

2024 Regular Session

HOUSE BILL NO. 238

BY REPRESENTATIVES ECHOLS, ADAMS, BAYHAM, BERAULT, BILLINGS,
BOYER, BUTLER, CARLSON, WILFORD CARTER, CHENEVERT,
COATES, DEWITT, EDMONSTON, EGAN, EMERSON, GALLE, HORTON,
JACOB LANDRY, OWEN, RISER, SCHAMERHORN, THOMPSON,
WILDER, AND WYBLE AND SENATORS ALLAIN, BASS, CATHEY, FESI,
WHEAT, AND WOMACK

1 AN ACT

2 To enact Part I-A of Chapter 22 of Title 3 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 3:3613 through 3619, relative to protection of agricultural lands
4 from foreign adversaries; to restrict a foreign adversary with an ownership interest
5 in a business entity from owning or having an interest in agricultural land; to provide
6 for exceptions; to provide for reporting requirements; to provide for definitions; to
7 authorize the attorney general to take certain actions in response to violations
8 involving the acquisition or sale of immovable property by foreign adversaries; to
9 authorize certain courts to issue orders against foreign adversaries; to provide for
10 immunity from liability for certain professionals involved in the consummation of
11 real estate transactions; to provide for forfeiture and civil penalties; and to provide
12 for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Part I-A of Chapter 22 of Title 3 of the Louisiana Revised Statutes of
15 1950, comprised of R.S. 3:3613 through 3619, is hereby enacted to read as follows:

16 PART I-A. PROTECTION OF AGRICULTURAL LANDS

17 §3613. Ownership of agricultural lands by foreign adversaries restricted

18 A. No foreign adversary or prohibited foreign actor shall directly or
19 indirectly own, acquire, lease, or otherwise obtain any interest in agricultural land
20 as defined by R.S. 3:3602.

21 B. A prohibited foreign actor may sell or convey an ownership interest in
22 agricultural land in this state.

1 C. A person may conclusively rely upon an affidavit made by a person
2 intending to acquire or holding an interest in immovable property to the effect that
3 the person is not a foreign adversary or a prohibited foreign actor, and the
4 correctness of those facts may not be controverted against any person relying on the
5 affidavit, unless actual fraud by such person is proven. A person who gives a false
6 affidavit shall be responsible for any loss or damage suffered by any person whose
7 rights are adversely affected.

8 §3614. Definitions

9 For purposes of this Part, the following definitions shall apply:

10 (1) "Controlling interest" means possession of the power to direct or cause
11 the direction of the management or policies of a company, whether through
12 ownership of securities, by contract or otherwise. A person or entity that directly or
13 indirectly has the right to vote fifty percent or more of the voting interests of an
14 entity or is entitled to fifty percent or more of its profits is presumed to possess a
15 controlling interest.

16 (2) "Foreign adversary" means a foreign nongovernment person or foreign
17 government identified as a foreign adversary pursuant to 15 CFR 7.4 including the
18 People's Republic of China and the Hong Kong Special Administrative Region,
19 Republic of Cuba, Islamic Republic of Iran, Democratic People's Republic of Korea,
20 Russian Federation, and Venezuela under the leadership of Nicolas Maduro. It shall
21 not include a person who is a legal permanent resident with lawful presence in the
22 United States.

23 (3) "Immovable property" means agricultural land as defined in R.S. 3:3602.

24 (4) "Prohibited foreign actor" means a corporation, limited liability
25 company, pension or investment fund, trust, or limited partnership in which a foreign
26 adversary has a controlling interest.

27 §3615. Exceptions

28 The provisions of this Part shall not apply to foreign business entities that
29 might otherwise qualify as a foreign adversary owning agricultural lands under the
30 following circumstances:

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

3 (2) If a title to agricultural land is held as a security to indebtedness or real
4 estate acquired upon collection of a debt.

5 (3) If such foreign business entity is a religious, educational, charitable, or
6 scientific corporation.

7 (4) If inherited land, or land received by such foreign business entity as
8 payment for a debt, is sold or transferred within five years.

9 §3616. Civil penalties; actions

10 A.(1) A prohibited foreign actor that violates the provisions of this Part shall
11 be subject to a civil penalty of fifty thousand dollars and forfeiture if such entity does
12 not divest itself of agricultural land acquired in violation of this Part within one year
13 after judgment is entered in this action.

14 (2) Any civil penalty collected pursuant to this Section shall be paid to the
15 attorney general to offset costs associated with enforcement of provisions contained
16 in this Section.

17 B. A party to the contract to purchase, lease, or otherwise acquire immovable
18 property may rescind the contract prior to the transfer of the immovable property if
19 the party determines that a foreign adversary has an ownership interest that violates
20 the provisions of this Part.

21 C. The attorney general may bring an action for injunctive relief in the name
22 of the state against the foreign adversary or prohibited foreign actor to restrain and
23 enjoin the sale or lease prior to the transfer of the immovable property or to restrain
24 or enjoin the lease. The attorney general shall serve the petition for injunctive relief
25 upon the parties to the transaction. Upon receipt of the petition, a party may rescind
26 the contract to purchase, lease, or otherwise acquire immovable property pursuant
27 to Subsection B of this Section. The attorney general shall file a notice of lis
28 pendens in the mortgage records of the parish in which the property is located no
29 later than three business days after instituting the proceeding. The institution of the
30 action and the filing of the notice of lis pendens shall have no effect on persons

1 obtaining rights in the immovable property prior to the filing of the notice of the
2 pending action.

3 D.(1) The attorney general may serve an investigative demand or subpoena
4 for deposition testimony to any person who is believed to have information,
5 documentary material, or physical evidence relevant to the alleged or suspected
6 attempt to enter into, conspiracy to enter into, or entering into a contract to purchase,
7 lease, or otherwise acquire immovable property in this state if all of the following
8 exist:

9 (a) The attorney general has evidence that a foreign adversary or a prohibited
10 foreign actor is attempting to enter into, conspiring to enter into, or has entered into
11 a contract to purchase, lease, or otherwise acquire immovable property in this state.

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

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

27 (b) Any subpoena for deposition testimony issued pursuant to this Section
28 shall include a notice informing the prospective deponent of the deponent's right to
29 counsel at the deposition with an opportunity for cross-examination, and the
30 deposition shall be conducted at the deponent's principal place of business,

1 deponent's place of residence, deponent's domicile, or, if agreeable to the deponent,
2 at some other place convenient to the attorney general and the deponent's attorney.

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

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

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

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

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

26 F. Any immovable property acquired by a foreign adversary or a prohibited
27 foreign actor is subject to divestiture or civil forfeiture to the state.

28 G. In the enforcement of this Part, the attorney general may use all other
29 procedures and authority for investigation, supervision, and conduct of actions on
30 behalf of the state as provided by law.

1 H. A court petitioned by the attorney general may issue such additional
2 orders or render judgments against the foreign adversary or the prohibited foreign
3 actor as may be necessary to protect the public. Such orders shall include but not be
4 limited to the following:

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

7 (2) Appointment of a receiver.

8 (3) Dissolution of domestic corporations or associations.

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

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

15 (6) Civil forfeiture of any immovable property acquired by the foreign
16 adversary or the prohibited foreign actor in accordance with the provisions of this
17 Section.

18 I.(1) If, after examining the evidence, the attorney general concludes that a
19 violation of this Part occurred, the attorney general may order the foreign adversary
20 or prohibited foreign actor to divest himself of all interests in the land within ninety
21 days after service of the order upon the foreign adversary or prohibited foreign actor.

22 (2) The order of divestiture, as described in Paragraph (1) of this Subsection,
23 shall be served personally or by certified mail.

24 J.(1) If the holder of the interest that is ordered to be divested disputes the
25 determination of the attorney general that a violation of this Part occurred, the holder
26 may submit a written request for a judicial determination to the attorney general.

27 (2) The written request, as described in Paragraph (1) of this Subsection,
28 shall be delivered to the attorney general within sixty days after service of the order
29 of divestiture. If no written request is received within this time, the determination
30 of the attorney general shall become final.

1 (3) A foreign adversary, prohibited foreign actor, or any holder of interest
2 may seek judicial review after the attorney general's final determination.

3 (4) Any appeal from the final determination of the attorney general shall be
4 in accordance with the Administrative Procedure Act.

5 K.(1) If the foreign adversary or prohibited foreign actor fails to divest
6 himself of all interests pursuant to Paragraph (I)(1) of this Section or if a holder of
7 the interest submits a written request pursuant to Subsection J of this Section, the
8 attorney general may bring an action to divest the interest.

9 (2) The attorney general may initiate a civil action pursuant to this Section
10 in either the parish of East Baton Rouge or a parish where a portion of the
11 immovable property is located.

12 (3) The attorney general shall record in the public mortgage records of the
13 parish clerk of court of each parish in which any portion of the immovable property
14 is located a notice of pendency of the action pursuant to Book VII, Title II, Chapter
15 4 of the Code of Civil Procedure.

16 L. If the holder of the interest in immovable property has submitted a written
17 request pursuant to Subsection J of this Section, the court shall conduct an
18 evidentiary hearing to determine, by a preponderance of the evidence, if a violation
19 of this Part occurred, prior to taking any other action. If the court determines that
20 there has been no violation, the court shall dismiss the action and expunge the notice
21 of pending action.

22 M. If a court of competent jurisdiction determines that a violation of this Part
23 occurred, the court shall order that such immovable property be sold by the sheriff
24 in the parish where the immovable property is located in the same manner as a
25 judicial sale in accordance with the requirements of Book IV, Title II, Chapter 2 of
26 the Code of Civil Procedure.

27 §3617. Protection of ownership interests

28 A. All forfeitures or dispositions under this Part shall be made with due
29 provisions for the rights of any person who did not knowingly enter into a transaction
30 with the foreign adversary or the prohibited foreign actor.

1 B. No mortgage, lien, privilege, or other security interest recognized under
2 the laws of this state and no ownership interest in indivision, lease, servitude,
3 usufruct, right of use, bond for deed, or other real right shall be affected by the
4 forfeiture, seizure, or divestiture provisions of this Part.

5 C. No forfeiture or disposition under this Part shall affect the rights of any
6 person who did not knowingly enter into a transaction with the foreign adversary or
7 a prohibited foreign actor.

8 D. The attorney general shall, within three business days of instituting any
9 action under this Part, file a copy of the petition or other pleading instituting the
10 action in the mortgage records of the parish in which any related immovable property
11 is situated.

12 E. Notice of pending forfeiture, seizure, or divestiture shall be provided by
13 the attorney general to the holder of each mortgage, lien, or security interest in the
14 same manner as provided in R.S. 40:2608(3) or R.S. 14:90.1(B)(3).

15 F. Notice of pending forfeiture, seizure, or divestiture shall be provided by
16 the attorney general to the holder of any interest in the immovable property being
17 seized.

18 G. The attorney general may cause the petition or other pleading to be
19 cancelled from the mortgage records no later than three business days after judgment
20 is rendered or after a request for cancellation is made by any interested party seeking
21 to transfer the property to a person other than a foreign adversary or a prohibited
22 foreign actor. If the petition or other pleading relates to a property interest vested in
23 a foreign adversary or a prohibited foreign actor, the attorney general may petition
24 the court for an order requiring the proceeds of the sale attributable to the property
25 interest of the foreign adversary or a prohibited foreign actor after the deduction of
26 payments to mortgagees, lienholders, person providing services in connection with
27 the transfer of the property, and credits to the purchaser relating to tax and other
28 customary prorations, be deposited in the registry of the court in which the
29 proceeding is pending.

1 §3618. Limitation of liability for failure to identify a foreign adversary or prohibited
2 foreign actor

3 No attorney, title insurer, title insurance producer, title insurance agency
4 producer, lender, mortgage servicer, notary public, real estate agent, real estate
5 broker, seller, or lessor, or any of their directors, officers, or employees shall have
6 a duty to make any investigation as to whether a party to a transaction involving
7 immovable property is a foreign adversary or prohibited foreign actor, nor shall any
8 such person be liable for failing to identify that a party to a transaction involving
9 immovable property is a foreign adversary or prohibited foreign actor.

10 §3619. Applicability

11 Except as otherwise provided in this Part, the provisions contained in this
12 Part shall apply only to immovable property acquired by a foreign adversary or
13 prohibited foreign actor after August 1, 2024. If a foreign adversary or prohibited
14 foreign actor acquires immovable property despite the prohibitions contained in this
15 Part, the property shall be subject to forfeiture only during the period in which the
16 foreign adversary or prohibited foreign actor owns the property. Rights in immovable
17 property shall not be void or voidable because the property or right therein
18 previously was held by a foreign adversary or prohibited foreign actor.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____