

ASSEMBLY, No. 4385

STATE OF NEW JERSEY

222nd LEGISLATURE

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Sponsored by:

Assemblyman ALEX SAUICKIE

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Prohibits ownership of real property in State by adverse foreign governments and certain associated persons.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the ownership of real property by adverse
2 foreign government interests and supplementing chapter 3 of
3 Title 46 of the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. The Legislature finds and declares that:

9 a. A security threat is exacerbated if the actor posing the threat
10 owns real property in the area being threatened;

11 b. The People's Republic of China (PRC), Russia, Iran, and
12 North Korea have been listed as threats to the national security of
13 the United States and its citizens in each of the 2023, 2024, and
14 2025 Annual Threat Assessments of the United States Intelligence
15 Community;

16 c. The PRC and other adversaries continually employ aggressive
17 efforts to target and steal sensitive information, research, and
18 technology of the United States, resulting in billions of dollars in
19 economic losses, damage to the competitiveness of the United
20 States, and the transfer of cutting-edge technology to adversarial
21 militaries;

22 d. Since 2023, United States authorities have charged more than
23 20 individuals for activities related to intellectual property theft and
24 for violations of sanctions or export controls for China, Iran, and
25 Russia;

26 e. PRC-affiliated cyber actors are known to exploit
27 vulnerabilities and publicly-available tools to pre-position efforts to
28 disrupt the nation's critical infrastructure;

29 f. Russian-affiliated cyber actors are known to continually seek
30 access to government networks, including those of state and local
31 governments, for espionage purposes, posing a threat to critical
32 infrastructure;

33 e. North Korean cyber actors continuously target financial
34 entities within the United States, including venture capital firms,
35 exchanges, and individual accounts, to finance Pyongyang's
36 strategic priorities and weapons programs, posing a continuing
37 threat to national security;

38 g. The Iranian government and other affiliated cyber actors are
39 known to target the critical infrastructure of the United States, in
40 retaliation for support provided to Israel, using a range of tactics,
41 including exploiting publicly known software and hardware
42 vulnerabilities, social engineering techniques, and publicly
43 available cybersecurity tools;

44 h. As the United States Supreme Court observed in *Board of*
45 *Regents v. Roth*, 408 U.S. 564 (1972), property interests are not
46 created by the United States Constitution, but by independent
47 sources such as state law;

1 i. Accordingly, the Legislature acts within the scope of its
2 traditional competence when it provides statutory requirements
3 governing the disposition of real property and restrictions on
4 ownership, despite any incidental effect on foreign policy and
5 affairs; and

6 j. Therefore, it is appropriate, and a narrowly tailored remedy
7 for the Legislature to prohibit the ownership of real property in the
8 State by adverse foreign governments and persons affiliated with
9 those governments, in order to achieve the compelling government
10 interest of the security of this State and its residents.

11

12 2. As used in P.L. , c. (C.) (pending before the
13 Legislature as this bill):

14 "Adverse foreign government" means any government other than
15 the government of the United States or any of its states, territories,
16 possessions, or any political subdivision thereof that is listed, or a
17 military company of which is listed, as posing a threat of terrorism
18 and transnational repression, or as a threat to the critical
19 infrastructure or economic security of the United States, in at least
20 one of the three most recent Annual Threat Assessments of the U.S.
21 Intelligence Community issued pursuant to section 108B of the
22 National Security Act of 1947 (50 U.S.C. s.3043b). "Adverse
23 foreign government" includes an agent, trustee, or fiduciary thereof,
24 acting on behalf of an adverse foreign government.

25 "Beneficial owner" means, with respect to a partnership,
26 corporation, association, limited liability company, trust, or other
27 legal entity, or an affiliate, subsidiary, or holding company thereof,
28 an individual who, directly or indirectly, through any contract,
29 arrangement, understanding, relationship, or otherwise, exercises
30 substantial control over the entity, or owns or controls not less than
31 10 percent of the ownership interests of the entity. "Beneficial
32 owner" shall not include:

33 (1) an individual whose only interest in a corporation, limited
34 liability company, or other similar entity is through a right of
35 inheritance; or

36 (2) a creditor of a corporation, limited liability company, or
37 other similar entity.

38 "Person of an adverse foreign country" means:

39 (1) any individual who is not a citizen of the United States, is
40 not an alien friend as provided in R.S.46:3-18, and is a nonresident
41 alien of the United States or one of its states, territories, or
42 possessions, and is currently, or has been within the last five years,
43 a resident or citizen, or both, of a country controlled by an adverse
44 foreign government;

45 (2) a partnership, corporation, association, limited liability
46 company, trust, or other legal entity created under the laws of an
47 adverse foreign government; or

1 (3) a partnership, corporation, association, limited liability
2 company, trust, or other legal entity created under the laws of the
3 United States or any of its political subdivisions, which is directly
4 or indirectly held, owned, managed, or controlled, legally or as a
5 beneficial owner, by one or more adverse foreign governments, by
6 one or more persons of adverse foreign countries, by one or more
7 legal entities created under the laws of an adverse foreign
8 government, or by any combination thereof.

9 "Real property" means property that shall include, but shall not
10 be limited to:

- 11 a. agricultural land;
- 12 b. an improvement located on agricultural land;
- 13 c. commercial property;
- 14 d. industrial property;
- 15 e. groundwater;
- 16 f. residential property;
- 17 g. a mine or quarry;
- 18 h. a mineral in place;
- 19 i. standing timber; or
- 20 j. water rights.

21
22 3. a. Notwithstanding any law, rule, or regulation to the
23 contrary, an adverse foreign government or person of an adverse
24 foreign country shall not acquire, purchase, or otherwise obtain a
25 legal, beneficial, or other interest in real property in the State on or
26 after the effective date of P.L. , c. (C.) (pending before the
27 Legislature as this bill).

28 b. An adverse foreign government or person of an adverse
29 foreign country owning or holding an interest in real property in the
30 State upon the effective date of P.L. , c. (C.) (pending
31 before the Legislature as this bill) may continue to own or hold an
32 interest in real property for a maximum of five years after the
33 effective date of P.L. , c. (C.) (pending before the
34 Legislature as this bill), and shall not acquire, purchase, or
35 otherwise obtain an interest in, any other real property, in the State,
36 on or after the effective date of P.L. , c. (C.) (pending
37 before the Legislature as this bill), except:

38 (1) pursuant to a process of law involving the collection of debt,
39 the execution of a deed in lieu of foreclosure, the forfeiture of a
40 contract for deed, or the imposition of a lien or claim on the real
41 property, whether created by a mortgage or otherwise, in which
42 case, the provisions of subsection d. of this section shall apply;

43 (2) by devise or descent, or through the establishment of a bona
44 fide encumbrance on real property taken for the purposes of
45 security, in which case, the provisions of subsection f. of this
46 section shall apply; or

1 (3) in compliance with any other condition that may be
2 authorized by the Secretary of State in the rules and regulations
3 adopted pursuant to subsection f. of this section.

4 c. An adverse foreign government or person of an adverse
5 foreign country owning or holding an interest in real property in the
6 State upon the effective date of P.L. , c. (C.) (pending
7 before the Legislature as this bill) shall sell or otherwise convey the
8 ownership of, or interest in, the real property within five years after
9 the effective date of P.L. , c. (C.) (pending before the
10 Legislature as this bill). The real property or interest therein shall
11 be sold or conveyed to an individual, trust, corporation, partnership,
12 or other business entity that is not an adverse foreign government or
13 person of an adverse foreign country that is subject to the
14 provisions of P.L. , c. (C.) (pending before the Legislature
15 as this bill).

16 d. (1) Real property that is acquired by an adverse foreign
17 government or person of an adverse foreign country, on or after the
18 effective date of P.L. , c. (C.) (pending before the
19 Legislature as this bill), pursuant to the exception established in
20 paragraph (1) of subsection b. of this section, shall be sold or
21 conveyed, by the foreign owner thereof, within two years after title
22 to the real property is transferred to the adverse foreign government
23 or person of an adverse foreign country.

24 (2) Real property sold or conveyed in accordance with this
25 subsection shall be sold or conveyed to an individual, trust,
26 corporation, partnership, or other business entity that is not an
27 adverse foreign government or person of an adverse foreign country
28 subject to the provisions of P.L. , c. (C.) (pending before
29 the Legislature as this bill).

30 e. A provision of this section that is inconsistent with, or in
31 violation of, the federal Constitution, or any law, treaty, rule,
32 regulation, or executive order shall not apply only to the extent that
33 the provision of this section is determined to be inconsistent or in
34 conflict with, impede the federal objectives, or in violation of the
35 federal Constitution, or any law, treaty, rule, regulation, or
36 executive order. If a provision of this section is determined to be
37 inconsistent or in conflict with, impede the federal objectives, or in
38 violation of the federal Constitution, or any law, treaty, rule,
39 regulation, or executive order, the provisions of this section shall be
40 construed to apply to only to those persons of an adverse foreign
41 country that are determined to have taken action that directly poses
42 a threat of terrorism and transnational repression, or that directly
43 pose a threat to the critical infrastructure or economic security of
44 the United States.

45 f. The attorney general may bring an action in a court of
46 competent jurisdiction against an individual or entity that violates a
47 provision of this section. An individual or entity in violation of this

1 section shall be liable to the State for a civil penalty in an amount
2 that shall not exceed the greater of:

- 3 (1) \$250,000; or
4 (2) 50 percent of the market value of the interest in the real
5 property that is the subject of the violation.

6 g. The Secretary of State shall adopt, pursuant to the
7 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
8 seq.), rules and regulations to effectuate the provisions
9 of P.L. , c. (C.) (pending before the Legislature as this
10 bill), including but not limited to, rules and regulations concerning
11 the application of P.L. , c. (C.) (pending before the
12 Legislature as this bill) to any particular country or individual.

13
14 4. This act shall take effect immediately.

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16

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STATEMENT

18

19 This bill prohibits adverse foreign governments and certain
20 associated foreign persons, as defined in the bill, from acquiring,
21 purchasing, or otherwise obtaining a legal, beneficial, or other
22 interest in any real property in the State on or after the bill's
23 effective date, with limited exceptions. The bill applies to
24 governments listed as a threat of terrorism, transnational repression,
25 or to the critical infrastructure or economic security of the United
26 States, in at least one of the three most recent Annual Threat
27 Assessments of the U.S. Intelligence Community. These
28 governments currently consist of the People's Republic of China,
29 Russia, Iran, and North Korea.

30 The bill permits impacted foreign governments and foreign
31 persons that already own or hold an interest in real property in the
32 State, on the bill's effective date, to continue to own or hold that
33 interest for a maximum of five years thereafter. Within five years
34 after the bill's effective date, the foreign government or foreign
35 person would be required to sell or otherwise convey the ownership
36 of, or interest in, the real property to an individual, trust,
37 corporation, partnership, or other business entity.

38 The bill provides the following exceptions to the general
39 prohibition on the continued foreign ownership of real property in
40 the State:

- 41 1) the acquisition of real property through a process of law
42 involving the collection of debt, the execution of a deed in lieu of
43 foreclosure, the forfeiture of a contract for deed, or the imposition
44 of a lien or claim on the property, whether by mortgage or
45 otherwise, provided that the person or government sell or convey
46 the property, within two years after the transfer of title to the person
47 or government, to an individual, trust, corporation, partnership, or

1 other business entity that is not prohibited from owning real
2 property in the State; and

3 2) the acquisition of real property by devise or descent, or
4 pursuant to a bona fide encumbrance established on real property
5 taken for the purposes of security.

6 The bill provides that any provision of the bill that is inconsistent
7 with, or in violation of, the federal Constitution, or any law, treaty,
8 rule, regulation, or executive order (federal law) is not to apply only
9 to the extent that the provision is determined to be inconsistent or in
10 conflict with, impede the federal objectives, or in violation of the
11 federal law. If a provision is determined inconsistent or in conflict,
12 impeding the federal objectives, or in violation of federal law, the
13 provisions of the bill are to be construed to apply to only to those
14 persons of an adverse foreign country that are determined to have
15 taken action that directly poses a threat of terrorism and
16 transnational repression, or that directly pose a threat to the critical
17 infrastructure or economic security of the United States.

18 The bill authorizes the attorney general to bring an action against
19 an entity that violates the bill. An entity in violation of the bill is to
20 be liable to the State for a civil penalty in an amount not to exceed
21 the greater of:

- 22 • \$250,000; or
- 23 • 50 percent of the market value of the interest in the real
24 property subject to the violation.

25 The bill directs the Secretary of State to adopt rules and
26 regulations to effectuate the provisions of the bill.