

AMENDED IN SENATE MAY 3, 2022
AMENDED IN SENATE APRIL 18, 2022

SENATE BILL

No. 1084

Introduced by Senator Hurtado

February 15, 2022

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.

LEGISLATIVE COUNSEL'S DIGEST

SB 1084, as amended, Hurtado. Property ownership: foreign ownership: 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, 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.

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 to compile~~, *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, the top 10 nationalities of that group of foreign owners of agricultural land, 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 31st 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.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Chapter 5 (commencing with Section 745) is
- 2 added to Title 2 of Part 1 of Division 2 of the Civil Code, to read:
- 3
- 4 CHAPTER 5. FOREIGN ENTITIES AND PROPERTY OWNERSHIP
- 5
- 6 745. For purposes of this chapter, the following definitions
- 7 apply:
- 8 (a) "Agricultural land" has the same meaning as defined in
- 9 Section 3508 of Title 7 of the United States Code.
- 10 (b) "Controlling interest" means either of the following:
- 11 (1) Possession of 51 percent or more of the ownership interests
- 12 in an entity.

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

5 (c) “Foreign government” means a government other than the
6 government of the United States, its states, territories, or
7 possessions, and includes state-controlled enterprises.

8 (d) “Interest” means any estate, remainder, or reversion
9 enumerated in Chapter 1 (commencing with Section 761) of Title
10 2 of Part 2, or portion of the estate, remainder, or reversion, or an
11 option pursuant to which one party has a right to cause legal or
12 equitable title to agricultural land to be transferred.

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

16 746. (a) Notwithstanding any other law, on and after January
17 1, 2023, a foreign government shall not purchase, acquire, or hold
18 any interest in agricultural land in the State of California.

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

21 (c) A transfer of an interest in land in violation of this section
22 is void.

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

26 747. (a) Based on the reports submitted to it pursuant to
27 Section 3505 of Title 7 of the United States Code, and other
28 information the Department of Food and Agriculture, at its
29 discretion, deems appropriate, the department shall compile an
30 annual report *in consultation with the appropriate boards or*
31 *departments* for each calendar year containing all of the following:

32 (1) The total amount of agricultural land that is under foreign
33 ownership.

34 (2) The percentage change in foreign ownership of agricultural
35 land in California, by year, over the past 10 years.

36 (3) The top 10 nationalities of the foreign owners of agricultural
37 land in California, by total acreage owned.

38 (4) The purpose to which foreign-owned agricultural land in
39 California is being put to use currently. The department shall also

1 include any significant recent changes or trends in the use to which
2 foreign-owned agricultural land in California is being put to use.

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

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

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

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

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

17 (b) (1) The Department of Food and Agriculture shall publish
18 the inaugural report described in subdivision (a) on its website by
19 March 31, 2023, and on the 31st day of March of each following
20 year.

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

24 (3) If the report contains recommendations for legislative policy
25 changes pursuant to paragraph (9) of subdivision (a), the
26 Department of Food and Agriculture shall also deliver copies of
27 those recommendations to the Governor and the Assembly and
28 Senate Committees on Agriculture pursuant to Section 9795 of
29 the Government Code.

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

34 *747.5. This chapter shall become operative upon appropriation*
35 *by the Legislature for the purpose of implementing the provisions*
36 *of this chapter.*