

2023 Regular Session

HOUSE BILL NO. 125

BY REPRESENTATIVE ECHOLS

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

AGRICULTURE: Provides relative to agriculture land protection against foreign adversaries

1 AN ACT

2 To enact R.S. 3:3613, relative to protection of agricultural lands from foreign adversaries;  
3 to restrict a foreign adversary with an ownership interest in a corporately formed  
4 business from owning or having an interest in agricultural land; to provide for  
5 exceptions; to provide for reporting requirements; to provide for definitions; to  
6 authorize the attorney to take certain actions in response to violations involving the  
7 acquisition or sale of immovable property by foreign adversaries; to authorize certain  
8 courts to issue orders against foreign adversaries; to provide for immunity from  
9 liability for certain professionals involved in the consummation of real estate  
10 transactions; to provide for forfeiture and civil penalties; and to provide for related  
11 matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 3:3613 is hereby enacted to read as follows:

14 §3613. Ownership of agricultural lands by foreign adversaries restricted; exceptions;  
15 reporting requirements; civil penalty  
16 A.(1) No foreign adversary with an ownership interest in a corporation,  
17 limited liability company, pension or investment fund, trust, or limited partnership  
18 shall directly or indirectly, own, acquire, lease, or otherwise obtain any interest in  
19 agricultural land as defined by R.S. 3:3602.

1           (2) A foreign adversary may sell or convey an ownership interest in  
2           agricultural land in this state that was acquired prior to July 30, 2023, but shall not  
3           sell or otherwise convey such ownership interest to any other foreign business entity  
4           that qualifies as a foreign adversary after August 1, 2023, in violation of Paragraph  
5           (A)(1) of this Section.

6           (3) For purposes of this Section, the term "foreign adversary" means an  
7           individual or a government identified as a foreign adversary pursuant to 15 CFR 7.4  
8           including the People's Republic of China and the Hong Kong Special Administrative  
9           Region, Republic of Cuba, Islamic Republic of Iran, Democratic People's Republic  
10          of Korea, Russian Federation, and Venezuela under the leadership of Nicolas  
11          Maduro. It shall not include a person that is a legal permanent resident with lawful  
12          presence in the United States.

13           B. The provisions of this Section shall not apply to foreign business entities,  
14          that might otherwise qualify as a foreign adversary, owning agricultural lands; under  
15          the following circumstances:

16           (1) If the right is guaranteed by a treaty or if the person's country of origin  
17          affords certain real estate rights to United States citizens.

18           (2) A title to agricultural land held as a security to indebtedness or real estate  
19          acquired upon collection of a debt.

20           (3) Religious, educational, charitable, and scientific corporations.

21           (4) Inherited land or land received as payment for a debt that is sold or  
22          transferred within five years.

23           C.(1) Any foreign business entity that acquires, sells, leases, or transfers  
24          agricultural land located in this state after July 30, 2023, shall report the acquisition,  
25          sale, lease, or transfer to the secretary of state and the attorney general no later than  
26          thirty days after the acquisition, sale, or transfer of the agricultural land is finalized.  
27          The report shall be made in a form and manner prescribed by the secretary of state.  
28          The attorney general shall review the reports received pursuant to this Subsection  
29          and investigate the acquisition, sale, or transfer of agricultural land if the attorney

1 general believes the acquisition, sale, or transfer of agricultural land violates  
2 Subsection A of this Section.

3 (2) Any corporation, limited liability company, pension or investment fund,  
4 trust, or limited partnership in which a foreign adversary has an ownership interest  
5 that violates the provisions of this Section shall be subject to a civil penalty of fifty  
6 thousand dollars and forfeiture if such entity does not divest itself of agricultural land  
7 acquired in violation of this Section within one year after judgment is entered in this  
8 action.

9 (3) A party to the contract to purchase, lease, or otherwise acquire  
10 immovable property may rescind the contract prior to the transfer of the immovable  
11 property if the party determines that a foreign adversary has an ownership interest  
12 that violates the provisions of this Section.

13 (4) The attorney general may bring an action for injunctive relief in the name  
14 of the state against the foreign adversary or the person connected with a foreign  
15 adversary to restrain and enjoin the sale or lease prior to the transfer of the  
16 immovable property or to restrain or enjoin the lease.

17 (5)(a) The attorney general may serve an investigative demand or subpoena  
18 for deposition testimony to any person who is believed to have information,  
19 documentary material, or physical evidence relevant to the alleged or suspected  
20 attempt to enter into, conspiracy to enter into, or entering into a contract to purchase,  
21 lease, or otherwise acquire immovable property in this state if all of the following  
22 exist:

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

27 (ii) The attorney general believes it to be in the public interest that an  
28 investigation should be made to ascertain whether a foreign adversary or a person  
29 connected with a foreign adversary in fact is attempting to enter into, conspiring to

1        enter into, or has entered into a contract to purchase, lease, or otherwise acquire  
2        immovable property in this state.

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

11               (ii) Any subpoena for deposition testimony issued pursuant to this Section  
12       shall include a notice informing the prospective deponent of the deponent's right to  
13       counsel at the deposition with an opportunity for cross-examination, and the  
14       deposition shall be conducted at the deponent's principal place of business, deponent's  
15       place of residence, deponent's domicile, or, if agreeable to the deponent, at some  
16       other place convenient to the attorney general and the deponent's attorney.

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

25               (iv) If no protective order from the court is secured and the written request  
26       by the attorney general is not complied with by the return date thereof, the attorney  
27       general may apply to the court for an order compelling compliance with the  
28       investigative demand or deposition notice.

1           (v) If any person fails or refuses to file any statement, report, documentary  
2           material or physical evidence, or obey any investigative subpoena or demand issued  
3           by the attorney general, except as permitted by a protective order issued by an  
4           appropriate court, the attorney general may apply to the district court having civil  
5           jurisdiction in the parish where the person served with the demand or subpoena  
6           resides, is domiciled, or has his principal place of business located, for a rule to show  
7           cause why an order compelling compliance should not be issued.

8           (vi) Any disobedience of an order compelling compliance under this Section  
9           by any courts shall be punished as a contempt of court.

10           (6) Service of any demand, subpoena, or petition shall be made in the  
11           manner provided by law.

12           (7) Any immovable property acquired by a foreign adversary or a person  
13           connected with a foreign adversary is subject to civil forfeiture to the state.

14           (8) The attorney general may use, in the enforcement of this Section, all  
15           other procedures and authority for investigation, supervision, and conduct of actions  
16           on behalf of the state as provided by law.

17           (9) A court petitioned by the attorney general may issue such additional  
18           orders or render judgments against the foreign adversary or the person connected  
19           with a foreign adversary as may be necessary to protect the public. Such orders shall  
20           include but not be limited to the following:

21           (a) Revocation, forfeiture, or suspension of any license, charter, franchise,  
22           certificate, or other evidence of authority of any person to do business in the state.

23           (b) Appointment of a receiver.

24           (c) Dissolution of domestic corporations or associations.

25           (d) Suspension or termination of the right of foreign corporations or  
26           associations to do business in this state.

27           (e) Restitution to compensate any person who did not knowingly enter into  
28           a transaction with the foreign adversary or person connected with the foreign

1 adversary for any loss, expenses, court costs, or attorney fees which may have been  
2 incurred because of the sale being void or enjoined.

3 (f) Civil forfeiture of any immovable property acquired by the foreign  
4 adversary or the person connected with a foreign adversary.

5 D.(1) All forfeitures or dispositions under this Section shall be made with  
6 due provisions for the rights of any person who did not knowingly enter into a  
7 transaction with the foreign adversary or person connected with the foreign  
8 adversary.

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

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

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

22 E. The failure to identify a buyer as a foreign adversary shall not create  
23 additional liability for any real estate agent, title insurance producer, title insurance  
24 underwriter, lender, or examining attorney nor shall it create a separate cause of  
25 action against any real estate agent, title insurance producer, title insurance  
26 underwriter, lender, or examining attorney.

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**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)]

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HB 125 Engrossed

2023 Regular Session

Echols

**Abstract:** Restricts ownership of agricultural lands by foreign adversaries.

Proposed law restricts any foreign adversary with an ownership interest in a corporation, limited liability company, pension or investment fund, trust, or limited partnership from directly or indirectly, owning, acquiring, leasing, or otherwise obtaining any interest, in agricultural land as defined by present law (R.S. 3:3602).

Proposed law defines "foreign adversary" as an individual or a government identified as a foreign adversary pursuant to 15 CFR 7.4, including the People's Republic of China and the Hong Kong Special Administrative Region, Republic of Cuba, Islamic Republic of Iran, Democratic People's Republic of Korea, Russian Federation, and Venezuela under the leadership of Nicolas Maduro. Specifies that it does not include a person that is a legal permanent resident with lawful presence in the United States.

Proposed law authorizes a foreign adversary to sell or convey ownership interest in agricultural land in this state that was acquired prior to July 30, 2023, but prohibits the sale or other conveyance of such ownership interest to any other foreign business entity that qualifies as a foreign adversary after Aug. 1, 2023.

Proposed law exempts foreign business entities that might otherwise qualify as a foreign adversary from the ownership restrictions applicable to agricultural lands; under the following circumstances:

- (1) If the right is guaranteed by a treaty or if the person's country of origin affords certain real estate rights to United States citizens.
- (2) A title to agricultural land held as a security to indebtedness or real estate acquired upon collection of a debt.
- (3) Religious, educational, charitable, and scientific corporations.
- (4) Inherited land or land received as payment for a debt that is sold or transferred within five years.

Proposed law requires any foreign business entity that acquires, sells, leases, or transfers agricultural land located in the state after July 30, 2023, to report that conveyance to the secretary of state and the attorney general no later than 30 days after the acquisition, sale, or transfer of the agricultural land is finalized. Specifies that the report must be made in the form and manner prescribed by the secretary of state. Requires the attorney general to review the reports that he receives and investigate the conveyance of agricultural land if the attorney general believes it violates proposed law.

Proposed law requires any corporation, limited liability company, pension or investment fund, trust, or limited partnership in which a foreign entity has an ownership interest that violates proposed law be subject to a civil penalty of \$50,000 and forfeiture of said agricultural land if such entity does not divest itself of land acquired in violation of proposed law within one year after judgment is entered in this action. Establishes requirements for rescinding contracts for violations of proposed law.

Proposed law establishes a process for the attorney general to bring an action for injunctive relief that involves discovery through investigative demands and depositions and to compel discovery through a rule to show cause if a party fails to comply. Authorizes the attorney general to enforce proposed law through lawful means that are available to him. Authorizes the court to issue additional orders such as revocation, forfeiture, or suspension of licensure; to appoint a receiver; to dissolve a domestic corporation; to suspend or terminate a foreign company's right to do business in the state, to require restitution; and to require civil forfeiture of immovable property.

Proposed law specifies that the failure to identify a buyer as a foreign adversary does not create additional liability for those involved in the consummation of a real estate transaction.

(Adds R.S. 3:3613)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Agriculture, Forestry, Aquaculture, and Rural Development to the original bill:

1. Modify the definition of "foreign adversary" by modeling the language after 15 CFR 7.4.
2. Add "leases" as a mandatory reported transaction.
3. Establish requirements for rescinding contracts for violations of proposed law.
4. Add a process, including service and filing requirements, for the attorney general to address violations of proposed law by authorizing him to do the following:
  - (a) Bring an action for injunctive relief that involves discovery through investigative demands and depositions.
  - (b) Compel discovery through a rule to show cause if a party fails to comply.
  - (c) Enforce proposed law through whatever lawful means are available to him.
5. Add authorization for the court to issue additional orders involving the following:
  - (a) Revocation, forfeiture, or suspension of licensure.
  - (b) Appointment of a receiver.
  - (c) Dissolution of a domestic corporation.
  - (d) Suspension or termination of a foreign company's right to do business in the state.
  - (e) Restitution.
  - (f) Civil forfeiture of immovable property.
6. Add a provision that specifies that the failure to identify a buyer as a foreign adversary does not create additional liability for those involved in the consummation of a real estate transaction.