

HOUSE BILL NO. 5073

September 28, 2023, Introduced by Reps. Meerman, Hoadley, Thompson, Alexander, Bierlein, DeBoyer, Maddock, Bruck, Johnsen, Smit, Fink, Jaime Greene, Markkanen, Cavitt, Rigas, Kunse and Schmaltz 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 sections 36a and 36b.

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, **and prohibitions on certain**
4 **foreign acquisition or ownership of certain real estate.**

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

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

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

18 Sec. 36a. (1) **Except as otherwise provided in this section, a**
 19 **foreign principal shall not directly or indirectly own or acquire**
 20 **by purchase, grant, devise, or descent any interest in agricultural**
 21 **land or real property located within 20 miles of any military**
 22 **installation or key facility in this state. The prohibition under**
 23 **this subsection does not apply to a foreign principal that acquires**
 24 **agricultural land or real property within 20 miles of any military**
 25 **installation or key facility for a diplomatic purpose that is**
 26 **recognized, acknowledged, or allowed by the government of the**
 27 **United States.**

28 **(2) A foreign principal that directly or indirectly owns or**
 29 **acquires an interest in agricultural land or real property within**

1 20 miles of any military installation or key facility in this state
2 before the effective date of the amendatory act that added this
3 section may continue to own or hold the agricultural land or real
4 property but shall not purchase or otherwise acquire any additional
5 agricultural land or real property located within 20 miles of any
6 military installation or key facility in this state.

7 (3) A foreign principal that directly or indirectly owns or
8 acquires any interest in agricultural land or real property within
9 20 miles of any military installation or key facility before the
10 effective date of the amendatory act that added this section shall
11 register with the department no later than July 1, 2025. The
12 department shall create a registration form that includes, but is
13 not limited to, all of the following information about the
14 agricultural land or real property:

15 (a) The name of the owner or the owner of any interest.

16 (b) The address, the parcel identification number, and the
17 legal description.

18 (c) The number of acres.

19 (4) A foreign principal that does not register with the
20 department under subsection (3) by July 1, 2025, is responsible for
21 a state civil infraction and may be ordered to pay a civil fine of
22 not more than \$1,000.00 for each day the registration is late. The
23 department may place a lien against unregistered agricultural land
24 or real property located within 20 miles of any military
25 installation or key facility for the unpaid balance of any
26 penalties assessed under this subsection.

27 (5) A foreign principal may acquire agricultural land or real
28 property within 20 miles of any military installation or key
29 facility on or after the effective date of the amendatory act that

1 added this section by devise or descent, through the enforcement of
2 security interests, or through the collection of debts if the
3 foreign principal sells, transfers, or otherwise divests itself of
4 the agricultural land or real property no later than 2 years after
5 acquiring the agricultural land or real property.

6 (6) If a foreign principal acquires or holds agricultural land
7 or real property within 20 miles of any military installation or
8 key facility in violation of this section, the department shall do
9 all of the following:

10 (a) Initiate an action in the circuit court of any county in
11 which the agricultural land or real property is located.

12 (b) File notice of the pendency of the action initiated under
13 subdivision (a) with the register of deeds in each county in which
14 any of the agricultural land or real property is located.

15 (7) In any action initiated under subsection (6), if the court
16 finds that the foreign principal violated this section, the court
17 shall do any of the following, as applicable:

18 (a) If the court finds that the agricultural land or real
19 property located within 20 miles of any military installation or
20 key facility at issue was acquired or held in violation of this
21 section, do both of the following:

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

27 (ii) Declare the agricultural land or real property escheated
28 to this state and order the sale of the agricultural land or real
29 property in the same manner as provided by law for the foreclosure

1 of a mortgage on real estate for default of payment. The proceeds
2 of this sale must be used to pay court costs, lienholders, and any
3 outstanding fines, and the remaining funds, if any, must be paid to
4 the person divested of the agricultural land or real property.

5 (b) At any time during the forfeiture proceeding under this
6 subsection, the department may seek an order of seizure of the
7 agricultural land or real property within 20 miles of any military
8 installation or key facility upon a showing that the defendant's
9 control of the agricultural land or real property is a clear and
10 present danger to this state.

11 (8) A foreign principal that purchases or acquires any
12 interest in agricultural land or real property within 20 miles of
13 any military installation or key facility in violation of this
14 section is guilty of a misdemeanor punishable by imprisonment for
15 not more than 93 days or a fine of not more than \$500.00, or both.

16 (9) A person that knowingly sells any interest in agricultural
17 land or real property within 20 miles of any military installation
18 or key facility to a foreign principal in violation of this section
19 is guilty of a misdemeanor punishable by imprisonment for not more
20 than 93 days or a fine of not more than \$500.00, or both.

21 (10) As used in this section:

22 (a) "Agricultural land" means that term as defined under
23 section 2 of the Michigan family farm development act, 1982 PA 220,
24 MCL 285.252.

25 (b) "Department" means the department of agriculture and rural
26 development.

27 (c) "Foreign country of concern" means China, Russia, Iran,
28 North Korea, Cuba, Venezuela, or Syria, including any agency of or
29 any other entity under significant control of China, Russia, Iran,

1 North Korea, Cuba, Venezuela, or Syria.

2 (d) "Foreign principal" means any of the following:

3 (i) The government or any official of the government of a
4 foreign country of concern.

5 (ii) A political party, member of a political party, or any
6 subdivision of a political party in a foreign country of concern.

7 (iii) A partnership, association, corporation, organization, or
8 other combination of persons, or a subsidiary of a partnership,
9 association, corporation, organization, or other combination of
10 persons, organized under the laws of or having its principal place
11 of business in a foreign country of concern.

12 (iv) A person who is domiciled in a foreign country of concern
13 and is not a citizen or lawful permanent resident of the United
14 States.

15 (e) "Key facility" means that term as defined under section
16 552c of the Michigan penal code, 1931 PA 328, MCL 750.552c.

17 (f) "Military installation" means that term as defined in 10
18 USC 2801(c) (4) and includes an armory as that term is defined in
19 section 105 of the Michigan military act, 1967 PA 150, MCL 32.505.

20 (g) "Real property" means land buildings, fixtures, and all
21 other improvements to land.

22 Sec. 36b. (1) No later than the time of purchase, a buyer of
23 any interest in agricultural land or real property within 20 miles
24 of any military installation or key facility in this state shall
25 file with the department an affidavit signed under the penalty of
26 perjury attesting that the buyer is not a foreign principal and is
27 in compliance with the requirements under section 36a.

28 (2) The failure to obtain or maintain an affidavit required
29 under subsection (1) does not do either of the following:

1 (a) Affect the title or insurability of the title for the
2 agricultural land or real property.

3 (b) Subject the closing agent to civil or criminal liability,
4 unless the closing agent has actual knowledge that the transaction
5 will result in a violation of section 36a.

6 (3) As used in this section:

7 (a) "Agricultural land" means that term as defined under
8 section 2 of the Michigan family farm development act, 1982 PA 220,
9 MCL 285.252.

10 (b) "Department" means the department of agriculture and rural
11 development.

12 (c) "Foreign country of concern" means China, Russia, Iran,
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22 other combination of persons, or a subsidiary of a partnership,
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