

SUBSTITUTE FOR
HOUSE BILL NO. 4233

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**
5 **and civil sanctions.**

6 Sec. 35. (1) ~~Any~~ **Except as otherwise provided in sections 36a**
7 **and 36b, an** alien may acquire and hold ~~lands,~~ **land,** or any right

1 ~~thereto~~ or interest therein, ~~in land~~, by purchase, devise, or
 2 descent, and ~~he~~ may convey, mortgage, and devise ~~the same~~, and if
 3 ~~he shall die~~ **that land or right or interest in land. If an alien**
 4 **dies** intestate, the same shall ~~alien's land or right or interest in~~
 5 **land must** descend to ~~his~~ **the alien's** heirs. ~~; and in all cases such~~
 6 ~~lands shall~~

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

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

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

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

27 **(a) Agricultural land that is acquired by devise or descent if**
 28 **that agricultural land is sold or otherwise disposed of not later**
 29 **than 2 years after the date of acquisition.**

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

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

9 (i) The agricultural land is sold or otherwise disposed of not
10 later than 2 years after the date of acquisition.

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

15 (3) If an entity that is prohibited from purchasing or
16 otherwise acquiring agricultural land under this section has a
17 national security agreement with the Committee on Foreign
18 Investment in the United States and continues to maintain the
19 national security agreement, the entity may purchase, lease, or
20 acquire a maximum of 350 acres of agricultural land for either of
21 the following purposes:

22 (a) Agricultural research and development.

23 (b) Experimental purposes, including testing, development, or
24 production of crop production inputs for sale or resale to farmers,
25 including, but not limited to, any of the following:

26 (i) Seeds.

27 (ii) Plants.

28 (iii) Pesticides.

29 (iv) Soil amendments.

1 (v) Biologicals.

2 (vi) Fertilizers.

3 (4) A person that purchases or otherwise acquires agricultural
4 land in this state after the effective date of the amendatory act
5 that added this section, and whose status changes so that the
6 person becomes a foreign principal shall divest itself of all
7 right, title, and interest in the agricultural land not later than
8 2 years after the date of the change in status.

9 (5) A foreign principal that owns agricultural land on or
10 after the effective date of the amendatory act that added this
11 section shall register the agricultural land with the secretary of
12 state not later than 60 days after the effective date of the
13 amendatory act that added this section or not later than 60 days
14 after acquiring the agricultural land, whichever is later. The
15 registration must be in a form and manner prescribed by the
16 secretary of state and contain all of the following information:

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

18 (b) If the owner of the agricultural land is an agent,
19 trustee, or fiduciary of a foreign principal, the name of the
20 foreign principal for whom that agricultural land was acquired as
21 agent, trustee, or fiduciary.

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

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

25 (6) If a foreign principal acquires or holds agricultural land
26 in violation of this section, the secretary of state shall report
27 the violation to the attorney general.

28 (7) On receipt of the report under subsection (6), the
29 attorney general shall do both of the following:

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

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

6 (8) If an easement, covenant, condition, or restriction is
7 properly created and recorded and does not otherwise violate this
8 act, a circuit court action under subsection (7) does not
9 extinguish or otherwise eliminate the easement, covenant,
10 condition, or restriction.

11 (9) In any action initiated under subsection (7), if the court
12 finds that the foreign principal violated this section, the court
13 shall do 1 of the following, as applicable:

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

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

21 (ii) Declare the agricultural land escheated to this state and
22 order the sale of the agricultural land in the same manner as
23 provided by law for the foreclosure of a mortgage on real estate
24 for default of payment. The proceeds of this sale must be used in
25 the following order of priority:

26 (A) To pay court costs.

27 (B) Except for liens that are to remain on the property under
28 the terms of the sale or by court order, to lienholders in the
29 lienholders' order of priority.

1 (C) To pay outstanding fines.

2 (D) The remaining funds, if any, must be paid to the person
3 divested of the agricultural land.

4 (b) If the court finds that a foreign principal failed to
5 timely register the agricultural land under subsection (5), impose
6 a civil fine of not more than \$2,000.00 for each violation.

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

10 (11) All liability for failure to comply with this section is
11 limited solely to the person acquiring an interest in the
12 agricultural land. No person other than the person acquiring an
13 interest in the agricultural land is required to determine or
14 inquire into whether another person is or may be subject to this
15 section.

16 (12) No title to land is invalid or subject to divestiture due
17 to a violation of this section by any former owner or other person
18 holding or owing a former interest in the land.

19 (13) As used in this section:

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

23 (b) "Foreign country of concern" means any of the following:

24 (i) The People's Republic of China.

25 (ii) The Russian Federation.

26 (iii) The Islamic Republic of Iran.

27 (iv) The Democratic People's Republic of Korea.

28 (v) The Republic of Cuba.

29 (vi) The Venezuelan regime of Nicolás Maduro.

1 (vii) The Syrian Arab Republic.

2 (viii) An agency or other entity under the significant control
3 of a country described in subparagraphs (i) to (vii).

4 (c) "Foreign principal" means any of the following:

5 (i) The government or any official of the government of a
6 foreign country of concern.

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

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

14 Enacting section 1. This amendatory act does not take effect
15 unless House Bill No. 4234 of the 103rd Legislature is enacted into
16 law.