

HOUSE BILL NO. 4283

March 14, 2023, Introduced by Rep. Johnsen and referred to the Committee on Government Operations.

A bill to amend 1846 RS 66, entitled
"Of estates in dower, by the curtesy, and general provisions
concerning real estate,"
by amending the title and sections 35 and 36 (MCL 554.135 and
554.136) and by adding section 36a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 Of estates in dower, **estates** by the curtesy, and—general
3 provisions concerning real estate, **prohibitions on certain foreign**
4 **ownership of certain real estate, and the prescription of remedies**

1 and civil sanctions.

2 Sec. 35. (1) ~~Any~~ **Except as otherwise provided in section 36a,**
 3 **an** alien may acquire and hold ~~lands,~~ **land,** or any right ~~thereto~~ or
 4 interest ~~therein,~~ **in land,** by purchase, devise, or descent, and he
 5 may convey, mortgage, and devise ~~the same,~~ **and if he shall die that**
 6 **land or right or interest in land.** If an alien dies intestate, the
 7 ~~same shall~~ **alien's land or right or interest in land must** descend
 8 to ~~his~~ **the alien's** heirs. ~~; and in all cases such lands shall~~

9 (2) **Except as otherwise provided in section 36a, land or a**
 10 **right or interest in land described in subsection (1) must** be held,
 11 conveyed, mortgaged, or devised, or ~~shall~~ **must** descend in like
 12 manner, and with like effect, as if ~~such~~ **the** alien were a native
 13 citizen of this state ~~, or of~~ the United States.

14 Sec. 36. ~~The~~ **Except as otherwise provided in section 36a, the**
 15 title to any ~~lands heretofore~~ **land** conveyed ~~shall~~ **must** not be
 16 questioned, ~~nor~~ **or** in any manner affected, ~~by reason~~ **because** of the
 17 alienage of any person from or through whom ~~such~~ **that** title ~~may~~
 18 ~~have been~~ **was** derived.

19 Sec. 36a. (1) **Beginning on the effective date of the**
 20 **amendatory act that added this section, except as otherwise**
 21 **provided in this section, a foreign person shall not purchase or**
 22 **otherwise acquire agricultural land in this state. A foreign person**
 23 **that owns or holds agricultural land in this state on the effective**
 24 **date of the amendatory act that added this section may continue to**
 25 **own or hold the agricultural land, but shall not purchase or**
 26 **otherwise acquire additional agricultural land in this state.**

27 (2) Subsection (1) does not apply to the following:

28 (a) **Agricultural land that is acquired by devise or descent if**
 29 **that agricultural land is sold or otherwise disposed of no later**

1 than 2 years after the date of acquisition.

2 (b) A bona fide encumbrance on agricultural land taken for
3 security.

4 (c) Agricultural land that is acquired by a process of law in
5 the collection of a debt, by a deed in lieu of foreclosure, under a
6 forfeiture of a contract for deed, or by any procedure for the
7 enforcement of a lien or claim on the agricultural land, whether
8 created by mortgage or otherwise if all of the following conditions
9 are met:

10 (i) The agricultural land is sold or otherwise disposed of no
11 later than 2 years after the date of acquisition.

12 (ii) Pending the sale or disposition, the agricultural land is
13 not used for a purpose other than farming, and the agricultural
14 land is not used for farming except under lease to a person not
15 subject to the restriction under subsection (1).

16 (3) A person that purchases or otherwise acquires agricultural
17 land in this state after the effective date of the amendatory act
18 that added this section, and whose status changes so that the
19 person becomes a foreign person shall divest itself of all right,
20 title, and interest in the agricultural land no later than 2 years
21 after the date of the change in status.

22 (4) A foreign person that owns agricultural land on or after
23 the effective date of the amendatory act that added this section
24 shall register the agricultural land with the secretary of state
25 within 60 days after the effective date of the amendatory act that
26 added this section or within 60 days after acquiring the
27 agricultural land, whichever is later. The registration must be in
28 a form and manner prescribed by the secretary of state and contain
29 all of the following information:

1 (a) The name of the owner of the agricultural land.

2 (b) If the owner of the agricultural land is an agent,
3 trustee, or fiduciary of a foreign business or foreign government,
4 the name of any principal for whom that agricultural land was
5 acquired as agent, trustee, or fiduciary.

6 (c) The location and number of acres of the agricultural land
7 by municipality and county.

8 (d) The date the agricultural land was acquired.

9 (5) If a foreign person acquires or holds agricultural land in
10 violation of this section, the secretary of state shall report the
11 violation to the attorney general.

12 (6) On receipt of the report under subsection (5), the
13 attorney general shall do all of the following:

14 (a) Initiate an action in the circuit court of any county in
15 which the agricultural land is located.

16 (b) File notice of the pendency of the action initiated under
17 subdivision (a) with the register of deeds in each county in which
18 any of the agricultural land is located.

19 (7) In any action initiated under subsection (6), if the court
20 finds that the foreign person violated this section, the court
21 shall do 1 of the following, as applicable:

22 (a) If the court finds that the agricultural land at issue was
23 acquired or held in violation of this section, do both of the
24 following:

25 (i) Enter an order declaring that the agricultural land has
26 been acquired or held in violation of this section and file a copy
27 of that order with the register of deeds in each county in which
28 any portion of the agricultural land is located.

29 (ii) Declare the agricultural land escheated to this state and

1 order the sale of the agricultural land in the same manner as
2 provided by law for the foreclosure of a mortgage on real estate
3 for default of payment. The proceeds of this sale must be used to
4 pay court costs and the remaining funds, if any, must be paid to
5 the person divested of the agricultural land.

6 (b) If the court finds that a foreign person failed to timely
7 register the agricultural land under subsection (4), impose a civil
8 fine of not more than \$2,000.00 for each violation.

9 (8) A person that acquires or holds agricultural land in
10 violation of this section remains in violation of this section for
11 as long as the person holds an interest in the agricultural land.

12 (9) As used in this section:

13 (a) "Agricultural land" means land suitable for use in farming
14 and includes any right or interest in such land.

15 (b) "Business entity" means a business as that term is defined
16 in section 2 of the Michigan campaign finance act, 1976 PA 388, MCL
17 169.202.

18 (c) "Farming" means that term as defined in section 2 of the
19 Michigan family farm development act, 1982 PA 220, MCL 285.252.

20 (d) "Foreign business" means a corporation incorporated under
21 the laws of a foreign country, or a business entity, whether or not
22 incorporated, in which a majority interest is owned directly or
23 indirectly by a foreign government. Legal entities, including, but
24 not limited to, trusts, holding companies, multiple corporations,
25 and other business arrangements, do not affect the determination of
26 ownership or control of a foreign business.

27 (e) "Foreign government" means a government other than the
28 government of the United States, its states, territories, or
29 possessions.

1 (f) "Foreign person" means a foreign business or foreign
2 government, or an agent, trustee, or fiduciary of a foreign
3 business or foreign government.