

5J-27 PROPOSED RULE TEXT

(10/26/2023)

5J-27.001 Definitions.

For the purpose of administering section 692.202, F.S., and these rules, the following definitions apply:

(1) “Clear and present danger” means an immediate danger to the public health, safety, or welfare or other substantial loss to the state.

(2) For the purpose of interpreting the definition of “foreign principal” in section 692.201(4), F.S., “controlling interest” has the same meaning as defined in section 287.138(1)(a), F.S.

(3) For the purpose of administering section 692.202(1), F.S., “controlling interest in agricultural land” means any interest which gives the foreign principal two or more of the following rights, whether or not the rights are exercised or shared concurrently with any other person, and whether or not the underlying agricultural land is subject to an easement or other encumbrance:

(a) To physically access the agricultural land;

(b) To exclude others from physically accessing the agricultural land;

(c) To improve or develop the agricultural land; or

(d) To attach fixed or immovable structures or objects to the agricultural land.

(4) “Department” means the Florida Department of Agriculture and Consumer Services.

(5) “Directly own” means the foreign principal holds equitable or legal title to the agricultural land in their own name.

(6) “Domicile” means the place where the individual is physically present and intends to remain permanently or indefinitely.

(7) “Indirectly own” means the foreign principal has an interest in an entity that has equitable or legal title to the agricultural land; or the foreign principal has an interest in the agricultural land, but the equitable or legal title to the agricultural land is held by another entity or individual.

(8) “Interest in agricultural land” means all or part of an equitable or legal title to the agricultural land.

(9) “Official documentation” means documentation issued by U.S. Citizenship and Immigration Services.

(10) “Own” means to have equitable or legal title to the agricultural land.

Rulemaking Authority 692.202(9), 570.07(23) FS. Law Implemented 692.202, FS. History—New

5J-27.002 Agricultural Land Transactions Prior to July 1, 2023.

A foreign principal that executed a contract for the purchase of agricultural land in the state of Florida prior to July 1, 2023, may own or acquire the agricultural land that is the subject of the contract on or after July 1, 2023.

Rulemaking Authority 692.202(9), 570.07(23) FS. Law Implemented 692.202, FS. History—New _____.

5J-27.003 Registration.

(1) Registration for Agricultural Land Owned or Acquired Prior to July 1, 2023.

(a) A foreign principal who owns or acquires an interest, other than a de minimis indirect interest, in agricultural land or any interest in such land in Florida prior to July 1, 2023, must register with the Department in accordance with this rule.

(b) A foreign principal must register with the Department on or before January 1, 2024, to be deemed timely registered.

(c) A foreign principal who registers after January 31, 2024, shall be deemed late and will have fines assessed in accordance with rule 5J-27.004.

(2) Registration for Agricultural Land Acquired on or After July 1, 2023, as Authorized Under Section 692.202(4), F.S.

(a) A foreign principal who acquires agricultural land or any interest in such land, other than a de minimis indirect interest, on or after July 1, 2023, by devise or descent, through the enforcement of security interests, or through the collection of debts, must register with the Department within 30 days after the property is owned or acquired by the foreign principal.

(b) If the foreign principal acquired the agricultural land or any interest therein between July 1, 2023, and the effective date of this rule, the foreign principal will have 30 days from the effective date of this rule to register with the Department to be deemed timely registered.

(c) The foreign principal must submit an updated registration form within three years of acquiring the agricultural land demonstrating the sale, transfer, or other divestment of such agricultural land.

(d) A foreign principal who registers more than 30 days after the agricultural land is owned or acquired shall be deemed late and will have fines assessed in accordance with rule 5J-27.004, F.A.C.

(3) Registration Method.

A foreign principal required to register agricultural land must submit FDACS-10993, Agricultural Land Owned by a Foreign Principal, XX/23, hereby incorporated by reference, or, when available, using the online registration system on the Department's website at <https://www.fdacs.gov>. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500 or accessed online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX>.

(4) Updated Registrations.

(a) A foreign principal must update their registration with the Department if any of the following occur:

1. The foreign principal sold the agricultural land;
2. The foreign principal no longer owns the agricultural land;
3. The foreign principal's agricultural land is no longer classified as agricultural under s. 193.461, F.S.;
4. The foreign principal no longer has any interest in the agricultural land; or
5. The foreign principal no longer meets the definition of a foreign principal as that term is defined in section 692.201, F.S.

(b) A foreign principal's registration must be updated by FDACS-10993, Agricultural Land Owned by a Foreign Principal, XX/23, or, when available, using the online registration system on the Department's website at <https://www.fdacs.gov/>.

(5) The prohibition and registration requirements prescribed by section 692.202, F.S., shall not apply with respect to any interest that is a de minimis indirect interest.

Rulemaking Authority 692.202(9), 570.07(23) FS. Law Implemented 692.202, FS. History—New .

5J-27.004 Fines.

(1) The Department will impose a \$1,000 fine against the foreign principal for each day that the registration is late. The registration will be deemed late if it is filed more than 30 days after the agricultural land is owned or acquired by the foreign principal.

(2) The Department will issue a notice of violation to any foreign principal found in violation of section 692.202(3)(a), F.S., prior to final agency action. Such notice will include hearing rights pursuant to section 120.569, F.S.

(3) Fines imposed are due and payable to the Department within 30 days of entry of the final order unless otherwise stated in the final order.

Rulemaking Authority 692.202(9), 570.07(23) FS. Law Implemented 692.202, FS. History–New _____.

5J-27.005 Liens.

The Department may place a lien on the foreign principal’s agricultural land for any fines that are not paid within 30 days of entry of the final order unless otherwise stated in the final order.

Rulemaking Authority 692.202(9), 570.07(23) FS. Law Implemented 692.202, FS. History–New _____.

5J-27.006 Rebuttable Presumption.

(1) A closing agent who relies on and maintains the affidavit specified in section 692.202(5), F.S., has established a rebuttable presumption that the closing agent did not have actual knowledge that the real estate transaction violated section 692.202, F.S.

(2) A seller of agricultural land who relies on and maintains the affidavit specified in section 692.202(5), F.S., has established a rebuttable presumption that the seller did not have actual knowledge that the real estate transaction violated section 692.202, F.S.

Rulemaking Authority 692.202(9), 570.07(23) FS. Law Implemented 692.202, FS. History–New _____.