

IN THE SENATE

SENATE BILL NO. 1149

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO PROPERTY; AMENDING SECTION 55-103, IDAHO CODE, TO REVISE PROVISIONS REGARDING PROPERTY OWNERSHIP IN THE STATE OF IDAHO; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 55-103, Idaho Code, be, and the same is hereby amended to read as follows:

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

(2) Notwithstanding any provision of law to the contrary, on and after the effective date of this subsection, a foreign government or a foreign state-controlled enterprise shall not purchase, acquire, or hold any controlling interest in agricultural land, forest land, water rights, mining claims, or mineral rights in the state of Idaho. This subsection does not apply to any interest in agricultural land, water rights, mining claims, or mineral rights acquired by a foreign government or foreign state-controlled enterprise prior to the effective date of this subsection or to any foreign pension fund.

(3) As used in this section:

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

(b) "Controlling interest" means:

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

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

(c) "Foreign government" means a government other than the federal government of the United States or the government of any state, political subdivision of a state, territory, federally recognized Indian tribe, or possession of the United States.

(d) "Forest land" means privately owned or state-owned land being held and used primarily for the continuous purpose of growing and harvesting trees of a marketable species. Having met the above criteria, forest land may be further identified by the consideration of any of the following criteria:

(i) Forest land is land evidenced by present use and silvicultural treatment.

1 (ii) Forest land is land which has a dedicated use that is further  
2 evidenced by a forest land management plan that includes eventual  
3 harvest of the forest crop.

4 (iii) Forest land is land bearing forest growth or land which has  
5 not been converted to another use.

6 (iv) Forest land is land which has had the trees removed by man  
7 through harvest, including clear-cuts or by natural disaster,  
8 such as but not limited to fire, and which within five (5) years af-  
9 ter harvest or initial assessment will be reforested as specified  
10 in the forest practices act, ~~(chapter 13, title 38, Idaho Code).~~

11 (e) "Foreign pension fund" means a trust, corporation, or other entity  
12 created or organized under the law of a country other than the United  
13 States to provide retirement or pension fund benefits. However, the  
14 term "foreign pension fund" shall not include any trust, corporation,  
15 or other entity that is owned by or subject to a controlling interest of  
16 a sovereign wealth fund.

17 (f) "Mineral right" shall have the same meaning as provided in section  
18 47-701, Idaho Code.

19 (g) "Mining claim" means a portion of land containing minerals that a  
20 miner has a right to occupy and possess for the purpose of extracting  
21 minerals.

22 (h) "State-controlled enterprise" means a business enterprise, how-  
23 ever denominated, sovereign wealth fund, or state-backed investment  
24 fund in which a foreign government has a controlling interest.

25 (i) "Water right" shall have the same meaning as provided in section  
26 42-230, Idaho Code.

27 (4) (a) The attorney general shall investigate the purchase, lease, or  
28 acquisition of any interest in land, rights, or claims upon receipt of a  
29 complaint alleging a violation of the prohibitions provided for in sub-  
30 section (2) of this section.

31 (b) The attorney general shall enforce the prohibitions provided for  
32 in subsection (2) of this section for any interest in land, rights, or  
33 claims held in violation of the provisions of subsection (2) of this  
34 section by petitioning the district court for an order and judgment  
35 that: finds such violation; appoints a receiver; and authorizes the  
36 receiver to sell such land, rights, or claims. For a receivership pro-  
37 ceeding under this section:

38 (i) Proceeds of the sale shall be disbursed to lienholders, in  
39 order of priority, except for liens that, under the terms of the  
40 sale, are to remain on the land, rights, or claims;

41 (ii) At the receivership sale, lienholders shall be permitted to  
42 have a credit bid; and

43 (iii) No proceeds shall be distributed from the receivership sale  
44 to the foreign government or foreign state-controlled enterprise.  
45 Any excess proceeds shall be forfeited and transferred to the  
46 state general fund by the receiver.

47 (c) Upon the commencement of an action provided for in this section, the  
48 attorney general shall promptly file a notice of lis pendens with the  
49 court.

1       (d) Upon the entry of a court order appointing a receiver and authoriz-  
2       ing the receiver's powers to sell the property pursuant to the provi-  
3       sions of this section, the attorney general shall promptly record a copy  
4       of the court order in the office of the county where the property is lo-  
5       cated that is responsible for the maintenance of property records.

6       (e) No title to land, rights, or claims shall be invalid or subject to  
7       divestiture due to a violation of the provisions of this section by any  
8       former owner or other individual or entity having formerly held or owned  
9       an interest in the real property.

10       (f) Divestiture of a foreign government's or foreign state-controlled  
11       enterprise's title under this section shall not be a basis to void,  
12       invalidate, or otherwise extinguish any bona fide mortgage, lien, or  
13       other interest granted by, through, or under the foreign government or  
14       foreign state-controlled enterprise.

15       (g) No person or entity that is not a foreign government or a foreign  
16       state-controlled enterprise shall bear any civil or criminal liability  
17       for failing to determine or to make an inquiry about whether an indi-  
18       vidual or other entity is a foreign government or a foreign state-con-  
19       trolled enterprise.

20       SECTION 2. An emergency existing therefor, which emergency is hereby  
21       declared to exist, this act shall be in full force and effect on and after  
22       July 1, 2025.