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:

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

§ 19. Foreign adversary acquisition or transfer of agricultural land. 1. For the purposes of this section, the following terms shall have the following meanings:

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

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

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

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

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

(f) "interest" means any estate, remainder, or reversion, or portion 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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one party has a right to cause legal or equitable title to agricultural land to be transferred.

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

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

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

(d) This section shall not be applied in a manner inconsistent with any provision of any treaty between the United States and another country.

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

(i) the total amount of agricultural land that is under foreign ownership;

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

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

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

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

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

§ 2. This act shall take effect immediately.