

Senate Bill No. 1084

Passed the Senate August 31, 2022

Secretary of the Senate

Passed the Assembly August 22, 2022

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2022, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Chapter 5 (commencing with Section 745) to Title 2 of Part 1 of Division 2 of the Civil Code, relating to property, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1084, Hurtado. Agricultural land: foreign ownership and interests: foreign governments.

Existing law provides that all property has an owner, whether that owner is the state, and the property is public, or the owner is an individual, and the property is private.

Existing law requires the Department of Food and Agriculture to promote and protect the agricultural industry of the state. Existing law requires the department to enhance, protect, and perpetuate the ability of the private sector to produce food and fiber in a way that benefits the general welfare and economy of the state.

This bill would prohibit a foreign government from purchasing, acquiring, leasing, or holding an interest, as defined, in agricultural land within the State of California. The bill would exempt land held by foreign governments before January 1, 2023, from that prohibition, and would specify that it does not apply to federally recognized Indian tribes or their government units and enterprises.

Existing federal law requires any foreign person, defined to include foreign governments, who acquires or transfers any interest, other than a security interest, in agricultural land to submit to the United States Secretary of Agriculture a report containing specified information relating to, among other things, the type of interest the foreign person acquired or transferred and their legal name, address, and citizenship or country in which they are created or organized. Existing federal law requires the secretary every 6 months to transmit to each state department of agriculture a copy of each report that was submitted to the secretary in the most recent 6-month period and that involved agricultural land located in that state.

This bill would require the Department of Food and Agriculture, in consultation with the appropriate boards or departments and

based on the above-described reports from the United States Secretary of Agriculture, and other information the department deems appropriate, to compile an annual report containing, among other information, the total amount of agricultural land that is under foreign ownership, how that land is currently being put to use, and any legislative, regulatory, or administrative policy recommendations in light of the information from the annual report. The bill would require the department to publish the inaugural annual report on its website by March 31, 2023, and on March 31 every year thereafter. The bill would require the department to deliver copies of any recommendations for legislative policy changes contained in the report to the Governor and the Assembly and Senate Committees on Agriculture. The bill would require the department to be reimbursed for costs incurred for compiling data, printing, and mailing the report, as specified. The bill would make its provisions operative upon appropriation by the Legislature.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Chapter 5 (commencing with Section 745) is added to Title 2 of Part 1 of Division 2 of the Civil Code, to read:

CHAPTER 5. FOREIGN ENTITIES AND PROPERTY OWNERSHIP

745. For purposes of this chapter, the following definitions apply:

(a) “Agricultural land” has the same meaning as defined in Section 3508 of Title 7 of the United States Code.

(b) “Controlling interest” means either of the following:

(1) Possession of 51 percent or more of the ownership interests in an entity.

(2) A percentage ownership interest in an entity of less than 51 percent, if the foreign government actually directs the business and affairs of the entity without the requirement or consent of any other party.

(c) “Foreign government” means a government or the state controlled-enterprise of a foreign government, except “foreign

government” does not include the government of the United States, its states, territories, or possessions.

(d) “Interest” means any estate, remainder, or reversion enumerated in Chapter 1 (commencing with Section 761) of Title 2 of Part 2, 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.

(e) “State-controlled enterprise” means a business enterprise, however denominated, in which the government has a controlling interest.

746. (a) Notwithstanding any other law, on and after January 1, 2023, a foreign government shall not purchase, acquire, lease, or hold any interest in agricultural land in the State of California.

(b) This section does not apply to any interest in agricultural land held by a foreign government before January 1, 2023.

(c) This section does not apply to a federally recognized Indian tribe or its government units and enterprises.

(d) A transfer of an interest in land in violation of this section is void.

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

747. (a) Based on the reports submitted to it pursuant to Section 3505 of Title 7 of the United States Code, and other information the Department of Food and Agriculture, at its discretion, deems appropriate, the department shall compile an annual report in consultation with the appropriate boards or departments 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 California, by year, over the past 10 years.

(3) The purpose to which foreign-owned agricultural land in California is being put to use currently. The department shall also include any significant recent changes or trends in the use to which foreign-owned agricultural land in California is being put to use.

(4) Information regarding the extent of, and any recent changes in, foreign ownership of water rights in California.

(5) Information regarding the extent of, and any recent changes in, foreign ownership of water desalination facilities in California.

(6) Information regarding the extent of, and any recent changes in, foreign ownership of energy production, storage, or distribution facilities in California.

(7) The Department of Food and Agriculture’s assessment of the impact of any recent changes in foreign ownership of agricultural land in California, water rights, or water desalination facilities on Californians’ food security.

(8) Any legislative, regulatory, or administrative policy changes the Department of Food and Agriculture recommends in light of the information in the report.

(b) The report required by subdivision (a) shall also include information on agricultural land that is leased by a foreign government for each of the categories set forth in paragraphs (1) to (8), inclusive, of subdivision (a), as applicable.

(c) (1) The Department of Food and Agriculture shall publish the inaugural report described in subdivision (a) on its website by March 31, 2023, and on March 31 of each following year.

(2) The Department of Food and Agriculture shall publish each subsequent report described in subdivision (a) on its website by March 31 of each following year.

(3) If the report contains recommendations for legislative policy changes pursuant to paragraph (8) of subdivision (a), the Department of Food and Agriculture shall also deliver copies of those recommendations to the Governor and the Assembly and Senate Committees on Agriculture pursuant to Section 9795 of the Government Code.

(d) The Department of Food and Agriculture shall be reimbursed from the funds appropriated pursuant to Section 747.5 in an amount to cover the costs incurred for compiling data, printing, and mailing the report.

747.5. This chapter shall become operative upon appropriation by the Legislature for the purpose of implementing the provisions of this chapter.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to secure the integrity of California’s agricultural land due to the effects it has on global food security, and in order to address the potential of foreign government control of California’s

agricultural land and natural resources, it is necessary for this act to take effect immediately.

Approved _____, 2022

Governor