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**HOUSE BILL 1412**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Shavers and Lekanoff

AN ACT Relating to foreign ownership of agricultural lands; amending RCW 64.16.005; creating new sections; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that agricultural land is a critical and limited resource and that foreign ownership of agricultural land threatens the state's and nation's interests, independence, and food security. The legislature, therefore, intends to prohibit future sales of agricultural land in this state to foreign governments and entities.

**Sec.**  RCW 64.16.005 and 2012 c 117 s 195 are each amended to read as follows:

(1) Any alien who is a natural person may acquire and hold lands, or any right thereto, or interest therein, by purchase, devise, or descent; and he or she may convey, mortgage, and devise the same, and if he or she shall die intestate, the same shall descend to his or her heirs, and in all cases such lands shall be held, conveyed, mortgaged, or devised, or shall descend in like manner and with like effect as if such alien were a native citizen of this state or of the United States.

(2)(a) On or after August 1, 2023, no foreign government, foreign state-controlled enterprise, foreign business entity, or foreign-controlled domestic business entity may purchase, acquire, lease, or hold any interest in agricultural land in Washington, or be the beneficiary of any trust that owns or controls agricultural land in Washington, unless expressly authorized by a treaty between the United States and another country.

(b) This restriction does not apply to any interest in agricultural land in Washington held by a foreign government, foreign state-controlled enterprise, foreign business entity, or foreign-controlled domestic business entity that was acquired before August 1, 2023.

(c) A transfer of an interest in agricultural land in violation of this section is void.

(3)(a) Beginning on January 1, 2024, the department shall review all agricultural land sales in this state prior to the closing of the transaction, and no purchase or sale of agricultural land in this state is valid unless reviewed and approved by the department.

(b) The department shall not approve any purchase or sale of agricultural land in this state unless it finds by a preponderance of the evidence that the buyer is not prohibited from buying agricultural land pursuant to this section. The buyer of the agricultural land has the burden of proving it is not prohibited from purchasing agricultural land pursuant to this section.

(c) If the department denies approval of the purchase or sale of agricultural land pursuant to this section, the buyer may bring an action in superior court seeking review of the department's decision within one year of the department denying approval. The superior court shall review the department's decision de novo and reverse the decision if it finds the department's decision was contrary to the weight of the evidence or was arbitrary and capricious.

(d) The department may adopt rules to carry out the provisions of this section.

(4) A violation of this section is a gross misdemeanor.

(5) The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for purposes of applying the consumer protection act, chapter 19.86 RCW.

(6) In any suit brought to enforce this section, in addition to all relief available under chapter 19.86 RCW, a prevailing plaintiff may request and obtain any or all of the following remedies: (a) Statutory damages equal to the sale or market value of the land; (b) disgorgement of any funds obtained from unlawful purchase, sale, ownership, or control of the land in violation of this section; (c) a court order invalidating the purchase and sale of the land; (d) a court order requiring forfeiture, transfer, or sale of the land to the state or another qualifying owner; and (e) any other equitable relief deemed appropriate by the court.

(7) As used in this section:

(a) "Agricultural land" means land in Washington used for forestry production and land in Washington currently used for, or, if currently idle, land last used within the past five years, for farming, ranching, or timber production, except land not exceeding 10 acres in the aggregate if the annual gross receipts from the sale of the farm, ranch, or timber products produced thereon do not exceed $1,000.

(b) "Controlling interest" means possession of more than 50 percent of the ownership interests in an entity, or an ownership interest of 50 percent or less if the persons holding such interest actually direct the business and affairs of the entity without the consent of any other party.

(c) "Department" means the Washington department of agriculture.

(d) "Foreign business entity" means a corporation, professional corporation, nonprofit corporation, limited liability company, partnership, limited partnership, or similar entity that is organized under the laws of another country.

(e) "Foreign-controlled domestic business entity" means a corporation, professional corporation, nonprofit corporation, limited liability company, partnership, limited partnership, or similar entity that is organized under the laws of any state, territory, or possession of the United States, and which is directly or indirectly subject to the controlling interest of one or more foreign governments, foreign business entities, or nonresident aliens.

(f) "Foreign government" means the governing authority of a foreign state and does not include the government of the United States; the states, territories, or possessions of the United States; or federally recognized Indian tribes.

(g) "Foreign state-controlled enterprise" means a business enterprise, however denominated, in which a foreign government has a direct or indirect controlling interest.

(h) "Nonresident alien" means a natural person who is not a United States citizen, national, or resident. For purposes of this definition, a United States resident is a natural person who is not a United States citizen or national, and who has lived in the United States for at least six months of the preceding year and intends to reside in the United States indefinitely.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  If specific funding for the purposes of section 2(3) of this act, referencing section 2(3) of this act by bill or chapter number and section number, is not provided by June 30, 2023, in the omnibus appropriations act, section 2(3) of this act is null and void.

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