
A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that it is an objective
2 of the State to ensure that the agricultural industry continues
3 to constitute a dynamic and essential component of Hawaii's
4 strategic, economic, and social well-being. To achieve this
5 objective, the State must conserve, protect, and encourage the
6 development and improvement of available agricultural lands and
7 facilities to produce food and other agricultural products.

8 Accordingly, the purpose of this Act is to promote the
9 conservation, protection, and sustainable development of the
10 State's agricultural resources by prohibiting certain foreign
11 parties from owning, purchasing, or acquiring ownership of or an
12 interest in agricultural lands.

13 SECTION 2. The Hawaii Revised Statutes is amended by
14 adding a new chapter to title 11 to be appropriately designated
15 and to read as follows:



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"CHAPTER
PROHIBITION OF THE ACQUISITION OF
AGRICULTURAL LANDS BY CERTAIN FOREIGN PARTIES

§ -1 **Definitions.** As used in this chapter, unless the context otherwise requires:

"Agricultural lands" means any real property within the agricultural district pursuant to section 205-2(d).

"Foreign government" means any government other than:

- (1) The United States; or
- (2) A state or political subdivision of the United States.

"Interest in agricultural land" means all direct interest acquired, transferred, or held in agricultural land, including, without limitation, a lease of agricultural land:

- (1) For a term of one year or longer; or
- (2) That is renewable by option for terms that, if exercised, would be for a term of one year or longer.

"International Traffic in Arms regulations" means regulations under title 22 Code of Federal Regulations section 126.1.

"Prohibited foreign party" means:



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- 1 (1) A person subject to International Traffic in Arms
2 regulations;
- 3 (2) A foreign government formed within a country subject
4 to International Traffic in Arms regulations;
- 5 (3) A person other than an individual or government that
6 is created or organized under the laws of a foreign
7 government within a country subject to International
8 Traffic in Arms regulations;
- 9 (4) Any person other than an individual or government:
- 10 (A) That is created or organized under the laws of
11 any state; and
- 12 (B) In which a significant interest or substantial
13 control is directly or indirectly held or is
14 capable of being exercised by:
- 15 (i) A person described in paragraph (1) or (3);
- 16 (ii) A foreign government described in paragraph
17 (2); or
- 18 (iii) Any combination of the persons or foreign
19 governments described in paragraphs (1),
20 (2), and (3);



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1 (5) An entity of particular concern designated by the
2 United States Department of State; or

3 (6) An agent, trustee, or other fiduciary of a person or
4 entity described in paragraphs (1) through (5).

5 "Real property" means lands, structures, and interests
6 therein and natural resources including water, minerals, and all
7 things connected with land, including lands under water and
8 riparian rights, space rights, air rights, and any and all other
9 things and rights usually included within the term.

10 "Residence" means a person's principal dwelling place where
11 the person intends to remain permanently for an indefinite
12 period of time.

13 "Resident alien" means a person who:

14 (1) Is not a citizen of the United States; and

15 (2) Is a resident of a United States state, territory,
16 trusteeship, or protectorate.

17 "Significant interest" or "substantial control" means:

18 (1) An interest of thirty-three per cent or more held by a
19 prohibited foreign party;

20 (2) An interest of thirty-three per cent or more held by
21 more than one prohibited foreign party if the parties



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1 are acting in concert with respect to the interest,
2 even if no single prohibited foreign party holds an
3 interest of thirty-three per cent or more; or
4 (3) An interest of fifty per cent or more, in aggregate,
5 held by prohibited foreign parties, regardless of
6 whether the prohibited foreign parties are acting in
7 concert.

8 **§ -2 Office of agricultural intelligence; established.**

9 There is established within the department of agriculture an
10 office of agricultural intelligence, which shall:

- 11 (1) Collect and analyze information concerning the
12 unlawful scale or possession of agricultural land by
13 prohibited foreign parties; and
14 (2) Administer and enforce the provisions of this chapter,
15 including the reporting of violations to the attorney
16 general as provided in section -5.

17 **§ -3 Restrictions on ownership of agricultural lands.**

18 (a) Notwithstanding any other law to the contrary, a prohibited
19 foreign party shall not acquire by grant, purchase, devise,
20 descent, or otherwise, any interest in agricultural land in the
21 State, except as provided in section -4.



1 (b) A person shall not hold agricultural land as an agent,
2 trustee, or other fiduciary for a prohibited foreign party in
3 violation of this chapter.

4 (c) A prohibited foreign party that acquires agricultural
5 land in violation of this chapter remains in violation as long
6 as the prohibited foreign party holds an interest in the
7 agricultural land.

8 § -4 **Exception; divestment.** (a) Notwithstanding
9 section -3, a prohibited foreign party who is a resident
10 alien of the United States may acquire and hold an interest in
11 agricultural land in the State during the continuance of that
12 prohibited foreign party's residence in the State.

13 (b) If a prohibited foreign party who previously held
14 agricultural land pursuant to subsection (a) loses resident
15 alien status, the prohibited foreign party shall sell, transfer,
16 or otherwise divest their interest in agricultural land within
17 two years of the date on which the prohibited foreign party
18 ceased to have resident alien status.

19 (c) If a prohibited foreign party who is required to sell,
20 transfer, or divest an interest in agricultural land under
21 subsection (b) fails to do so, the attorney general shall



1 initiate a civil action in the circuit court in the county in
2 which the agricultural land is located for the forfeiture of the
3 interest in agricultural land.

4 (d) If the circuit court determines that an interest in
5 agricultural land is being held in violation of this chapter,
6 the circuit court shall order that the interest in agricultural
7 land be sold as provided in section -7.

8 § -5 **Enforcement.** (a) If the office of agricultural
9 intelligence determines a prohibited foreign party has acquired
10 agricultural land in the State in violation of this chapter, the
11 office shall report the violation to the attorney general.

12 (b) Upon receiving a report under subsection (a), the
13 attorney general may investigate to determine if there is a
14 violation of this chapter. In conducting the investigation, the
15 attorney general may issue subpoenas requiring the:

- 16 (1) Appearance of witnesses;
- 17 (2) Production of relevant records; and
- 18 (3) Giving of relevant testimony.

19 (c) Following the investigation, if the attorney general
20 concludes that a violation of this chapter has occurred, the
21 attorney general shall initiate a civil action in the circuit



1 court in the county in which the agricultural land is located
2 for the forfeiture of the interest in agricultural land.

3 (d) If the circuit court determines that the interest in
4 agricultural land is being held in violation of this chapter,
5 the circuit court shall order that the interest in agricultural
6 land be sold as provided in section -7.

7 § -6 **Filings required.** The attorney general shall
8 promptly record the following filings with the bureau of
9 conveyances:

10 (1) Upon commencement of an action under this chapter, a
11 notice of the pendency of the action; and

12 (2) An order for the sale of agricultural land under
13 section -4(d) or -5(d).

14 § -7 **Court-ordered sale of agricultural land.** If the
15 court orders the sale of an interest in agricultural land under
16 section -4(d) or -5(d), the agricultural land shall be
17 sold subject only to the rights and interests of bona fide
18 lienholders. Proceeds from the sale, if any, shall be disbursed
19 to lien holders, in the order of priority, except for liens
20 that, under the terms of the sale, are to remain with the
21 agricultural land.



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1 § **-8 Penalty.** A prohibited foreign party who violates
2 this chapter shall be guilty of a class C felony.

3 § **-9 Affirmative defense.** It shall be an affirmative
4 defense to prosecution under this chapter that a prohibited
5 foreign party is a resident alien.

6 § **-10 Title to land not invalid.** Title to agricultural
7 land is not invalid or subject to divesture due to a violation
8 of this chapter by any:

9 (1) Former owner; or

10 (2) Other person holding or owning a former interest in
11 the agricultural land.

12 § **-11 No duty to inquire.** No person who is not subject
13 to this chapter shall be required to determine or inquire
14 whether another person is subject to this chapter.

15 § **-12 Rules.** The department of agriculture may adopt
16 rules pursuant to chapter 91 necessary to effectuate the
17 purposes of this chapter."

18 SECTION 3. In accordance with section 9 of article VII, of
19 the Constitution of the State of Hawaii and sections 37-91 and
20 37-93, Hawaii Revised Statutes, the legislature has determined
21 that the appropriation contained in this Act will cause the



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1 state general fund expenditure ceiling for fiscal year 2024-2025
2 to be exceeded by \$, or per cent. The reasons
3 for exceeding the general fund expenditure ceiling are that the
4 appropriation made in this Act is necessary to serve the public
5 interest and to meet the needs provided for by this Act.

6 SECTION 4. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$ or so much
8 thereof as may be necessary for fiscal year 2024-2025 to
9 establish an office of agricultural intelligence, including the
10 establishment of full-time equivalent (FTE) positions.

11 The sum appropriated shall be expended by the department of
12 agriculture for the purposes of this Act.

13 SECTION 5. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 6. This Act shall take effect on July 1, 2024.

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INTRODUCED BY: 

JAN 23 2024



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Report Title:

Real Property; Agricultural Lands; HDOA; AG; Restrictions on Foreign Ownership; Appropriation; General Fund Expenditure Ceiling Exceeded

Description:

Prohibits certain foreign parties from owning, purchasing, or acquiring an interest in agricultural lands. Establishes an Office of Agricultural Intelligence within the Department of Agriculture to investigate claims that land is unlawfully owned by a prohibited foreign party. Requires the Attorney General to undertake enforcement activities. Appropriates moneys. Declares that the appropriation exceeds the state general fund expenditure ceiling for 2024-2025.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

