

2023 Regular Session

SENATE BILL NO. 91

BY SENATORS MILLIGAN AND CATHEY

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

IMMOVABLE PROPERTY. Provides for prohibition of immovable property transactions by certain foreign actors. (8/1/23)

1 AN ACT

2 To enact R.S. 29:28.2, relative to military, naval, and veterans' affairs; to provide relative
3 to foreign actors' interests in immovable property; to provide for terms and
4 definitions; to provide with respect to certain foreign actors; to provide relative to
5 acquisition of title to immovable property located near military or other sensitive
6 property; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 29:28.2 is hereby enacted to read as follows:

9 **§28.2. Prohibited foreign actors; immovable property interests**

10 **A. For the purposes of this Section, the following terms shall have the**
11 **following meanings:**

12 **(1) "Foreign adversary" means any foreign government or foreign non-**
13 **government person determined by the United States secretary of commerce to**
14 **have engaged in a long-term pattern or serious instances of conduct**
15 **significantly adverse to the national security of the United States or security and**
16 **safety of United States persons as listed in 15 CFR §7.4 Determination of**
17 **Foreign Adversaries, as amended or renumbered.**

1 **(2) "Prohibited foreign actor" means any of the following:**

2 **(a) A corporation or other entity that is any of the following:**

3 **(i) Headquartered in a country identified as a foreign adversary.**

4 **(ii) Held or controlled, either directly or indirectly, by a government of**
5 **a foreign adversary.**

6 **(iii) Owned by, or the majority of stock or other ownership interest is**
7 **held or controlled by, any person who is a citizen of a foreign adversary, unless**
8 **that person is a legal permanent resident of the United States.**

9 **(b) A corporation or other entity that is owned by, or the majority of**
10 **stock or other ownership interest of which is held or controlled by, a**
11 **corporation or entity described by this Paragraph.**

12 **(c) Any person who is a citizen of a foreign adversary, unless that person**
13 **is a legal permanent resident of the United States.**

14 **B. Notwithstanding any other law to the contrary, no prohibited foreign**
15 **actor shall purchase, lease, possess, exercise any control, or hold any interest in**
16 **immovable property located within fifty miles of any federal or state military**
17 **land, reservation, camp, post, base, installation, armory, or training area; any**
18 **weather station operated by the armed forces of the United States; or any**
19 **facility operated by the Civil Air Patrol.**

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

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

28 **E.(1) The attorney general may serve an investigative demand or**
29 **subpoena for deposition testimony to any person who is believed to have**

1 information, documentary material, or physical evidence relevant to the alleged
2 or suspected attempt to enter into, conspiracy to enter into, or entering into a
3 contract to purchase, lease, or otherwise acquire immovable property in this
4 state if all of the following exist:

5 (a) The attorney general has evidence that a prohibited foreign actor is
6 attempting to enter into, conspiring to enter into, or has entered into a contract
7 to purchase, lease, or otherwise acquire immovable property in this state in
8 violation of this Section.

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

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

23 (b) A subpoena for deposition testimony shall include a notice informing
24 the prospective deponent of the deponent's right to counsel at the deposition
25 with opportunity for cross-examination, and the deposition shall be conducted
26 at the deponent's principal place of business, deponent's place of residence,
27 deponent's domicile, or, if agreeable to the deponent, at some other place
28 convenient to the attorney general and the deponent's attorney.

29 (c) The deposition shall be held at a reasonable time, as may be stated in

1 the investigative subpoena. At any time before the return date specified in the
2 investigative demand or before the noticed deposition, or within twenty days
3 after the demand or deposition notice has been served, whichever is shorter, a
4 petition stating good cause for a protective order to extend the return date, or
5 to modify or set aside the demand or deposition notice, may be filed in the
6 district court having civil jurisdiction in the parish where the person served
7 with the demand resides, is domiciled, or has his principal place of business
8 located.

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

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

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

23 F. Service of any demand, subpoena, or petition shall be made in the
24 manner provided by law.

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

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

1 I. A court petitioned by the attorney general may issue such additional
2 orders or render judgments against the prohibited foreign actor or the person
3 connected with a foreign adversary as may be necessary to protect the public.

4 the orders shall include but not be limited to the following:

5 (1) Revocation, forfeiture, or suspension of any license, charter,
6 franchise, certificate, or other evidence of authority of any person to do business
7 in the state.

8 (2) Appointment of a receiver.

9 (3) Dissolution of domestic corporations or associations.

10 (4) Suspension or termination of the right of foreign corporations or
11 associations to do business in this state.

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

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

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

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

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

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Makes technical changes.
2. Adds provision that authorizes a party to any contract to purchase, lease, or otherwise acquire immovable property to rescind the contact prior to the transfer of the immovable property if the party determines that a prohibited foreign actor has an ownership interest.
3. Adds provision that authorizes the attorney general to bring an action for injunctive relief against a prohibited foreign actor to restrain and enjoin a sale or lease prior to the transfer of the immovable property or to restrain or enjoin the lease.
4. Adds procedures that the attorney general and the court shall follow to enforce proposed law.
5. Adds provision that provides that the failure to identify a buyer as a prohibited foreign actor or person connected with the foreign adversary shall not create additional liability for any real estate agent, title insurance producer, title insurance underwriter, lender, or examining attorney nor shall it create a separate cause of action against any real estate agent, title insurance producer, title insurance underwriter, lender, or examining attorney.