

2020 Second Extraordinary Session

SENATE BILL NO. 75

BY SENATOR MILLIGAN

COMMERCIAL REGULATIONS. Provides relative to certain transactions involving investments by certain Chinese enterprises. (gov sig) (Item #28)

1 AN ACT

2 To enact Chapter 61 of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised  
3 of R.S. 51:3211 through 3213, relative to the attorney general; to provide relative to  
4 certain transactions by certain countries or entities; to provide for responsibilities of  
5 the attorney general; to provide for written notification of certain transactions to state  
6 agencies; to provide for inspection of certain property; to provide for definitions; to  
7 provide for terms, conditions, and procedures; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 61 of Title 51 of the Louisiana Revised Statutes of 1950,  
10 comprised of R.S. 51:3211 through 3213, is hereby enacted to read as follows:

11 **CHAPTER 61. TRANSACTIONS BY THE PEOPLE'S REPUBLIC**

12 **OF CHINA OR CHINESE STATE-OWNED ENTERPRISES**

13 **IN LOUISIANA**

14 **§3211. Definitions**

15 **As used in this Chapter, the following words and phrases shall have the**  
16 **following meanings:**

17 **(1) "Chinese state-owned enterprise" or "enterprise" means an entity**

1 controlled, directly or indirectly, including through formal or informal  
2 arrangements to act in concert, by any of the following:

3 (a) The People's Republic of China.

4 (b) A person owned, controlled by, or acting on behalf of, the People's  
5 Republic of China.

6 (c) A person in which the People's Republic of China has, directly or  
7 indirectly, including through formal or informal arrangements to act in concert,  
8 a five percent or greater interest.

9 (d)(i) A person in which the People's Republic of China has, directly or  
10 indirectly, the right or power to appoint, or approve the appointment of, any  
11 member of the board of directors, board of supervisors, or equivalent governing  
12 body of an entity that holds, directly or indirectly, including formal or informal  
13 arrangements to act in concert, a five percent or greater interest in that person  
14 within the past three years.

15 (ii) A person in which the People's Republic of China has, directly or  
16 indirectly, the right or power to appoint, or approve the appointment of, any  
17 officer of an entity that holds, directly or indirectly, including formal or  
18 informal arrangements to act in concert, a five percent or greater interest in  
19 that person within the past three years.

20 (e)(i) A person in which any member of the board of directors, board of  
21 supervisors, or equivalent governing body of an entity that holds, directly or  
22 indirectly, including formal or informal arrangements to act in concert, a five  
23 percent or greater interest in that person, is a member of the Chinese  
24 Communist Party or was a member of the Chinese Communist Party within the  
25 previous three years.

26 (ii) A person in which any officer of an entity that holds, directly or  
27 indirectly, including through formal or informal arrangements to act in concert,  
28 a five percent or greater interest in that person, is a member of the Chinese  
29 Communist Party or was a member of the Chinese Communist Party within the

1 previous three years.

2 (2) "Non-predatory transaction" means a transaction that does not take  
3 advantage of the harm caused by COVID-19 to the state of Louisiana, any  
4 person registered to do business in the state, or any resident of the state.

5 (3) "People's Republic of China" means the national and subnational  
6 governments within the state of the People's Republic of China including but  
7 not limited to their respective departments, agencies, and instrumentalities.

8 (4) "Person" means a natural person or juridical person.

9 §3212. Non-Predatory transaction; written approval by the attorney general;  
10 notice to secretary of state

11 A.(1) Beginning December 1, 2020, the attorney general shall approve in  
12 writing, as a non-predatory transaction, any proposed or pending transaction  
13 that involves the purchase or lease by the People's Republic of China or an  
14 enterprise of any immovable property in the state, the establishment of a  
15 business to operate a factory or other facility on the immovable property, or the  
16 acquisition of any equity interest in a person registered to do business in this  
17 state.

18 (2) A transaction not approved by the attorney general as required by  
19 Paragraph (1) of this Subsection shall be void.

20 B.(1) Not later than sixty calendar days before the transaction provided  
21 in Subsection A of this Section is completed, the People's Republic of China or  
22 an enterprise shall submit written notice of the proposed or pending transaction  
23 to the secretary of state on a form prescribed by the secretary of state.

24 (2) The notice shall contain, at a minimum, the following information:

25 (a) The terms of purchase or lease.

26 (b) The identity and chain of ownership of the buyer and seller and the  
27 lessor and leasee.

28 (c) The buyer's purpose and reason for making the investment.

29 (d) The sources of all funds used to make the investment.

1                    (e) Whether the buyer or any affiliate of the buyer will acquire  
2                    intellectual property as a result of the transaction.

3                    (f) Whether the buyer or lessor has received subsidies from the People's  
4                    Republic of China.

5                    §3213. Inspection of property and business

6                    The governor, attorney general, secretary of state, or secretary of the  
7                    Louisiana Department of Health may inspect the immovable property, facility,  
8                    or factory subject to a transaction approved in accordance with the provisions  
9                    of R.S. 51:3212.

10                  Section 2. The provisions of this Act shall become effective upon signature by the  
11                  governor or, if not signed by the governor, upon expiration of the time for bills to become  
12                  law without signature by the governor, as provide by Article III, Section 18 of the  
13                  Constitution of Louisiana. If vetoed by the governor and subsequently approved by the  
14                  legislature, the provisions of this Act shall become effective on the day following such  
15                  approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Beth O'Quin.

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DIGEST

SB 75 Original

2020 Second Extraordinary Session

Milligan

Proposed law defines the following terms:

- (1) "Chinese state-owned enterprise" or "enterprise" means an entity controlled, directly or indirectly, including through formal or informal arrangements to act in concert, by the following:
- (a) The People's Republic of China.
  - (b) A person owned, controlled by, or acting on behalf of, the People's Republic of China.
  - (c) A person in which the People's Republic of China has, directly or indirectly, including through formal or informal arrangements to act in concert, a 5% or greater interest.
  - (d) A person in which the People's Republic of China has, directly or indirectly, the right or power to appoint, or approve the appointment of, any members of the governing body, or any officer of an entity that holds, directly or indirectly, including through formal or informal arrangements to act in concert, a 5% or greater interest in that person within the past three years.

- (e) A person in which any member of the governing body or any officer of an entity that holds, directly or indirectly, including through formal or informal arrangements to act in concert, a 5% or greater interest in that person, is a member of the Chinese Communist Party, or was a member of the Chinese Communist Party within the previous three years.
- (2) "Non-predatory transaction" means a transaction that does not take advantage of the harm caused by COVID-19 to the state, any person registered to do business in the state, or resident of the state.
- (3) "People's Republic of China" means the national and subnational governments within the state of the People's Republic of China, including but not limited to their respective departments, agencies, and instrumentalities.
- (4) "Person" means a natural person or juridical person.

Proposed law provides that beginning December 1, 2020, the attorney general shall approve in writing, as a non-predatory transaction, any proposed or pending transaction that involves the purchase or lease by the People's Republic of China an enterprise of any immovable property in the state, the establishment of a business to operate a factory or other facility on such property, or the acquisition of any equity interest in a person registered to do business in this state. Proposed law provides if the transaction is not approved as provided by law, the transaction shall be void.

Proposed law provides that not later than 60 calendar days before the transaction is completed, the People's Republic of China or an enterprise shall submit written notice of the transaction to the secretary of state on a form prescribed by the secretary of state.

Proposed law provides the notice shall contain, at a minimum, the following:

- (1) The terms of purchase or lease.
- (2) The identity and chain of ownership of the buyer and seller and the lessor and leasee.
- (3) The buyer's purpose and reason for making the investment.
- (4) The sources of all funds used to make the investment.
- (5) Whether the buyer or any affiliate of the buyer will acquire intellectual property as a result of the transaction.
- (6) Whether the buyer or lessor has received subsidies from the People's Republic of China.

Proposed law provides the governor, attorney general, secretary of state, or secretary of the La. Department of Health may inspect the immovable property, facility, or factory subject to a transaction approved in accordance with proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 51:3211-3213)