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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 as follows:

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

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

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

Sec. 5.251.  DEFINITIONS. In this subchapter:

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

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

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

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

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

(4)  "Governing authority," "governing person," and "organization" have the meanings assigned by Section 1.002, Business Organizations Code.

(5)  "Real property" means:

(A)  agricultural land;

(B)  an improvement located on agricultural land;

(C)  a mine or quarry;

(D)  a mineral in place; or

(E)  standing timber.

Sec. 5.252.  EXCEPTIONS: UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS; RESIDENCE HOMESTEAD PROPERTY; LEASEHOLD. (a) This subchapter does not apply to:

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

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

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

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

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

(1)  constitutes:

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

(B)  corporate espionage; or

(C)  a public nuisance; or

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

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

(1)  a governmental entity of a designated country;

(2)  a company or other entity that is:

(A)  headquartered in a designated country;

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

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

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

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

Sec. 5.254.  ATTORNEY GENERAL ENFORCEMENT. If the attorney general has a reasonable suspicion that the purchase of or acquisition of title to real property in this state by an individual or entity in violation of this subchapter creates a risk to the health, safety, and welfare of the public, as defined by Section 5.253, the attorney general may bring an action to enforce this subchapter in a district court in the county where all or part of the real property that is the subject of the violation is located.

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

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

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

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

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

(1)  states the court's finding; and

(2)  appoints a receiver to:

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

(B)  return to the individual or entity any proceeds of the sale or other disposition of the real property.

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

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

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