

Senate Bill 420

By: Senators Anavitarte 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

- 1 -

**SECTION 1.**

17

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

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

**SECTION 2.**

26

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

29 "2-1-7.

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

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

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

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

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

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

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

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

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

54 (3) 'Nonresident alien' means:

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

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

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

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

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

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

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

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

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

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

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

90 (c)(1)(A) A nonresident alien may acquire a possessory interest in agricultural land or  
91 land within a ten-mile radius of any military base, military installation, or military  
92 airport by devise or inheritance, as security for indebtedness, in the collection of debts,  
93 or by any procedure for the enforcement of a lien or claim thereon, whether created by  
94 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

122 installation, or military airport or for any other kind of payment relating to the nonresident  
123 alien's loss or lack of title to such interest in agricultural land or land within a ten-mile  
124 radius of any military base, military installation, or military airport. The legal counsel of  
125 any county, municipality, or consolidated government in which the agricultural land or land  
126 within a ten-mile radius of any military base, military installation, or military airport is  
127 located, the Attorney General, or any person that is not a nonresident alien that was a party  
128 to the void transaction or is a subsequent holder of such interest may file an action to void  
129 the conveyance and have the interest revert to the previous owner.  
130 (g) An individual who intentionally violates the provisions of this Code section shall be  
131 guilty of a felony and shall be punished by a fine of not more than \$15,000.00 and  
132 imprisonment for not less than one year nor more than two years."

133 **SECTION 3.**

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

136 "CHAPTER 17

137 44-17-1.

138 As used in this chapter, the term:

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

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

143 44-17-2.

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

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

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

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

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

157 (3) A legal description of the real estate.

158 (d) The designated grantee beneficiary shall attach a copy of the record owner's death  
159 certificate to the affidavit provided for in subsection (c) of this Code section. For a record  
160 owner's death occurring on or after July 1, 2024, the designated grantee beneficiary shall  
161 record such affidavit and related documents with the office of the clerk of superior court  
162 of the county where the real estate is located within nine months of the record owner's  
163 death or the interest in the property shall revert to the deceased record owner's estate;  
164 provided, however, that for a record owner's death occurring before July 1, 2024, such  
165 recording of the affidavit provided for in subsection (c) of this Code section and related  
166 documents by the designated grantee beneficiary or beneficiaries shall not be subject to the  
167 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

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

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

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

246 44-17-5.

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

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

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

266 44-17-6.

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

272 44-17-7.

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

276 **SECTION 4.**

277 This Act shall become effective on July 1, 2024.

278 **SECTION 5.**

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