
DIGEST

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HB 238 Re-Reengrossed

2024 Regular Session

Echols

Abstract: Restricts ownership of agricultural lands by foreign adversaries.

Proposed law restricts any foreign adversary or prohibited foreign actor 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 allows a prohibited foreign actor to sell or convey its ownership interest of agricultural land.

Proposed law allows a person to conclusively rely upon an affidavit made by a person who is intending to acquire or hold an interest in immovable property only if that person is not a foreign adversary or a prohibited foreign actor. Further provides an exception for when fraud is committed.

Proposed law defines "controlling interest" as the power to direct the management or policies of a company.

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 who is a legal permanent resident with lawful presence in the U.S.

Proposed law defines "immovable property" as agricultural land.

Proposed law defines "prohibited foreign actor" as a corporation, LLC, pension or investment fund, trust, or limited liability partnership in which a foreign adversary has a controlling interest.

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 U.S. citizens.
- (2) If a title to agricultural land is held as a security to indebtedness or real estate acquired upon collection of a debt.

- (3) If such foreign business entity is a religious, educational, charitable, and scientific corporation.
- (4) If inherited land, or land received by such foreign business entity as payment for a debt, is sold or transferred within five years.

Proposed law provides that any prohibited foreign actor that violates proposed law is subject to a civil penalty of \$50,000 and forfeiture of the 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.

Proposed law authorizes a party to a contract to purchase, lease, or acquire immovable property to rescind such contract for violations of proposed law.

Proposed law authorizes the attorney general to bring an action for injunctive relief against the foreign adversary or a prohibited foreign actor to restrain and enjoin the sale or lease of immovable property. Establishes a process for such action if the attorney general elects to seek enforcement. Provides certain requirements for the attorney general to serve an investigative demand or subpoena for deposition testimony of a person who has information or other evidence of an alleged violation of proposed law. Further provides form, notice, and service requirements for such investigative demands and subpoenas. Authorizes the attorney general to apply to the court for an order compelling compliance with the investigative demand or subpoena if no protective order is secured. Further authorizes the attorney general to use other procedures authorized by law for a violation of proposed law. 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 or divestiture of immovable property.

Proposed law authorizes the attorney general to order the foreign adversary or prohibited foreign actor to divest himself of all interest in the land within 90 days if the attorney general concludes that a violation of proposed law has occurred. Authorizes a foreign adversary or any holder of interest to seek judicial review after the attorney general's final determination related to an order of divestiture.

Proposed law authorizes the attorney general to divest the interest of a foreign adversary or prohibited foreign actor for failure to divest of the interest or if the holder of the interest submits a written request for a judicial determination.

Proposed law authorizes the attorney general to cause the petition or other pleading to be cancelled from the mortgage records no later than three business days from judgment or after a request for cancellation by any interested party who is not a foreign adversary or prohibited foreign actor.

Proposed law provides required legal procedures for forfeitures.

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. 3:3613-3619)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Change provision requiring the attorney general to order divestment by a foreign adversary upon a finding of a violation of proposed law to authorizing the attorney general to order such divestment.
2. Change provision requiring the attorney general to bring an action to force divestment in certain circumstances to authorizing the attorney general to bring such action.
3. Change provision requiring the attorney general to cancel certain documents from the mortgage records in certain circumstances within three days after judgment is rendered to authorizing the attorney general to cancel such documents within three days.

The House Floor Amendments to the reengrossed bill:

1. Define "immovable property" as agricultural land.
2. Make technical changes.