

SENATE COMMITTEE AMENDMENTS

2023 Regular Session

Amendments proposed by Senate Committee on Judiciary B to Original Senate Bill No. 91 by Senator Milligan

1 AMENDMENT NO. 1

2 On page 1, line 12, after "**means**" delete the remainder of the line, delete lines 13 and 14,
3 and insert the following:

4 **"any foreign government or foreign non-government person determined by the**
5 **United States secretary of commerce to have engaged in a long-term pattern or**
6 **serious instances of conduct significantly adverse to the national security of the**
7 **United States or security and safety of United States persons as listed in 15 CFR**
8 **§7.4 Determination of Foreign Adversaries, as amended or renumbered."**

9 AMENDMENT NO. 2

10 On page 2, line 3, after "**Owned by**" insert a comma " , "

11 AMENDMENT NO. 3

12 On page 2, line 4, after "**controlled by**" insert a comma " , "

13 AMENDMENT NO. 4

14 On page 2, line 6, after "**owned by**" insert a comma " , "

15 AMENDMENT NO. 5

16 On page 2, line 7, after "**controlled by**" insert a comma " , "

17 AMENDMENT NO. 6

18 On page 2, line 8, after "**described by**" delete the remainder of the line and insert "**this**
19 **Paragraph.**"

20 AMENDMENT NO. 7

21 On page 2, delete lines 17 through 20, and insert the following:

22 **"C. A party to any contract to purchase, lease, or otherwise acquire**
23 **immovable property may rescind the contact prior to the transfer of the**
24 **immovable property if the party determines that a prohibited foreign actor has**
25 **an ownership interest that violates the provisions of this Section.**

26 **D. The attorney general may bring an action for injunctive relief in the**
27 **name of the state against a prohibited foreign actor to restrain and enjoin a sale**
28 **or lease prior to the transfer of the immovable property or to restrain or enjoin**
29 **the lease.**

30 **E.(1) The attorney general may serve an investigative demand or**
31 **subpoena for deposition testimony to any person who is believed to have**
32 **information, documentary material, or physical evidence relevant to the alleged**
33 **or suspected attempt to enter into, conspiracy to enter into, or entering into a**
34 **contract to purchase, lease, or otherwise acquire immovable property in this**
35 **state if all of the following exist:**

36 **(a) The attorney general has evidence that a prohibited foreign actor is**
37 **attempting to enter into, conspiring to enter into, or has entered into a contract**
38 **to purchase, lease, or otherwise acquire immovable property in this state in**
39 **violation of this Section.**

1 **(b) The attorney general believes it to be in the public interest that an**
2 **investigation should be made to ascertain whether a prohibited foreign actor or**
3 **a person connected with a foreign adversary in fact is attempting to enter into,**
4 **conspiring to enter into, or has entered into a contract to purchase, lease, or**
5 **otherwise acquire immovable property in this state in violation of this Section.**

6 **(2)(a) The investigative demand or subpoena for deposition testimony**
7 **shall contain a description of the attempt to enter into, conspiracy to enter into,**
8 **or entering into a contract to purchase, lease, or otherwise acquire immovable**
9 **property in this state under investigation and shall require the person to**
10 **furnish, under oath or otherwise, a report in writing setting forth the relevant**
11 **facts and circumstances of which he has knowledge, or to produce relevant**
12 **documentary material or physical evidence for examination, at a reasonable**
13 **time and place as may be stated in the investigative demand that is the subject**
14 **matter of the investigation.**

15 **(b) A subpoena for deposition testimony shall include a notice informing**
16 **the prospective deponent of the deponent's right to counsel at the deposition**
17 **with opportunity for cross-examination, and the deposition shall be conducted**
18 **at the deponent's principal place of business, deponent's place of residence,**
19 **deponent's domicile, or, if agreeable to the deponent, at some other place**
20 **convenient to the attorney general and the deponent's attorney.**

21 **(c) The deposition shall be held at a reasonable time, as may be stated in**
22 **the investigative subpoena. At any time before the return date specified in the**
23 **investigative demand or before the noticed deposition, or within twenty days**
24 **after the demand or deposition notice has been served, whichever is shorter, a**
25 **petition stating good cause for a protective order to extend the return date, or**
26 **to modify or set aside the demand or deposition notice, may be filed in the**
27 **district court having civil jurisdiction in the parish where the person served**
28 **with the demand resides, is domiciled, or has his principal place of business**
29 **located.**

30 **(d) If no protective order from the court is secured and the written**
31 **request by the attorney general is not complied with by the return date thereof,**
32 **the attorney general may apply to the court for an order compelling compliance**
33 **with the investigative demand or deposition notice.**

34 **(e) If any person fails or refuses to file any statement, report,**
35 **documentary material or physical evidence, or obey any investigative subpoena**
36 **or demand issued by the attorney general, except as permitted by a protective**
37 **order issued by an appropriate court, the attorney general may apply to the**
38 **district court having civil jurisdiction in the parish where the person served**
39 **with the demand or subpoena resides, is domiciled, or has his principal place of**
40 **business located, for a rule to show cause why an order compelling compliance**
41 **should not be issued.**

42 **(f) Any disobedience of an order compelling compliance under this**
43 **Section by any court shall be punished as a contempt of court.**

44 **F. Service of any demand, subpoena, or petition shall be made in the**
45 **manner provided by law.**

46 **G. Any immovable acquired by a prohibited foreign actor or a person**
47 **connected with a foreign adversary is subject to civil forfeiture to the state.**

48 **H. The attorney general may use in the enforcement of this Section all**
49 **other procedures and authority for investigation, supervision, and conduct of**
50 **actions on behalf of the state as provided by the law.**

51 **I. A court petitioned by the attorney general may issue such additional**
52 **orders or render judgments against the prohibited foreign actor or the person**
53 **connected with a foreign adversary as may be necessary to protect the public.**
54 **The orders shall include but not be limited to the following:**

55 **(1) Revocation, forfeiture, or suspension of any license, charter,**
56 **franchise, certificate, or other evidence of authority of any person to do business**
57 **in the state.**

58 **(2) Appointment of a receiver.**

59 **(3) Dissolution of domestic corporations or associations.**

60 **(4) Suspension or termination of the right of foreign corporations or**
61 **associations to do business in this state.**

1 **(5) Restitution to compensate any person who did not knowingly enter**
2 **into a transaction with the prohibited foreign actor or person connected with**
3 **the foreign adversary for any loss, expenses, court costs, or attorney fees which**
4 **may have been incurred because of the sale being void or enjoined.**

5 **(6) Civil forfeiture of any immovable property acquired by the**
6 **prohibited foreign actor.**

7 **J.(1) All forfeitures or dispositions under this Section shall be made with**
8 **due provisions for the rights of any person who did not knowingly enter into a**
9 **transaction with the prohibited foreign actor.**

10 **(2) No mortgage, lien, privilege, or other security interest recognized**
11 **under the laws of this state and no ownership interest in indivision shall be**
12 **affected by a forfeiture pursuant to this Section if the owner of such mortgage,**
13 **lien, privilege, or other security interest, or owner in indivision establishes that**
14 **the owner did not knowingly enter into a transaction with the prohibited foreign**
15 **actor or person connected with the foreign adversary.**

16 **(3) No forfeiture or disposition under this Section shall affect the rights**
17 **of any person who did not knowingly enter into a transaction with the**
18 **prohibited foreign actor or person connected with the foreign adversary.**

19 **(4) The attorney general shall, within seven days of instituting any action**
20 **under this Section, file a copy of the petition or other pleading instituting the**
21 **action in the mortgage records of the parish in which any related immovable**
22 **property is situated.**

23 **K. The failure to identify a buyer as a prohibited foreign actor or person**
24 **connected with the foreign adversary shall not create additional liability for any**
25 **real estate agent, title insurance producer, title insurance underwriter, lender,**
26 **or examining attorney nor shall it create a separate cause of action against any**
27 **real estate agent, title insurance producer, title insurance underwriter, lender,**
28 **or examining attorney."**