for the carrying out of the corporation's activities, owned through foreclosure, acquired for lease or sale, or held only titularly. Property acquired through foreclosure must be disposed of within seven years.

No foreign corporations may be organized to own farmland in Oklahoma nor to engage in farming.

OREGON REVISED STATUTES § 273.255 & 517.010. Aliens who have not declared their intent to become citizens may not acquire real estate in Oregon.

PENNSYLVANIA STATUTES, TITLE 68 § 32. Aliens may not hold land exceeding 5,000 acres nor producing a net annual income of $20,000 in the Commonwealth of Pennsylvania.

SOUTH CAROLINA STATE CONSTITUTION, ARTICLE 3, SECTION 35, AND SOUTH CAROLINA CODE § 27-13-30. The Constitution of the State of South Carolina requires the legislature to enact laws limiting the number of acres an

alien or foreign corporation may own in the State. Under State statutes, aliens and alien-controlled corporations may not hold more than 500,000 acres of land within the State of South Carolina, except for acquisition by foreclosure. Land in excess of the 500,000 acre limitation must be disposed of within five years of acquisition.

SOUTH DAKOTA COMPILED LAWS § 47-9A. Neither foreign nor domestic corporations may own farmland in the State of South Dakota.

TEXAS REVISED CIVIL STATUTES, ART. 1302-4.01 to 1302-4.06. Neither domestic nor foreign corporations may own land in Texas, beyond that required to do business, and excess lands must be disposed of within fifteen years of acquisition.

WISCONSIN STATUTES § 710.02. A nonresident alien or corporation in which twenty percent (20%) or more of the stock is held by nonresident aliens cannot hold more than 640 acres of land in Wisconsin, unless acquired by foreclosure or inheritance.

WYOMING STATUTES § 34-15-101. Nonresident aliens ineligible for citizenship may not own, acquire, possess or transfer real property in the State of Wyoming, unless the foreign country of which such individual is a citizen affords reciprocal rights of ownership to United States citizens.

B. State Statutes Requiring Reporting of Foreign Property Ownership

ARIZONA REVISED STATUTES § 33-1204. Where a trustee or custodian is appointed to acquire or hold real estate for a nonresident alien, an annual report must be filed with the Secretary of State and the county recorder

for the county in which the land is situated.

IOWA CODE § 567.9. Every nonresident alien owning or leasing agricultural land in the State or engaged in farming outside the corporate limits of a city in Iowa must file an annual report with the Secretary of State.

MINNESOTA STATUTE § 500.221. Where an alien acquires agricultural land within the State prior to May 27, 1977, before the effective date of the prohibition against such acquisition, he or she must file a report with the Commissioner of Agriculture within 90 days thereof.

WEST VIRGINIA CODE § 11-12-75. Any corporation which wishes to own more than 10,000 acres of land within the State must apply to the Secretary of the State. Failure to comply subjects the corporation to a fine of from twenty-five to 500 dollars.

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