



Wisconsin State Assembly

P.O. BOX 8952 • MADISON, WI 53708

January 16, 2014

The Honorable J.B. Van Hollen
Attorney General
Department of Justice
State of Wisconsin
P.O. Box 7857
Madison, WI 53707-7857

Re: Request for Formal Opinion

Dear Attorney General Van Hollen:

Section 710.02(1) of the Wisconsin Statutes provides that the following persons may not acquire, hold or own any interest, directly or indirectly, in more than 640 acres of land in the state: (a) aliens not residents of a state of the United States; (b) corporations not created under the laws of the United States or a state of the United States; (c) corporations, limited liability companies, partnerships or associations having more than 20 percent of their stock, securities or other indicia of ownership held or owned by persons under (a) or (b); or (d) trusts having more than 20 percent of the value of their assets held for the benefit of persons under (a) or (b).

However, Section 710.02(2) of the Wisconsin Statutes identifies a number of exceptions to the limitation set forth in Section 710.02(1). Specifically, Subsection (2)(b) exempts "citizens, foreign governments or subjects of a foreign government whose rights to hold larger quantities of land are secured by treaty" from the limitation set forth in Section 710.02(1).

The General Agreement on Trade in Services (the "GATS Treaty") is one such treaty that secures a foreign-owned entity's right to hold a larger quantity of land than is set out in Section 710.02(1). The GATS Treaty applies to "measures by Members affecting trade in services," which includes "the supply of a service by a service supplier of one Member, through commercial presence in the territory of any other Member."

Specifically, Section 1 of Article XVII of the GATS Treaty states that "in the sectors inscribed in its Schedule, and subject to any conditions and qualifications set out therein, each Member shall accord to services and service suppliers of any other Member, in respect of all measures affecting the supply of services, treatment no less favorable than that it accords to its own like services and service suppliers."

Moreover, Page 7 of the Schedule of Specific Commitments of the United States contains a section listing specific states that have restrictions on either the acquisition or holding of land, which are intended to survive the GATS Treaty. While that section does list a number of surviving limitations on the ownership of land by several states, Wisconsin is not listed among the states that specifically listed their restriction as one that was intended to survive the GATS Treaty.

Thus, ownership of more than 640 acres of land in the State of Wisconsin by a person or entity directly or indirectly owned by a citizen or entity of a country that is a party to the GATS Treaty appears to not be prohibited by Section 710.02(1).

As you are aware, Governor Walker proposed revisions to Section 710.02 of the Wisconsin Statutes in his biennial budget proposal for 2013-2014. After consideration of the Governor's request, however, the Joint Committee on Finance voted to delete the Governor's requested revisions. The subject matter of this request is, therefore, a matter of legislative interest and your guidance in an opinion will be helpful in any future legislative deliberations on this subject.

We therefore respectfully request that you opine on whether the acreage limitation set forth in Section 710.02(1), and the penalties contained in Chapter 710 for violating those limitations, apply to a citizen, foreign government or subject of a foreign government in a country that is a party to the GATS Treaty. We hope that your opinion can be delivered as expeditiously as possible given the uncertainties associated with these provisions and the continuing legislative interest in this subject.

Sincerely,

ASSEMBLY COMMITTEE ON ORGANIZATION

By: _____
Its: _____

