

SENATE BILL 414

Introduced by Bishop

2/13	Introduced
2/13	Referred to Judiciary
2/16	Heraing
2/17	Committee Report--Bill Not Passed
2/17	Adverse Committee Report Adopted
2/18	Reconsidered Adoption of Adverse Committee Report
2/20	2nd Read Do Pass Motion Failed
2/20	2nd Reading Indefinitely Postponed

BILL NO. 414
INTRODUCED BY Bishop

A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT AND REGULATE AGRICULTURAL LAND OWNERSHIP IN THIS STATE BY PERSONS WHO ARE NOT CITIZENS OF THE UNITED STATES OR CANADA OR ARE NOT PERMANENT RESIDENT ALIENS OF THE UNITED STATES; AND PROVIDING FOR A PENALTY."

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 NEW SECTION. **Section 1.** Definitions. As used in
12 [sections 1 through 6], the following definitions apply:

13 (1) "Agricultural land" means land capable of use in
14 the production of agricultural crops, livestock or livestock
15 products, poultry or poultry products, milk or dairy
16 products, fruit and other horticultural products, or timber
17 and land capable of use for watershed protection.
18 Agricultural land does not include:

19 (a) land zoned by a local government unit for a use
20 other than and nonconforming with agricultural use;

21 (b) oil, gas, coal, or other minerals underlying the
22 land:

(c) any interest in minerals, separate from the surface, whether acquired by lease or otherwise; or

25 (d) easements or tracts of land acquired in connection

1 with the extraction, refining, processing, or transportation
2 of minerals.

3 (2) "Foreign corporation" means a business entity in
4 which the ultimate beneficial interest is not held directly
5 or indirectly by citizens of the United States or permanent
6 resident aliens of the United States.

7 (3) "Interest in agricultural land" includes any
8 leasehold interest.

9 NEW SECTION. **Section 2. Restrictions on acquisition**
10 -- exceptions. (1) A person who is not a citizen of the
11 United States or Canada, except a permanent resident alien
12 of the United States, may not acquire directly or indirectly
13 any interest in agricultural land. A partnership, limited
14 partnership, trustee, corporation, or other business entity
15 may not acquire directly or indirectly or otherwise obtain
16 any interest in, whether legal, beneficial, or otherwise,
17 any title to agricultural land, unless the ultimate
18 beneficial interest of the entity is held directly or
19 indirectly by citizens of the United States or Canada or
20 permanent resident aliens of the United States.

21 (2) This section does not apply to agricultural land
22 that may be acquired by devise or inheritance, as security
23 for indebtedness, by process of law in the collection of
24 debts, or by any procedure for the enforcement of a lien or
25 claim on the land, whether created by mortgage or otherwise.

1 Agricultural land acquired in the collection of debts or by
2 the enforcement of a lien or claim must be disposed of
3 within 3 years after acquiring ownership if the acquisition
4 would otherwise violate this section.

5 (3) This section does not apply to a foreign
6 corporation that acquires agricultural land for use as an
7 industrial site when construction contracts are entered into
8 by the corporation within 150 days after acquisition of the
9 land. This exception applies only to the amount of
10 agricultural land as is reasonably necessary for industrial
11 purposes. A foreign corporation that owns agricultural land
12 for industrial purposes but discontinues using the land for
13 industrial purposes shall dispose of the land within 1 year
14 of discontinuing the industrial use. A foreign corporation
15 shall dispose of agricultural land acquired for industrial
16 purposes within 1 year after acquisition if construction
17 contracts are not entered into within 150 days after
18 acquisition of the land.

19 (4) This section does not apply to citizens or
20 subjects of a foreign country whose rights to hold land are
21 secured by treaty or to common carriers by railroad subject
22 to the jurisdiction of the interstate commerce commission.

23 NEW SECTION. Section 3. Recording. A county clerk in
24 this state may not record any instrument affecting title to,
25 possession of, or interest in agricultural land if the

1 acquiring person or business entity is in violation of
2 [section 2].

3 NEW SECTION. Section 4. Enforcement -- divestiture --
4 public sale. If the attorney general has reason to believe
5 that a person or business entity is violating [section 2],
6 he shall commence an action in the district court in which
7 any agricultural land relative to the violation is situated
8 or, if situated in two or more counties, in the district
9 court for the county in which a substantial portion of the
10 land is situated. The attorney general shall file for record
11 with the county clerk in each county in which any portion of
12 the land is located a notice of the pendency of the action.
13 If the court finds that the land in question is being held
14 in violation of [section 2], it shall enter an order so
15 declaring. The attorney general shall file for record any
16 such order with the county clerk of each county in which any
17 portion of the land is located. The person, partnership,
18 limited partnership, trustee, corporation, or other business
19 entity owning the land has a period of 1 year from the date
20 of the order to divest itself of the lands. The 1-year
21 limitation period is a covenant running with the title to
22 the land against any grantee or assignee. Any land not
23 divested within the time prescribed must be sold at public
24 sale in the manner prescribed by law for the foreclosure of
25 a real estate mortgage by action. In addition, any

1 prospective or threatened violation may be enjoined by an
2 action brought by the attorney general in the manner
3 provided by law. A title to land is not invalid or subject
4 to forfeiture by reason of the alienage of any former owner
5 or person having a former interest in the land.

6 NEW SECTION. **Section 5.** Retention of previously
7 acquired land -- reports. An individual, partnership,
8 limited partnership, trustee, corporation, or other business
9 entity prohibited from future acquisition of agricultural
10 land may retain title to any agricultural land within this
11 state acquired prior to [the effective date of this act].
12 However, it shall file a report with the department of
13 agriculture by December 31, 1989, and annually before July 1
14 thereafter, that contains a description of all agricultural
15 land held within this state, the purchase price and market
16 value of the land, the use to which it is put, the date of
17 acquisition, and any other reasonable information required
18 by the department. The department shall make the information
19 available to the public.

20 NEW SECTION. **Section 6.** Penalty. It is a misdemeanor
21 to:
22 (1) knowingly fail to properly register any parcel of
23 land as required by [section 5];
24 (2) record any instrument in violation of [section 2];
25 or

1 (3) fail to comply with the provisions of [sections 1
2 through 5].

-End-

ON JUDICIARY
RECOMMEND DO NOT PASS
ON MOTION, PRINTED AND
PLACED ON SECOND READING

1 *Amended* BILL NO. 414
2 INTRODUCED BY *Bishop*

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(3) This section does not apply to a foreign corporation that acquires agricultural land for use as an industrial site when construction contracts are entered into by the corporation within 150 days after acquisition of the land. This exception applies only to the amount of agricultural land as is reasonably necessary for industrial purposes. A foreign corporation that owns agricultural land for industrial purposes but discontinues using the land for industrial purposes shall dispose of the land within 1 year of discontinuing the industrial use. A foreign corporation shall dispose of agricultural land acquired for industrial purposes within 1 year after acquisition if construction contracts are not entered into within 150 days after acquisition of the land.

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acquiring person or business entity is in violation of [section 2].

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