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SENATE BILL NO. 1438

Offered January 11, 2023

A *BILL to amend the Code of Virginia by adding in Title 55.1 a chapter numbered 5.1, consisting of sections numbered 55.1-507, 55.1-508, and 55.1-509, relating to agricultural land; ownership by foreign governments prohibited; report; emergency.*

Patrons—Stuart, McDougle, Pillion, Reeves, Ruff and Stanley

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 55.1 a chapter numbered 5.1, consisting of sections numbered 55.1-507, 55.1-508, and 55.1-509, as follows:

CHAPTER 5.1.

FOREIGN ENTITIES AND PROPERTY OWNERSHIP.

§ 55.1-507. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agricultural land" means the same as that term is defined in 7 U.S.C. § 3508.

"Controlling interest" means either possession of more than 50 percent of the ownership interests in an entity or a percentage ownership in an entity of 50 percent or less if such owner directs the business and affairs of such entity without the requirement or consent of any other party.

"Department" means the Department of Agriculture and Consumer Services.

"Foreign government" means a government or state-controlled enterprise of a foreign government.

"Foreign government" does not include the government of the United States or any government of its states, territories, or possessions.

"Interest" means any estate, remainder, or reversion, or portion of the estate, remainder, or reversion, or an option pursuant to which one party has a right to cause legal or equitable title to agricultural land to be transferred.

"State-controlled enterprise" means a business enterprise, however denominated, in which a government has a controlling interest.

§ 55.1-508. Foreign government acquisition of agricultural land prohibited.

A. Notwithstanding any other provision of law, on and after January 1, 2023, no foreign government shall purchase, acquire, lease, or hold any interest in agricultural land in the Commonwealth.

B. This section shall not apply to (i) any interest in agricultural land held by a foreign government prior to January 1, 2023, 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.

§ 55.1-509. Reporting requirements.

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:

1. The total amount of agricultural land that is under foreign ownership;

2. The percentage change in foreign ownership of agricultural land in the Commonwealth for each year over the prior 10 years;

3. The purpose for which foreign-owned agricultural land in the Commonwealth 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 Commonwealth;

4. 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 Commonwealth to the extent such information is available; and

5. Any legislative, regulatory, or administrative policy changes the Department recommends in light of the information in this report.

B. The report required by subsection A shall also include information on agricultural land that is leased by a foreign government for each of the categories set forth in subdivisions A 1 through 5, as applicable.

C. The Department shall publish its inaugural report pursuant to subsection A on its website no later

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59 *than July 1, 2023, and each subsequent report pursuant to subsection A no later than July 1 of each*
60 *following year. The Department shall also deliver copies of such report to the Governor, the General*
61 *Assembly, and the Chairmen of the Senate Committee on Agriculture, Conservation and Natural*
62 *Resources and the House Committee on Agriculture, Chesapeake and Natural Resources.*
63 **2. That an emergency exists and this act is in force from its passage.**