

Introduced by

Representative S. Olson

1 A BILL for an Act to create and enact a new section to chapter 47-02 of the North Dakota
2 Century Code, relating to foreign ownership of real property near military installations; to amend
3 and reenact section 47-01-09 of the North Dakota Century Code, relating to the prohibition on
4 ownership of real property by a foreign adversary; to provide a penalty; and to provide an
5 expiration date.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** A new section to chapter 47-02 of the North Dakota Century Code is created
8 and enacted as follows:

9 **Prohibited ownership near military installations - Penalty.**

10 1. For purposes of this section:

11 a. "Critical infrastructure" has the meaning provided in section 44-04-24.

12 b. "Foreign adversary" has the meaning provided in section 47-01-09.

13 c. "Military installation" has the meaning provided in section 15.1-04.1-01.

14 2. Notwithstanding section 47-01-09 or chapter 47-10.1, a foreign adversary may not:

15 a. Lease, purchase, or otherwise acquire title to critical infrastructure or real
16 property within ten miles [16.09 kilometers] of a military installation located within
17 this state; or

18 b. Enter a contract with a person which results in a foreign adversary's direct or
19 indirect control of critical infrastructure located within this state.

20 3. A foreign adversary in violation of this section shall divest itself of its interest in all
21 critical infrastructure or real property within one year after acquisition. If the foreign
22 adversary fails to divest its interest in the critical infrastructure or real property within
23 one year, the state's attorney of the county in which the majority of the real property is

1 located may issue a subpoena to compel a witness to appear to provide testimony or
2 produce records.

3 4. The state's attorney shall commence an action in the district court of the county in
4 which the majority of the critical infrastructure or real property is located if, upon
5 receiving testimony and records, the state's attorney concludes a foreign adversary
6 has failed to divest ownership of critical infrastructure or real property as required
7 under this section. When the action is commenced, the state's attorney shall file a
8 notice pursuant to section 28-05-07 with the recorder of each county in which the
9 critical infrastructure or real property subject to the action is located. If the court finds
10 divestment of critical infrastructure or real property is proper under this section, the
11 district court shall enter an order consistent with its findings. As part of the order, the
12 court shall cancel the notice pursuant to section 28-05-08.

13 5. Pursuant to an order for divestment, a foreign adversary shall divest all critical
14 infrastructure or real property within six months from the date of the final entry of
15 judgment. A foreign adversary that fails to comply with the court's order is subject to a
16 civil penalty not to exceed twenty-five thousand dollars.

17 6. Any critical infrastructure or real property not divested within the period prescribed by
18 law may be sold at a public sale in the manner provided under chapter 32-19 through
19 an action brought by the state's attorney. A title to real property or encumbrance on the
20 real property may not be deemed invalid by an order of divestiture under this section.

21 **SECTION 2. AMENDMENT.** Section 47-01-09 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **47-01-09. Public or private ownership - All property subject to - Foreign ownership**
24 **prohibited. (Effective through July 31, 20252027)**

- 25 1. All property in this state has an owner, whether that owner is the United States or the
26 state, and the property public, or the owner an individual, and the property private. The
27 state also may hold property as a private proprietor.
- 28 2. Notwithstanding any other provision of law, the following governments or entities may
29 not purchase or otherwise acquire title to real property in this state after July 31, 2023:
30 a. A foreign adversary.

- 1 b. A foreign business entity with a principal executive office located in a country that
- 2 is identified as a foreign adversary.
- 3 c. A foreign business entity in which a foreign adversary owns:
- 4 (1) More than fifty percent of the total controlling interests or total ownership
- 5 interests, as defined under section 10-19.1-01, in the foreign business
- 6 entity, unless the foreign business entity was operating lawfully in the United
- 7 States on August 1, 2023; or
- 8 (2) Fifty percent or less of the total controlling interests or total ownership
- 9 interests, as defined under section 10-19.1-01, in the foreign business
- 10 entity, if the foreign adversary directs the business operations and affairs of
- 11 the foreign business entity without the requirement of consent of any
- 12 nonforeign adversary, unless the foreign business entity was operating
- 13 lawfully in the United States on August 1, 2023.
- 14 3. When requested by a city council or commission, county commission, or title agent or
- 15 company, the attorney general shall complete a civil review, to the extent allowable by
- 16 law, relating to the qualifications of any foreign adversary business entity acquiring real
- 17 property under subdivision c of subsection 2.
- 18 4. This section does not apply to an entity possessing an interest in real property under
- 19 subsection 2 if the entity:
- 20 a. Is a duly registered business and has maintained a status of good standing with
- 21 the secretary of state for seven years or longer before August 1, 2023;
- 22 b. Has been approved by the committee on foreign investment in the United States;
- 23 and
- 24 c. Maintains an active national security agreement with the federal government.
- 25 5. A foreign government or foreign business entity subject to and in violation of this
- 26 section shall divest itself of all real property in this state within thirty-six months after
- 27 August 1, 2023.
- 28 6. If a foreign government or foreign business entity subject to this section fails to divest
- 29 itself of all real property in this state within the period specified under subsection 4, the
- 30 state's attorney of the county in which the majority of the real property is situated may

1 issue subpoenas to compel witnesses to appear to provide testimony or produce
2 records.

3 7. Upon receiving testimony and records, if the state's attorney concludes a foreign
4 government or foreign business entity, in violation of this section, has failed to divest
5 ownership of real property as required under this section, the state's attorney shall
6 commence an action in the district court of the county in which the majority of the real
7 property is situated. Once the action is commenced, the state's attorney shall file a
8 notice pursuant to section 28-05-07 with the recorder of each county where the real
9 property subject to the action is situated. If the court finds divestment of real property
10 under this section is proper, the district court shall enter an order consistent with its
11 findings. As part of the order, the court shall cancel the notice pursuant to section
12 28-05-08.

13 8. Pursuant to an order for divestment, a foreign government or foreign business entity
14 subject to an order shall divest all real property within six months from the date of the
15 final entry of judgment. A foreign government or foreign business entity that fails to
16 comply with the court's order is subject to a civil penalty not to exceed twenty-five
17 thousand dollars.

18 9. Any real property not divested within the period prescribed by law may be sold at a
19 public sale in the manner provided under chapter 32-19 through an action brought by
20 the state's attorney. A title to real property or encumbrance on the real property may
21 not be deemed invalid by an order of divestiture under this section.

22 10. A person that is not subject to this section may not be required to:

- 23 a. Determine whether another person is subject to this section; or
24 b. Inquire if another person is subject to this section.

25 11. For purposes of this section, "foreign adversary" means an individual or a government
26 identified as a foreign adversary in 15 CFR 7.4(a) or a person identified on the office of
27 foreign assets control sanctions list.

1 **Public or private ownership - All property subject to. (Effective after July 31,**
2 **~~2025~~2027)**

3 All property in this state has an owner, whether that owner is the United States or the state,
4 and the property public, or the owner an individual, and the property private. The state also may
5 hold property as a private proprietor.

6 **SECTION 3. EXPIRATION DATE.** Section 1 of this Act is effective through July 31, 2027,
7 and after that date is ineffective.