

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 616 (Delegates Munoz and Miller)
Environment and Transportation

Agricultural Land - Adversarial Foreign Governments - Restrictions on Property
Interests

This bill prohibits adversarial foreign governments from purchasing, acquiring, leasing, or holding any property interest in agricultural land in the State. The Attorney General is required to enforce the bill, as specified, and is authorized to bring an action to enjoin a threatened or prospective violation of the bill in any manner provided by law.

Fiscal Summary

State Effect: General fund expenditures likely increase, at least minimally, for the Office of the Attorney General (OAG) beginning in FY 2025, as discussed below. Revenues are not affected.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Definitions

“Adversarial foreign government” means a state-controlled enterprise or government of a country that the U.S. Secretary of Commerce has determined to be a foreign adversary under federal regulation.

“State-controlled enterprise” means a business enterprise, however denominated, in which a foreign government (1) possesses more than 50% of the ownership interests or (2) directs the business and affairs of the enterprise without the requirement or consent of any other person.

Enforcement

If OAG has reason to believe that a person is violating provisions of the bill, it must (1) commence an action in the circuit court of the county where any portion of the agricultural land is located and (2) file a notice of the action in accordance with the Maryland Rules.

If the court determines that a person holds a property interest in agricultural land in violation of the bill, the court must enter an order to that effect that requires the person to divest itself of the property interest within one year after the date of the order.

OAG must cause any court order issued under the bill to be filed in the land records in each county where the agricultural land is located. The one-year limitation period must be considered a covenant running with the title to the land against any grantee or assignee. Any land subject to a court order that is not divested within the one-year period must be sold at public sale in the manner prescribed by law for the foreclosure of a mortgage or deed of trust.

Current Law:

Foreign Ownership of Property in the State

Any alien, who is not an enemy, may own, sell, devise, dispose of, or otherwise deal with property in the same manner as if the person had been a citizen of the State by birth.

Federal Disclosure Requirements – Agricultural Land

Under the Agricultural Foreign Investment Disclosure Act (AFIDA), any foreign person who acquires or transfers any interest, other than a security interest (and limited other interests specified in regulations), in agricultural land must submit a report to the Secretary of Agriculture – containing information on the foreign person, the agricultural land, the acquisition or transfer, and the person’s intended use of the land – not later than 90 days after the date of the acquisition or transfer.

Every six months, the Secretary of Agriculture must transmit to each state department of agriculture, or other appropriate state agency, a copy of each report submitted to the Secretary during the six-month period, which involved agricultural land in the state.

The U.S. Department of Agriculture's Farm Service Agency (FSA) publishes [annual reports](#) on the information.

State Fiscal Effect: General fund expenditures likely increase, at least minimally, for OAG to handle enforcement under the bill. OAG advises that depending on the total number of cases generated by the bill each year, it may require one additional full-time assistant Attorney General, with corresponding general fund expenditures of at least \$122,000 annually. OAG further estimates that the additional position is needed as long as there are at least two cases per year.

However, the Department of Legislative Services advises that the extent of resources potentially needed by OAG is dependent on the number of cases filed under the bill and the level of effort involved in each case. While generally acknowledging that expenditures likely increase at least minimally for enforcement efforts, without experience under the bill, the need for additional staff is unclear. To the extent that additional staffing resources are required, OAG may request them through the annual budget process.

Small Business Effect: The bill may have a meaningful impact on small businesses to the extent it affects the value, cost, or availability of agricultural land in the State, whether now or in the future. FSA's most recently available annual report on information reported under AFIDA ([Foreign Holdings of U.S. Agricultural Land, Through December 31, 2022](#)) discusses analyses conducted on the effect of foreign investment in agricultural land on land values and land rental rates, indicating that both land values and rental rates have implications for (1) farm wealth and access to credit; (2) expenses paid by farm and ranch operators; and (3) land access for beginning farmers and ranchers. The analyses indicated that there is not a consistent or significant relationship between foreign investment in agricultural land and land values or land rental rates; however, the report indicated more research is needed to investigate in greater depth the relationship between state-level restrictions on foreign ownership of agricultural land, foreign acquisitions, and changes in agricultural land values and rents.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 842 of 2023.

Designated Cross File: SB 392 (Senator Gallion) - Education, Energy, and the Environment.

Information Source(s): Office of the Attorney General; Judiciary (Administrative Office of the Courts); Maryland Department of Agriculture; Department of Legislative Services

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