

BILL ANALYSIS

Senate Research Center

S.B. 17
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The legislation is based on the language from S.B. 147 that passed the Texas Senate during the 88th Legislative Session. The goal of the legislation is to protect key land and natural resources from hostile countries and their actors named in the three most recent Annual Threat Assessment reports prepared by the Director of National Intelligence.

Many countries around the world and other states restrict ownership of land by certain foreign entities and individuals. Currently, the only federal law regarding foreign investment is the Agricultural Foreign Investment Disclosure Act of 1978 which only aims to regulate foreign investment through self-reported data. Texans have raised concerns of national security ranging from energy security to food security. Preventing private property rights from being controlled by entities from adversarial nations is key to ensuring national security.

Key Provisions

- This bill prohibits the purchase of certain private property in Texas by governmental entities, companies, and individuals that are domiciled in a country that has been named in the three most recently published Annual Threat Assessment reports prepared by the Director of National Security. This bill refers to individuals domiciled in a country rather than referring to citizens, as in S.B. 147.
- This bill bans private property ownership by named entities, not foreign business investments in Texas.
- The bill does not name a particular country but instead ties applicability of a country to a country designated as a threat by Director of National Intelligence in the three most recently published Annual Threat Assessments. The three most recent publications allows the legislature time to make changes if the criteria of the report changes while ensuring the identification of a threatening country by the Director of National Intelligence is not a one-off event.
- Makes clear that the prohibitions do not apply to United States citizens and lawful permanent residents, including dual citizens. The goal of this bill is to legislate common sense safeguards against the regimes identified as threats in the Annual Threat Assessment, not to those fleeing the tyranny of those governments who seek freedom in Texas. Additionally, prohibited real estate holdings will not include a residence homestead owned by individuals to address concerns of those seeking a home in Texas who have fled these adversarial regimes.
- Clarifies the definition of real estate as: agricultural land, an improvement on agricultural land, commercial property, groundwater, industrial property, residential property, a mine or quarry, a mineral in place, standing timber or water rights.
- Specifies that control of an entity means a individual or organization meeting test to determine they have actual control of the entities operations. This was clarified from a more simplistic 51 percent test in S.B. 147.
- Also clarifies the enforcement mechanism is a divestment procedure initiated by the attorney general. The attorney general is given authority to investigate potential violations if they have reasonable suspicion and then bring a in rem divestment proceeding before a court of law once a court determines the property is held by a prohibited entity it will be placed in receivership, following the process of Chapter 64, Civil Practices and Civil Remedies. This ensures that innocent actors such as lien holders, lenders and real estate professionals are not harmed by the actions of a prohibited entity.

- The language of S.B. 17 also makes clear that only the attorney general may bring action and shall record notice of the action in property actions in the county the property is located.
- Proceeds from the divestment are paid to the senior lienholders in order of priority, then if any funds are left the state is reimbursed for legal expenses in the proceeding, finally the remaining funds are returned to the prohibited entity.

S.B. 17 amends current law relating to the purchase or acquisition of an interest in real property by certain aliens or foreign entities, creates a criminal offense, and provides a civil penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the attorney general in SECTION 5 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. (a) Provides that the legislature finds the following as informed by the determination of the United States Director of National Intelligence in the 2025 Annual Threat Assessment of the U.S. Intelligence Community issued pursuant to Section 108B, National Security Act of 1947 (50 U.S.C. Section 3043b):

(1) with respect to China:

(A) China's dominance in the mining and processing of critical materials is a particular threat, providing it with the ability to restrict quantities and affect global prices. Provides that Beijing has shown a willingness to restrict global access to its mineral resources;

(B) China is using an aggressive whole-of-government approach, combined with state direction of the private sector, to become a global science and technology superpower. Provides that it wishes to surpass the United States and achieve further economic, political, and military gain;

(C) China is accelerating its progress by using illicit means;

(D) China has stolen hundreds of gigabytes of intellectual property from companies across the world, including from the United States;

(E) China is heavily investing in collecting health and genetic data;

(F) China poses health risks to the world;

(G) Beijing will continue to expand its coercive, subversive, and malignant influence activities to weaken the United States. Provides that it seeks to suppress critical views of China within the United States; and

(H) China has increased its capabilities to conduct covert influence operations and disseminate disinformation;

(2) with respect to Russia:

(A) Russia's advanced cyber capabilities, its repeated success compromising sensitive targets for intelligence collection, and its past attempts to access United States critical infrastructure make it a persistent counterintelligence and cyber attack threat; and

(B) Russia intentionally stokes political discord in the West, including by amplifying preferred Russian narratives. Provides that Russia discreetly engages Americans in these processes while hiding Russia's involvement;

(3) with respect to Iran:

(A) Iran's growing expertise and willingness to conduct aggressive cyber operations make it a major threat to the security of the United States. Provides that guidance from Iranian leaders has incentivized cyber actors to become more aggressive in developing capabilities to conduct cyber attacks;

(B) Iran remains committed to its long-standing efforts to develop surrogate networks inside the United States; and

(C) Iran has previously tried to conduct lethal operations in the United States; and

(4) with respect to North Korea:

(A) North Korea may expand its ongoing cyber espionage operations;

(B) North Korea continues to pursue military capabilities that threaten the United States and enable North Korea to undermine the United States;

(C) cooperation among China, Russia, Iran, and North Korea has grown rapidly in recent years, reinforcing threats from each. Provides that such cooperation has strengthened their abilities to harm the United States; and

(D) North Korea will continue to defy international sanctions and engage in illicit activities, including stealing cryptocurrency, sending labor overseas, and trading UN-proscribed goods to resource and fund North Korea's priorities.

(b) Provides that the legislature finds it necessary to exercise the police power of this state as provided in this legislation.

SECTION 2. Amends Section 64.001(a), Civil Practice and Remedies Code, to authorize a court of competent jurisdiction to appoint a receiver in certain actions, including in an action by a creditor to subject any property or fund to the creditor's claim or in an action by the attorney general under Subchapter H, Chapter 5 (Conveyances), Property Code, and to make nonsubstantive changes.

SECTION 3. Amends Section 5.005, Property Code, to create an exception under Subchapter H.

SECTION 4. Amends Chapter 5, Property Code, by adding Subchapter H, as follows:

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

Sec. 5.251. DEFINITIONS. Defines "agricultural land," "company," "designated country," "domiciled," "organization," "real property," and "transnational criminal organization."

Sec. 5.252. EXCEPTIONS: UNITED STATES CITIZENS AND LAWFUL RESIDENTS; CERTAIN ENTITIES OWNED OR CONTROLLED BY UNITED STATES CITIZENS OR LAWFUL RESIDENTS; LEASEHOLD. Provides that this subchapter does not apply to:

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

(2) a company or organization that is owned by or under the control of one or more individuals described by Subdivision (1) and no individual described by Section 5.253; or

(3) a leasehold interest in land or improvements constructed on a leasehold if the duration of the interest is less than one year.

Sec. 5.253. PROHIBITION ON PURCHASE OR ACQUISITION OF REAL PROPERTY. Prohibits the following, notwithstanding any other law, from purchasing or otherwise acquiring an interest in real property in this state:

(1) a governmental entity of a designated country;

(2) a company or organization that is headquartered in a designated country, directly or indirectly held or controlled by the government of a designated country, owned by or the majority of stock or other ownership interest of which is held or controlled by individuals described by Subdivision (4), or designated by the governor under Section 5.254;

(3) a company or organization that is owned by or the majority of stock or other ownership interest of which is held or controlled by a company or organization described by Subdivision (2); or

(4) an individual who:

(A) is domiciled in a designated country, except that an individual who is lawfully present and residing in the United States at the time the individual purchases or acquires the interest is authorized to purchase or acquire an interest in a residential property that is intended for use as an individual's residence homestead, as defined by Section 11.13(j) (relating to defining "residence homestead," "trustor," and "qualifying trust"), Tax Code;

(B) is a citizen of a designated country who is domiciled outside of the United States in a country other than a designated country and for which the individual has not completed the naturalization process for becoming a citizen of that country;

(C) is a citizen of a designated country who is unlawfully present in the United States;

(D) is a citizen of a country other than the United States and acting as an agent or on behalf of a designated country; or

(E) is a member of the ruling political party or any subdivision of the ruling political party in a designated country.

Sec. 5.254. DESIGNATION OF COUNTRY OR ENTITY AS SUBJECT TO PROHIBITION ON PURCHASE OR ACQUISITION OF REAL PROPERTY. (a) Authorizes the governor, after consultation with the public safety director of the Department of Public Safety, for purposes of Section 5.253, to:

(1) determine whether the purchase or acquisition of an interest in real property in this state by an individual or entity poses a risk to the national security of the public; and

(2) based on a determination made under Subdivision (1):

(A) designate a country or a transnational criminal organization or other entity as subject to this subchapter; or

(B) remove a designation made under Paragraph (A).

(b) Requires the governor to consult the Homeland Security Council established under Subchapter B (Homeland Security Council), Chapter 421 (Homeland Security), Government Code, for purposes of making or removing a designation under this section.

(c) Provides that the designation or removal of the designation of a country or entity under this section applies only to the purchase or acquisition of an interest in real property that occurs on or after the date the governor designates or removes the designation of the country or entity.

Sec. 5.255. INVESTIGATION AND ENFORCEMENT BY ATTORNEY GENERAL; LAW ENFORCEMENT REFERRAL. (a) Requires the attorney general to establish procedures to examine a purchase or acquisition of an interest in real property and determine whether an investigation of a possible violation of this subchapter is warranted.

(b) Requires the attorney general, if the attorney general determines that an investigation of a purchase or acquisition of an interest in real property is warranted under this section, to investigate the purchase or acquisition of an interest in real property and determine whether a violation of this subchapter occurred.

(c) Authorizes the attorney general, if the attorney general determines that a violation of this subchapter occurred, to bring an in rem action against real property 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 and to refer the matter to the appropriate local, state, or federal law enforcement agency.

(d) Requires the attorney general to record notice of an action brought under Subsection (c) in the real property records of each county where any part of the real property subject to the action is located.

(e) Provides that, except for an acquisition of a leasehold interest, a purchase or acquisition of an interest in real property in violation of Section 5.253 is not void because of the violation, and the validity or enforceability by any person of a purchase contract for or the conveyance of an interest in the real property is not otherwise affected by the violation.

Sec. 5.256. ATTORNEY GENERAL INVESTIGATION AND DISCOVERY; SECRETARY OF STATE INTERROGATORIES AND RECORDS. (a) Authorizes the attorney general to conduct discovery to investigate a potential action under Section 5.255 or in an action brought under Section 5.255, including by:

(1) petitioning for an order authorizing the taking of a deposition under Rule 202, Texas Rules of Civil Procedure; or

(2) if the attorney general has reason to believe that a person may be in possession, custody, or control of any documentary material or other evidence or may have any information relevant to an investigation of a suspected violation of Section 5.253, issuing in writing and serving on the person a civil investigative demand requiring the person to:

(A) produce any of the documentary material for inspection and copying;

(B) answer in writing any written interrogatories;

(C) give oral testimony; or

(D) provide any combination of civil investigative demands under Paragraph (A), (B), or (C).

(b) Requires the secretary of state (SOS) on request by the attorney general to serve interrogatories on an individual or entity as necessary to determine the ownership or control of an organization that is the subject of an action by the attorney general under Section 5.255 and provide to the attorney general all records held by SOS relating to the ownership or control of an organization that is the subject of an action by the attorney general under Section 5.255.

Sec. 5.257. DIVESTITURE; APPOINTMENT OF RECEIVER; DISTRIBUTION OF SALE PROCEEDS. (a) Requires the court, if the district court finds that the real property subject to an action brought under Section 5.255 was purchased or an interest in the real property was otherwise acquired in violation of Section 5.253, to:

(1) enter an order that states the court's finding, orders the divestment of the individual's or entity's interest in the real property, and appoints a receiver to divest the individual's or entity's interest in the real property through sale, termination of a leasehold, or other disposition of the interest and manage and control the real property pending the sale or other disposition of the interest in the real property; and

(2) refer the matter to the appropriate prosecuting attorney for criminal prosecution of any appropriate criminal offense in connection with the transaction.

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

(c) Requires that proceeds from the sale or other disposition of an interest in real property under an order described by Subsection (a) be applied first to satisfy any existing liens on the property and then to pay the reasonable costs incurred by the state in enforcing this subchapter. Requires that the remaining proceeds be remitted to the individual or entity that purchased or otherwise acquired the interest in violation of this subchapter.

Sec. 5.258. OFFENSE; PENALTY. (a) Provides that a person commits an offense if the person is an individual described by Section 5.253(4) and intentionally or knowingly purchases or otherwise acquires an interest in real property in this state in violation of this subchapter.

(b) Provides that an offense under Subsection (a) is a state jail felony.

Sec. 5.259. CIVIL PENALTY. (a) Authorizes the attorney general to bring an action in the name of the state against a company or entity that violates this subchapter.

(b) Provides that a company or entity that a court determines in an action brought under this section to have violated this subchapter is liable to the state for a civil penalty equal to the greater of \$250,000 or 50 percent of the market value of the interest in real property that is the subject of the violation.

SECTION 5. Requires the attorney general, as soon as practicable after the effective date of this Act, to adopt rules for the implementation of Subchapter H, Chapter 5, Property Code, as added by this Act.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Severability clause.

SECTION 8. Effective date: September 1, 2025.