

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 17
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State Affairs
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Committee Report (Substituted)

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.

C.S.S.B. 17 amends current law relating to the purchase or acquisition of real property by certain aliens or foreign entities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 64.001(a), Civil Practice and Remedies Code, as follows:

(a) Authorizes a court of competent jurisdiction to appoint a receiver:

(1) makes no changes to this subdivision;

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

(3)-(4) makes no changes to these subdivisions;

(5) makes a nonsubstantive change to this subdivision;

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

(7) creates this subdivision from existing text and makes no further changes.

SECTION 2. Amends Section 5.005, Property Code, to create an exception under Subchapter H.

SECTION 3. 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," "designated country," "governing authority," "governing person," "organization," and "real property."

Sec. 5.252. ORGANIZATION UNDER CONTROL OF INDIVIDUAL OR ANOTHER ORGANIZATION. (a) Provides that, for purposes of this subchapter, an organization is under the control of an individual or another organization if the controlling individual or organization is authorized to direct the activities of the controlled organization, make or direct others to make legal commitments on behalf of the controlled organization, or hire and fire a principal decision maker of the controlled organization.

(b) Authorizes the authority of the controlling individual or organization under Subsection (a) to derive from exercise of a voting ownership interest of the controlled organization sufficient to elect a governing person or governing authority of the controlled organization to exercise on the controlling individual's or organization's behalf the authority described by Subsection (a), or a financial, legal, practical, contractual, or other arrangement that functionally enables the controlling individual or organization to exercise the authority described by Subsection (a).

Sec. 5.253. EXCEPTIONS: UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS; RESIDENCE HOMESTEAD PROPERTY; LEASEHOLD. Provides that 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;
- (2) an organization that is owned by or under the control of one or more individuals described by Subdivision (1);
- (3) real 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; or
- (4) a leasehold interest in land or improvements constructed on a leasehold if the duration of the interest is less than 100 years.

Sec. 5.254. PROHIBITION ON PURCHASE OR ACQUISITION OF REAL PROPERTY. Prohibits the following, except as provided by Section 5.253 and notwithstanding any other law, from purchasing or otherwise acquiring real property in this state:

- (1) a governmental entity of a designated country;
- (2) an organization that is headquartered in a designated country, directly or indirectly under the control of the government of a designated country, or owned by or under the control of one or more individuals who are domiciled in a designated country;
- (3) an organization that is owned by or under the control of an organization described by Subdivision (2);
- (4) an individual who is domiciled in a designated country; or
- (5) an individual who is a member of, associated with, or acting on behalf of the government of a designated country.

Sec. 5.255. ATTORNEY GENERAL ENFORCEMENT. a) Authorizes the attorney general, if the attorney general has a reasonable suspicion that an individual, organization, or governmental entity has purchased or otherwise acquired real property in this state in violation of this subchapter, 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.

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

(c) Provides that, except for an acquisition of a leasehold interest not exempt from this subchapter under Section 5.253(4), a purchase or acquisition of real property in violation of Section 5.254 is not void because of the violation, and the validity or enforceability by any person of a purchase contract for or the conveyance of 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 5.254, 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, on request by the attorney general, to:

(1) 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

(2) provide to the attorney general all records held by the secretary 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. APPOINTMENT OF RECEIVER. (a) Requires a district court, if the court finds that the real property subject to an action brought under Section 5.255 was purchased or otherwise acquired by an individual, organization, or governmental entity in violation of Section 5.254, to enter an order that states the court's finding and appoints a receiver to manage and control the real property pending the sale or other disposition of the real property and return to the individual, organization, or governmental entity that purchased or otherwise acquired the property in violation of this subchapter any proceeds of the sale or other disposition of the real property after satisfying any existing liens on the property and recovery of any reasonable costs incurred by the state in enforcing this subchapter.

(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.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2025.