

## PROHIBIT OWNERSHIP BY FOREIGN PRINCIPAL OF LAND NEAR MILITARY OR OTHER KEY FACILITY

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**House Bill 4234 as introduced**  
**Sponsor: Rep. Luke Merman**  
**Committee: Government Operations**  
**Complete to 3-19-25**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 4234 would amend 1846 RS 66 to prohibit a *foreign principal* from directly or indirectly owning or acquiring any interest in *agricultural land* or real property located within 20 miles of a *military installation* or *key facility*. This would not apply to property acquired for a diplomatic purpose recognized, acknowledged, or allowed by the U.S. government. A foreign principal that already has an interest in such property on the date the bill takes effect would not have to get rid of it but would have to register it and could not buy or acquire any more after that date. A foreign principal acquires such property after the bill is in effect by devise or descent, through the enforcement of security interests, or through the collection of debts would have to sell, transfer, or otherwise divest itself of the property within two years after the acquisition.

*Foreign principal* would mean any of the following:

- The government or a government official of a *foreign country of concern*.
- A political party in a foreign country of concern or a member or subdivision of such a political party.
- A partnership, association, corporation, organization, or combination of persons that is organized under the laws of a foreign country of concern or that has its principal place of business in a foreign country of concern or an affiliate or subsidiary of such an entity.
- An individual who is domiciled in a foreign country of concern and is not a citizen or lawful permanent resident of the United States.

*Foreign country of concern* would mean China, Cuba, Iran, North Korea, Russia, Syria, or Venezuela or an agency or other entity under significant control of any of those countries.

*Agricultural land* would mean land, including any right or interest in the land, that is suitable for cultivation for the production of agricultural crops, including the production of poultry and poultry products, the production of livestock including breeding and grazing, the production of grains and feeds, the production of forages and sod, the production of dairy products, the production of fruits and vegetables, the production of timber and timber products, the production of seeds and grasses, and the production of horses, donkeys, and the like.

*Military installation* would mean a base, camp, post, station, yard, center, or other activity under the jurisdiction of the secretary of a department of the U.S. military and would include a building, facility, or the lots and grounds used by an army, navy, or air

unit of the National Guard or organized militia as a home station or for military training.

***Key facility*** would mean any of the following:

- A chemical manufacturing facility.
- A refinery.
- An electric utility facility, not including electric transmission land or right-of-way that is not completely enclosed, posted, and maintained by the electric utility.
- A water intake structure or water treatment facility.
- A natural gas utility facility, not including gas transmission pipeline property that is not completely enclosed, posted, and maintained by the natural gas utility.
- Gasoline, propane, liquid natural gas, or other fuel terminal or storage facility.
- A transportation facility, including a port, railroad switching yard, or trucking terminal.
- A pulp or paper manufacturing facility.
- A pharmaceutical manufacturing facility.
- A hazardous waste storage, treatment, or disposal facility.
- A telecommunication facility, including a central office or cellular telephone tower site.
- A facility substantially similar to a facility, structure, or station described above or a resource required to submit a risk management plan under federal rules related to preventing an accidental release of hazardous substances into the air.

#### Registration

A foreign principal that directly or indirectly owns or acquires any interest in agricultural land or real property within 20 miles of any military installation or key facility before the bill is in effect would have to register with the Department of Agriculture and Rural Development (MDARD) by July 1, 2025. MDARD would have to create a registration form that includes at least all of the following information about the land or property:

- The name of the owner or the owner of any interest.
- The address, the parcel identification number, and the legal description.
- The number of acres.

A foreign principal that does not register by July 1, 2025, would be responsible for a state civil infraction and could be ordered to pay a civil fine of up to \$1,000 for each day the registration is late. MDARD could place a lien against unregistered agricultural land or real property for the unpaid balance of any penalties.

#### Affidavit

Before or at the time of purchase of any interest in agricultural land or real property within 20 miles of a military installation or key facility, the buyer would have to file with MDARD an affidavit signed under the penalty of perjury attesting that they are not a foreign principal and are in compliance with the requirements of the bill. The failure to obtain or maintain such an affidavit would not affect the title or insurability of the title for the agricultural land or real property or subject the closing agent to civil or criminal liability (unless the closing agent has actual knowledge that the transaction will result in a violation of the bill).

### Civil action

If a foreign principal acquires or holds agricultural land or real property within 20 miles of a military installation or key facility in violation of the bill, MDARD would have to initiate an action in the circuit court of a county where any of the land or property is located and file notice of the pendency of that action with the register of deeds in every county where any of the land or property is located.

If in such an action the court finds that the foreign principal violated the bill and that the land or property at issue was acquired or held in violation of the bill, the court would have to do both of the following:

- Enter an order declaring that finding and file a copy with the register of deeds in every county where any of the land or property is located.
- Declare the land or property escheated to the state and order its sale in the same manner as for a mortgage foreclosure. The proceeds of the sale would have to be used first to pay court costs, lienholders, and outstanding fines, with any remaining funds paid to the person divested of the land or property.

At any time during the forfeiture proceeding described above, MDARD could seek an order of seizure of the land or property at issue upon a showing that the defendant's control of the land or property is a clear and present danger to the state.

### Penalties

A foreign principal that purchases or acquires any interest in agricultural land or real property within 20 miles of a military installation or key facility in violation of the bill would be guilty of a misdemeanor punishable by imprisonment for up to 93 days or a fine of up to \$500, or both.

A person that knowingly sells any interest in agricultural land or real property within 20 miles of a military installation or key facility to a foreign principal in violation of the bill would be guilty of a misdemeanor punishable by imprisonment for up to 93 days or a fine of up to \$500, or both.

MCL 554.135 and 554.136 and proposed MCL 554.136a and 554.136b

## **FISCAL IMPACT:**

An analysis of the bill's fiscal impact on the Department of Agriculture and Rural Development is in progress.

The bill would have an indeterminate fiscal impact on the state and on local units of government. Under the bill, a foreign principal that does not register with the department by July 1, 2025, would be ordered to pay a civil fine of not more than \$1,000 for each day the registration is late. The number of civil fines that would be ordered under provisions of the bill is not known. Revenue collected from payment of civil fines is used to support public and county law libraries. Also, under section 8827(4) of the Revised Judicature Act, \$10 of the civil fine would be required to be deposited into the state's Justice System Fund, which supports various justice-related endeavors in the judicial branch and legislative branches of government and the Departments of State Police, Corrections, Health and Human Services, and Treasury.

Under the bill, a foreign principal that purchases or acquires interest in agricultural land or real property within 20 miles of any military installation or key facility in violation of provisions of the bill, or a person that knowingly sells interest in agricultural land or real property within 20 miles of any military installation or key facility to a foreign principal, would be guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500, or both. The number of misdemeanors that would occur under provisions of the bill is not known. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. Fine revenue collected would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

Also under the bill, affidavits filed with the department attesting that buyers are not foreign principals and are in compliance with requirements under the bill would have to be signed under the penalty of perjury. An individual who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation on an affidavit executed under the bill would be guilty of perjury which is a felony punishable by imprisonment for not more than 15 years. In fiscal year 2024, the average cost of prison incarceration in a state facility was roughly \$46,200 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$5,500 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue.

It is not known if provisions of the bill would result in an increase in court caseloads. If so, the fiscal impact on the judiciary and local court systems would depend on how court caseloads and related administrative costs are affected. Because there is no practical way to determine the number of violations that will occur under provisions of the bill, an estimate of the amount of civil fine revenue the state would collect, revenue for libraries, costs to the state, or costs to local courts cannot be made.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.