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**To:** Members of the House Environment & Transportation Committee  
**From:** MLTA Legislative Committee  
**Date:** March 9, 2023  
**Subject:** **House Bill 842** - Agricultural Land – Foreign Property Interests – Restrictions  
**Position:** **Opposed**

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**The Maryland Land Title Association (MLTA) opposes House Bill 842 - Agricultural Land – Foreign Property Interests – Restrictions.**

The Maryland Land Title Association (MLTA) is a professional organization working on behalf of title industry service providers and consumers and is comprised of agents, abstractors, attorneys, and underwriters. MLTA OPPOSES HB 842.

The bill seeks to address concerns about foreign interests purchasing agricultural land in Maryland and then using that land to support agriculture in the foreign nation. Similar bills have been proposed in numerous states.

MLTA's main objection is that HB 842 as now drafted provides that any sale of agricultural land to a foreign entity as defined in the statute is "void." This can create numerous problems, including:

- Anyone claiming title under the foreign owner would also have void title. This includes mortgagees, mechanic's lien claimants, and future purchasers, et cetera, no matter how remote in time from the foreign owner any subsequent interest holder is.
- A void title means that the seller is still in title. But since a closing would have taken place and proceeds disbursed, this would create an instant unjust enrichment lawsuit against everyone involved in the closing or who received money traceable to the proceeds to effectively "unwind" the closing, including:
  - The seller
  - The seller's payoff lender
  - The realtor (is a commission for a sale that legally never happened earned?)

- If the seller used the proceeds for a replacement property, then any parties with a former or current interest in that replacement property (if traceable under a theory of constructive trust)

Other states that have addressed this concern provide for a forced divestiture of title to the property, or forfeiture to the state, which avoids the complications that arise in the face of a void conveyance. We provide for your consideration what MLTA believes to be some of the best examples of how to deal with this – statutes from North Dakota and Minnesota (both attached), which have had similar laws on their books for years.

In both states, these general principles apply:

1. They specify an enforcement mechanism of forced divestiture.
  - a. They give a short period of time to permit a private sale, after which there is a court-supervised forced public sale.
  - b. The public sale provision incorporates by reference the procedure for a judicial foreclosure.
2. They identify the Attorney General as the official to enforce the law and bring the foreclosure/divestiture action.
3. They require recording a lis pendens and order of sale in the land records.
4. They protect future owners from any “taint” on the title from a prior owner.

The members of the Maryland Land Title Association urge an unfavorable report on HB 842 in its current form. We would be happy to work with members of the Committee to address the important concerns this bill seeks to protect against in a way that would not create ongoing uncertainties in the status of title that a void sale would cause.