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HOUSE BILL 1412

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State of Washington

68th Legislature

2023 Regular Session

By Representatives Shavers and Lekanoff

Read first time 01/18/23. Referred to Committee on Civil Rights & Judiciary.

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

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

5 NEW SECTION. **Sec. 1.** The legislature finds that agricultural  
6 land is a critical and limited resource and that foreign ownership of  
7 agricultural land threatens the state's and nation's interests,  
8 independence, and food security. The legislature, therefore, intends  
9 to prohibit future sales of agricultural land in this state to  
10 foreign governments and entities.

11 **Sec. 2.** RCW 64.16.005 and 2012 c 117 s 195 are each amended to  
12 read as follows:

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

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

8       (b) This restriction does not apply to any interest in  
9 agricultural land in Washington held by a foreign government, foreign  
10 state-controlled enterprise, foreign business entity, or foreign-  
11 controlled domestic business entity that was acquired before August  
12 1, 2023.

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

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

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

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

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

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

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

1 competition for purposes of applying the consumer protection act,  
2 chapter 19.86 RCW.

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

13 (7) As used in this section:

14 (a) "Agricultural land" means land in Washington used for  
15 forestry production and land in Washington currently used for, or, if  
16 currently idle, land last used within the past five years, for  
17 farming, ranching, or timber production, except land not exceeding 10  
18 acres in the aggregate if the annual gross receipts from the sale of  
19 the farm, ranch, or timber products produced thereon do not exceed  
20 \$1,000.

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

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

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

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

38 (f) "Foreign government" means the governing authority of a  
39 foreign state and does not include the government of the United

1 States; the states, territories, or possessions of the United States;  
2 or federally recognized Indian tribes.

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

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

12 NEW SECTION. Sec. 3. If any provision of this act or its  
13 application to any person or circumstance is held invalid, the  
14 remainder of the act or the application of the provision to other  
15 persons or circumstances is not affected.

16 NEW SECTION. Sec. 4. If specific funding for the purposes of  
17 section 2(3) of this act, referencing section 2(3) of this act by  
18 bill or chapter number and section number, is not provided by June  
19 30, 2023, in the omnibus appropriations act, section 2(3) of this act  
20 is null and void.

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