

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 706

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO STATE ASSETS; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION  
2 55-103, IDAHO CODE, TO REVISE PROVISIONS REGARDING WHO MAY OWN CERTAIN  
3 PROPERTY; AMENDING CHAPTER 1, TITLE 55, IDAHO CODE, BY THE ADDITION OF  
4 A NEW SECTION 55-115, IDAHO CODE, TO PROVIDE FOR PROHIBITIONS ON LEASE  
5 OR PURCHASE OF CERTAIN LAND OR DWELLINGS; PROVIDING SEVERABILITY; AND  
6 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. LEGISLATIVE INTENT. The purpose of this act is to protect  
10 military installations and state assets by prohibiting foreign adversaries  
11 from purchasing land near military bases or from purchasing agricultural  
12 land, forest land, water rights, mining claims, or mineral rights.

13 SECTION 2. That Section 55-103, Idaho Code, be, and the same is hereby  
14 amended to read as follows:

15 55-103. WHO MAY OWN PROPERTY. (1) Except as provided in subsection (2)  
16 or (3) of this section, any person, whether citizen or alien, may take, hold,  
17 and dispose of property, real or personal.

18 (2) Notwithstanding any provision of law to the contrary, on and af-  
19 ter the effective date of this subsection, a foreign government or a foreign  
20 state-controlled enterprise shall not purchase, acquire, or hold any con-  
21 trolling interest in agricultural land, water rights, mining claims, or min-  
22 eral rights in the state of Idaho. This subsection does not apply to any in-  
23 terest in agricultural land, forest land, water rights, mining claims, or  
24 mineral rights acquired by a foreign government or foreign state-controlled  
25 enterprise prior to the effective date of this subsection or to any foreign  
26 pension fund.

27 (3) Notwithstanding any other provision of law to the contrary, a for-  
28 foreign principal from a foreign adversary shall not purchase, acquire, or hold  
29 any controlling interest, except a de minimis indirect interest, in agricul-  
30 tural land, water rights, mining claims, or mineral rights in the state of  
31 Idaho. A foreign principal has a de minimis indirect interest if any owner-  
32 ship is the result of the foreign principal's ownership of registered equi-  
33 ties in a publicly traded company owning the land and if the foreign princi-  
34 pal's ownership in the company is either:

35 (a) Less than five percent (5%) of any class of registered equities or  
36 less than five percent (5%) in the aggregate in multiple classes of reg-  
37 istered equities; or

38 (b) A noncontrolling interest in an entity controlled by a company that  
39 is both registered with the United States securities and exchange com-  
40 mission as an investment advisor under the investment advisers act of  
41 1940, as amended, and is not a foreign entity.

1       (4) A foreign principal that directly or indirectly owns or otherwise  
2 controls agricultural land in the state of Idaho must sell, transfer, or  
3 otherwise divest itself of the agricultural land within one hundred eighty  
4 (180) days of the effective date of this act.

5       (5) A foreign principal that directly or indirectly owns or acquires  
6 agricultural land or any interest in such land in this state must register  
7 with the Idaho state department of agriculture within sixty (60) days of the  
8 effective date of this act or the date of acquisition, whichever is latest.  
9 The department must establish a form for such registration, which, at a mini-  
10 mum, must include all of the following:

11       (a) The name of the owner of the agricultural land or the owner of the  
12 interest in such land;

13       (b) The address of the agricultural land, the property appraiser's par-  
14 cel identification number, and the property's legal description; and

15       (c) The number of acres of agricultural land.

16       (6) Notwithstanding the provisions of subsection (3) of this section, a  
17 foreign principal from a foreign adversary country may acquire agricultural  
18 land on or after July 1, 2024, by devise or descent, through the enforcement  
19 of security interests, or through the collection of debts, provided that the  
20 foreign principal sells, transfers, or otherwise divests itself of the agri-  
21 cultural land within one hundred eighty (180) days of acquiring the agricul-  
22 tural land.

23       (7) Any current deeds, contracts, rental agreements, or other legal  
24 agreements in conflict with this law shall be deemed invalid from the date of  
25 adoption unless otherwise provided.

26       (8) The Idaho state department of agriculture shall adopt rules, sub-  
27 ject to legislative approval, to implement the provisions of this section.

28       (9) The responsibility for determining whether an entity is subject to  
29 this section rests solely with the foreign entity, the attorney general, or  
30 any qualifying whistleblower, and no other individual or entity. An indi-  
31 vidual or entity who is not a foreign entity shall not be required to deter-  
32 mine or inquire whether another person or entity is or may be subject to the  
33 provisions of this section and shall bear no civil or criminal liability un-  
34 der this section.

35       (10) If a foreign principal from a foreign adversary country does not  
36 divest the public or private lands as required by this section, the attorney  
37 general shall commence an action in the district court within the jurisdic-  
38 tion of the public or private land.

39       (11) If the public or private land is held in violation of this sec-  
40 tion, the district court shall order that the public or private land be sold  
41 through judicial foreclosure.

42       (12) Proceeds of the sale shall be disbursed to lien holders, in the or-  
43 der of priority, except for liens that, under the terms of the sale, are to  
44 remain on the public or private land.

45       (13) Any individual may act as a whistleblower and provide a referral to  
46 the office of the attorney general for violations of this section.

47       (14) If a whistleblower referral results in a divestiture of land or  
48 other assets held in violation of this section, the whistleblower shall be  
49 entitled to a reward equal to thirty percent (30%) of the proceeds of the land

1 sale resulting from a violation of this section after payment of lienhold-  
 2 ers. Proceeds of the sale shall be disbursed in the following order:

3 (a) The payment of authorized costs of the sale, including all approved  
 4 fees and expenses of the referee and any taxes and assessments due;

5 (b) The payment, in an amount approved by the court, to the attorney  
 6 general for reimbursement of investigation and litigation costs and ex-  
 7 penditures;

8 (c) To bona fide lienholders, in the order of priority, except for liens  
 9 that, under the terms of the sale, are to remain on the property;

10 (d) To whistleblowers; and

11 (e) To the restricted foreign entity.

12 (15) The whistleblower enforcement provision takes effect one hundred  
 13 eighty (180) days after the enforcement date of this section.

14 ~~(3)~~ (16) As used in this section:

15 (a) "Agricultural land" shall have the same meaning as "land actively  
 16 devoted to agricultural purposes" as provided in section 63-604, Idaho  
 17 Code.

18 (b) "Controlling interest" means:

19 (i) Possession of more than fifty percent (50%) of the ownership  
 20 interest in an entity; or

21 (ii) A percentage of ownership interest in an entity that is fifty  
 22 percent (50%) or less if a foreign government actually directs the  
 23 business and affairs of the entity without the requirement or con-  
 24 sent of any other party.

25 (c) "Foreign adversary" means the People's Republic of China, the Rus-  
 26 sian Federation, the Islamic Republic of Iran, the Democratic People's  
 27 Republic of Korea, the Republic of Cuba, the Venezuelan regime, or the  
 28 Syrian Arab Republic, including any agent of or any other entity under  
 29 significant control of such foreign countries of concern, or any other  
 30 entity deemed by the governor in consultation with the adjutant general  
 31 to be a foreign adversary. The governor and adjutant general may also  
 32 seek the advice of the United States secretary of state, the United  
 33 States secretary of defense, or the United States secretary of homeland  
 34 security in designating foreign adversary countries.

35 ~~(e)~~ (d) "Foreign government" means a government other than the federal  
 36 government of the United States or the government of any state, polit-  
 37 ical subdivision of a state, territory, federally recognized Indian  
 38 tribe, or possession of the United States.

39 ~~(d)~~ (e) "Foreign pension fund" means a trust, corporation, or other  
 40 entity created or organized under the law of a country other than the  
 41 United States to provide retirement or pension fund benefits. However,  
 42 the term "foreign pension fund" shall not include any trust, corpo-  
 43 ration, or other entity that is owned by or subject to a controlling  
 44 interest of a sovereign wealth fund.

45 (f) "Foreign principal" means:

46 (i) The government or any official of the government of a foreign  
 47 adversary;

48 (ii) A political party or member of a political party or any subdi-  
 49 vision of a political party of a foreign adversary;

1           (iii) A partnership, association, corporation, organization, or  
 2           other combination of persons organized under the laws of or having  
 3           its principal place of business in a foreign adversary, or a sub-  
 4           subsidiary of such entity, owned or controlled wholly or in part by  
 5           any person, entity, or collection of persons or entities of a for-  
 6           foreign adversary;

7           (iv) Any person who is domiciled in a foreign adversary and is not  
 8           a citizen or lawful permanent resident of the United States; and

9           (v) Any person, entity, or collection of persons or entities de-  
 10           scribed in this paragraph having a controlling interest in a part-  
 11           nership, association, corporation, organization, trust, or any  
 12           other legal entity or subsidiary formed for the purpose of owning  
 13           real property.

14       (g) "Forest land" means privately owned or state-owned land being held  
 15       and used primarily for the continuous purpose of growing and harvesting  
 16       trees of a marketable species. Having met the above criteria, forest  
 17       land includes:

18           (i) Land evidenced by present use and silvicultural treatment;

19           (ii) Land that has a dedicated use further evidenced by a forest  
 20           land management plan that includes eventual harvest of the forest  
 21           crop;

22           (iii) Land bearing forest growth or land that has not been con-  
 23           verted to another use;

24           (iv) Land that has had the trees removed by man through harvest,  
 25           including clear-cuts, or by natural disaster, such as but not  
 26           limited to fire, and that within five (5) years after harvest or  
 27           initial assessment will be reforested as specified in the forest  
 28           practices act pursuant to chapter 13, title 38, Idaho Code.

29       ~~(e)~~ (h) "Mineral right" shall have the same meaning as provided in sec-  
 30       tion 47-701, Idaho Code.

31       ~~(f)~~ (i) "Mining claim" means a portion of land containing minerals that  
 32       a miner has a right to occupy and possess for the purpose of extracting  
 33       minerals.

34       ~~(g)~~ (j) "State-controlled enterprise" means a business enterprise,  
 35       however denominated, sovereign wealth fund, or state-backed investment  
 36       fund in which a foreign government has a controlling interest.

37       ~~(h)~~ (k) "Water right" shall have the same meaning as provided in section  
 38       42-230, Idaho Code.

39       SECTION 3. That Chapter 1, Title 55, Idaho Code, be, and the same is  
 40 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 41 ignated as Section 55-115, Idaho Code, and to read as follows:

42       55-115. PROHIBITIONS ON LEASE OR PURCHASE OF LAND OR DWELLINGS --  
 43 WITHIN CERTAIN GEOGRAPHIC BOUNDARIES. (1) A foreign principal from a foreign  
 44 adversary country shall not be allowed to directly or indirectly purchase,  
 45 hold, rent, or otherwise control any property in Idaho within the geographic  
 46 boundaries described by the following coordinates: N4200 W11700, N4320  
 47 W11700, N4320 W11600, N4300 W11600, N4300 W11500, N4200 W11500.

48       (2) A foreign principal that directly or indirectly controls any prop-  
 49 erty covered by subsection (1) of this section, excluding temporary contrac-

1 tual agreements, such as rental or lease agreements, must sell, transfer, or  
2 otherwise divest itself of the property within one hundred eighty (180) days  
3 of the effective date of this act.

4 (3) Any current deeds, contracts, rental agreements, or other legal  
5 agreements in conflict with this law shall be deemed invalid from the date of  
6 adoption unless otherwise provided.

7 (4) If a foreign principal from a foreign adversary country does not di-  
8 vest the public or private lands as required by this section, the attorney  
9 general shall commence an action in the district court within the jurisdic-  
10 tion of the public or private land.

11 (5) If the public or private land is held in violation of this sec-  
12 tion, the district court shall order that the public or private land be sold  
13 through judicial foreclosure.

14 (6) Proceeds of the sale shall be disbursed to lienholders, in the order  
15 of priority, except for liens that, under the terms of the sale, are to remain  
16 on the public or private land.

17 (7) Any individual may act as a whistleblower and provide a referral to  
18 the office of the attorney general for violations of this section.

19 (8) If a whistleblower referral results in a divestiture of land or  
20 other assets held in violation of this section, the whistleblower shall be  
21 entitled to a reward equal to thirty percent (30%) of the proceeds of the land  
22 sale resulting from a violation of this section. Proceeds of the sale shall  
23 be disbursed in the following order:

24 (a) The payment of authorized costs of the sale, including all approved  
25 fees and expenses of the referee and any taxes and assessments due;

26 (b) The payment, in an amount approved by the court, to the attorney  
27 general for reimbursement of investigation and litigation costs and ex-  
28 penses;

29 (c) To bona fide lienholders, in the order of priority, except for liens  
30 that, under the terms of the sale, are to remain on the property;

31 (d) To whistleblowers; and

32 (e) To the restricted foreign entity.

33 (9) The whistleblower enforcement provision takes effect one hundred  
34 eighty (180) days after the enforcement date of this section.

35 (10) As used in this section, "military base" or "installation" means  
36 any land, structure, or property owned or controlled by any division of the  
37 department of defense, Idaho national guard, or any other department of gov-  
38 ernment, state or federal, vital to the safety and security of the state of  
39 Idaho or the United States.

40 (11) The responsibility for determining whether an entity is subject to  
41 this section rests solely with the foreign entity, the attorney general, or  
42 any qualifying whistleblower, and no other individual or entity. An indi-  
43 vidual or entity who is not a foreign entity shall not be required to deter-  
44 mine or inquire whether another person or entity is or may be subject to this  
45 section and shall bear no civil or criminal liability under this section.

46 SECTION 4. SEVERABILITY. The provisions of this act are hereby declared  
47 to be severable and if any provision of this act or the application of such  
48 provision to any person or circumstance is declared invalid for any reason,  
49 such declaration shall not affect the validity of the remaining portions of  
50 this act.

1           SECTION 5. An emergency existing therefor, which emergency is hereby  
2 declared to exist, this act shall be in full force and effect on and after  
3 July 1, 2024.