

2023 Regular Session

HOUSE BILL NO. 537

BY REPRESENTATIVES HODGES, AMEDEE, EDMONDS, EDMONSTON,
EMERSON, FIRMENT, GAROFALO, HARRIS, HORTON, MACK, MIGUEZ,
CHARLES OWEN, SCHAMERHORN, SCHLEGEL, SEABAUGH, THOMPSON,
AND WRIGHT

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

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

18 (3) The provisions of this Section are applicable to contracts entered into by
19 a foreign adversary or person connected with a foreign adversary to purchase, lease,
20 or otherwise acquire immovable property after August 1, 2023. These provisions are
21 not applicable to existing contracts to purchase, lease, or otherwise acquire

1 immovable property or the renewal of existing leases that were in place prior to
2 August 1, 2023.

3 (4) A person may conclusively rely upon an affidavit made by a person
4 intended to acquire or holding an interest in immovable property to the effect that the
5 person is neither a foreign adversary nor a person connected with a foreign
6 adversary, and the correctness of those facts may not be controverted against a
7 person relying on the affidavit, unless actual fraud by such person is proved. A
8 person who gives a false affidavit shall be responsible for any loss or damage
9 suffered by any person whose rights are adversely affected.

10 (5) No seller or lessor shall be liable pursuant to this Section, except a
11 foreign adversary or a person connected with a foreign adversary that is required to
12 forfeit or dispose of property pursuant to a court order as provided for in Subsection
13 C of this Section.

14 B.(1) The attorney general may bring an action for injunctive relief in the
15 name of the state against the foreign adversary or the person connected with a
16 foreign adversary to enjoin the property transfer prior to the transfer of the
17 immovable property. The attorney general shall serve the petition for injunctive
18 relief upon all parties to the transaction.

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

22 (3) Any action by the attorney general may be brought in the district court
23 having civil jurisdiction in any parish in which a portion of the immovable property
24 is located, and the attorney general may recover reasonable attorney fees and court
25 costs.

26 (4) The attorney general may open an investigation if any of the following
27 exist:

28 (a) The attorney general has evidence that a foreign adversary or a person
29 connected with a foreign adversary is attempting to enter into, conspiring to enter

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

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

8 (5) If an action is brought pursuant to this Section then no later than one
9 business day after filing the action, the attorney general shall record in the public
10 mortgage records of the parish clerk of court of each parish in which any portion of
11 the immovable property is located a notice of pendency of the action pursuant to
12 Code of Civil Procedure Article 3751 et seq. The institution of the action and the
13 recordation of the notice of pendency of the action shall have no effect on persons
14 obtaining rights in the immovable property prior to the recordation of the petition.
15 The attorney general shall cause the notice of pendency of action to be cancelled
16 from the mortgage records no later than one business day after judgment is rendered
17 or after a request for cancellation is made by any interested party in connection with
18 the transfer of the property to a person other than a foreign adversary or person
19 connected with a foreign adversary. If the notice of pendency of action relates to a
20 property interested vested in a foreign adversary or person connected with a foreign
21 adversary, the attorney general may petition the court for an order requiring the
22 proceeds of the sale attributable to the property interest of the foreign adversary or
23 person connected with a foreign adversary after the deduction of payments to
24 mortgagees, lienholders, person providing services in connection with the transfer
25 of the property, and credits to the purchaser relating to tax and other customary
26 prorations, be deposited in the registry of the court in which the proceeding is
27 pending.

28 (6) Prior to bringing an action pursuant to this Section, the attorney general
29 shall provide written notice to the holder of each mortgage, lien, privilege, and other
30 encumbrance encumbering the subject immovable property, which is filed in the

1 public mortgage records in the parish where the immovable property is located. Such
2 notice shall be provided in the same manner as provided in R.S. 40:2608 or R.S.
3 14:90.1.

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

7 (a) Order that the foreign adversary's interest in the property be sold to a
8 person who is not a foreign adversary or to a person who is not connected to a
9 foreign adversary.

10 (b) Order that the foreign adversary or person connected with a foreign
11 adversary's interest in the property be sold at a judicial sale in accordance with the
12 requirements of Code of Civil Procedure Article 2331 et seq.

13 (c) Under Subparagraphs (a) and (b) of this Paragraph, the court shall order
14 that the price of the sale be not less than the sum of all of the following:

15 (i) Ad valorem taxes and other liens payable to a political subdivision of the
16 State which are due or past due and attributable to the property.

17 (ii) Indebtedness, including interests, penalties, attorney fees, court costs,
18 and other expenses, secured by a conventional mortgage on the property or any
19 portion of the property.

20 (iii) Indebtedness, including interest, penalties, attorney fees, and court costs,
21 secured by a judicial or legal mortgage on the property.

22 (iv) Indebtedness, including interest, penalties, attorney fees, and court costs,
23 secured by a lien or privilege on the property.

24 (v) Commissions due to a real estate broker or real estate agent.

25 (vi) Costs related to the perfection of the sale.

26 (2) After satisfying all mortgages, liens, privileges, and other encumbrances
27 encumbering the property subject to this Section, and payment of all persons
28 providing services in connection with the transfer of the property, sheriff's fees, and
29 credits to the purchaser relating to tax and other customary prorations, the remaining
30 proceeds of the sale provided by this Subsection shall be considered a civil asset

1 forfeiture and the money shall be paid to the Department of Justice to fund services
2 for veterans of foreign wars. The attorney general may also enter into cooperative
3 endeavor agreements with other state agencies or local governments to provide
4 services for veterans who suffer from injury or disability as a result of a foreign war.

5 D.(1) All proceedings under this Section shall be made with due provisions
6 to protect the rights of any person unless the attorney general proves beyond a
7 reasonable doubt that the person entered into the transaction with the foreign
8 adversary or person connected with a foreign adversary for the purpose of aiding
9 such foreign adversary or person connected with a foreign adversary in
10 compromising the security of the United States.

11 (2) No mortgage, lien, privilege, or other security interest recognized under
12 the laws of this state and no ownership interest in indivision, lease, servitude,
13 usufruct, right of use, bond for deed, or other real right shall be affected by a
14 forfeiture or disposition pursuant to this Section.

15 (3) No forfeiture or disposition under this Section shall affect the rights of
16 any person unless the attorney general proves beyond a reasonable doubt that the
17 person entered into the transaction with the foreign adversary or person connected
18 with a foreign adversary with the purpose of aiding such foreign adversary or person
19 connected with a foreign adversary in compromising the security of the United
20 States.

21 E. No attorney, title insurer, title insurance producer, title insurance agency
22 producer, lender, mortgage loan servicer, notary public, real estate agent, real estate
23 broker, seller, or lessor shall have a duty to make any investigation as to whether a
24 party to a transaction involving immovable property is a foreign adversary, nor shall
25 any such person be liable for failing to identify that a party to a transaction involving
26 immovable property is a foreign adversary.

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

28 (1) A natural person who is an American citizen, regardless of whether the
29 United States citizenship was acquired by birth or the United States citizenship was

1 granted to a person after meeting the requirements established by the United States
2 Congress in the Immigration and Nationality Act, 8 U.S.C. 1158, et seq.

3 (2) A person who is not a United States citizen but is a permanent legal
4 resident or is lawfully present in the United States by virtue of authorization by the
5 United States Department of Homeland Security.

6 (3) A juridical person, as defined in Civil Code Article 24, that is wholly
7 owned by persons who qualify under Paragraphs (1) and (2) of this Subsection.

8 (4) Immovable property purchased, leased, or otherwise acquired by a
9 natural person that is used as a one to four family residential property.

10 (5) A juridical person that owned and conducted oil and gas operations
11 located in Louisiana prior to July 1, 2023, and that is granted permissions by a
12 General License issued by the United States Department of the Treasury, Office of
13 Foreign Assets Control (OFAC General License) and that purchases or acquires
14 property in Louisiana with a party or parties that are subject to the OFAC General
15 License.

16 G. For the purposes of this Section:

17 (1) "Foreign adversary" means an individual or a government identified as
18 a foreign adversary in 15 CFR 7.4(a) and identified in the database maintained by the
19 United States Department of Treasury, Office of Foreign Assets Control.

20 (2) "Person connected with a foreign adversary" means the juridical person,
21 as defined in Civil Code Article 24, in which the foreign adversary has the power to
22 direct or cause the direction of the management or policies of the juridical person
23 whether through ownership of securities, by contract, or otherwise. A person or
24 entity that directly or indirectly has the right to vote fifty percent or more of the
25 voting interests of an entity or is entitled to fifty percent or more of its profits is
26 presumed to have the power to direct or cause the direction of the management or
27 policies of the juridical person.

28 H. This Act shall apply only to property acquired by a foreign adversary or
29 person connected with a foreign adversary on or after August 1, 2023. If a foreign
30 adversary or person connected with a foreign adversary acquires immovable property

1 despite the prohibitions as provided in this Section, the property shall only be subject
2 to forfeiture during the period in which the prohibited foreign adversary or person
3 connected with a foreign adversary owns the property. Rights in immovable property
4 shall not be void or voidable because the property or right held in the property was
5 previously held by a prohibited foreign adversary or person connected with a foreign
6 adversary.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____