

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 842 (Delegate Ghrist, *et al.*)

Environment and Transportation and
Economic Matters

Agricultural Land - Foreign Property Interests - Restrictions

This bill prohibits a foreign person from purchasing, leasing, or otherwise acquiring any interest (other than a security interest and other specified limited interests) in agricultural land in the State on or after October 1, 2023. The transfer of an interest in agricultural land to a foreign person is void as against the public policy of the State.

Fiscal Summary

State Effect: The bill is not expected to have a direct, material impact on State finances.

Local Effect: The bill is not expected to have a direct, material impact on local government finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Agricultural land” means real property that is or was assessed for property tax purposes on the basis of farm or agricultural use.

“Foreign person” means:

- an individual who is not (1) a citizen or national of the United States; (2) a citizen of the Northern Mariana Islands or the Trust Territory of the Pacific Islands; or (3) lawfully admitted to the United States for permanent residence or paroled into the United States under the federal Immigration and Nationality Act;

- a foreign government;
- a person, other than an individual or a foreign government, that (1) is created or organized under the laws of a foreign government or (2) has its principal place of business located in a foreign country; or
- a person, other than an individual or a foreign government, (1) that is created or organized under the laws of a state, district, territory, or possession of the United States and (2) in which, as determined by regulations of the United States Department of Agriculture (USDA) adopted under the federal Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA), a significant interest or substantial control is directly or indirectly held by a foreign government, an individual described above, or a person described above that is created or organized under the laws of a foreign government or has its principal place of business located in a foreign country.

The bill does not apply to (1) a security interest; (2) a leasehold of less than 10 years; (3) a contingent future interest; (4) a noncontingent future interest that does not become possessory on the termination of the present possessory estate; (5) a surface or subsurface easement or right-of-way used for a purpose unrelated to agricultural production; (6) an interest solely in mineral rights; or (7) an interest in agricultural land acquired by a foreign person on or before September 30, 2023.

The bill may not be applied in a manner inconsistent with the provisions of any treaty between the United States and another country.

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 they had been a citizen of the State by birth.

Federal Disclosure Requirements – Agricultural Land

Under 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.

USDA's Farm Service Agency (FSA) publishes [annual reports](#) on the information.

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 recent annual report on information reported under AFIDA ([Foreign Holdings of U.S. Agricultural Land, Through December 31, 2021](#)) 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

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Anne Arundel, Charles, and Garrett counties; Judiciary (Administrative Office of the Courts); Maryland Department of Agriculture; State Department of Assessments and Taxation; Department of Legislative Services

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