

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4974

By Delegates Hott, Hite, Petitto, Jeffries, Kelly, W.
Hall, Fehrenbacher, Householder, Hardy, Hornby, and
Burhammer

[Introduced January 22, 2024; Referred to the
Committee on Agriculture and Natural Resources
then the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §19-39-1 and 19-39-2, all relating to the creation of the Save Our Farmland and
 3 Protect Our National Security Act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 39. SAVE OUR FARMLAND AND PROTECT OUR NATIONAL SECURITY

ACT.

§19-39-1. Short title.

1 This article may be cited as the "Save Our Farmland and Protect Our National Security
 2 Act."

§19-39-2. Definitions; applicability.

1 (a) As used in this section:

2 (1) "Agriculture" has the same meaning as in §19-19-2 of this code.

3 (2) "Agricultural land" means land suitable for use in agriculture and includes water on and
 4 upon and air space over and above the land and natural products and deposits that are unsevered
 5 from the land.

6 (3) "Person" includes all of the following:

7 (A) Individuals;

8 (B) Firms, companies, business trusts, estates, trusts, sole proprietorships, partnerships,
 9 general partnerships, limited liability companies, associations, corporations, and any other
 10 business entities;

11 (C) Governments other than the government of the United States, its states, subdivisions,
 12 territories, or possessions;

13 (D) Legal or commercial entities, organizations, joint ventures, and nonprofits.

14 (b)(1) On or after the effective date of this section, no person listed in the registry published
 15 by the Secretary of State under subsection (g) of this section, and no agent, trustee, or fiduciary of

16 such a person, shall purchase or otherwise acquire agricultural land in this state.

17 (2) A person, agent, trustee or fiduciary subject to subsection (b)(1) of this section that
18 owns or holds agricultural land in this state as described in subsection (b)(1) of this section before
19 the effective date of this section may continue to own or hold the agricultural land, but shall not
20 purchase or otherwise acquire additional agricultural land in this state that is subject to the
21 restriction in subsection (b)(1) of this section unless an exception described in subsection (c) of
22 this section applies.

23 (c) The restriction on acquiring agricultural land set forth in subsection (b)(1) of this section
24 does not apply to any of the following:

25 (1) Agricultural land acquired by devise or descent. However, a person listed in the registry
26 published by the Secretary of State under subsection (g) of this section, or an agent, trustee, or
27 fiduciary thereof, that acquires the agricultural land, or an interest in agricultural land, by devise or
28 descent on or after the effective date of this section shall divest itself of all right, title, and interest in
29 the agricultural land within two years from the date of acquisition.

30 (2) Agricultural land that is acquired by a process of law in the collection of debts, by a deed
31 in lieu of foreclosure, pursuant to a forfeiture of a contract for deed, or by any procedure for the
32 enforcement of a lien or claim on the agricultural land, whether created by mortgage or otherwise.
33 Agricultural land so acquired shall be sold or otherwise disposed of within two years after title is
34 transferred. Agricultural land, pending sale or disposition, shall not be used for any purpose other
35 than agriculture, and the land shall not be used for agriculture under lease to an individual, trust,
36 corporation, partnership, or other business entity subject to the restrictions under subsection (b)(1)
37 of this section.

38 (d) A person listed in the registry published by the Secretary of State under subsection (g)
39 of this section, or an agent, trustee, or fiduciary of such a person, shall not transfer title to or
40 interest in agricultural land to another person listed in that registry, or an agent, trustee, or fiduciary
41 thereof, except by devise or descent.

42 (e) A person that purchases or otherwise acquires agricultural land in this state described
43 in subsection (b)(1) of this section, other than by devise or descent, after the effective date of this
44 section, and that is subsequently added to the registry published by the Secretary of State under
45 subsection (g) of this section, shall divest itself of all right, title, and interest in the agricultural land
46 within two years from the date the person is added to the registry.

47 (f)(1) If the Secretary of State finds that a person listed on the registry published under
48 subsection (g) of this section, or an agent, trustee, or fiduciary thereof, has acquired, or holds title
49 to, or interest in, agricultural land in this state in violation of this section, the Secretary of State shall
50 report the violation to the attorney general.

51 (2) Upon receipt of the report from the secretary of state, the Attorney General shall initiate
52 an action in the Circuit Court of any county in which the agricultural land is located seeking relief in
53 accordance with this section. If the agricultural land is located in more than one county, or
54 adjoining tracts of agricultural land are located in more than one county, the county in which the
55 majority of the agricultural land is located shall have territorial jurisdiction over agricultural land that
56 is the subject of the action. The Attorney General may initiate an action in the Circuit Court of more
57 than one county, if necessary, in which case, the Circuit Court in that county shall have jurisdiction
58 over the action in matters as it relates to the portion of the agricultural land that is located in that
59 county.

60 (3) The attorney general shall file a notice of the pendency of the action with the county
61 clerk of each county in which any of the agricultural land is located.

62 (4) If the court finds that the agricultural land in question has been acquired or held in
63 violation of this section, it shall do all of the following:

64 (A) Enter an order so declaring;

65 (B) File a copy of the order with the county clerk of each county in which any portion of the
66 agricultural land is located;

67 (C) Declare the agricultural land escheated to the state;

68 (D) Order that the escheated agricultural land be sold pursuant to this code in the same
69 manner as a foreclosure on a mortgage, except that there shall be no opportunity for redemption.

70 (5) Upon receiving an order under subsection (f)(4) of this section, the clerk of the court
71 shall notify the governor that the title to the agricultural land is vested in the state by decree of the
72 court. After the sale, the proceeds of the sale shall be paid as follows:

73 (A) The proceeds shall first be used to pay court costs related to the action or actions
74 initiated pursuant to subsection (f)(2) of this section;

75 (B) The remaining proceeds, if any, shall be paid to the person whose agricultural land
76 escheated, but only in an amount not exceeding the actual cost paid by the person for that
77 agricultural land;

78 (C) The proceeds remaining after payments have been made pursuant to subsections
79 (f)(5)(a) and (b) of this section shall be paid to the general fund of each county in which the
80 agricultural land is located, proportionally, based on the percentage of the territory located in each
81 county.

82 (g) The Secretary of State shall compile and periodically update a registry of persons that,
83 based on the best information available to the Secretary of State, constitute a threat to the
84 agricultural production of this state, or the United States, if permitted to acquire agricultural land
85 described in subsection (b)(1) of this section. The registry shall be published on the Secretary of
86 State's web site. The Secretary of State shall consult all of the following in compiling the registry:

87 (1) The list of persons determined to be foreign adversaries by the Secretary of Commerce
88 of the United States under 15 C.F.R. 7.4;

89 (2) The terrorist exclusion list compiled by the Secretary of State of the United States in
90 consultation with the Attorney General of the United States under 8 U.S.C. 1182;

91 (3) The list of countries determined by the Secretary of State of the United States that have
92 repeatedly provided support for acts of international terrorism under 50 U.S.C. 4813(c) and 22
93 U.S.C. 2780(d);

94 (4) The list of individual and entities designated by, or in accordance with Executive Order
95 13224, issued by the President of the United States on September 23, 2021, or Executive Order
96 13268, issued by the President of the United States on July 2, 2002.

97 (h) The purpose of establishing the restrictions as set forth in this section is to recognize
98 that the state has a substantial and compelling interest in protecting its agricultural production.

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NOTE: The purpose of this bill is to create the Save Our Farmland and Protect Our National Security Act.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.