

2023 Regular Session

HOUSE BILL NO. 537

BY REPRESENTATIVES HODGES AND GAROFALO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CONTRACTS: Provides for a prohibition against foreign adversary purchasing, leasing, or acquiring land

1 AN ACT

2 To enact R.S. 9:2717.1, relative to contracts; to provide relative to foreign adversaries or
3 persons connected with foreign adversaries; to prohibit the acquisition of immovable
4 property; to provide for prospective application; to provide for actions and
5 investigations by the attorney general; to provide for attorney fees and court costs;
6 to provide relative to judgments; to provide for civil forfeiture; to provide for
7 exceptions; to provide for definitions; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 9:2717.1 is hereby enacted to read as follows:

10 §2717.1. Prohibition of acquisition of immovable property by a foreign adversary
11 or a person connected with a foreign adversary

12 A. Beginning August 1, 2023, the following shall apply:

13 (1) No foreign adversary or person connected with a foreign adversary may
14 purchase, lease, or otherwise acquire immovable property in this state.

15 (2) A party to the contract to purchase, lease, or otherwise acquire
16 immovable property may rescind the contract prior to the transfer of the immovable
17 property if the party determines that the purchaser or lessee is a foreign adversary or
18 a person connected with a foreign adversary.

19 (3) The provisions of this Section are applicable to contracts to purchase,
20 lease, or otherwise acquire immovable property from and after August 1, 2023.

1 These provisions are not applicable to existing contracts to purchase, lease, or
2 otherwise acquire immovable property prior to August 1, 2023.

3 B.(1) The attorney general may bring an action for injunctive relief in the
4 name of the state against the foreign adversary or the person connected with a
5 foreign adversary to restrain and enjoin the sale prior to the transfer of the
6 immovable property.

7 (2) If the transfer of the property has been completed, the attorney general
8 may bring an action in the name of the state against the foreign adversary or a person
9 connected with a foreign adversary.

10 (3) Any action by the attorney general may be brought in the district court
11 having civil jurisdiction in any parish in which a portion of the immovable property
12 is located and the attorney general may recover reasonable attorney fees and court
13 costs.

14 (4)(a) The attorney general may open an investigation if all of the following
15 exists:

16 (i) The attorney general has evidence that a foreign adversary or a person
17 connected with a foreign adversary is attempting to enter into, conspiring to enter
18 into, or has entered into a contract to purchase, lease, or otherwise acquire
19 immovable property in this state.

20 (ii) The attorney general believes it to be in the public interest that an
21 investigation needs to be made to ascertain whether a foreign adversary or a person
22 connected with a foreign adversary in fact is attempting to enter into, conspiring to
23 enter into, or has entered into a contract to purchase, lease, or otherwise acquire
24 immovable property in this state.

25 (5) If an action is brought pursuant to this Section, the attorney general shall
26 record in the public mortgage records of the parish clerk of court of each parish in
27 which any portion of the immovable property is located a notice of pendency of the
28 action pursuant to Code of Civil Procedure Article 3751, et seq.

1 (6) Prior to bringing an action pursuant to this Section, the attorney general
2 shall provide written notice to the holder of each mortgage, lien, privilege, and other
3 encumbrance encumbering the subject immovable property, which is filed in the
4 public mortgage records in the parish where the immovable property is located.
5 Such notice shall be provided in the same manner as provided in R.S. 40:2608 o R.S.
6 14:90.1.

7 C.(1) If the court finds that a foreign adversary or person connected with a
8 foreign adversary has purchased, leased, or otherwise acquired property in Louisiana
9 after August 1, 2023, the court may order one of the following:

10 (a) Order that the property be sold to someone who is not a foreign adversary
11 or to a person that is not connected to a foreign adversary.

12 (b) Order that the property be sold at a judicial sale in accordance with the
13 requirements of Code of Civil Procedure Article 3031, et seq. The sheriff shall make
14 a reasonable effort to determine that the buyer at the judicial sale is not a foreign
15 adversary or person connected with a foreign adversary.

16 (2) After satisfying all mortgages, liens, privileges, and other encumbrances
17 encumbering the property subject to this Section, the remaining proceeds of the sale
18 provided by this Subsection shall be considered a civil asset forfeiture and the money
19 shall be paid to the Department of Justice to fund services for veterans of foreign
20 wars. The attorney general may also enter into cooperative endeavor agreements
21 with other state agencies or local governments to provide services for veterans who
22 suffer from injury or disability as a result of foreign war.

23 D.(1) All proceedings under this Section shall be made with due provisions
24 to protect the rights of any person who did not knowingly enter into or conspire to
25 enter into a transaction with the foreign adversary or person connected with the
26 foreign adversary.

27 (2) No mortgage, lien, privilege, or other security interest recognized under
28 the laws of this state and no ownership interest in indivision shall be affected by a
29 forfeiture pursuant to this Section.

1 (3) No forfeiture or disposition under this Section shall affect the rights of
2 any person who did not knowingly enter into or conspire to enter into a transaction
3 with the foreign adversary or person connected with the foreign adversary.

4 E. The failure to identify a party to or affiliated with a transaction as a
5 foreign adversary or person connected with a foreign adversary shall not create any
6 liability for any real estate agent, title insurance producer, title insurance underwriter,
7 lender, mortgage servicer, or examining attorney, or any of their directors, officers,
8 or employees, nor shall it create a separate cause of action against any real estate
9 agent, title insurance producer, title insurance underwriter, lender, mortgage servicer,
10 or examining attorney, or any of their directors, officers, or employees.

11 F. The provisions of this Section shall not apply to any of the following:

12 (1) A natural person who is an American citizen, regardless of whether the
13 United States citizenship was acquired by birth or the United States citizenship was
14 granted to a lawful permanent resident after meeting the requirements established by
15 the United States Congress in the Immigration and Nationality Act, 8 U.S.C. 1158,
16 et seq.

17 (2) A person who is not a United States citizen but is a permanent legal
18 resident or is lawfully present in the United States by virtue of having a valid visa
19 issued by the United States Citizenship and Immigration Services, including but not
20 limited to a student or employment visa.

21 (3) Immovable property purchased, leased, or otherwise acquired by a
22 natural person that is used as a single family residential property.

23 G. For the purposes of this Section:

24 (1) "Foreign adversary" means an individual or a government identified as
25 a foreign adversary in 15 CFR 7.4(a) including the People's Republic of China and
26 the Hong Kong Special Administrative Region, Republic of Cuba, Islamic Republic
27 of Iran, Democratic People's Republic of Korea, Russian Federation, and Venezuela
28 under the leadership of Nicolas Maduro.

- 1 (2) "Person connected with a foreign adversary" means any one of the
- 2 following:
- 3 (a) A juridical person, as defined in Civil Code Article 24, that is owned by
- 4 or controlled by a foreign adversary or is acting on behalf of a foreign adversary.
- 5 (b) A natural person, as defined in Civil Code Article 24, that is employed
- 6 by, contracted by, or controlled by a foreign adversary or acting on behalf of a
- 7 foreign adversary.
- 8 (c) A natural person, as defined in Civil Code Article 24, that is employed
- 9 by, contracted by or controlled by a juridical person if the juridical person meets the
- 10 definition provided by Subparagraph (a) of this Paragraph.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 537 Engrossed

2023 Regular Session

Hodges

Abstract: Prohibits the purchase, lease, or otherwise acquisition of immovable property by foreign adversaries or persons connected with a foreign adversary.

Proposed law provides that beginning Aug. 1, 2023, no foreign adversary or person connected with a foreign adversary may purchase, lease, or acquire immovable property in this state. Proposed law further provides that parties to the contract with a foreign adversary may rescind the contract prior to the transfer of the immovable property if it is determined that the purchaser or lessee is a foreign adversary or a person connected with a foreign adversary.

Proposed law provides that proposed law is not applicable to existing contracts to purchase, lease, or otherwise acquire immovable property prior to Aug. 1, 2023.

Proposed law provides that the attorney general may bring an action for injunctive relief in the name of the state against a foreign adversary or the person connected with a foreign adversary prior to or after the transfer of property is complete.

Proposed law provides that venue shall be brought in the district court having civil jurisdiction in any parish in which a portion of the immovable property is located.

Proposed law provides that the attorney general may recover reasonable attorney fees and court costs.

Proposed law provides that the attorney general may open an investigation.

Proposed law provides that if an action is brought pursuant to proposed law the attorney general shall record in the public mortgage records of the parish clerk of court of each parish in which any portion of the immovable property is located a notice of pendency of action pursuant to present law (C.C.P. Art. 3751, et. seq.) and provide written notice to mortgage,

lien, privilege, and other encumbrance holders in the manner provided by present law (R.S. 40:2608 and R.S. 14:90.1).

Present law (C.C.P. Art. 3751, et seq.) provides for notice of pendency of actions.

Present law (R.S. 40:2608) provides for the sale of property pending forfeiture of property that is not evidence of a criminal violation by any law enforcement agency under the Seizure and Controlled Dangerous Substances Property Forfeiture Act of 1989 (R.S. 40:2601, et seq.).

Present law (R.S. 14:90.1) provides for the seizure and disposition of evidence, property, and proceeds, for the crime of gambling and related offenses.

Proposed law provides that the property sold at judicial sale in accordance with present law (C.C.P. Art. 3031, et. seq.)

Present law (C.C.P. Art. 3031, et seq.) provides for the acceptance of successions without administration for testate successions.

Proposed law provides that a court may order that the property be sold to someone who is not a foreign adversary or to a person that is not connected to a foreign adversary or sold at judicial sale.

Proposed law provides that any immovable acquired by a foreign adversary or person connected with a foreign adversary is subject to civil forfeiture to the state. After satisfying all mortgages, liens, privileges, and other encumbrances encumbering the property, the remaining proceeds of the sale shall be paid to the Dept. of Justice to fund services for veterans of foreign wars. Proposed law provides that the attorney general may enter into cooperative endeavor agreements to provide such services.

Proposed law provides that all forfeitures and dispositions under proposed law shall not affect the rights of any person who did not knowingly enter into or conspire to enter into a transaction with the foreign adversary or person connected with the foreign adversary.

Proposed law provides that proposed law shall not create additional liability or a separate cause of action for any real estate agent, title insurance producer, title insurance underwriter, lender, mortgage servicer, or examining attorney, or any of their directors, officers, or employees.

Proposed law provides that the provisions of proposed law shall not apply to the following:

- (1) A natural person who is a U.S. citizen, either by birth or being granted lawful permanent residency status.
- (2) A person who is not a U.S. citizen but is a permanent legal resident or lawfully present in the U.S. with a valid visa issued by U.S. Citizenship and Immigration Services.
- (3) Immovable property purchased, leased, or otherwise acquired by a natural person that is used as a single family residential property.

Proposed law defines "foreign adversary" and "person connected with a foreign adversary".

Present law (15 CFR 7.4(A)) provides that certain foreign governments or foreign non-government persons are significantly adverse to the national security of the U.S. and are considered foreign adversaries.

(Adds R.S. 9:2717.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Provide for notice of attorney general actions.
2. Change the disbursement of the proceeds from judicial sales to include certain veterans.
3. Authorize the attorney general to enter into cooperative endeavor agreements.
4. Provide that mortgage servicers and directors, officers, or employees of real estate agents, title insurance producers and underwriters, lenders, mortgage servicers, and examining attorneys shall not have additional liability for failure to identify a buyer as a foreign adversary or person connected with a foreign adversary.
5. Provide exceptions from proposed law for certain persons.
6. Change definition of "person connected with a foreign adversary".