

118TH CONGRESS
1ST SESSION

S. 2507

To amend the Food Security Act of 1985 to ensure equal treatment of buy-protect-sell transactions and certain other transactions under the agricultural conservation easement program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 26, 2023

Mr. WELCH (for himself and Mr. KING) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Food Security Act of 1985 to ensure equal treatment of buy-protect-sell transactions and certain other transactions under the agricultural conservation easement program, 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 Access Act”.

1 **SEC. 2. BUY-PROTECT-SELL AND CERTAIN OTHER TRANS-**
 2 **ACTIONS UNDER THE AGRICULTURAL CON-**
 3 **SERVATION EASEMENT PROGRAM.**

4 (a) **PURPOSES OF AGRICULTURAL CONSERVATION**
 5 **EASEMENT PROGRAM.**—Section 1265(b) of the Food Se-
 6 curity Act of 1985 (16 U.S.C. 3865(b)) is amended—

7 (1) in paragraph (3), by striking “and” after
 8 the semicolon at the end;

9 (2) in paragraph (4), by striking the period at
 10 the end and inserting “; and”; and

11 (3) by adding at the end the following:

12 “(5) facilitate the transfer of protected eligible
 13 land to farmers and ranchers.”.

14 (b) **DEFINITION OF BUY-PROTECT-SELL TRANS-**
 15 **ACTION.**—Section 1265A of the Food Security Act of
 16 1985 (16 U.S.C. 3865a) is amended by striking paragraph
 17 (2) and inserting the following:

18 “(2) **BUY-PROTECT-SELL TRANSACTION.**—

19 “(A) **IN GENERAL.**—The term ‘buy-pro-
 20 tect-sell transaction’ means a legal arrangement
 21 between the Secretary and 1 or more eligible
 22 entities—

23 “(i) relating to land—

24 “(I) that is owned, or will be pur-
 25 chased prior to acquisition of an agri-
 26 cultural land easement, by—

1 “(aa) at least 1 eligible enti-
2 ty described in paragraph (3)(B);
3 “(bb) an Indian tribe; or
4 “(cc) a local governmental
5 entity using a buy-protect-sell
6 transaction to protect water
7 rights in a State that uses the
8 prior appropriation doctrine or a
9 hybrid of the prior appropriation
10 doctrine; and
11 “(II) with respect to which an
12 agricultural land easement will be
13 purchased over all or a portion of the
14 land by at least 1 eligible entity,
15 which may be—
16 “(aa) the same 1 or more el-
17 igible entities described in sub-
18 clause (I);
19 “(bb) 1 or more other eligi-
20 ble entities described in subpara-
21 graph (A) or (B) of paragraph
22 (3); or
23 “(cc) any combination of eli-
24 gible entities described in items
25 (aa) and (bb); and

1 “(ii) under which—

2 “(I) 1 or more eligible entities
3 described in clause (i) certifies to the
4 Secretary that—

5 “(aa) 1 or more of the eligi-
6 ble entities described in that
7 clause will secure an agricultural
8 land easement on the land de-
9 scribed in that clause, subject to
10 subparagraph (B)(i); and

11 “(bb) the 1 or more eligible
12 entities described in subclause (I)
13 of that clause that own the land
14 will, in a timely manner after the
15 acquisition of the agricultural
16 land easement described in item
17 (aa), transfer ownership of the
18 land to a farmer or rancher that
19 is not an eligible entity, pursuant
20 to a contract with a willing
21 buyer, subject to subparagraph
22 (B)(ii); and

23 “(II) the Secretary shall be reim-
24 bursed for the entirety of the Federal
25 share of the cost of the agricultural

1 land easement by the eligible entities
2 described in clause (i) if the eligible
3 entities described in subclause (I)(bb)
4 fail to transfer ownership in accord-
5 ance with that subclause.

6 “(B) REQUIREMENTS.—

7 “(i) TIMING OF ACQUISITION OF AGRIC-
8 CULTURAL LAND EASEMENT.—After enter-
9 ing into an arrangement described in sub-
10 paragraph (A), the Secretary shall provide
11 to the applicable 1 or more eligible entities
12 a period of sufficient time, which shall be
13 not less than 3 years, to secure an agricul-
14 tural land easement on the applicable land.

15 “(ii) TRANSFER OF LAND TO FARMER
16 OR RANCHER.—

17 “(I) TIMING.—

18 “(aa) IN GENERAL.—Sub-
19 ject to item (bb), a transfer of
20 land described in subparagraph
21 (A)(ii)(I)(bb) shall be completed
22 by the date that is 3 years after
23 the date on which an agricultural
24 land easement is acquired with
25 respect to that land.

1 “(bb) EXTENSION.—The
 2 Secretary may extend the time
 3 for completing a transfer de-
 4 scribed in item (aa) if the Sec-
 5 retary determines that an exten-
 6 sion of time is justified.

7 “(II) NO LIMITATIONS ON
 8 TERMS.—The Secretary may not im-
 9 pose any limitations on the terms of a
 10 contract described in subparagraph
 11 (A)(ii)(I)(bb) between 1 or more eligi-
 12 ble entities and a farmer or rancher.”.

13 (c) DEFINITION OF ELIGIBLE LAND.—Section
 14 1265A(4)(A)(i) of the Food Security Act of 1985 (16
 15 U.S.C. 3865a(4)(A)(i)) is amended—

16 (1) in subclause (I), by striking “or” after the
 17 semicolon at the end;

18 (2) by redesignating subclause (II) as subclause
 19 (III); and

20 (3) by inserting after subclause (I) the fol-
 21 lowing:

22 “(II) a transaction described in
 23 section 1265B(e)(1)(B); or”.

24 (d) AVAILABILITY OF ASSISTANCE FOR THE PUR-
 25 CHASE OF AGRICULTURAL LAND EASEMENTS.—Section

1 1265B(a) of the Food Security Act of 1985 (16 U.S.C.
2 3865b(a)) is amended—

3 (1) in paragraph (1), by striking “land;” and
4 inserting the following: “land, including through the
5 use of—

6 “(A) buy-protect-sell transactions; and

7 “(B) transactions described in subsection
8 (e)(1)(B); and”;

9 (2) in paragraph (2), by striking “; and” and
10 inserting a period; and

11 (3) by striking paragraph (3).

12 (e) CO-ELIGIBLE ENTITIES.—Section 1265B(b)(4)
13 of the Food Security Act of 1985 (16 U.S.C. 3865b(b)(4))
14 is amended—

15 (1) by redesignating subparagraphs (E) and
16 (F) as subparagraphs (F) and (G), respectively; and

17 (2) by inserting after subparagraph (D) the fol-
18 lowing:

19 “(E) CO-ELIGIBLE ENTITIES.—

20 “(i) DEFINITION OF CO-ELIGIBLE EN-
21 TITY.—In this subparagraph, the term ‘co-
22 eligible entity’ means an eligible entity that
23 jointly applies for cost-share assistance
24 under this section with 1 or more other eli-
25 gible entities.

1 “(ii) JOINT APPLICATION FOR COST-
2 SHARE ASSISTANCE.—The Secretary shall
3 allow multiple eligible entities to jointly
4 apply for cost-share assistance under this
5 section.

6 “(iii) SHARED RESPONSIBILITIES OF
7 CO-ELIGIBLE ENTITIES.—

8 “(I) IN GENERAL.—The Sec-
9 retary may enter into an agreement
10 with 1 or more co-eligible entities for
11 the purchase of 1 or more agricultural
12 land easements on any eligible land,
13 including through a buy-protect-sell
14 transaction.

15 “(II) GRANT OF AGRICULTURAL
16 LAND EASEMENTS.—An agricultural
17 land easement purchased pursuant to
18 subclause (I), including through a
19 buy-protect-sell transaction, may be
20 granted to any 1 or more co-eligible
21 entities.”.

22 (f) EQUAL APPLICATION TO BUY-PROTECT-SELL
23 AND OTHER TRANSACTIONS.—Section 1265B of the Food
24 Security Act of 1985 (16 U.S.C. 3865b) is amended by
25 adding at the end the following:

1 “(e) EQUAL APPLICATION.—

2 “(1) DEFINITION OF COVERED TRANS-
3 ACTION.—In this subsection, the term ‘covered
4 transaction’ means—

5 “(A) a buy-protect-sell transaction; and

6 “(B) an agricultural land easement trans-
7 action that—

8 “(i) uses a buy-sell-protect structure
9 in which an eligible entity transfers owner-
10 ship of land to a farmer or rancher—

11 “(I) prior to the time at which
12 the eligible entity acquires the agricul-
13 tural land easement on that land; or

14 “(II) at the same time that the
15 eligible entity acquires the agricultural
16 land easement on that land; or

17 “(ii) concerns land with respect to
18 which the landowner has a lease-to-own
19 agreement with a farmer or rancher at the
20 time of the application for assistance under
21 this section.

22 “(2) NO ADDITIONAL LAND ELIGIBILITY RE-
23 QUIREMENTS.—The Secretary may not impose any
24 requirements or limitations relating to the eligibility

1 of land for buy-protect-sell transactions beyond those
2 described in—

3 “(A) paragraphs (2) and (4) of section
4 1265A; and

5 “(B) subsection (a) of section 1265D.

6 “(3) **ADVANCED PAYMENT.**—The Secretary
7 shall allow eligible entities conducting covered trans-
8 actions to receive advanced payment in accordance
9 with the procedures required for other agricultural
10 land easement transactions under this section.

11 “(4) **PAPERWORK REQUIREMENTS.**—The Sec-
12 retary shall impose the same paperwork require-
13 ments on agricultural land easement transactions
14 described in paragraph (1)(B) that the Secretary im-
15 poses on other agricultural land easement trans-
16 actions under this section.

17 “(5) **CERTIFIED ENTITIES.**—The Secretary
18 shall ensure that benefits described in section
19 1265B(b)(5) are extended to eligible entities cer-
20 tified under that section that are conducting buy-
21 protect-sell transactions.

22 “(6) **SAVINGS CLAUSE.**—Nothing in this sub-
23 section limits the eligibility of agricultural land ease-

1 ment transactions described in paragraph (1)(B) for
2 assistance under this section.”.

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