

STATE OF NEW YORK

6583

2023-2024 Regular Sessions

IN SENATE

April 27, 2023

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property law, in relation to prohibiting the acquisition or transfer of agricultural land by foreign adversaries

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The real property law is amended by adding a new section 19
2 to read as follows:

3 § 19. Foreign adversary acquisition or transfer of agricultural land.

4 1. For the purposes of this section, the following terms shall have the
5 following meanings:

6 (a) "agricultural land" means real estate used for an agricultural
7 operation in the state.

8 (b) "agricultural operation" means any operation devoted to the bona
9 fide production of crops, animals, or fowl, including the production of
10 fruits and vegetables of any kind; meat, dairy, and poultry products;
11 nuts, tobacco, nursery, and floral products; and the production and
12 harvest of products from silvicultural activity;

13 (c) "controlling interest" means either possession of more than fifty
14 percent of the ownership interests in an entity or a percentage owner-
15 ship in an entity of fifty percent or less if such owner directs the
16 business and affairs of such entity without the requirement or consent
17 of any other party;

18 (d) "department" means the department of agriculture and markets;

19 (e) "foreign adversary" means any foreign government or nongovernment
20 person determined by the United States secretary of commerce to have
21 engaged in a long-term pattern or serious instances of conduct signif-
22 icantly adverse to the national security of the United States or the
23 security and safety of United States persons;

24 (f) "interest" means any estate, remainder, or reversion, or portion
25 of the estate, remainder, or reversion, or an option pursuant to which

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 one party has a right to cause legal or equitable title to agricultural
2 land to be transferred.

3 2. (a) Notwithstanding any other provision of law, on and after Janu-
4 ary first, two thousand twenty-four, no foreign adversary shall acquire
5 or transfer any interest in agricultural land in the state of New York.

6 (b) This section shall not apply to (i) any interest in agricultural
7 land held by a foreign adversary prior to January first, two thousand
8 twenty-four, or (ii) any federally recognized Indian tribe or its
9 government units and enterprises.

10 (c) Any transfer of an interest in land in violation of this section
11 shall be void.

12 (d) This section shall not be applied in a manner inconsistent with
13 any provision of any treaty between the United States and another coun-
14 try.

15 3. (a) Based on the reports submitted to it pursuant to the federal
16 Agricultural Foreign Investment Disclosure Act, 7 U.S.C. § 3501 et seq.,
17 and other information the department, at its discretion, deems appropri-
18 ate, the department shall compile an annual report in consultation with
19 the appropriate state agencies and boards for each calendar year
20 containing all of the following, if available:

21 (i) the total amount of agricultural land that is under foreign owner-
22 ship;

23 (ii) the percentage change in foreign ownership of agricultural land
24 in the state for each year over the prior ten years;

25 (iii) the purpose for which foreign-owned agricultural land in the
26 state is being used currently. To the extent such information is avail-
27 able, the department shall also include any significant recent changes
28 or trends in the uses of foreign-owned agricultural land in the state;

29 (iv) with the assistance of relevant state agencies, information
30 regarding the extent of, and any recent changes in, foreign ownership of
31 energy production, storage, or distribution facilities in the state to
32 the extent such information is available; and

33 (v) any legislative, regulatory, or administrative policy changes the
34 department recommends in light of the information in this report.

35 (b) The department shall publish its inaugural report no later than
36 July first, two thousand twenty-four and each subsequent report no later
37 than July first of each year. The department shall also deliver copies
38 of such report to the governor, the temporary president of the senate
39 and the speaker of the assembly.

40 § 2. This act shall take effect immediately.