

Argentina's Parliament Approves A Measure Limiting Amount Of Land That Can Be Purchased By Foreigners

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Fluctuating commodity prices, particularly with respect to the price of food and basic staples, have created a significant demand for arable land. The demand for arable land has, in turn, boosted the price Argentina's rural land and caused a flurry of foreign investment. In response to acquisition of land by foreigners, Argentina recently passed a law that imposes several restrictions on the foreign ownership of rural lands.

On December 22, 2011, Argentina's parliament approved a law limiting the amount of rural land foreigners can purchase in Argentina (the "Law"). Parliament established the "Consejo Interministerial de Tierras Rurales" (roughly, the Ministerial Council of Rural Lands) to implement the Law. "Rural land" is defined as all land that is outside of an urban area. An "urban area" is any an area with 2000 or more inhabitants. Under this definition, most of Argentina's land mass will be classified as rural land. Total foreign ownership of rural land cannot exceed 15% of Argentina's total land mass. No more than 15% of the 30% (e.g. 4.5% of Argentina's total land mass) can be acquired by persons and/or entities of the same nationality. Any particular individual or entity is limited to no more than 1000 hectares (24,710 acres) of rural land.

The Law will not be applied retroactively and does not affect existing foreign landowners. The acquisition of land in certain areas designated as "security areas" (near Argentina's borders) will require an additional approval by Argentina's Ministry of the Interior.

Currently, Argentina's government has not conducted a survey to determine the exact proportion of Argentina's land in foreign hands. To that effect, the Law provides for a census of Argentinean land belonging to foreigners. Foreign owners of rural land are required to report their ownership to the National Registry of Rural Land within 180 days of the Law's enactment. Any foreign legal entities owning rural lands will now be required to report any modification in their corporate structure within 30 days of such a modification.

The Ministerial Council of Rural Lands is charged with enforcing the Law. Any action infringing the law will be deemed null and void. Moreover, any infringing party will have no right to seek compensation for the voided transaction.

There are several issues a foreign company or individual should keep in mind regarding this Law. First, the Law does not regulate or restrain lease agreements. Companies are permitted to enter into lease agreements for rural land without limitations on the amount of land leased. Second, the Law does not specify how to determine the nationality of an entity with shareholders of diverse nationalities. As certain foreign nationalities approach the 4.5% limit on foreign ownership by a particular nationality, this ambiguity will become more important. Third, Argentinean corporate entities that are controlled by foreigners or have over 50% of their capital stock owned by foreigners will be subject to the Law.

To avoid problems, foreign entities contemplating the purchase of land in Argentina should seek legal counsel to ensure that their purchase complies with the Law.