

Conveyances to Foreign Entities Act

June 6, 2024



MIAMI 11589169.1 73190.99021

Presented by:



Joseph Hernandez
PARTNER

Bilzin Sumberg | 1450 Brickell Avenue, 23rd Floor | Miami, Florida 33131 | Bilzin.com

Topics Covered

1. What is a Foreign Country of Concern under the Act, F.S. § 692.201(3)?
2. What is a Foreign Principal under the Act, F.S. § 692.201(4)?
3. What Prohibitions are Imposed on a Foreign Principal by the Act?
4. Are There Any Exceptions to the Prohibitions under the Act?
5. Closing Requirements under the Act
6. Title Insurance Concerns Arising from the Act
7. Other Act Provisions
8. Legal Challenge to the New Law - *Shen v. Simpson*
9. The Unintended Impact on Business in Florida
10. Other State Law Restrictions on Foreign Ownership of Real Estate

Appendix

Conveyances to Foreign Entities Act

- Florida's Senate Bill 264 took effect July 1, 2023. It contains provisions which create Part III of Ch. 692, F.S. (§§ 692.201 - 692.205) and is entitled the "Conveyances to Foreign Entities Act" (A copy of the Act is included in the Appendix.
- SB 264 deals with ownership of Florida real property by nationals of certain foreign countries. It generally restricts the issuance of government contracts or economic development incentives to, or real property ownership by, "Foreign Principals," which are certain individuals and entities associated with "Foreign Countries of Concern".

1. What is a Foreign Country of Concern under the Act, F.S. § 692.201(3)?

The Act defines this term as:

- The People's Republic of China,
- The Russian Federation,
- The Islamic Republic of Iran,
- The Democratic People's Republic of Korea,
- The Republic of Cuba,
- The Venezuelan regime of Nicolás Maduro,
- The Syrian Arab Republic,
- Including any agency of or any other entity of significant control of such Foreign Country of Concern.

2. What is a Foreign Principal under the Act, F.S. § 692.201(4)?

The Act defines this term as:

- The government or any official of the government of a Foreign Country of Concern;
- A political party or member of a political party or any subdivision of a political party of a Foreign Country of Concern;
- A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a Foreign Country of Concern, or a subsidiary of such entity;
- Any person who is domiciled in a Foreign Country of Concern and is not a citizen or lawful permanent resident of the United States; or
- Any person, entity, or collection of persons or entities, described in the preceding paragraphs having a controlling interest in a partnership, association, corporation, organization, trust, or any other legal entity or subsidiary formed for the purpose of owning real property in Florida.

3. What Prohibitions are Imposed on a Foreign Principal by the Act?

- A Foreign Principal is prohibited from purchasing or acquiring any interest in Florida real property that is classified as “Agricultural Land”. F.S. § 692.202. The definition of “Agricultural Land” is set forth in Chapter 5J-27, Florida Administrative Code (see Appendix).
- A Foreign Principal (except one from the People’s Republic of China) is prohibited from purchasing or acquiring any interest in Florida real property that is located within 10 miles of a “Critical Infrastructure Facility” or “Military Installation”. F.S. § 692.203. The definition of “Critical Infrastructure Facility” and “Military Installation” is set forth in Chapter 73C-60, Florida Administrative Code (see Appendix). An aerial map of the proposed restricted areas in Miami-Dade, Broward and Palm Beach Counties is included in the Appendix.
- A Foreign Principal of the People’s Republic of China is prohibited from purchasing or acquiring **any** interest in any Florida real property. F.S. § 692.204.

4. Are There Any Exceptions to the Prohibitions under the Act?

Yes, the Act contains two exceptions that permit a Foreign Principal to purchase or acquire an interest in Florida real property, provided that the conditions and requirements of the applicable exceptions are met:

- If a Foreign Principal is a natural person they may purchase one residential real property parcel, up to 2 acres in size, if all of the following requirements apply:
 - The parcel is not on or within 5 miles of any Military Installation;
 - The buyer has a current verified United States visa that is not limited to authorizing tourist-based travel or has official documentation confirming that the buyer has been granted asylum in the United States and such visa or documentation authorizes the person to be legally present in Florida;

Continued on next page

4. Are There Any Exceptions to the Prohibitions under the Act? (cont'd)

- Title to the purchase is taken in the buyer's individual name (i.e. the name of the person who holds the visa or official documentation. No entity purchases are permitted); and
- The buyer is only entitled to own one residential property as described above.

If a Foreign Principal is acquiring Florida real property for diplomatic purposes as recognized, acknowledged, or allowed by the federal government, the Foreign Principal may purchase it. F.S. § 692.205.

5. Closing Requirements under the Act

The Act requires **all** Florida real estate buyers to provide an affidavit at the time of purchase attesting that either:

- The purchaser is not a Foreign Principal, or
- The purchaser is a Foreign Principal and is otherwise in compliance with the Act.

The Form of buyer's affidavits are set forth in Chapter 61J2-10.200. Florida Administrative Code (see Appendix).

Failure to obtain the affidavit does not affect the title or insurability of the title or subject the closing agent to civil or criminal liability, **unless the closing agent has actual knowledge that the transaction will result in a violation of the Act.** To comply with the Act, title insurance companies require the affidavit from the purchaser(s) in **all** real estate sale (or lease) transactions that occur on or after July 1, 2023, the effective date of the Act.

6. Title Insurance Concerns Arising from the Act

From a title insurance perspective, it is unnecessary for a commitment or policy to contain any specific requirements or exceptions pertaining to the Act but many title insurance companies include a requirement. The Act provides that failure to obtain an affidavit of compliance does not affect title or the insurability of title. Additionally, loss or damage due to a violation of the Act by an insured purchaser would be excluded from coverage under the Florida version of an owner's title insurance policy.

7. Other Act Provisions

The Act contains numerous other provisions of importance to a Foreign Principal. These include the following:

- The Act requires a Foreign Principal who acquires real property in compliance with the residential exception discussed above to register with the Florida Department of Commerce within 30 days after the property is acquired. Penalties for non-compliance may include fines, which could result in the Department placing a lien on the property.
- The Act provides for the forfeiture of the real property acquired or retained in violation of the Act. An action seeking forfeiture of the property by the State of Florida would vest title in the State, subject to any bona fide liens (including mortgages).
- The Act allows Foreign Principals who already own Florida real property prior to July 1, 2023, to continue their ownership provided they register. Agricultural Land must be registered with the Department of Agriculture and Consumer Services. All other types of real property must be registered with the Department of Commerce. Fines for non-compliance, including untimely registration, accrue and may constitute a lien on the property.

7. Other Act Provisions (cont'd)

- The Act allows a Foreign Principal to acquire Florida real property by devise, descent, through the enforcement of security interests, or through the collection of debts, provided the Foreign Principal divests such ownership within 3 years after acquiring the real property.
- The Act contains criminal penalties for violations of the Act by a Foreign Principal or a real property seller. Violations can result in criminal liability for all transaction participants, forfeiture of property to the State, and/or fines of up to \$1,000/day for failing to complete the necessary registration.

8. Legal Challenge to the New Law - *Shen v. Simpson*

On May 22, 2023, four Chinese citizens and a Florida real estate brokerage filed a federal lawsuit against the State in the U.S. District Court of the Northern District of Florida seeking (i) an order enjoining the State from enforcing the the Act, and (ii) a declaratory judgment that the new law is unconstitutional. The challenge is a coordinated effort with the American Civil Liberties Union, the ACLU of Florida, DeHeng Law Offices PC, the Asian American Legal Defense and Education Fund, and the Chinese American Legal Defense Alliance.

In addition, the U.S. Department of Justice (“DOJ”) filed an amicus brief in support of the plaintiffs. The DOJ also alleged that the Act violates the U.S. Constitution and Fair Housing Act, and it argued that the the Act is in direct contrast with existing federal regulations that address real property issues involving national security.

Continued on next page

8. Legal Challenge to the New Law - *Shen v. Simpson* (cont'd)

The State of Florida's arguments: First, the plaintiffs lack standing because the individuals are not subject to the Act and the real estate brokerage's purported injuries are speculative. Second, the statutory mechanisms for identifying the restricted properties are clear, and "the mere fact that close cases can be envisioned" does not make the law unconstitutional. Third, the restrictions on land ownership under the Act do not violate the Equal Protection Clause. Fourth, the plaintiffs cannot invoke the private cause of action or show discrimination under the Fair Housing Act. Finally, the State contends that the existing federal regulations restricting foreign ownership of land do not conflict or preempt the Act.

Twelve other states filed a joint amicus brief supporting the State's arguments. In the brief, the attorneys general of Idaho, Arkansas, Georgia, Indiana, Mississippi, Missouri, Montana, New Hampshire, North Dakota, South Carolina, South Dakota, and Utah all argued that the plaintiffs' claims fail under existing Supreme Court precedent; the Act does not discriminate on alienage, race, or national origin; federal law does not impliedly preempt the Act; and the Act lawfully addresses important issues of State policy.

8. Legal Challenge to the New Law - *Shen v. Simpson* (cont'd)

On August 17, 2023, the District Court denied the plaintiffs' motion for temporary injunction. The Court held that the plaintiffs did not show a substantial likelihood of prevailing on the merits and disagreed that the law violates the U.S. Constitution and the Fair Housing Act. The Court cited to a series of 100-year old U.S. Supreme Court cases that held states could deny **aliens** ownership interests in land within their respective borders absent an arbitrary or unreasonable basis. *Terrace v. Thompson*, 263 U.S. 197, 216-22 (1923); *Porterfield v. Webb*, 263 U.S. 225, 232-33 (1923); *Webb v. O'Brien*, 263 U.S. 313, 324-26 (1923); and *Frick v. Webb*, 263 U.S. 326, 332-34 (1923).

The plaintiffs appealed the District Court's order to the U.S. Court of Appeals for the Eleventh Circuit and are continuing to argue that the Act violates the Equal Protection Clause and the Fair Housing Act; it intrudes on the federal government's foreign affairs and powers; and it is unconstitutionally vague. The plaintiffs re-sought an injunction from the Eleventh Circuit, but they narrowed the scope to only the portions of the Act that directly affect them.

8. Legal Challenge to the New Law - *Shen v. Simpson* (cont'd)

On February 1, 2024, the Eleventh Circuit partially granted and partially denied the motion for an injunction pending appeal. The Eleventh Circuit determined that the plaintiffs are likely to succeed on their claim that the Act is preempted by federal law, particularly the Foreign Investment Risk Review Modernization Act of 2018. However, the motion was only granted as to two of the individual plaintiffs because they had pending real estate transactions at the time the Act was enacted and therefore, "the most imminent risk of irreparable harm in the absence of a stay." The motion for injunction was denied as to the remaining plaintiffs--leaving the Act in effect for them and everyone else impacted by the new law.

The Eleventh Circuit subsequently heard oral arguments from the parties on April 19, 2024, but it has yet to issue another ruling in the case. *Shen v. Simpson*, No. 4:23-cv-208-AW-MAF (N.D. Fla. 2023), appeal docketed, No. 23-12737 (11th Cir. Aug. 23, 2023).

9. The Unintended Impact on Business

Another area of concern not addressed in *Shen v. Simpson* is the impact the Act may have on institutional buyers and investors. The Act contains a narrow exemption allowing foreign principals to own a “de minimus indirect interest” in restricted properties, but there is no consensus on how the pertinent language should be interpreted. Moreover, without a clear indication of how the State is going to enforce the law, many investors may choose to avoid the potential risks altogether.

Prominent business leaders have voiced concerns that the Act may stifle investment in Florida. For example, Associated Industries of Florida President and CEO Brewster Bevis notified the Florida Department of Business and Professional Regulation on July 31, 2023, that the law is much broader in scope than the publicly stated intent, which could limit the freedom of Florida’s future growth. Citadel’s Ken Griffin also questioned the law and stated, “Florida is defined by its promise of freedom and economic opportunity, and our State government must continue to reflect and uphold these ideals. We support the freedom of individuals who are lawfully working in the U.S. to purchase homes and we will continue to advocate for those rights.”

10. Other State Law Restrictions on Foreign Ownership of Real Estate

Several other states have imposed various restrictions on foreign ownership of real estate. A survey of all 50 states summarizing which states have similar legal restrictions prepared is included in the Appendix.

APPENDIX

- A-1: Chapter 692 Florida Statutes,
Part III - Conveyances to Foreign
Entities (§ 692.201 - § 692.205)**
- A-2: Chapter 5J-27 - Agricultural Land**
- A-3: Chapter 73C-60 - Military and Critical
Infrastructure**
- A-4: Proposed Restricted Areas Under the Act**
- A-4: Chapter 61J2-10.200 - Form Buyer's
Affidavits**
- A-5: 50 State Survey; State Law Restrictions on the
Foreign Ownership of Real Estate**

Chapter 692.201 Definitions.

—As used in this part, the term:

- (1) “Agricultural land” means land classified as agricultural under s. 193.461.
- (2) “Critical infrastructure facility” means any of the following, if it employs measures such as fences, barriers, or guard posts that are designed to exclude unauthorized persons:
 - (a) A chemical manufacturing facility.
 - (b) A refinery.
 - (c) An electrical power plant as defined in s. 403.031(20).
 - (d) A water treatment facility or wastewater treatment plant.
 - (e) A liquid natural gas terminal.
 - (f) A telecommunications central switching office.
 - (g) A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas.
 - (h) A seaport as listed in s. 311.09.
 - (i) A spaceport territory as defined in s. 331.303(18).
 - (j) An airport as defined in s. 333.01.

692.201 Definitions.—As used in this part, the term: (cont'd)

- (3) “Foreign country of concern” means the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern.
- (4) “Foreign principal” means:
 - (a) The government or any official of the government of a foreign country of concern;
 - (b) A political party or member of a political party or any subdivision of a political party in a foreign country of concern;
 - (c) A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country of concern, or a subsidiary of such entity; or
 - (d) Any person who is domiciled in a foreign country of concern and is not a citizen or lawful permanent resident of the United States.
 - (e) Any person, entity, or collection of persons or entities, described in paragraphs (a) through (d) having a controlling interest in a partnership, association, corporation, organization, trust, or any other legal entity or subsidiary formed for the purpose of owning real property in this state.

692.201 Definitions.—As used in this part, the term: (cont'd)

- (5) “Military installation” means a base, camp, post, station, yard, or center encompassing at least 10 contiguous acres that is under the jurisdiction of the Department of Defense or its affiliates.
- (6) “Real property” means land, buildings, fixtures, and all other improvements to land.

History.—s. 4, ch. 2023-33.

692.202 Purchase of agricultural land by foreign principals prohibited.

- (1) A foreign principal may not directly or indirectly own, have a controlling interest in, or acquire by purchase, grant, devise, or descent agricultural land or any interest, except a de minimus indirect interest, in such land in this state. A foreign principal has a de minimus indirect interest if any ownership is the result of the foreign principal's ownership of registered equities in a publicly traded company owning the land and if the foreign principal's ownership interest in the company is either:
 - (a) Less than 5 percent of any class of registered equities or less than 5 percent in the aggregate in multiple classes of registered equities; or
 - (b) A noncontrolling interest in an entity controlled by a company that is both registered with the United States Securities and Exchange Commission as an investment adviser under the Investment Advisers Act of 1940, as amended, and is not a foreign entity.
- (2) A foreign principal that directly or indirectly owns or acquires agricultural land or any interest in such land in this state before July 1, 2023, may continue to own or hold such land or interest, but may not purchase or otherwise acquire by grant, devise, or descent any additional agricultural land or interest in such land in this state.

692.202 Purchase of agricultural land by foreign principals prohibited.

- (3)(a) A foreign principal that directly or indirectly owns or acquires agricultural land or any interest in such land in this state before July 1, 2023, must register with the Department of Agriculture and Consumer Services by January 1, 2024. The department must establish a form for such registration, which, at minimum, must include all of the following:
1. The name of the owner of the agricultural land or the owner of the interest in such land.
 2. The address of the agricultural land, the property appraiser's parcel identification number, and the property's legal description.
 3. The number of acres of the agricultural land.
- (b) A foreign principal that fails to timely file a registration with the department is subject to a civil penalty of \$1,000 for each day that the registration is late. The department may place a lien against the unregistered agricultural land for the unpaid balance of any penalties assessed under this paragraph.
- (4) Notwithstanding subsection (1), a foreign principal may acquire agricultural land on or after July 1, 2023, by devise or descent, through the enforcement of security interests, or through the collection of debts, provided that the foreign principal sells, transfers, or otherwise divests itself of the agricultural land within 3 years after acquiring the agricultural land.

692.202 Purchase of agricultural land by foreign principals prohibited.

(5)(a) At the time of purchase, a buyer of agricultural land or an interest in such land must provide an affidavit signed under penalty of perjury attesting that the buyer is:

1. Not a foreign principal; and
2. In compliance with the requirements of this section.

(b) The failure to obtain or maintain the affidavit does not:

1. Affect the title or insurability of the title for the agricultural land; or
2. Subject the closing agent to civil or criminal liability, unless the closing agent has actual knowledge that the transaction will result in a violation of this section.

(c) The Florida Real Estate Commission shall adopt rules to implement this subsection, including rules establishing the form for the affidavit required under this subsection.

692.202 Purchase of agricultural land by foreign principals prohibited.

- (6)(a) The agricultural land or an interest in such land that is owned or acquired in violation of this section may be forfeited to the state.
- (b) The Department of Agriculture and Consumer Services may initiate a civil action in the circuit court of the county in which the property lies for the forfeiture of the agricultural land or any interest therein.
 - (c) Upon filing such action, the clerk must record a lis pendens in accordance with s. 48.23. The court must advance the cause on the calendar. The defendant may at any time petition to modify or discharge the lis pendens based upon a finding that there is no probable cause to believe that the agricultural land, or any portion thereof, is owned or held in violation of this section.
 - (d) If the court finds that the agricultural land, or any portion thereof, is owned or held in violation of this section, the court must enter a final judgment of forfeiture vesting title to the agricultural land in this state, subject only to the rights and interests of bona fide lienholders, and such final judgment relates back to the date of the lis pendens.

692.202 Purchase of agricultural land by foreign principals prohibited.

- (e) The department may sell the agricultural land subject to a final judgment of forfeiture. Any proceeds from the sale must first be paid to any lienholders of the land, followed by payment of any outstanding fines assessed pursuant to this section, after which the department must be reimbursed for all costs related to the forfeiture civil action and any costs related to the sale of the land. Any remaining proceeds must be paid to the property owner.
- (f) At any time during the forfeiture proceeding, the department may seek an ex parte order of seizure of the agricultural land upon a showing that the defendant's control of the agricultural land constitutes a clear and present danger to the state.
- (7) A foreign principal that purchases or acquires agricultural land or any interest therein in violation of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
- (8) A person who knowingly sells agricultural land or any interest therein in violation of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
- (9) The Department of Agriculture and Consumer Services shall adopt rules to implement this section.

History.—s. 5, ch. 2023-33.

692.203 Purchase of real property on or around military installations or critical infrastructure facilities by foreign principals prohibited.

- (1) A foreign principal may not directly or indirectly own, or have a controlling interest in, or acquire by purchase, grant, devise, or descent any interest, except a de minimus indirect interest, in real property on or within 10 miles of any military installation or critical infrastructure facility in this state. A foreign principal has a de minimus indirect interest if any ownership is the result of the foreign principal's ownership of registered equities in a publicly traded company owning the land and if the foreign principal's ownership interest in the company is either:
 - (a) Less than 5 percent of any class of registered equities or less than 5 percent in the aggregate in multiple classes of registered equities; or
 - (b) A noncontrolling interest in an entity controlled by a company that is both registered with the United States Securities and Exchange Commission as an investment adviser under the Investment Advisers Act of 1940, as amended, and is not a foreign entity.
- (2) A foreign principal that directly or indirectly owns or acquires any interest in real property on or within 10 miles of any military installation or critical infrastructure facility in this state before July 1, 2023, may continue to own or hold such real property, but may not purchase or otherwise acquire by grant, devise, or descent any additional real property on or within 10 miles of any military installation or critical infrastructure facility in this state.

692.203 Purchase of real property on or around military installations or critical infrastructure facilities by foreign principals prohibited.

- (3)(a) A foreign principal must register with the Department of Economic Opportunity if the foreign principal owns or acquires real property on or within 10 miles of any military installation or critical infrastructure facility in this state as authorized under subsection (4) or if the foreign principal owned or acquired an interest, other than a de minimus indirect interest, in such property before July 1, 2023. The department must establish a form for such registration which, at a minimum, must include all of the following:
1. The name of the owner of the real property.
 2. The address of the real property, the property appraiser's parcel identification number, and the property's legal description.
- (b) foreign principal that fails to timely file a registration with the department is subject to a civil penalty of \$1,000 for each day that the registration is late. A foreign principal must register a property interest owned before July 1, 2023, by December 31, 2023. The registration is considered to be late after January 31, 2024. A foreign principal who owns or acquires real property on or after July 1, 2023, as authorized under subsection (4), must register the real property within 30 days after the property is owned or acquired. The department may place a lien against the unregistered real property for the unpaid balance of any penalties assessed under this paragraph.

692.203 Purchase of real property on or around military installations or critical infrastructure facilities by foreign principals prohibited.

- (4) Notwithstanding subsection (1), a foreign principal who is a natural person may purchase one residential real property that is up to 2 acres in size if all of the following apply:
 - (a) parcel is not on or within 5 miles of any military installation in this state.
 - (b) The person has a current verified United States Visa that is not limited to authorizing tourist-based travel or official documentation confirming that the person has been granted asylum in the United States, and such visa or documentation authorizes the person to be legally present within this state.
 - (c) The purchase is in the name of the person who holds the visa or official documentation described in paragraph (b).
- (5) Notwithstanding subsections (1) and (2), a foreign principal may acquire real property or any interest therein which is on or within 10 miles of any military installation or critical infrastructure facility in this state on or after July 1, 2023, by devise or descent, through the enforcement of security interests, or through the collection of debts, provided that the foreign principal sells, transfers, or otherwise divests itself of such real property within 3 years after acquiring the real property.

692.203 Purchase of real property on or around military installations or critical infrastructure facilities by foreign principals prohibited.

- (6)(a) At the time of purchase, a buyer of the real property that is on or within 10 miles of any military installation or critical infrastructure facility in this state must provide an affidavit signed under penalty of perjury attesting that the buyer is:
1. Not a foreign principal or not a foreign principal prohibited from purchasing the subject real property; and
 2. In compliance with the requirements of this section.
- (b) The failure to obtain or maintain the affidavit does not:
1. Affect the title or insurability of the title for the real property; or
 2. Subject the closing agent to civil or criminal liability, unless the closing agent has actual knowledge that the transaction will result in a violation of this section.
- (c) The Florida Real Estate Commission shall adopt rules to implement this subsection, including rules establishing the form for the affidavit required under this subsection.

692.203 Purchase of real property on or around military installations or critical infrastructure facilities by foreign principals prohibited.

- (7)(a) If any real property is owned or acquired in violation of this section, the real property may be forfeited to the state.
- (b) The Department of Economic Opportunity may initiate a civil action in the circuit court of the county in which the property lies for the forfeiture of the real property or any interest therein.
- (c) Upon filing such action, the clerk must record a lis pendens in accordance with s. 48.23. The court must advance the cause on the calendar. The defendant may at any time petition to modify or discharge the lis pendens based upon a finding that there is no probable cause to believe that the real property, or any portion thereof, is owned or held in violation of this section.
- (d) If the court finds that the real property, or any portion thereof, is owned or held in violation of this section, the court must enter a final judgment of forfeiture vesting title to the real property in this state, subject only to the rights and interests of bona fide lienholders, and such final judgment relates back to the date of the lis pendens.
- (e) The department may sell the real property subject to a final judgment of forfeiture. Any proceeds from the sale must first be paid to any lienholders of the land, followed by payment of any outstanding fines assessed pursuant to this section, after which the department must be reimbursed for all costs related to the forfeiture civil action and any costs related to the sale of the land. Any remaining proceeds must be paid to the property owner.
- (f) At any time during the forfeiture proceeding, the department may seek an ex parte order of seizure of the real property upon a showing that the defendant's control of the real property constitutes a clear and present danger to the state.

692.203 Purchase of real property on or around military installations or critical infrastructure facilities by foreign principals prohibited.

- (8) A foreign principal that purchases or acquires real property or any interest therein in violation of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
- (9) A person who knowingly sells real property or any interest therein in violation of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
- (10) The Department of Economic Opportunity shall adopt rules to implement this section.

History.—s. 6, ch. 2023-33.

692.204 Purchase or acquisition of real property by the People's Republic of China prohibited.

- (1)(a) The following persons or entities may not directly or indirectly own, have a controlling interest in, or acquire by purchase, grant, devise, or descent any interest, except a de minimus indirect interest, in real property in this state:
1. The People's Republic of China, the Chinese Communist Party, or any official or member of the People's Republic of China or the Chinese Communist Party.
 2. Other political party or member of a political party or a subdivision of a political party in the People's Republic of China.
 3. A partnership, an association, a corporation, an organization, or any other combination of persons organized under the laws of or having its principal place of business in the People's Republic of China, or a subsidiary of such entity.
 4. Any person who is domiciled in the People's Republic of China and who is not a citizen or lawful permanent resident of the United States.
 5. Any person, entity, or collection of persons or entities described in subparagraphs 1. through 4. having a controlling interest in a partnership, association, corporation, organization, trust, or any other legal entity or subsidiary formed for the purpose of owning real property in this state.

692.204 Purchase or acquisition of real property by the People's Republic of China prohibited.

- (b) A person or entity has a de minimus indirect interest if any ownership is the result of the person's or entity's ownership of registered equities in a publicly traded company owning the land and if the person's or entity's ownership interest in the company is either:
 - 1. Less than 5 percent of any class of registered equities or less than 5 percent in the aggregate in multiple classes of registered equities; or
 - 2. A noncontrolling interest in an entity controlled by a company that is both registered with the United States Securities and Exchange Commission as an investment adviser under the Investment Advisers Act of 1940, as amended, and is not a foreign entity.
- (2) Notwithstanding subsection (1), a natural person described in paragraph (1)(a) may purchase one residential real property that is up to 2 acres in size if all of the following apply:
 - (a) The parcel is not on or within 5 miles of any military installation in this state.
 - (b) The person has a current verified United States Visa that is not limited to authorizing tourist-based travel or official documentation confirming that the person has been granted asylum in the United States and such visa or documentation authorizes the person to be legally present within this state.
 - (c) The purchase is in the name of the person who holds the visa or official documentation described in paragraph (b).

692.204 Purchase or acquisition of real property by the People's Republic of China prohibited.

- (3) A person or entity described in paragraph (1)(a) that directly or indirectly owns or acquires any interest in real property in this state before July 1, 2023, may continue to own or hold such real property, but may not purchase or otherwise acquire by grant, devise, or descent any additional real property in this state.
- (4)(a) A person or entity described in paragraph (1)(a), subsection (2), or subsection (5) must register with the Department of Economic Opportunity if the person or entity owns or acquires more than a de minimus indirect interest in real property in this state. The department must establish a form for such registration which, at a minimum, must include all of the following:
1. The name of the owner of the real property.
 2. The address of the real property, the property appraiser's parcel identification number, and the property's legal description.
- (b) A person or entity that fails to timely file a registration with the department is subject to a civil penalty of \$1,000 for each day that the registration is late. The person or entity subject to the registration requirements must register the property or property interests owned or acquired before July 1, 2023, by December 31, 2023. The registration is considered to be late 30 days after January 31, 2024. A person or entity that owns or acquires real property or an interest in real property as authorized under subsection (2) or subsection (5), other than a de minimus indirect interest, on or after July 1, 2023, must register the real property or interest within 30 days after the property or interest is owned or acquired. The department may place a lien against the unregistered real property for the unpaid balance of any penalties assessed under this paragraph.

Continued on next page

692.204 Purchase or acquisition of real property by the People’s Republic of China prohibited.

- (5) Notwithstanding subsection (1), a person or an entity described in paragraph (1)(a) may acquire real property in this state on or after July 1, 2023, by devise or descent, through the enforcement of security interests, or through the collection of debts, provided that the person or entity sells, transfers, or otherwise divests itself of such real property within 3 years after acquiring the real property, unless the person or entity is exempt under s. 692.205.
- (6)(a) At the time of purchase, a buyer of real property in this state must provide an affidavit signed under penalty of perjury attesting that the buyer is:
1. Not a person or entity described in paragraph (1)(a) or that the buyer is a person described in paragraph (1)(a) but is authorized under subsection (2) to purchase the subject property; and
 2. In compliance with the requirements of this section.
- (b) The failure to obtain or maintain the affidavit does not:
1. Affect the title or insurability of the title for the real property; or
 2. Subject the closing agent to civil or criminal liability, unless the closing agent has actual knowledge that the transaction will result in a violation of this section.
- (c) The Florida Real Estate Commission shall adopt rules to implement this subsection, including rules establishing the form for the affidavit required under this subsection.

692.204 Purchase or acquisition of real property by the People's Republic of China prohibited.

- (7)(a) If any real property is owned or acquired in violation of this section, the real property may be forfeited to the state.
- (b) The Department of Economic Opportunity may initiate a civil action in the circuit court of the county in which the property lies for the forfeiture of the real property or any interest therein.
- (c) Upon filing such action, the clerk must record a lis pendens in accordance with s. 48.23. The court must advance the cause on the calendar. The defendant may at any time petition to modify or discharge the lis pendens based upon a finding that there is no probable cause to believe that the real property, or any portion thereof, is owned or held in violation of this section.
- (d) If the court finds that the real property, or any portion thereof, is owned or held in violation of this section, the court must enter a final judgment of forfeiture vesting title to the real property in this state, subject only to the rights and interests of bona fide lienholders, and such final judgment relates back to the date of the lis pendens.
- (e) The department may sell the real property subject to a final judgment of forfeiture. Any proceeds from the sale must first be paid to any lienholders of the land, followed by payment of any outstanding fines assessed pursuant to this section, after which the department must be reimbursed for all costs related to the forfeiture civil action and any costs related to the sale of the land. Any remaining proceeds must be paid to the property owner.
- (f) At any time during the forfeiture proceeding, the department may seek an ex parte order of seizure of the real property upon a showing that the defendant's control of the real property constitutes a clear and present danger to the state.

Continued on next page

692.204 Purchase or acquisition of real property by the People’s Republic of China prohibited.

- (8) A violation of this section constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (9) A person who knowingly sells real property or any interest therein in violation of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
- (10) The Department of Economic Opportunity shall adopt rules to implement this section.

History.—s. 7, ch. 2023-33.

692.205 Inapplicability of this part to real property for diplomatic purposes.

This part does not apply to a foreign principal that acquires real property for a diplomatic purpose that is recognized, acknowledged, or allowed by the Federal Government.

History.—s. 8, ch. 2023-33.

Chapter 5J-27 - Agricultural Land

FOREIGN OWNERSHIP OF AGRICULTURAL LAND

5J-27.001	Definitions
5J-27.002	Agricultural Land Transactions Prior to July 1, 2023.
5J-27.003	Registration
5J-27.004	Fines
5J-27.005	Liens
5J-27.006	Rebuttable Presumption

5J-27.001 Definitions.

For the purpose of administering section 692.202, F.S., and these rules, the following definitions apply:

- (1) “Clear and present danger” means an immediate danger to the public health, safety, or welfare or other substantial loss to the state.
- (2) For the purpose of interpreting the definition of “foreign principal” in section 692.201(4), F.S., “controlling interest” has the same meaning as defined in section 287.138(1)(a), F.S. Individuals approved by the federal government to participate in the EB-5 Program are excluded from this definition.

5J-27 - Agricultural Land (cont'd)

FOREIGN OWNERSHIP OF AGRICULTURAL LAND

(3) For the purpose of administering section 692.202(1), F.S., “controlling interest in agricultural land” means any interest which gives the foreign principal two or more of the following rights, whether or not the rights are exercised or shared concurrently with any other person, and whether or not the underlying agricultural land is subject to an easement or other encumbrance:

- (a) To physically access the agricultural land;
- (b) To exclude others from physically accessing the agricultural land;
- (c) To improve or develop the agricultural land; or
- (d) To attach fixed or immovable structures or objects to the agricultural land.

(4) “De Minimis Indirect Interest” has the same meaning as defined in section 692.202(1), F.S.

(5) “Department” means the Florida Department of Agriculture and Consumer Services.

(6) “Directly own” means the foreign principal holds equitable or legal title to the agricultural land in their own name.

(7) “Domicile” means the place where the individual is physically present and intends to remain permanently or indefinitely.

5J-27 - Agricultural Land (cont'd)

FOREIGN OWNERSHIP OF AGRICULTURAL LAND

(8) “Indirectly own” means the foreign principal has an interest in an entity that has equitable or legal title to the agricultural land; or the foreign principal has an interest in the agricultural land, but the equitable or legal title to the agricultural land is held by another entity or individual.

(9) “Interest in agricultural land” means all or part of an equitable or legal title to the agricultural land.

(10) “Official documentation” means documentation issued by U.S. Citizenship and Immigration Services.

(11) “Own” means to have equitable or legal title to the agricultural land.

Rulemaking Authority 692.202(9), 570.07(23) FS. Law Implemented 692.202, FS. History–New 4-4-24.

5J-27.002 Agricultural Land Transactions Prior to July 1, 2023.

A foreign principal that executed a contract for the purchase of agricultural land in the state of Florida prior to July 1, 2023, may own or acquire the agricultural land that is the subject of the contract on or after July 1, 2023. Such individuals are required to register pursuant to rule 5J-27.003, F.A.C.

Rulemaking Authority 692.202(9), 570.07(23) FS. Law Implemented 692.202, FS. History–New 4-4-24.

5J-27 - Agricultural Land (cont'd)

FOREIGN OWNERSHIP OF AGRICULTURAL LAND

5J-27.003 Registration.

(1) Registration for Agricultural Land Owned or Acquired Prior to July 1, 2023:

- (a) A foreign principal who owns or acquires a legal or equitable interest, other than a de minimis indirect interest, in agricultural land or any interest in such land in Florida prior to July 1, 2023, must register with the Department in accordance with this rule.
- (b) A foreign principal must register with the Department on or before January 1, 2024, to be deemed timely registered. A foreign principal is not required to register if the foreign principal fully divests their interest in agricultural land prior to January 1, 2024.
- (c) A foreign principal who registers after January 31, 2024, shall be deemed late and will have fines assessed in accordance with rule 5J-27.004, F.A.C.
- (d) A foreign principal who registers more than 30 days after the agricultural land is owned or acquired shall be deemed late and will have fines assessed in accordance with rule 5J-27.004, F.A.C.

5J-27 - Agricultural Land (cont'd)

FOREIGN OWNERSHIP OF AGRICULTURAL LAND

(2) Registration for Agricultural Land Acquired on or After July 1, 2023, as authorized under section 692.202(4), F.S.:

(a) A foreign principal who acquires agricultural land or any interest in such land, other than a de minimis indirect interest, on or after July 1, 2023, by devise or descent, through the enforcement of security interests, or through the collection of debts, must register with the Department within 30 days after the property is owned or acquired by the foreign principal.

(b) If the foreign principal acquired the agricultural land or any interest therein between July 1, 2023, and the effective date of this rule, the foreign principal will have 30 days from the effective date of this rule to register with the Department to be deemed timely registered.

(c) The foreign principal must submit an updated registration form within three years of acquiring the agricultural land demonstrating the sale, transfer, or other divestment of such agricultural land.

(d) A foreign principal who registers more than 30 days after the agricultural land is owned or acquired shall be deemed late and will have fines assessed in accordance with rule 5J-27.004, F.A.C.

5J-27 - Agricultural Land (cont'd)

FOREIGN OWNERSHIP OF AGRICULTURAL LAND

(3) Registration Method:

A foreign principal required to register agricultural land must submit FDACS-10993, Agricultural Land Owned by a Foreign Principal, 12/23, hereby incorporated by reference, or by using the online registration system on the Department's website at <https://www.fdacs.gov>. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500 or accessed online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-16510>

(4) Updated Registrations:

(a) A foreign principal must update their registration with the Department if any of the following occur:

1. The foreign principal sold the agricultural land;
2. The foreign principal no longer owns the agricultural land;
3. The foreign principal's agricultural land is no longer classified as agricultural under section 193.461, F.S.;
4. The foreign principal no longer has any interest in the agricultural land; or
5. The foreign principal no longer meets the definition of a foreign principal as that term is defined in section 692.201, F.S.

5J-27 - Agricultural Land (cont'd)

FOREIGN OWNERSHIP OF AGRICULTURAL LAND

(b) A foreign principal's registration must be updated using the online registration system on the Department's website at <https://www.fdacs.gov/.online> or by written notification to the Department of Agriculture and Consumer Services, Division of Consumer Services, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500.

(5) The prohibition and registration requirements prescribed by section 692.202, F.S., shall not apply with respect to any interest that is a de minimis indirect interest.

Rulemaking Authority 692.202(9), 570.07(23) FS. Law Implemented 69 .202, FS. History–New 4-4-24.

5J-27.004 Fines.

(1) The Department will impose a \$1,000 fine against the foreign principal for each day that the registration is late. The registration will be deemed late if it is filed more than 30 days after the agricultural land is owned or acquired by the foreign principal or as otherwise provided for by this rule.

(2) The Department will issue a notice of violation to any foreign principal found in violation of section 692.202(3)(a), F.S., prior to final agency action. Such notice will include hearing rights pursuant to section 120.569, F.S.

(3) Fines imposed are due and payable to the Department within 30 days of entry of the final order unless otherwise stated in the final order.

Rulemaking Authority 692.202(9), 570.07(23) FS. Law Implemented 692.202, FS. History–New 4-4-24

5J-27 - Agricultural Land (cont'd)

FOREIGN OWNERSHIP OF AGRICULTURAL LAND

5J-27.005 Liens.

- (1) The Department may place a lien on the foreign principal's agricultural land for any fines that are not paid within 30 days of entry of the final order unless otherwise stated in the final order.
- (2) Any correspondence related to the release of liens pursuant to this rule should be directed to the Department of Agriculture and Consumer Services, Division of Consumer Services, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500.

Rulemaking Authority 692.202(9), 570.07(23) FS. Law Implemented 692.202, FS. History—New 4-4-24.

5J-27.006 Rebuttable Presumption.

- (1) A closing agent who relies on and maintains a copy of the affidavit specified in section 692.202(5), F.S., has established a rebuttable presumption that the closing agent did not have actual knowledge that the real estate transaction violated section 692.202, F.S.
- (2) A seller of agricultural land who relies on and maintains a copy of the affidavit specified in section 692.202(5), F.S., has established a rebuttable presumption that the seller did not have actual knowledge that the real estate transaction violated section 692.202, F.S.

Rulemaking Authority 692.202(9), 570.07(23) FS. Law Implemented 692.202, FS. History—New 4-4-24.

Chapter 73C-60

Community Planning; Purchase Of Real Property On Or Around Military Installations Or Critical Infrastructure Facilities By Foreign Principals

73C-60.001 Definitions

73C-60.002 Real Estate Transactions Prior to July 1, 2023

73C-60.003 Registration

73C-60.004 Computation of Time

73C-60.005 Fines

73C-60.006 Liens

73C-60.007 Rebuttable Presumptions

73C-60.001 Definitions.

For the purpose of administering section 692.203, F.S., and these rules, the following definitions apply:

- (1) “Clear and present danger” means an immediate danger to the public health, safety, or welfare or other substantial loss to the state.
- (2) For the purpose of interpreting the definition of “foreign principal” in section 692.201(4), F.S., “controlling interest” has the same meaning as defined in section 287.138(1)(a), F.S.

CHAPTER 73C-60 (cont'd)

- (3) For the purpose of administering section 692.203(1), F.S., “controlling interest in real property” means any interest other than a lease which gives the foreign principal both of the following rights, whether or not the rights are exercised or shared concurrently with any other person, and whether or not the underlying real property is subject to an easement or other encumbrance:
- (a) The right to improve or develop the real property; and
 - (b) The right to attach fixed or immovable structures or objects to the real property.
- (4) “De minimis indirect interest” means:
- (a) Any interest that is the result of the foreign principal’s ownership of either:
 - 1. Registered equities in a publicly traded company owning the land and such ownership interest is less than 5 percent of any class of registered equities or less than 5 percent in the aggregate in multiple classes of registered equities; or
 - 2. An interest that is not a controlling interest as defined in section 287.138(1)(a), F.S., in an entity controlled by a company that is both registered with the United States Securities and Exchange Commission as an investment advisor under the Investment Advisers Act of 1940, as amended, and is not a foreign entity.
 - (b) Any passive ownership interest of a foreign principal in an entity, provided that the foreign principal does not possess, by virtue of that ownership interest or otherwise, the power to direct or cause the direction of the management or policies of the entity with respect to the interest in real property.

CHAPTER 73C-60 (cont'd)

- (5) “Department” means the Florida Department of Commerce.
- (6) “Directly own” means the foreign principal holds equitable or legal title to the real property in their own name.
- (7) “Domicile” means the place where the individual is physically present and intends to remain permanently or indefinitely.
- (8) “Foreign principal” has the same meaning as defined in section 692.201(4), F.S. Individuals approved by the federal government to participate in the EB-5 Program are excluded from this definition.
- (9) “Indirectly own” means the foreign principal has an interest in an entity that has equitable or legal title to the real property; or the foreign principal has an interest in the real property, but the equitable or legal title to the real property is held by another entity or individual.
- (10) “Interest in real property” means all or part of an equitable or legal title to the real property and does not include a lease.
- (11) “Official documentation” means documentation issued by U.S. Citizenship and Immigration Services.
- (12) “Own” means to have equitable or legal title to the real property.

CHAPTER 73C-60 (cont'd)

Rulemaking Authority 692.203(10) FS. Law Implemented 692.203 FS. History—New 1-4-24.

73C-60.002 Real Estate Transactions Prior to July 1, 2023.

A foreign principal that executed a contract for the purchase of real property in the State of Florida prior to July 1, 2023, may own or acquire the real property that is the subject of the contract on or after July 1, 2023. Such real property must be registered with the Department in accordance with rule 73C-60.003, F.A.C.

Rulemaking Authority 692.203(10) FS. Law Implemented 692.203 FS. History—New 1-4-24.

CHAPTER 73C-60 (cont'd)

73C-60.003 Registration.

- (1) The Department will provide a means, accessible through the Department's website at www.floridajobs.org, for individuals to determine the proximity of real property to a military installation or a critical infrastructure facility in Florida.
- (2) Registration for Real Property Owned or Acquired Prior to July 1, 2023:
 - (a) A foreign principal who owns or acquires an interest, other than a de minimis indirect interest, in real property on or within 10 miles of any military installation or critical infrastructure facility in Florida prior to July 1, 2023, must register with the Department in accordance with this rule.
 - (b) A foreign principal must register with the Department on or before December 31, 2023, to be deemed timely registered.
 - (c) A foreign principal who registers after January 31, 2024, shall be deemed late and will have fines assessed in accordance with rule 73C-60.005, F.A.C.

CHAPTER 73C-60 (cont'd)

- (3) Registration for Real Property Purchased on or After July 1, 2023, as Authorized Under Section 692.203(4), F.S.:
- (a) A foreign principal who is a natural person who purchases, other than a de minimis indirect interest, one residential real property that is 2 acres or less and is on or within 10 miles of any military installation or critical infrastructure facility in Florida but is not on or within 5 miles of any military installation on or after July 1, 2023, must register with the Department within 30 days after the property is owned or acquired.
 - (b) If the foreign principal who is a natural person purchases the real property between July 1, 2023, and the effective date of this rule, the foreign principal will have 30 days from the effective date of this rule to register with the Department to be deemed timely registered.

CHAPTER 73C-60 (cont'd)

- (4) Registration for Real Property Acquired on or After July 1, 2023, as Authorized Under Section 692.203(5), F.S.:
- (a) A foreign principal who acquires real property or any interest therein, other than a de minimis indirect interest, on or after July 1, 2023, by devise or descent, through the enforcement of security interests, or through the collection of debts, must register with the Department within 30 days after the property is owned or acquired by the foreign principal.
 - (b) If the foreign principal acquired the real property or any interest therein between July 1, 2023, and the effective date of this rule, the foreign principal will have 30 days from the effective date of this rule to register with the Department to be deemed timely registered.
 - (c) The foreign principal must submit an updated registration Form COM-73C-60, Foreign Principal Real Property Registration Form, effective 01/2024, which is incorporated by reference and available at <http://flrules.org/Gateway/reference.asp?No=Ref-16302> or, when available, using the online registration system on the Department's website at <http://www.floridajobs.org>, within three years of acquiring the real property demonstrating the sale, transfer, or other divestment of such real property.
 - (d) A foreign principal who registers more than 30 days after the real property is owned or acquired shall be deemed late and will have fines assessed in accordance with rule 73C-60.005, F.A.C.

CHAPTER 73C-60 (cont'd)

(5) Registration for Real Estate Contracts:

(a) A foreign principal who obtains equitable title by executing a real estate contract with the obligation of closing to obtain legal title within 90 days shall register the real property that is the subject of the contract within 30 days of acquiring legal title. A foreign principal who obtains equitable title by executing a real estate contract without the obligation of closing to obtain legal title within 90 days shall register the real property that is the subject of the contract within 120 days of acquiring equitable title.

(6) Registration Method:

(a) Each foreign principal who is required to register their real property with the Department must do so either by utilizing and submitting Form COM-73C-60, Foreign Principal Real Property Registration Form, effective 01/2024, which is incorporated by reference and available on the internet at: <http://flrules.org/Gateway/reference.asp?No=Ref-16302> or, when available, using the online registration system on the Department's website at <http://www.floridajobs.org>.

CHAPTER 73C-60 (cont'd)

(7) Updated Registrations:

- (a) A foreign principal must update their registration with the Department if any of the following occur:
 1. The foreign principal sold the real property;
 2. The foreign principal no longer owns the real property;
 3. The foreign principal's real property is no longer within 10 miles of any military installation or critical infrastructure facility in Florida;
 4. The foreign principal no longer has any interest in the real property; or
 5. The foreign principal no longer meets the definition of a foreign principal as that term is defined in section 692.201, F.S.
- (b) A foreign principal's registration must be updated by either submitting Form COM-73C-60, Foreign Principal Real Property Registration Form, effective 01/2024, which is incorporated by reference and available at <http://flrules.org/Gateway/reference.asp?No=Ref-16302> or, when available, using the online registration system on the Department's website at <http://www.floridajobs.org>.
- (c) A foreign principal who fails to file an updated registration as required by this rule is not subject to the penalties imposed by section 692.203, F.S., or Department of Commerce Rules 73C-60.005 and 73C-60.006, F.A.C.

CHAPTER 73C-60 (cont'd)

- (b) A foreign principal's registration must be updated by either submitting Form COM-73C-60, Foreign Principal Real Property Registration Form, effective 01/2024, which is incorporated by reference and available at <http://flrules.org/Gateway/reference.asp?No=Ref-16302> or, when available, using the online registration system on the Department's website at <http://www.floridajobs.org>.
 - (c) A foreign principal who fails to file an updated registration as required by this rule is not subject to the penalties imposed by section 692.203, F.S., or Department of Commerce Rules 73C-60.005 and 73C-60.006, F.A.C.
- (8) The prohibition and registration requirements prescribed by section 692.203, F.S., shall not apply with respect to any interest that is a de minimis indirect interest.

Rulemaking Authority 692.203(10) FS. Law Implemented 692.203 FS. History—New 1-4-24.

CHAPTER 73C-60 (cont'd)

73C-60.004 Computation of Time.

In computing the 30 days prescribed in section 692.203(3)(b), F.S., and these rules, the day of the act from which the period of time begins to run will not be included. The last day of the period must be included unless it is a Saturday, Sunday, or legal holiday as prescribed by section 110.117, F.S., in which event the period shall run until the end of the next business day.

Rulemaking Authority 692.203(10) FS. Law Implemented 692.203 FS. History—New 1-4-24.

CHAPTER 73C-60 (cont'd)

73C-60.005 Fines.

- (1) The Department will impose a \$1,000 fine against the foreign principal for each day that the registration is late. Except as provided in section 692.203(3)(b), F.S., the registration will be deemed late if it is filed more than 30 days after the real property is owned or acquired by the foreign principal.
- (2) The Department will issue a notice of violation to any foreign principal found in violation of section 692.203(3), F.S., prior to final agency action. Such notice will include hearing rights pursuant to section 120.569, F.S.
- (3) Fines imposed are due and payable to the Department within 30 days of entry of the final order unless otherwise stated in the final order.

Rulemaking Authority 692.203(10) FS. Law Implemented 692.203 FS. History—New 1-4-24.

CHAPTER 73C-60 (cont'd)

73C-60.006 Liens.

The Department may place a lien on the foreign principal's real property for any fines that are not paid within 30 days of entry of the final order unless otherwise stated in the final order.

Rulemaking Authority 692.203(10) FS. Law Implemented 692.203 FS. History—New 1-4-24.

CHAPTER 73C-60 (cont'd)

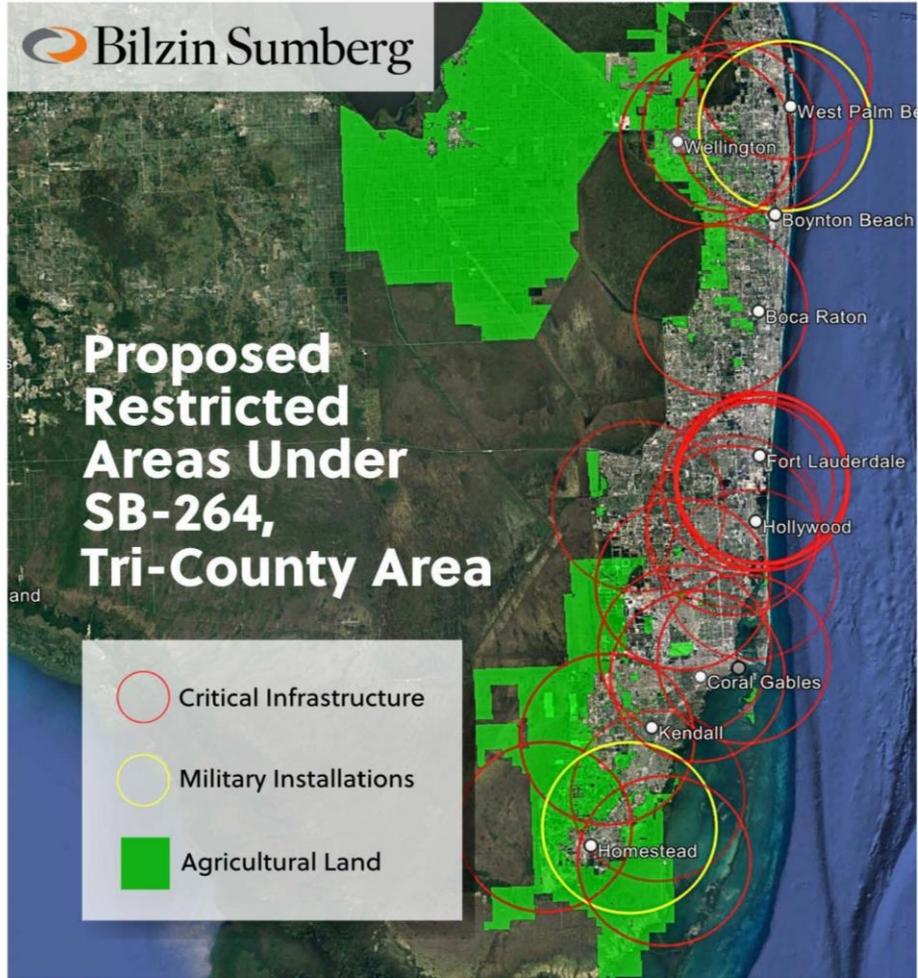
73C-60.007 Rebuttable Presumption.

- (1) A closing agent who relies on and maintains the affidavit specified in section 692.203(6), F.S., has established a rebuttable presumption that the closing agent did not have actual knowledge that the real estate transaction violated section 692.203, F.S.
- (2) A seller of real property who relies on and maintains the affidavit specified in section 692.203(6), F.S., has established a rebuttable presumption that the seller did not have actual knowledge that the real estate transaction violated section 692.203, F.S.

Rulemaking Authority 692.203(10) FS. Law Implemented 692.203 FS. History—New 1-4-24.

Proposed Restricted Areas Under the Act

A - 4
P
P
E
N
D
I
X



Chapter 61J2-10.200 Buyer's Affidavits; Form

In order to implement sections 692.202(5)(c), 692.203(6)(c), and 692.204(6)(c), Florida Statutes, the Commission hereby establishes the following Forms of Affidavits of Buyers of Property:

- (1) Buyer's Affidavits. At the time of purchase, buyers of real property shall sign an affidavit under penalty of perjury attesting to the requirements of sections 692.202-205, Florida Statutes. Such affidavits shall be signed by the buyers at the time of closing.
- (2) Individual buyers shall use the following Affidavit, Part III, Ch. 692 F.S. – Conveyances to Foreign Entities – By Natural Person Buyer.

61J2-10.200 Buyer's Affidavits; Form

Affidavit

[Part III, Ch. 692 F.S. - Conveyances to Foreign Entities - By Natural Person Buyer]

BEFORE ME, the undersigned authority, duly authorized to take acknowledgments and administer oaths, personally appeared _____ (“Affiant”), who deposes and says under penalties of perjury that:

(When used “Affiant” includes singular or plural as context so requires or admits.)

1. Affiant is purchasing or acquiring an interest in the following described real property:

[Insert Legal Description]

2. Affiant has been given the opportunity to consult with an attorney.

3. Affiant is (initial which is applicable):

Not a Foreign Principal as defined in s. 692.201, F.S., and is in compliance with the requirements set out in ss. 692.202-205, F.S.

OR

A Foreign Principal as defined in s. 692.201, F.S., and is in compliance with the requirements set out in ss. 692.202-205, F.S.

4. Affiant acknowledges the foregoing representations will be relied upon to establish compliance with the law.

(Affiant)

Print Name: _____

Address: _____

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me by means of [] physical presence or [] online notarization this ____ day of _____, 20____, by _____ who [] is personally known or [] has produced _____ as identification.

[Notary Seal]

Notary Public

Printed Name: _____

My Commission Expires: _____

61J2-10.200 Buyer’s Affidavits; Form

(3) Entity buyers shall use the following Affidavit Part III, Ch. 692 F.S. - Conveyances to Foreign Entities - By Entity Buyer.

Affidavit

[Part III, Ch. 692 F.S. - Conveyances to Foreign Entities - By Entity Buyer]

BEFORE ME, the undersigned authority, duly authorized to take acknowledgments and administer oaths, personally appeared _____ (“Affiant”) who deposes and says under penalties of perjury that:

(When used “Affiant” and “Buyer” include singular or plural as context so requires or admits.)

1. Affiant is the [state official capacity] of [state name/type/venue of entity], which is hereinafter referred to as “Buyer.” All statements in Lines 4 through 5 below are made solely with respect to the Buyer and any holder of a “Controlling Interest” in the Buyer (as defined in s. 287.138(1)(a), F.S.), in each case solely with respect to the real property identified in Line 2.

2. Buyer is purchasing or acquiring an interest in the following described real property:

[Insert Legal Description]

3. Affiant has been given the opportunity to consult with an attorney.

4. Buyer is (initial which is applicable):

Not a Foreign Principal as defined in s. 692.201, F.S., and is in compliance with the requirements set out in ss. 692.202-205, F.S.

OR

A Foreign Principal as defined in s. 692.201, F.S., and is in compliance with the requirements set out in ss. 692.202-205, F.S.

5. Affiant acknowledges the foregoing representations will be relied upon to establish compliance with the law.

(Affiant)
Print Name: _____
Official Capacity: _____
Name of Buyer: _____
Address: _____

61J2-10.200 Buyer's Affidavits; Form

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization this ____ day of _____, 20____, by _____ who is personally known or has produced _____ as identification.

[Notary Seal]

Notary Public

Printed Name: _____

My Commission Expires: _____

Rulemaking Authority 692.202(5)(c), 692.203(6)(c) FS. Law Implemented 692.202, 692.203 FS. History—New 1-17-24.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Alabama It is unlawful for a Foreign Principle (as defined below) to acquire title to, or acquire a controlling interest in, Agricultural and Forest Property or Real Property within 10 miles of a Military Installation or Critical Infrastructure Facility. Ala. Stat. § 35-1-1.1.

A Foreign Principle is defined as any government, government official, political party, or member of a political party of a Country of Concern, which is defined as China, Iran, North Korea, or Russia. Also included is any country or government on any sanctions list of the Office of Foreign Assets Control. The law excludes Taiwan. Ala. Stat. § 35-1-1.1.

Alaska We find that there are no state laws restricting the foreign ownership of real estate.

We find that there are no bills restricting the foreign ownership of real estate currently being considered by the Alaska legislature.

Arizona We find that there are no state laws restricting the foreign ownership of real estate.

The Arizona Senate is currently considering SB 1004, which would prohibit certain foreign individuals and entities affiliated with countries that pose a risk to the national security of the United States from owning agricultural land.

In 2023, several bills were proposed limiting the foreign ownership of land, but they failed to pass the Arizona legislature. Most notably, Arizona SB 1115 proposed barring sales of lands to foreign governments or state-controlled enterprises. The bill passed the Arizona Senate but died in committee in the Arizona House.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Arkansas It is a felony for a Prohibited Foreign-Party-Controlled Business (as defined below) to acquire any interest in land in Arkansas. Ark. Stat. § 18-11-110.

A Prohibited Foreign Party (as defined below) may also not acquire any interest in Agricultural Land regardless of whether they intend to use it for nonfarming purposes. Ark. Stat. § 18-11-803.

A Prohibited Foreign Party includes a citizen, resident, government, or party created in a country subject to International Traffic In Arms Regulations, or an entity with Substantial Control held by such persons or entities. Also included in this definition are Entities of Particular Concern designated by the US Department of State. Ark. Stat. § 18-11-802.

A Prohibited Foreign-Party-Controlled Business is defined as a corporation, company, association, firm, partnership, society, joint-stock company, trust, estate, or other legal entity whose controlling interest is owned by a Prohibited Foreign Party. Ark. Stat. § 18-11-110.

All foreign parties that acquire any interest in agricultural land are subject to a registration requirement. Ark. Code Ann. §§ 2-3-1-101 to 2-3-110.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

California We find that there are no state laws restricting foreign ownership of real estate. The California Constitution states that noncitizens have the same property rights as citizens. C.A. Constitution Art. 1 § 20.

We find that there are no bills restricting the foreign ownership of real estate currently being considered by the California legislature.

In 2022 and 2023, two bills were introduced that would limit the foreign ownership of agricultural land. The first was SB 1084, which passed the California legislature unanimously before being vetoed by Gov. Gavin Newsome. This bill was reintroduced one year later as SB 224 and failed to make it out of committee.

Colorado We find that there are no state laws restricting foreign ownership of real estate.

We find that there are no bills restricting foreign ownership currently being considered by the Colorado legislature.

In 2023, a bill was introduced that would make it unlawful for certain foreign citizens or entities of China, Russia, or any state sponsor of terrorism to own agricultural land, mineral rights, or water rights in the state. HB 23-1152. However, the bill failed to make it out of committee.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Connecticut	We find that there are no state laws restricting foreign ownership of real estate.
-------------	--

	We find that there are no bills restricting foreign ownership currently being considered by the Connecticut legislature.
--	--

Delaware	We find that there are no state laws restricting the foreign ownership of real estate.
----------	--

	We find that there are no bills restricting the foreign ownership of real estate currently being considered by the Delaware legislature.
--	--

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Florida A Foreign Principal (as defined below) may not directly or indirectly own, or have a controlling interest in, or acquire real property, except a De Minimis Indirect Interest, within 10 miles of any Military Installation or Critical Infrastructure in Florida. [Fla. Stat. Ann. § 692.203](#). Foreign Principals also may not own any Agricultural Land in the state, except a De Minimis Interest. [Fla. Stat. Ann. § 692.202](#). See the Note below regarding special restrictions on Chinese parties as described in Fla. Stat. Ann. § 692.204(1)(a).

A summarized definition of a Foreign Principal includes: (1) the government or a government official of a Foreign Country of Concern (as defined below), (2) a political party or member of a political party of a Foreign Country of Concern, (3) a corporation or entity, or its subsidiary, organized under the law of or having its principal place of business in a Foreign Country of Concern, (4) Any person who is domiciled in a Foreign Country of Concern and is not a citizen or lawful permanent resident of the US, and (5) any person, entity, or collection of entities described in (1)-(4) having a controlling interest in any legal entity or subsidiary formed for the purpose of owning Real Property in Florida. [Fla. Stat. Ann. § 692.201\(4\)](#).

A Foreign Country of Concern means China, Russia, Iran, North Korea, Cuba, Venezuela, Syria, and any agency or entity of significant control of same. [Fla. Stat. Ann. § 692.201\(3\)](#).

The Florida law includes a registration requirement for Foreign Principals as well as the requirement of including an affidavit stating the buyer is in compliance with Florida law. [Fla. Stat. Ann. § 692.203](#) and [§ 692.204](#).

Continued on next page

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Florida (continued) There is an exception for a Foreign Principal who is a natural person to purchase one residential Real Property that is up to 2 acres in size, however, certain restrictions apply. [Fla. Stat. Ann. § 692.203\(4\)](#) and [§ 692.204\(2\)](#).

Furthermore, there is an exception for property acquired through devise or descent, enforcement of security interest, or collection of debt, so long as the Foreign Principal divests itself within three years of acquiring the Real Property. [Fla. Stat. Ann. § 692.203\(5\)](#) and [§ 692.204\(5\)](#).

NOTE: Special restrictions on China

China, Chinese political parties, a Chinese domiciliary, or Chinese companies may not own any Real Property in Florida, except for a De Minimus Indirect Interest. [Fla. Stat. Ann. § 692.204](#). A Chinese natural person may purchase one residential real property that is up to 2 acres in size if the parcel is not on or within 5 miles of any military installation, or such person has a current verified United States Visa (not for tourist-based travel) or official documentation confirming that such person has been granted asylum in the United States and such visa or documentation authorizes the person to be legally present within Florida.

Note, the Florida law, and the restriction on Chinese buyers in particular is the subject of ongoing litigation. See *Shen v. Simpson*, No. 4:23-cv-208-AW-MAF (N.D. Fla. 2023), appeal docketed, No. 23-12737 (11th Cir. Aug. 23, 2023)

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Georgia Georgia law protects the rights of aliens to acquire, hold, and dispose of real property so long as their governments are at peace with the United States and the state of Georgia. Ga. Code Ann. § 1-2-11.

We find that there are no bills restricting the foreign ownership of real estate currently being considered by the Georgia legislature.

In 2023, Georgia saw multiple bills that would limit foreign ownership of real estate. Most notably was SB 132, which would have limited foreign ownership of land for certain individuals and entities originating in a country designated as a Foreign Adversary by the United States Secretary of Commerce. The bill passed the Georgia Senate but was never voted on in the Georgia House.

Hawaii We find that there are no state laws restricting the foreign ownership of real estate.

Hawaii’s Senate is currently considering SB 2617, which would make it unlawful for foreign governments, foreign entities, or a foreign domiciliary who is not a citizen or lawful permanent resident of the US to own any real property in Hawaii.

Idaho A Foreign Government or foreign state-controlled enterprise may not purchase, acquire, or hold any Controlling Interest in Agricultural Land, Water Rights, Mining Claims, or Mineral Rights in Idaho. This law does not apply retroactively or to any Foreign Pension Fund. Idaho Stat. § 55-103.

Continued on next page

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Illinois Illinois law protects the rights of aliens to acquire, hold, and dispose of real property in the same manner and to the same extent as natural born citizens in Illinois. 70 ILCS 60/7.

The Illinois legislature is considering HB 2125, which would bar all non-citizen ownership of real property in the state.

Indiana It is unlawful for a Foreign Business Entity to acquire by grant, purchase, devise, descent, or otherwise any Agricultural Land in Indiana for the purposes of crop farming or timber production. Ind. Stat. § 32-22-3-4(a).

There are several exceptions to this rule. For example, a Foreign Business Entity may purchase Agricultural Land for non-crop or timber producing purposes. They may also own up to 320 acres of Agricultural Land for crop farming or up to 10 acres for timber production. *See full exceptions* Ind. Stat. § 32-22-3-0.5.

Affected property acquired before July 1, 2022 is exempted from the foreign ownership restriction, but the land may not be sold to any Foreign Business Entity for the purposes of crop farming or timber production. Ind. Stat. § 32-22-3-4(b).

The Indiana legislature is currently considering HB 1183, which would further limit the foreign ownership of agricultural land for individuals and businesses who are citizens of a foreign adversary, including barring Russian citizens or businesses from owning any real estate in Indiana.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Iowa A nonresident alien, foreign business, or foreign government, or an agent, trustee, or fiduciary thereof, which owns an Interest in agricultural land, must register with the secretary of state, which can be done online, within sixty days of acquiring the land or Interest. [Iowa Code 9I.7](#).

Information required in the online registration process includes the legal name, street address, mailing address, birthplace, and nationality of the foreign party. If the foreign party is an agent, trustee, or fiduciary, they must register if they are authorized to purchase the agricultural land or supervise the daily operations on the agricultural land. Furthermore, the foreign party must include a statement of the purpose for conducting business in Iowa, how acquiring agricultural land furthers said business, information about any parent or subsidiary entities, and a list of all other interests in agricultural land held by the registering party, parent, or subsidiary that exceed 250 acres. [Iowa Code 9I.7](#).

Kansas We find that there are no state laws restricting the foreign ownership of real estate.

Kansas' Senate is currently considering [SB 446](#), which would bar foreign individuals and companies from purchasing more than three acres of land. It would also cap foreign land leases at two years.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Kentucky Property held by a nonresident alien may be escheated to Kentucky at any time after eight years from the time the nonresident alien acquired the property. Ky. Stat. § 381.300.

Any alien who intends to become a US citizen and is not “an enemy” (term not defined) may acquire real property in Kentucky. Ky. Stat. § 381.290.

Real property held by foreign corporations may be escheated unless the foreign corporation qualifies to transact business in Kentucky. Ky. Stat. § 14A.9-010.

The Kentucky Senate is currently considering SB 284, which would bar governments, officials, and citizens of certain adversarial foreign governments from owning anything but a de minimis indirect interest in agricultural land, as well as any real property within 10 miles of a military installation.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Louisiana No Foreign Adversary (as defined below) or Person Connected With A Foreign Adversary (as defined below) may purchase, lease, or otherwise acquire immovable property in the state. La. Stat. Ann. § 9:2717.1(A)(1).

Foreign Adversary is defined as a foreign adversary listed in 15 CFR 7.4(a) and identified in the database maintained by the United States Department of the Treasury, Office of Foreign Assets Control (OFAC). La. Stat. Ann. § 9:2717.1(G)(1).

Person Connected With A Foreign Party is defined as a Juridical Person in which the Foreign Adversary has the power to “direct or cause the direction of the management or policies of the juridical person whether through ownership of securities, by contract, or otherwise.” If a Foreign Adversary has fifty percent or more of the voting interest, or is entitled to fifty percent or more of its profits, it is presumed to have the power to direct or cause the direction of management or policies of the juridical person. La. Stat. Ann. § 9:2717.1(G)(2).

There are exceptions to the law for US citizens, US permanent residents, companies owned by US citizens and permanent residents, any property used as a one-to-four family residential property, and any Juridical Person that owned and conducted oil and gas operations in Louisiana and has an OFAC General License. La. Stat. Ann. § 9:2717.1(F). Furthermore, the statute does not apply retroactively before August 1, 2023 or effect the renewal of any such leases. La. Stat. Ann. § 9:2717.1(A)(3).

The law specifically does not create a duty for an attorney, title insurer, title insurance produce, title insurance agency producer, lender, mortgage loan servicer, notary public, real estate agent, real estate broker, seller, or lessor to conduct any investigation as to whether a party is a Foreign Adversary. La. Stat. Ann. § 9:2717.1(E). Furthermore, a person may conclusively rely on an affidavit made by a purchaser that they are neither a Foreign Adversary nor a Person Connected With A Foreign Adversary. La. Stat. Ann. § 9:2717.1(A)(4).

Continued on next page

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Maine Maine law protects the rights of aliens to acquire, hold, and dispose of real property. 33 Me. Rev. Stat. Ann. § 451.

We find that there are no bills restricting the foreign ownership of real estate currently being considered by the Maine legislature.

Maryland Maryland law protects the rights of aliens to acquire, hold, and dispose of real property to the same extent as a US citizen. Md. Code Real Property § 14-101.

Maryland is currently considering SB 392 and HB 616, which would bar certain adversarial foreign governments from purchasing, acquiring, leasing, or holding any property interest in agricultural land in Maryland.

Massachusetts Massachusetts law protects the rights of aliens to acquire, hold, and dispose of real property. Mass. Gen. Law Ann. 184 § 1.

We find that there are no bills restricting the foreign ownership of real estate currently being considered by the Massachusetts legislature.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Michigan We find that there are no state laws restricting the foreign ownership of real estate. Mich. Stat. Ann. § 554.135.

Michigan is considering several bills that would limit the foreign ownership of real estate. One important proposal is HB 4283, which would bar all foreign persons, businesses, and governments from owning agricultural land in Michigan.

Minnesota Only US citizens or Permanent Resident Aliens (as defined below) may acquire any Interest in Agricultural Land. No business entity shall acquire any Interest in any title to Agricultural Land unless there is at least 80% of each class of stock or 80% of ultimate beneficial interest is held directly or indirectly by citizens of the United States or Permanent Resident Aliens Minn. Stat. Ann. § 500.221 Subd. 2.

A Permanent Resident Alien is defined as someone who has been lawfully admitted to the US for permanent residence or a holder of a nonimmigrant treaty visa pursuant to USC Title 8 § 1101(a)15(E)(ii). They must also maintain a principal, actual dwelling place in the US for at least six months out of every consecutive 12-month period, must maintain a dwelling in Minnesota for at least 10 months out of every 12-month period, and is limited to dairy farming and up to 1,500 acres of agricultural land. Minn. Stat. Ann. § 500.221 Subd. 1.

There are several exceptions to this rule. This includes those whose rights are secured by treaty, interests in land acquired before June 1, 1981, and wind and pipeline easements. For the full list of exceptions, see Minn. Stat. Ann. § 500.221 Subd. 2.

Minnesota law includes filing requirements for foreign parties who own farmland. An updated list of forms and details about these requirements can be found on the Minnesota Department of Agriculture website, linked here.

Continued on next page

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Mississippi Nonresident aliens may not acquire or hold land in Mississippi. The law includes an exception for up to 320 acres of land for the purposes of industrial development and 5 acres for residential purposes. Nonresident aliens may take property to enforce payment of a debt, but must dispose of the land within 20 years or retain it by becoming a citizen during that time. Miss. Code Ann. § 89-1-23.

Certain large projects are exempted from this limitation, including the manufacture of electric car batteries and flat-rolled aluminum, specifically those defined in Miss Code Ann. § 57-75-5(f)(xxxi), (xxxii).

The Mississippi legislature recently passed HB 280, which would create a committee for the purpose of studying the purchasing, acquiring, leasing or holding of an interest in agricultural land by a foreign government.

The Mississippi legislature is also considering HB 1248, which would further restrict the foreign ownership of agricultural and forestry land by individuals affiliated with certain foreign adversaries.

Missouri Missouri law limits the foreign ownership of agricultural land to 1% of the total acreage of agricultural land in the state. Vernon's Ann. Mo. Stat. § 442.571. The latest report from the Missouri Department of Agriculture shows that 0.23% of Missouri farmland is currently counted towards the 1% cap.

The Governor of Missouri recently issued Executive Order 24-01 which prevents a citizen, resident, or entity incorporated under the laws of a foreign adversary from acquiring or owning land within 10 miles of a Staffed Military Facility.

The Missouri legislature is currently considering many different bills that would further limit the foreign ownership of property. One such bill is SB 1244, which would bar all foreign ownership of agricultural land.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Montana A Foreign Adversary (as defined below) may not buy, lease, or rent Critical Infrastructure, land used for Agricultural Production, or any real property in direct line of sight to any part of a Military Installation. A Foreign Adversary also may not enter into a contract that results in their control of Agricultural Production or Critical Infrastructure. Mont. Code Ann. § 35-30-103(1).

A Foreign Adversary is defined as foreign governments or foreign persons listed as foreign adversaries by the Secretary of Commerce at 15 C.F.R. § 7.4 or any corporation where such foreign adversary has a controlling interest. Mont. Code Ann. § 35-30-103.

Nebraska Aliens and corporations not incorporated in Nebraska are prohibited from acquiring interest in real estate or leasing any such interest for a period of more than five years. Neb. Rev. Stat. § 76-402.

Even if incorporated in Nebraska, an entity may be deemed an alien if aliens either comprise a majority of the board of directors, hold any executive officer or manager positions, or own a majority of the corporation's stock. Neb. Rev. Stat. § 76-406, 407.

This limitation does not apply within the limits of a city or village, or within three miles of such limits. Neb. Rev. Stat. § 76-414. It also does not apply to the case of certain common carriers or petroleum products. *See* Neb. Rev. Stat. § 76-412, 413. Finally, a resident alien may acquire land by devise or descent, so long as they dispose of it within five years. Neb. Rev. Stat. § 76-405.

The Nebraska Legislature is currently considering HB 1301, which would augment the legal regime by adding penalties as well as preventing certain prohibited persons and entities from owning property within 10 miles of a military installation.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Nevada Nevada law protects the right of nonresident aliens to hold and enjoy any real property upon the same terms and conditions as any resident citizen. Nev. Rev. Stat. Ann. § 111.055.

We find that there are no bills restricting the foreign ownership of real estate currently being considered by the Nevada legislature.

New Hampshire We find that there are no state laws restricting the foreign ownership of real estate. New Hampshire law protects the rights of alien residents to acquire, hold, and dispose of real property in the same manner as citizens. N.H. Rev. Stat. § 477:20.

We find that there are no bills restricting the foreign ownership of real estate currently being considered by the New Hampshire legislature.

New Jersey New Jersey states that “alien friends” (term not defined) have the same rights and powers with respect to real property as native-born citizens. N.J. Stat. Ann. § 46:3-18.

The New Jersey legislature is currently considering S3534, which would bar foreign governments and individuals from owning agricultural land in the state.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

A - 5

P

P

E

N

D

I

X

New Mexico New Mexico law protects the rights of aliens to acquire and hold real property. N.M. Stat. Ann. § 45-2-111.

We find that there are no bills restricting the foreign ownership of real estate currently being considered by the New Mexico legislature.

New York New York law protects the rights of noncitizens to acquire and hold real property in the same manner as citizens. N.Y. Real Prop. § 10.

The New York legislature is currently considering several bills that would restrict the foreign ownership of real estate. Two notable bills are S6522 and A5301, both of which would prohibit certain entities of particular concern from holding property.

North Carolina North Carolina law protects the rights of aliens to acquire, hold, and dispose of real property as citizens of the state. N.C. Gen. Stat. Ann. § 64-1.

We find that there are no bills restricting the foreign ownership of real estate currently being considered by the North Carolina legislature.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

North Dakota A Foreign Adversary (as defined below), a foreign business entity with a principal office located in a Foreign Adversary, or a foreign business entity where a Foreign Adversary owns more than fifty percent of the total controlling interests or total ownership interests, unless the business entity was operating lawfully in the United States on August 1, 2023, may not acquire title to real property in North Dakota. N.D. Century Code Ann. § 47-01-09.

Foreign Adversary is defined as those countries listed in 15 CFR 7.4(a) or a person identified on the Office of Foreign Assets Control sanctions list.

These restrictions do not apply to a business entity registered with the secretary of state for seven years or longer before August 1, 2023, an entity approved by the committee on foreign investment in the US, or an entity who maintains a national security agreement with the federal government. N.D. Century Code Ann. § 47-01-09.

Furthermore, there exists special restrictions for agricultural land. Under North Dakota state law, an alien who is not Canadian and not a permanent resident may not acquire an interest in agricultural land. There are several exceptions to this section, for example, it does not apply to leases not to exceed six hundred forty acres, or if the individual resides in the state for at least ten months out of every year. It also does not apply to use of the land for reasonable industrial purposes. In the event one of the exceptions applies, an annual filing is required. For full particulars, see N.D. Century Code Ann. § 47-10.1-02.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Ohio In Ohio, the Secretary of State keeps a registry of individuals, commercial entities, or governments who may not purchase or otherwise acquire Agricultural Land in the state. Ohio Rev. Code § 5301.256(B)(1).

The registry is meant to be a list of threats to the agricultural production in Ohio, or the United States, and the Secretary of State is instructed to consult federal lists of foreign adversaries, terrorists, and countries that are sponsors of terrorism. Ohio Rev. Code § 5301.256(G).

Those on the registry who owned or held agricultural land prior to October 3, 2023, may continue to own or hold the land but may not purchase more. Furthermore, the law does not apply to land acquired by devise or descent or land acquired through the collection of debt, so long as it is disposed of within two years of acquisition. Ohio rev. Code § 5301.256.

Ohio includes a reporting requirement for all nonresident aliens, including certain businesses (as described below), who own either (1) greater than three acres of land, (2) land worth greater than \$100,000, or (3) mineral or mining rights worth greater than \$50,000. A business must report if it has a principal place of business in a foreign nation and either one nonresident alien owns 10% of stock or other interests, or many nonresident aliens own at least 40% of the stock or other interests. In that case, the business must report, among other things, the identity of every nonresident alien who owns 10% or more of stock or other interests, as well as the percentage of shares of stock or other interests owned by nonresident aliens who own at least 5% or more of stock or other interests. For full reporting requirements, see Ohio Rev Code § 5301.254.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Oklahoma It is unlawful for any non-resident alien to acquire title to or own land in Oklahoma. Okla. Const. Art. 22 § 1. Non-resident aliens may not acquire title or own land either directly or indirectly through a business entity or trust. 60 Okla. Stat. Ann. § 121-123.

Any deed recorded with a county clerk must include an affidavit attesting that the person or business entity did not violate Oklahoma foreign ownership laws, including through its source of funding. *Id.*

Bona fide residents of Oklahoma are permitted to own property, regardless of citizenship status, however, they must dispose of the property within five years if they cease to be a bona fide resident of the state. If they fail to do so, the property escheats to the state. Okla. Const. Art. 22 § 1, *See also Alien Ownership of Land Frequently Asked Questions*, Okla. Land Title Ass'n Gov't Affairs Comm. (2023).

These restrictions also do not apply to a business entity engaged in regulated interstate commerce in accordance with federal law. 60 Okla. Stat. Ann. § 121-123. Also, once a foreign corporation has complied with the domestication procedures established under Oklahoma law, it is considered a resident of Oklahoma for the purposes of restrictions on alien land ownership. *State ex rel. Cartwright v. Hillcrest Investments, Ltd.*, 630 P.2d 1253, 1259 (Okla. 1981).

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Oregon Only US citizens, or those who have declared an intention of becoming a US citizen, may purchase state lands in Oregon. Or. Rev. Stat. Ann. § 273.255. However, we find that there are no restrictions on private land ownership.

We find that there are no bills restricting foreign ownership currently being considered by the Oregon state legislature.

Pennsylvania A non-resident alien may only acquire a maximum of 100 acres of agricultural land. 68 Pa. Stat. §41.

This restriction does not apply to devise, inheritance, or securing indebtedness. It also does not apply to those whose rights are secured by treaty. See 68 Pa. Stat. §§42-47.

Pennsylvania is currently considering HB 1995, which would institute a prohibition on foreign entities from owning agricultural land, in addition to foreign persons.

Rhode Island Rhode Island protects the rights of aliens to acquire, hold, and dispose of real property as if they were citizens of the United States. R.I. Gen. Laws § 34-2-1.

We find that there are no bills restricting the foreign ownership of real estate currently being considered by the Rhode Island legislature.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

South
Carolina

South Carolina prevents aliens or corporations controlled by aliens from owning more than 5,000 acres of land. S.C. Code Ann. § 27-13-10.

South Carolina is currently considering several proposals limiting foreign nationals and corporations from acquiring land in the state. The bill with the most traction is S 576, which would limit citizens of foreign adversaries or corporations controlled by foreign adversaries from owning land in South Carolina. S 576 has passed the South Carolina Senate and is currently being considered by the South Carolina House.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

South Dakota A Prohibited Entity (as defined below) may not own Agricultural Land in South Dakota. A Prohibited Entity also may not lease or hold an easement on agricultural land in the state unless it is exclusively for agricultural purposes and no more than 320 acres or it is used exclusively for animal feeding or a family farm.

Furthermore, a Prohibited Entity, a Foreign Entity, Foreign Government, or Foreign Person may not own more than 160 acres of agricultural land in the state, but this excludes land acquired by devise or inheritance or land held as security for indebtedness.

However, excluding a Prohibited Entity, these prohibitions do not apply to leases.

An entity not in compliance with this law has three years to dispose of the property, or if they violate the chapter after the law's implementation, they have two years to dispose of the property.

A Prohibited Entity is defined as a foreign entity, government, or person from China, Cuba, Iran, North Korea, Russia, or Venezuela.

These restrictions do not apply to land owned for nonagricultural use. Pending the development of nonagricultural uses, the land may be used for farming, but the foreign entity has five years to initiate the nonagricultural business operation. This requirement can be satisfied by filing of a permit or application with a government entity.

For complete law, see [2024 S.D. Laws HB 1231](#).

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Tennessee A sanctioned individual, a sanctioned foreign business, or sanctioned foreign government, (as defined below) or an agent, trustee, or fiduciary thereof, shall not purchase or otherwise acquire real property in Tennessee. Tenn. Stat. Ann. § 66-2-302(a)(1).

A sanctioned individual, business, or government means one listed on the U.S. Department of the Treasury's Sanctioned Programs and Country Information List. Tenn. Stat. Ann. § 66-2-302(a)(1).

The restriction contains an exception for devise and descent, an encumbrance taken for purposes of security, or securing a debt. Tenn. Stat. Ann. § 66-2-302(b).

Those who currently have property in violation of the law must divest in two years. If a legal person is added to the sanctions list, they must also divest within two years. Tenn. Stat. Ann. § 66-2-303, 304.

Sanctioned entities who own property must register with the Secretary of State. Tenn. Stat. Ann. § 66-2-305.

Entities holding property in violation of the law risk having their property escheated to the state. Those who fail to register with the Secretary of State face a civil penalty of up to \$2,000 per violation. For details on the enforcement regime see Tenn. Stat. Ann. § 66-2-306.

Tennessee is currently considering numerous proposals that would change the law surrounding foreign ownership of real estate. The most notable is HB 2583, which would limit a citizen, resident, or business of a country subject to International Traffic in Arms Regulations from owning agricultural land in the state.

Continued on next page

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Texas Texas law protects the rights of aliens to acquire, hold, and dispose of real property in the same way as US citizens. Tex. Property Code Ann. § 5.005.

We find that there are no bills restricting the foreign ownership of real estate currently being considered by the Texas legislature. While there were efforts to implement legislation, they appear to have all died in committee. See, for example, SB 147.

Utah A Restricted Foreign Entity (as defined below) may now acquire an Interest In Land in Utah. Utah Code Ann. § 63L-13-201.

A Restricted Foreign Entity includes a company restricted by the Secretary of Defense subject to Pub. L. No. 116-283, an affiliate of such company, a country with a commercial or defense industrial base of which a company described in same, a political subdivision of same, or an agency of same. Utah Code Ann. § 63L-13-101.

A Restricted Foreign Entity who acquires land through grant, gift, donation, devise, or bequest must dispose of the property within 5 years or it will escheat to the state. Utah Code Ann. § 63L-13-202.

Vermont The Vermont Constitution protects the rights of “every person of good character,” “having first taken an oath or affirmation of allegiance to the state,” to acquire, hold, and dispose of land or other real estate. Vt. Const. CH II, § 66.

We find that there are no bills restricting the foreign ownership of real estate currently being considered by the Vermont legislature.

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

<p>Virginia</p>	<p>No Foreign Adversary (as defined below) shall acquire any interest in Agricultural Land in Virginia. <u>Va. Code Ann. § 55.1-508.</u></p> <p>A Foreign Adversary is defined as any “foreign government or nongovernment person” that is a threat to national security as defined in <u>15 CFR § 7.4. Va. Code Ann. § 55.1-507.</u></p>
<p>Washington</p>	<p>Washington law protects the rights of aliens to acquire, hold, and dispose of land in the same manner as native citizens of Washington or the United States. <u>Wash. Rev. Code Ann. § 64.16.005.</u></p> <p>Washington is considering <u>SB 6290</u>, which would prohibit nonresident aliens from owning agricultural, forest, or mineral land if that nonresident alien’s country of origin prohibits US citizens from owning agricultural real property.</p>
<p>West Virginia</p>	<p>West Virginia law protect the rights of aliens to acquire, hold, and dispose of land in the same manner as if they were a citizen. <u>W. Va. § 36-1-21.</u></p> <p>We find that there are no bills restricting the foreign ownership of real estate currently being considered by the West Virginia legislature. Previous attempts were <u>initially successful</u> in the West Virginia Senate but did not clear the House before the end of the legislative session.</p>

50 State Survey; State Law Restrictions on the Foreign Ownership of Real Estate

Wisconsin Except to secure debt, the following may not acquire, own, or hold any interest in more than 640 acres of land: (1) nonresident aliens, (2) corporations not created under the laws of the US, (3) corporations, LLCs, partnerships, or associations where more than 20% of their stock, securities, or indicia of ownership are held by (1) or (2). Wis. Stat. Ann. § 710.02.

There are a number of exceptions to this limitation, including for mining leases, certain manufacturing, and industrial classifications. For full list, see Wis. Stat. Ann. § 710.02(2).

The statute includes reporting requirements for those nonresident aliens owning more than 640 acres. In addition to a copy of any report filed under 7 USC 3501, it also requires the filing to contain the tax parcel number and the interest in the land. See Wis. Stat. Ann. § 710.02(4).

Wyoming We find that there are no state laws restricting the foreign ownership of real estate.

We find that there are no bills restricting the foreign ownership of real estate currently being considered by the Wyoming legislature.

QUESTIONS

Thank you

- If I can be of any further assistance with these issues, please call me at 305.350.7325

bilzin.com



© 2024 Bilzin Sumberg Baena Price & Axelrod LLP.

The materials contained within this presentation do not constitute legal advice, are intended for informational purposes only, are not a substitute for professional legal advice, and are not intended to be relied upon for any purpose. These materials are not intended to be an advertisement and any use of the materials is at the user's risk. Reproduction, distribution, republication and retransmission of any materials contained within are prohibited without the express written consent of Bilzin Sumberg Baena Price & Axelrod LLP.