

118TH CONGRESS
1ST SESSION

S. 2583

To ban new corporate ownership of agricultural land, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2023

Mr. BOOKER introduced the following bill; which was read twice and referred
to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To ban new corporate ownership of agricultural land, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Farmland for Farmers
5 Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) it is the longstanding policy of the United
9 States to foster and encourage the family farm sys-
10 tem of agriculture in the United States;

1 (2) the maintenance of the family farm system
2 of agriculture is essential to the social and economic
3 wellbeing and national security of the United States;

4 (3) agricultural land is—

5 (A) a critical and limited resource of the
6 United States that provides needed food and
7 fiber for the people of the United States and
8 others throughout the world; and

9 (B) a source of wealth, including
10 generational wealth, for the people of the
11 United States;

12 (4) since the 2008 financial crisis, corporations
13 and, in particular, pension funds, have increasingly
14 turned to farmland investment;

15 (5) from 2009 to 2022—

16 (A) the number of institutionally-owned
17 farm properties rose three-fold; and

18 (B) the market value of that property in-
19 creased from less than \$2,000,000,000 to more
20 than \$14,000,000,000;

21 (6) large corporate investors that own farm-
22 land—

23 (A) are more focused on short-term profits
24 than long-term land conservation; and

1 (B) have less interest than independent
2 family farmers in ensuring that agricultural
3 land is used in a way that most benefits the
4 local community;

5 (7) since 2005, farmland prices in the United
6 States have nearly doubled;

7 (8) higher farmland prices provide an advan-
8 tage to well-capitalized corporate interests who can
9 often outbid independent family farmers;

10 (9) continued expansion of ownership and con-
11 trol of agricultural land by corporate owners, espe-
12 cially institutional investors—

13 (A) threatens the future use of the agricul-
14 tural land for the benefit of the people of the
15 United States; and

16 (B) is detrimental to the welfare and na-
17 tional security of the United States;

18 (10) the operational scope and economic im-
19 pacts of corporate ownership of agricultural land—

20 (A) is increasingly interstate; and

21 (B) directly affects the continued wellbeing
22 and security of millions of residents of rural
23 communities; and

24 (11) there is a national public interest in regu-
25 lating corporate ownership of agricultural land.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) **ACTIVELY ENGAGED IN FARMING.**—

4 (A) **IN GENERAL.**—The term “actively en-
 5 gaged in farming”, with respect to a natural
 6 person who is a shareholder in an authorized
 7 legal entity, an officer, a director, or an em-
 8 ployee of an authorized legal entity, a member
 9 or manager of an authorized legal entity, a
 10 partner in an authorized legal entity, a bene-
 11 ficiary or trustee of an authorized legal entity,
 12 or any other individual, means—

13 (i) regularly and frequently making or
 14 taking an important part in making man-
 15 agement decisions substantially contrib-
 16 uting to or affecting the operation of a
 17 farm or forest; or

18 (ii) performing physical work, which
 19 significantly contributes to cultivation,
 20 stewardship, crop or livestock production,
 21 or food production.

22 (B) **EXCLUSION.**—The term “actively en-
 23 gaged in farming” does not include solely pro-
 24 viding capital.

25 (2) **AGRICULTURAL LAND.**—The term “agricul-
 26 tural land” means land located in a State that—

1 (A) is cropland, grassland, rangeland, pas-
 2 ture, forestland or other agricultural land on
 3 which agricultural or forest-related products or
 4 livestock are produced; or

5 (B) if the land is idle as of the date of
 6 transfer of an ownership interest in the land,
 7 was used within the 10-year period preceding
 8 the date of that transfer for production of agri-
 9 cultural or forest-related products or livestock.

10 (3) AUTHORIZED FARMER OR RANCHER COOP-
 11 ERATIVE.—The term “authorized farmer or rancher
 12 cooperative” means a farmer-controlled or rancher-
 13 controlled entity—

14 (A) with bylaws requiring 1 vote per mem-
 15 ber;

16 (B) from which benefits are derived and
 17 distributed equitably by each of the farmer or
 18 rancher owners;

19 (C) the members of which are actively en-
 20 gaged in farming; and

21 (D) that is not a subsidiary of, or owned
 22 in any part by, a multilayer subsidiary entity.

23 (4) AUTHORIZED LEGAL ENTITY.—The term
 24 “authorized legal entity” means a legal entity that
 25 meets each of the following requirements:

1 (A) The legal entity is not a subsidiary of,
 2 or owned in any part by, a multilayered sub-
 3 sidiary entity.

4 (B) The shareholders, partners, members,
 5 or beneficial owners of the legal entity do not
 6 exceed 25.

7 (C) The shareholders, partners, members,
 8 or beneficial owners of the legal entity are all
 9 natural persons who are actively engaged in
 10 farming.

11 (5) BENEFICIAL OWNER.—The term “beneficial
 12 owner”, with respect to a legal entity, means any
 13 person who, directly or indirectly, through any con-
 14 tract, arrangement, understanding, relationship, or
 15 otherwise, has or shares—

16 (A) voting power, including the power to
 17 vote for, or to direct the voting of, the legal en-
 18 tity; or

19 (B) investment power, including the power
 20 to dispose, or to direct the disposition, of an in-
 21 terest in the legal entity.

22 (6) CORPORATION.—The term “corporation”
 23 means—

24 (A) a domestic corporation organized pur-
 25 suant to the laws of a State; and

1 (B) a foreign corporation.

2 (7) FIDUCIARY CAPACITY.—The term “fidu-
3 ciary capacity” means an undertaking to act as ex-
4 ecutor, administrator, personal representative,
5 guardian, conservator, or receiver.

6 (8) INDIRECT.—The term “indirect” means to
7 act, or attempt to accomplish an act, through an in-
8 terest in a business association, through 1 or more
9 affiliates or intermediaries, or by any method other
10 than a direct approach, including by any circuitous
11 or oblique method.

12 (9) INSTITUTION OF HIGHER EDUCATION.—The
13 term “institution of higher education” has the
14 meaning given the term in section 101(a) of the
15 Higher Education Act of 1965 (20 U.S.C. 1001(a)).

16 (10) LEGAL ENTITY.—The term “legal entity”
17 means any corporation, business trust, estate, trust,
18 partnership, limited liability company, association,
19 joint venture, public corporation, cooperative, pen-
20 sion or investment fund, or any other legal or com-
21 mercial entity organized or created under the laws of
22 any State or country.

23 (11) MULTILAYER SUBSIDIARY ENTITY.—The
24 term “multilayer subsidiary entity” means—

1 (A) a privately held or publicly traded legal
 2 entity that exists within a hierarchy of legal en-
 3 tities that includes 2 or more levels of sub-
 4 sidiary entities;

5 (B) a privately held or publicly traded legal
 6 entity that has as its parent or subsidiary a
 7 management or holding company; or

8 (C) a privately held or publicly traded legal
 9 entity that engages in intramarket transfers
 10 using special purpose vehicles.

11 (12) NATURAL PERSON.—The term “natural
 12 person” means a human being.

13 (13) OWNERSHIP INTEREST.—

14 (A) IN GENERAL.—The term “ownership
 15 interest”, with respect to agricultural land,
 16 means all interest acquired, transferred, or held
 17 in the agricultural land.

18 (B) EXCLUSIONS.—The term “ownership
 19 interest”, with respect to agricultural land, does
 20 not include—

21 (i) security interests;

22 (ii) contingent future interests;

23 (iii) noncontingent future interests
 24 that do not become possessory on the ter-
 25 mination of the present possessory estate;

1 (iv) surface or subsurface easements
 2 and rights-of-way used for a purpose unre-
 3 lated to agricultural production; and

4 (v) an interest solely in mineral
 5 rights.

6 (14) PENSION OR INVESTMENT FUND.—The
 7 term “pension or investment fund” means—

8 (A) a pension or employee welfare benefit
 9 fund (however organized);

10 (B) a mutual fund;

11 (C) a life insurance company separate ac-
 12 count;

13 (D) a common trust of a bank or other
 14 trustee established for the investment and rein-
 15 vestment of money contributed to the common
 16 trust;

17 (E) a real estate investment trust; and

18 (F) an investment company (as defined in
 19 section 3(a) of the Investment Company Act of
 20 1940 (15 U.S.C. 80a–3(a))).

21 (15) SECRETARY.—The term “Secretary”
 22 means the Secretary of Agriculture.

23 (16) STATE.—The term “State” means—

24 (A) each of the 50 States;

25 (B) the District of Columbia;

- 1 (C) the Commonwealth of Puerto Rico;
- 2 (D) the United States Virgin Islands; and
- 3 (E) any territory or insular possession sub-
- 4 ject to the jurisdiction of the United States.

5 (17) TRUST.—

6 (A) IN GENERAL.—The term “trust”, with
 7 respect to property, means a fiduciary relation-
 8 ship that subjects the person by whom the
 9 property is held to equitable duties to deal with
 10 the property for the benefit of another person,
 11 which arises as a result of a manifestation of an
 12 intention to create the fiduciary relationship.

13 (B) INCLUSIONS.—The term “trust” in-
 14 cludes a legal entity holding property as trust-
 15 ee, agent, escrow agent, attorney-in-fact, or in
 16 any similar capacity.

17 (C) EXCLUSIONS.—The term “trust” does
 18 not include—

- 19 (i) a person acting in a fiduciary ca-
- 20 pacity; or
- 21 (ii) a revocable trust.

22 (18) UNAUTHORIZED LEGAL ENTITY.—The
 23 term “unauthorized legal entity” means a legal enti-
 24 ty that is not an authorized legal entity.

1 **SEC. 4. RESTRICTIONS ON AGRICULTURAL LAND HOLD-**
2 **INGS AND EXCEPTIONS.**

3 (a) IN GENERAL.—Except as provided in subsection
4 (b), an unauthorized legal entity shall not, directly or indi-
5 rectly, acquire or otherwise hold an ownership interest in
6 any agricultural land.

7 (b) EXCEPTIONS.—

8 (1) IN GENERAL.—Subsection (a) shall not
9 apply to the following:

10 (A) A bona fide encumbrance taken for
11 purposes of security.

12 (B) Agricultural land acquired for research
13 or experimental purposes.

14 (C) Agricultural land acquired and oper-
15 ated—

16 (i) by or for a public institution of
17 higher education for research, experi-
18 mental, demonstration, or test purposes; or

19 (ii) by or for a nonprofit corporation
20 organized specifically for research, experi-
21 mental, demonstration, or test purposes in
22 support of or in conjunction with an insti-
23 tution of higher education.

24 (D) Agricultural land acquired by a legal
25 entity for immediate use in non-agricultural

1 purposes, subject to the condition that the land
2 remain in use for non-agricultural purposes.

3 (E) Agricultural land acquired by a legal
4 entity by process of law in the collection of
5 debts, pursuant to a contract for deed executed
6 prior to the date of enactment of this Act, or
7 by any procedure for the enforcement of a lien
8 or claim on the agricultural land, whether cre-
9 ated by mortgage or otherwise, if all agricul-
10 tural land acquired is disposed of not later than
11 5 years after the date on which the legal entity
12 acquires the title to the agricultural land.

13 (F) Agricultural land acquired or owned by
14 a municipal corporation.

15 (G) Agricultural land acquired or owned by
16 a nonprofit legal entity that—

17 (i) is organized under the laws of any
18 State as a nonprofit legal entity; and

19 (ii) qualifies as tax exempt under sec-
20 tion 501 of the Internal Revenue Code of
21 1986.

22 (H) Agricultural land that is acquired or
23 owned by a legal entity in a fiduciary capacity.

24 (I) Agricultural land that is acquired or
25 owned by a legal entity formed by owners of

1 heirs' property (as defined in section 761.2(b)
 2 of title 7, Code of Federal Regulations (or a
 3 successor regulation)).

4 (J) Agricultural land that is acquired or
 5 owned by an authorized farmer or rancher co-
 6 operative.

7 (K) Agricultural land owned by a legal en-
 8 tity on the date of enactment of this Act, sub-
 9 ject to the condition that the legal entity own-
 10 ing the land on that date of enactment con-
 11 tinues to own the agricultural land.

12 (2) RESEARCH OR EXPERIMENTAL PUR-
 13 POSES.—For purposes of paragraph (1)(B), agricul-
 14 tural land is acquired for research or experimental
 15 purposes if the agricultural land is used in accord-
 16 ance with any of the following:

17 (A) RESEARCH AND EXPERIMENTAL AC-
 18 TIVITIES.—

19 (i) IN GENERAL.—Research and ex-
 20 perimental activities are carried out on the
 21 agricultural land and commercial sales of
 22 products produced from farming the agri-
 23 cultural land do not occur or are incidental
 24 to those research or experimental activities.

1 (ii) INCIDENTAL SALES.—For pur-
2 poses of clause (i), commercial sales are
3 sales that are incidental to the research or
4 experimental purposes of the legal entity
5 when the sales are less than 25 percent of
6 the gross sales of the primary product of
7 the research and experimental activities
8 carried out on the agricultural land.

9 (B) PUBLIC SEED VARIETIES.—

10 (i) IN GENERAL.—The agricultural
11 land is used for the primary purpose of
12 testing, developing, or producing public
13 seed varieties or plants for sale or resale to
14 farmers as seed stock and commercial sales
15 of other products produced from farming
16 the agricultural land do not occur or are
17 incidental.

18 (ii) INCIDENTAL SALES.—For pur-
19 poses of clause (i), commercial sales de-
20 scribed in that clause are incidental if the
21 sales are less than 25 percent of the gross
22 sales of the primary product of the testing,
23 development, or production of public seed
24 varieties or plants for sale or resale to

1 farmers as seed stock carried out on the
2 agricultural land.

3 (3) LAND ACQUIRED BY LAW.—For purposes of
4 paragraph (1)(E)—

5 (A) the 5-year period described in that
6 paragraph shall be a covenant running with the
7 title to the agricultural land against any grant-
8 ee, assignee, or successor of the legal entity;
9 and

10 (B) any agricultural land acquired shall
11 not be used for farming during the 5-year pe-
12 riod described in that paragraph, except under
13 a lease to an authorized legal entity in accord-
14 ance with this Act.

15 **SEC. 5. COMPLIANCE.**

16 (a) CERTIFYING AFFIDAVIT.—For any acquisition of
17 an ownership interest in agricultural land by a legal entity
18 after the date of enactment of this Act, at the time of
19 acquisition, the legal entity purchasing the agricultural
20 land shall sign, and submit to the Secretary, an affidavit,
21 under penalty of perjury, certifying compliance with this
22 Act.

23 (b) FEDERAL TAX RETURN AFFIDAVIT.—Beginning
24 with the first taxable year after the date of enactment of
25 this Act, any legal entity with an ownership interest in

1 agricultural land shall file an affidavit along with the Fed-
 2 eral tax return submitted by the legal entity, under pen-
 3 alty of perjury, certifying compliance with this Act.

4 (c) USDA PROGRAMS AND FARM CREDIT SYSTEM.—
 5 Any legal entity applying to participate in any program
 6 of the Department of Agriculture or the Farm Credit Sys-
 7 tem after the date of enactment of this Act shall provide
 8 documentation that demonstrates compliance with this Act
 9 as a condition of eligibility for the program.

10 (d) INELIGIBILITY.—Any unauthorized legal entity
 11 that holds an ownership interest in agricultural land de-
 12 scribed in section 4(b)(1)(K) shall not be eligible to par-
 13 ticipate in any program of the Department of Agriculture
 14 or the Farm Credit System after the date of enactment
 15 of this Act.

16 (e) REPORTS TO CONGRESS.—Each calendar year,
 17 the Secretary shall submit to Congress, and make publicly
 18 available on the website of the Department of Agriculture,
 19 a report on violations of this Act discovered through affi-
 20 davits received under subsections (a) and (b) and docu-
 21 mentation received under subsection (c).

22 **SEC. 6. ENFORCEMENT.**

23 (a) REFERRAL.—If the Secretary determines that a
 24 legal entity has acquired, or holds title to or interest in,
 25 agricultural land in violation of this Act, the Secretary

1 shall report that violation to the Attorney General for en-
 2 forcement in accordance with subsection (b).

3 (b) ENFORCEMENT BY ATTORNEY GENERAL.—

4 (1) IN GENERAL.—On receipt of a referral of a
 5 violation of this Act reported by the Secretary pur-
 6 suant to subsection (a), the Attorney General—

7 (A) shall conduct an investigation relating
 8 to that referral; and

9 (B) may initiate an action in the district
 10 court of the United States with jurisdiction over
 11 the county in which the applicable agricultural
 12 land is located to require divestiture of the agri-
 13 cultural land by the legal entity.

14 (2) NOTICE; ORDER.—

15 (A) IN GENERAL.—The Attorney General
 16 shall file notice of the pendency of an action
 17 brought under paragraph (1)(B) with the re-
 18 corder of deeds of each county in which the ap-
 19 plicable agricultural land is located.

20 (B) ORDER REQUIRED.—If the applicable
 21 district court of the United States finds that
 22 the agricultural land subject to an action
 23 brought under paragraph (1)(B) was acquired,
 24 or held, in violation of this Act, the court
 25 shall—

1 (i) enter an order declaring that viola-
 2 tion; and

3 (ii) file a copy of the order with the
 4 recorder of deeds in each county in which
 5 any portion of the agricultural land is lo-
 6 cated.

7 (3) DIVESTMENT OF AGRICULTURAL LAND.—

8 (A) IN GENERAL.—On issuance of an
 9 order described in paragraph (2)(B), the unau-
 10 thorized legal entity owning or having an own-
 11 ership interest in the agricultural land subject
 12 to that order shall have a period of 1 year from
 13 the date on which the order was issued to divest
 14 the agricultural land.

15 (B) COVENANT.—The 1-year period de-
 16 scribed in subparagraph (A) shall be deemed to
 17 be a covenant running with the title to the agri-
 18 cultural land against any legal entity, grantee,
 19 assignee, or successor.

20 (C) VIOLATION.—Any agricultural land
 21 not divested in accordance with subparagraph
 22 (A) shall be sold at public sale in the manner
 23 prescribed by law for the foreclosure of a mort-
 24 gage by action.

1 (4) ENJOINMENT.—Any prospective or threat-
 2 ened violation of this Act may be enjoined through
 3 an action brought by the Attorney General in a
 4 manner provided by law.

5 (5) PENALTIES.—

6 (A) CIVIL PENALTIES.—

7 (i) IN GENERAL.—Any natural person
 8 or legal entity that violates this Act may
 9 be assessed a civil penalty by the Secretary
 10 in an amount that is not more than 2
 11 times the fair market value of the agricul-
 12 tural land at issue for each violation.

13 (ii) MULTIPLE VIOLATIONS.—Each
 14 violation of this Act shall constitute a sep-
 15 arate offense.

16 (iii) NOTICE.—No penalty shall be as-
 17 sessed on any natural person or legal enti-
 18 ty unless the natural person or legal entity
 19 is given notice and opportunity for a hear-
 20 ing with respect to the violation.

21 (iv) FAILURE TO PAY.—

22 (I) IN GENERAL.—On failure to
 23 pay the penalty assessed under clause
 24 (i), the Secretary may request the At-
 25 torney General institute a civil action

1 in a district court of the United
2 States for any district in which the
3 natural person or legal entity is
4 found, resides, or transacts business
5 to collect the penalty.

6 (II) DEFERENCE.—In any action
7 commenced under subclause (I), the
8 applicable district court of the United
9 States shall sustain the issuance of a
10 penalty by the Secretary under clause
11 (i) if supported by substantial evi-
12 dence.

13 (B) CRIMINAL PENALTIES.—

14 (i) IN GENERAL.—Any natural person
15 who knowingly violates this Act as a share-
16 holder, partner, member, or beneficial
17 owner of an unauthorized legal entity with
18 an ownership interest in the agricultural
19 land at issue shall be imprisoned for not
20 more than 5 years, fined in accordance
21 with section 3571 of title 18, United
22 States Code, or both.

23 (ii) MULTIPLE VIOLATIONS.—Each
24 violation of this Act shall constitute a sep-
25 arate offense.

1 (c) ENFORCEMENT BY STATE ATTORNEYS GEN-
2 ERAL.—

3 (1) IN GENERAL.—If the attorney general of a
4 State has reason to believe that an interest of the
5 residents of the State has been, or is, threatened or
6 adversely affected by the engagement of an unau-
7 thorized legal entity in a practice that violates this
8 Act, or a regulation promulgated pursuant to this
9 Act, the attorney general of the State may, as
10 parens patriae, bring a civil action on behalf of the
11 residents of the State in an appropriate district
12 court of the United States—

13 (A) to enjoin that practice;

14 (B) to compel divestiture of the agricul-
15 tural land;

16 (C) to obtain damages, restitution, or other
17 compensation on behalf of the residents of the
18 State;

19 (D) to obtain such other relief as the court
20 considers appropriate; or

21 (E) to obtain a civil penalty in an amount
22 determined under paragraph (2).

23 (2) CIVIL PENALTIES.—

24 (A) CALCULATION.—Subject to subpara-
25 graph (B), for purposes of imposing a civil pen-

1 alty under paragraph (1)(E) with respect to an
 2 unauthorized legal entity that violates this Act,
 3 the amount determined under this paragraph is
 4 the amount obtained by multiplying—

5 (i) the number of days that the unau-
 6 thorized legal entity is not in compliance
 7 with this Act; and

8 (ii) an amount not greater than
 9 \$3,000, as determined by the appropriate
 10 district court of the United States.

11 (B) MAXIMUM TOTAL LIABILITY.—The
 12 total amount of civil penalties that may be im-
 13 posed with respect to an unauthorized legal en-
 14 tity that violates this Act shall not exceed the
 15 greater of \$1,000,000 and the fair market value
 16 of the ownership interest in agricultural land
 17 involved in the applicable action for all civil ac-
 18 tions brought against that unauthorized legal
 19 entity under paragraph (1) for that violation.

20 (3) INVESTIGATORY POWERS.—Nothing in this
 21 paragraph prevents the attorney general of a State
 22 from exercising the powers conferred on the attorney
 23 general by the laws of the State to conduct inves-
 24 tigations, to administer oaths or affirmations, or to

1 compel the attendance of witnesses or the production
2 of documentary or other evidence.

3 (4) ACTIONS BY OTHER STATE OFFICIALS.—In
4 addition to civil actions brought by State attorneys
5 general under paragraph (1), any other officer of a
6 State who is authorized by the State may bring a
7 civil action under that paragraph, subject to the
8 same requirements and limitations that apply under
9 that paragraph to civil actions brought by the attor-
10 ney general in the State.

11 (5) SAVINGS PROVISION.—Nothing in this sub-
12 section prohibits an attorney general or other au-
13 thorized official of a State from initiating or con-
14 tinuing any proceeding in a court of the State for
15 a violation of any civil or criminal law of the State.

16 **SEC. 7. STATE AUTHORITY.**

17 (a) IN GENERAL.—Pursuant to its powers under the
18 Commerce Clause of section 8 of article I of the Constitu-
19 tion of the United States, Congress hereby authorizes
20 States to regulate legal entities that are permitted to own
21 agricultural land within the State in a manner that is at
22 least as restrictive as the manner described in this Act.

23 (b) INCLUSIONS.—Regulation under subsection (a)
24 may include more restrictive requirements, including re-
25 strictions that provide more stringent definitions of “ac-

1 tively engaged in farming”, notwithstanding whether the
2 requirements are more burdensome for owners of agricul-
3 tural land in a certain State, who are residing in other
4 States, to satisfy.

