

By: Kolkhorst

S.B. No. 38

A BILL TO BE ENTITLED

AN ACT

relating to the purchase of or acquisition of title to real property by certain aliens or foreign entities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 64.001(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) A court of competent jurisdiction may appoint a receiver:

(1) in an action by a vendor to vacate a fraudulent purchase of property;

(2) in an action by a creditor to subject any property or fund to the creditor's ~~his~~ claim;

(3) in an action between partners or others jointly owning or interested in any property or fund;

(4) in an action by a mortgagee for the foreclosure of the mortgage and sale of the mortgaged property;

(5) for a corporation that is insolvent, is in imminent danger of insolvency, has been dissolved, or has forfeited its corporate rights; ~~or~~

(6) in an action by the attorney general under Subchapter H, Chapter 5, Property Code; or

(7) in any other case in which a receiver may be appointed under the rules of equity.

SECTION 2. Section 5.005, Property Code, is amended to read

1 as follows:

2           Sec. 5.005. ALIENS. Except as provided by Subchapter H, an  
3 [An] alien has the same real and personal property rights as a  
4 United States citizen.

5           SECTION 3. Chapter 5, Property Code, is amended by adding  
6 Subchapter H to read as follows:

7           SUBCHAPTER H. PURCHASE OF OR ACQUISITION OF TITLE TO REAL PROPERTY  
8                           BY CERTAIN FOREIGN INDIVIDUALS OR ENTITIES

9           Sec. 5.251. DEFINITIONS. In this subchapter:

10                   (1) "Agricultural land" means land that is located in  
11 this state and that is suitable for:

12                           (A) use in production of plants and fruits grown  
13 for human or animal consumption, or plants grown for the production  
14 of fibers, floriculture, viticulture, horticulture, or planting  
15 seed; or

16                           (B) domestic or native farm or ranch animals kept  
17 for use or profit.

18                   (2) "Control" means ownership of at least 50 percent  
19 of the voting ownership interest of an organization necessary to  
20 elect a governing person or governing authority of an organization.

21                   (3) "Designated country" means a country identified by  
22 the United States Director of National Intelligence as a country  
23 that poses a risk to the national security of the United States in  
24 each of the three most recent Annual Threat Assessments of the U.S.  
25 Intelligence Community issued pursuant to Section 108B, National  
26 Security Act of 1947 (50 U.S.C. Section 3043b).

27                   (4) "Governing authority," "governing person," and

1 "organization" have the meanings assigned by Section 1.002,  
2 Business Organizations Code.

3 (5) "Real property" means:

4 (A) agricultural land;

5 (B) an improvement located on agricultural land;

6 (C) a mine or quarry;

7 (D) a mineral in place; or

8 (E) standing timber.

9 Sec. 5.252. EXCEPTIONS: UNITED STATES CITIZENS AND LAWFUL  
10 PERMANENT RESIDENTS; RESIDENCE HOMESTEAD PROPERTY; LEASEHOLD. (a)

11 This subchapter does not apply to:

12 (1) an individual who is a citizen or lawful permanent  
13 resident of the United States, including an individual who is a  
14 citizen of a foreign country; or

15 (2) a company or other entity that is owned by or under  
16 the control of one or more individuals described by Subdivision  
17 (1).

18 (b) This subchapter does not apply to real property that is  
19 an individual's residence homestead, as defined by Section  
20 11.13(j), Tax Code.

21 (c) This subchapter does not apply to a leasehold interest  
22 in land or improvements constructed upon a leasehold.

23 Sec. 5.253. PROHIBITION ON PURCHASE OF OR ACQUISITION OF  
24 TITLE TO REAL PROPERTY. (a) In this section, "risk to the health,  
25 safety, and welfare of the public" includes a likelihood that an  
26 individual or entity will engage in an act that:

27 (1) constitutes:

1           (A) a violation of state or federal criminal law;

2           (B) corporate espionage; or

3           (C) a public nuisance; or

4           (2) causes or threatens to cause bodily injury to a  
5 person, including the introduction of a dangerous disease or  
6 dangerous substance into an area.

7           (b) Except as provided by Section 5.252 and notwithstanding  
8 any other law, the following may not purchase or otherwise acquire  
9 title to real property in this state if the purchase of or  
10 acquisition of title to the property by the individual or entity  
11 would create a risk to the health, safety, and welfare of the  
12 public:

13           (1) a governmental entity of a designated country;

14           (2) a company or other entity that is:

15                 (A) headquartered in a designated country;

16                 (B) directly or indirectly under the control of  
17 the government of a designated country; or

18                 (C) owned by or under the control of one or more  
19 individuals who are citizens of a designated country;

20           (3) a company or other entity that is owned by or under  
21 the control of a company or entity described by Subdivision (2); or

22           (4) an individual who is a citizen of a designated  
23 country.

24           Sec. 5.254. ATTORNEY GENERAL ENFORCEMENT. If the attorney  
25 general has a reasonable suspicion that the purchase of or  
26 acquisition of title to real property in this state by an individual  
27 or entity in violation of this subchapter creates a risk to the

1 health, safety, and welfare of the public, as defined by Section  
2 5.253, the attorney general may bring an action to enforce this  
3 subchapter in a district court in the county where all or part of  
4 the real property that is the subject of the violation is located.

5 Sec. 5.255. DISCOVERY; SECRETARY OF STATE INTERROGATORIES  
6 AND RECORDS. (a) The attorney general may conduct discovery in an  
7 action brought under Section 5.254.

8 (b) The secretary of state shall on request by the attorney  
9 general:

10 (1) serve interrogatories on an individual or entity  
11 as necessary to determine the ownership or control of a company or  
12 other entity that is the subject of an action by the attorney  
13 general under Section 5.254; and

14 (2) provide to the attorney general all records held  
15 by the secretary relating to the ownership or control of a company  
16 or other entity that is the subject of an action by the attorney  
17 general under Section 5.254.

18 Sec. 5.256. APPOINTMENT OF RECEIVER. (a) If the district  
19 court finds that the real property subject to an action brought  
20 under Section 5.254 was purchased or otherwise acquired by an  
21 individual or entity in violation of Section 5.253, the court shall  
22 enter an order that:

23 (1) states the court's finding; and

24 (2) appoints a receiver to:

25 (A) manage and control the real property pending  
26 the sale or other disposition of the real property; and

27 (B) return to the individual or entity any

1 proceeds of the sale or other disposition of the real property.

2 (b) On appointment and qualification, a receiver appointed  
3 under this section has the powers and duties of a receiver under  
4 Chapter 64, Civil Practice and Remedies Code.

5 SECTION 4. The changes in law made by this Act apply only to  
6 the purchase of or other acquisition of title to real property on or  
7 after the effective date of this Act. The purchase of or other  
8 acquisition of title to real property before the effective date of  
9 this Act is governed by the law in effect immediately before the  
10 effective date of this Act, and that law is continued in effect for  
11 that purpose.

12 SECTION 5. This Act takes effect on the 91st day after the  
13 last day of the legislative session.