

PROHIBIT ACQUISITION OF AGRICULTURAL LAND BY FOREIGN BUSINESS OR GOVERNMENT

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House Bill 4233 (proposed substitute H-1)

Sponsor: Rep. Gina Johnsen

Committee: Government Operations

Complete to 3-20-25

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4233 would amend 1846 RS 66 to prohibit a *foreign principal* from purchasing or otherwise acquiring *agricultural land* in Michigan. A foreign principal that already has Michigan agricultural land when the bill takes effect would not have to get rid of it but could not buy or acquire any more after that date. Agricultural land acquired by a foreign principal by devise or descent after the bill is in effect would have to be sold or otherwise disposed of within two years after the acquisition. Similarly, a person that acquires agricultural land after the bill is in effect and then becomes a foreign principal would have to divest itself of the land within two years after that change in status. As described further below, the bill also would require registration of all agricultural land owned by a foreign principal, and those violating the bill would be subject to a civil fine or the transfer of the land to, and its sale by, the state.

Foreign principal would mean any of the following:

- The government or a government official of a *foreign country of concern*.
- A political party in a foreign country of concern or a member or subdivision of such a political party.
- A partnership, association, corporation, organization, or combination of persons that is organized under the laws of a foreign country of concern or that has its principal place of business in a foreign country of concern or an affiliate or subsidiary of such an entity.
- An individual who is domiciled in a foreign country of concern and is not a citizen or lawful permanent resident of the United States.

Foreign country of concern would mean China, Cuba, Iran, North Korea, Russia, Syria, or Venezuela or an agency or other entity under significant control of any of those countries.

Agricultural land would mean land, including any right or interest in the land, that is suitable for cultivation for the production of agricultural crops, including the production of poultry and poultry products, the production of livestock including breeding and grazing, the production of grains and feeds, the production of forages and sod, the production of dairy products, the production of fruits and vegetables, the production of timber and timber products, the production of seeds and grasses, and the production of horses, donkeys, and the like.

Exceptions and allowed predivestment periods

The above provisions would not apply to a bona fide encumbrance on agricultural land taken for security. As long as both of the following conditions are met, the above provisions also

would not apply to land acquired in the collection of a debt, by a deed in lieu of foreclosure, under a forfeiture of a contract for deed, or by any procedure for the enforcement of a lien or claim on the agricultural land, whether created by mortgage or otherwise:

- The agricultural land is sold or otherwise disposed of within two years after the acquisition.
- Pending the sale or disposition, the land is not used for anything except farming under lease to a person not subject to the foreign principal ownership restrictions.

As noted above, a foreign principal that acquires agricultural land by devise or descent after the bill is in effect would have to sell or otherwise dispose of it within two years after it is acquired, and a person that acquires agricultural land after the bill is in effect and then becomes a foreign principal would have to divest itself of the land within two years after that change in status.¹

Registration

A foreign principal would have to register any agricultural land that it owns with the secretary of state within 60 days after the bill takes effect or the land is acquired, whichever is later.

The secretary of state would have to prescribe the form and manner of this registration, which would have to include all of the following information:

- The name of the owner of the agricultural land.
- If the owner of the land is an agent, trustee, or fiduciary of a foreign principal, the name of the foreign principal the land was acquired for.
- The acreage of the land and its location by municipality and county.
- The date the land was acquired.

Enforcement and remedies

If a foreign principal acquires or holds agricultural land in violation of the bill, the secretary of state would have to report the violation to the attorney general. Upon receiving such a report, the attorney general would have to initiate an action in the circuit court of a county where any of the land is located and file notice of the pendency of that action with the register of deeds in every county where any of the land is located.

If in such an action the court finds that the foreign principal violated the bill, the court would have to do either of the following:

- If the court finds that the agricultural land at issue was acquired or held in violation of the bill, both of the following:
 - Enter an order declaring that finding and file a copy with the register of deeds in every county where any of the land is located.
 - Declare the agricultural land escheated to the state and order its sale in the same manner as for a mortgage foreclosure. The proceeds of the sale would have to be used first to pay court costs, with any remaining funds paid to the person divested of the land.

¹ This would *not* apply to a person who owns agricultural land at the time the bill takes effect and subsequently becomes a foreign principal. As written, it would apply only if both the land acquisition and the change of status take place after the bill is already in effect.

- If the court finds that a foreign principal failed to timely register the agricultural land as described above, impose a civil fine of up to \$2,000 for each violation.

A person that acquires or holds agricultural land in violation of the bill would remain in violation for as long as they hold an interest in the agricultural land.

MCL 554.135 and 554.136 and proposed MCL 554.136a

FISCAL IMPACT:

House Bill 4233 would require the Department of Attorney General to initiate legal action in a circuit court upon notification of a foreign principal or entity holding land in violation of the bill. The number of anticipated violations requiring legal action would not be expected to require additional resources or attorneys for the department.

The bill also would have an indeterminate fiscal impact on the state and on local units of government. Under the bill, if a court finds that a foreign principal failed to register the agricultural land in a timely fashion, a civil fine of not more than \$2,000 can be ordered by the court for each violation. The number of civil fines that would be ordered under provisions of the bill is not known. Revenue collected from payment of civil fines is used to support public and county law libraries. Also, under section 8827(4) of the Revised Judicature Act, \$10 of the civil fine would be required to be deposited into the state's Justice System Fund, which supports various justice-related endeavors in the judicial branch and legislative branches of government and the Departments of State Police, Corrections, Health and Human Services, and Treasury. It is not known if provisions of the bill would result in an increase in court caseloads. If so, the fiscal impact on the judiciary and local court systems would depend on how court caseloads and related administrative costs are affected. Because there is no practical way to determine the number of violations that will occur under provisions of the bill, an estimate of the amount of civil fine revenue the state would collect, revenue for libraries, or costs to local courts cannot be made.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.