

Introduced by

Representative Hoverson

1 A BILL for an Act to create and enact a new section to chapter 54-09 and a new subsection to  
2 section 54-09-02 of the North Dakota Century Code, relating to the filing of beneficial ownership  
3 information statements with the secretary of state, and the duties of the secretary of state; to  
4 amend and reenact section 47-01-09 of the North Dakota Century Code, relating to the  
5 prohibition on ownership of real property by a foreign adversary; to provide for a legislative  
6 management report; to provide a penalty; and to provide an expiration date.

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

8 **SECTION 1. AMENDMENT.** Section 47-01-09 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **47-01-09. Public or private ownership - All property subject to - Foreign ownership**  
11 **prohibited. (Effective through July 31, ~~2025~~2027)**

- 12 1. All property in this state has an owner, whether that owner is the United States or the  
13 state, and the property public, or the owner an individual, and the property private. The  
14 state also may hold property as a private proprietor.
- 15 2. Notwithstanding any other provision of law, the following governments or entities may  
16 not purchase or otherwise acquire title to real property in this state after July 31, 2023:
- 17 a. A foreign adversary.
- 18 b. A foreign business entity with a principal executive office located in a country that  
19 is identified as a foreign adversary.
- 20 c. A foreign business entity in which a foreign adversary owns:
- 21 (1) More than fifty percent of the total controlling interests or total ownership  
22 interests, as defined under section 10-19.1-01, in the foreign business  
23 entity, unless the foreign business entity was operating lawfully in the United  
24 States on August 1, 2023; or

- 1                   (2) Fifty percent or less of the total controlling interests or total ownership  
2                   interests, as defined under section 10-19.1-01, in the foreign business  
3                   entity, if the foreign adversary directs the business operations and affairs of  
4                   the foreign business entity without the requirement of consent of any  
5                   nonforeign adversary, unless the foreign business entity was operating  
6                   lawfully in the United States on August 1, 2023.
- 7           3. When requested by a city council or commission, county commission, or title agent or  
8           company, the attorney general shall complete a civil review, to the extent allowable by  
9           law, relating to the qualifications of any foreign adversary business entity acquiring real  
10          property under subdivision c of subsection 2.
- 11       4. This section does not apply to an entity possessing an interest in real property under  
12          subsection 2 if the entity:
- 13           a. Is a duly registered business and has maintained a status of good standing with  
14           the secretary of state for seven years or longer before August 1, 2023;
- 15           b. Has been approved by the committee on foreign investment in the United States;  
16           and
- 17           c. Maintains an active national security agreement with the federal government.
- 18       5. A foreign government or foreign business entity subject to and in violation of this  
19          section shall divest itself of all real property in this state within thirty-six months after  
20          August 1, 2023.
- 21       6. If a foreign government or foreign business entity subject to this section fails to divest  
22          itself of all real property in this state within the period specified under subsection 4, the  
23          state's attorney of the county in which the majority of the real property is situated may  
24          issue subpoenas to compel witnesses to appear to provide testimony or produce  
25          records.
- 26       7. Upon receiving testimony and records, if the state's attorney concludes a foreign  
27          government or foreign business entity, in violation of this section, has failed to divest  
28          ownership of real property as required under this section, the state's attorney shall  
29          commence an action in the district court of the county in which the majority of the real  
30          property is situated. Once the action is commenced, the state's attorney shall file a  
31          notice pursuant to section 28-05-07 with the recorder of each county where the real

1 property subject to the action is situated. If the court finds divestment of real property  
2 under this section is proper, the district court shall enter an order consistent with its  
3 findings. As part of the order, the court shall cancel the notice pursuant to section  
4 28-05-08.

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

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

14 10. A person that is not subject to this section may not be required to:  
15 a. Determine whether another person is subject to this section; or  
16 b. Inquire if another person is subject to this section.

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

20 **Public or private ownership - All property subject to. (Effective after July 31,**  
21 **~~2025~~2027)**

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

25 **SECTION 2.** A new section to chapter 54-09 of the North Dakota Century Code is created  
26 and enacted as follows:

27 **Filing of beneficial ownership information statements - Secretary of state to forward**  
28 **certain filings - Penalty - Report.**

29 1. An organization required to make a beneficial ownership information filing with the  
30 financial crimes enforcement network under the Corporate Transparency Act [Pub. L.

- 1           116-283; 134 Stat. 4604; 31 U.S.C. 5336] also shall file a copy of the report with the  
2           secretary of state within three months of the acceptance of the federal filing.
- 3           2. The secretary of state shall review each filing upon receipt. If the secretary of state  
4           discovers any filing containing a beneficial owner domiciled or formed within a country  
5           listed as a foreign adversary as defined under section 47-01-09, the secretary of state  
6           shall create a program to review the filings. Under this program, the secretary of state  
7           shall issue a subpoena to compel a witness to appear, provide testimony, and produce  
8           documents. If the secretary of state reasonably believes a person violated section  
9           47-01-09 or chapter 47-10.1, the secretary of state shall forward the filing to the  
10           attorney general.
- 11           3. If the attorney general determines a violation occurred, the attorney general shall  
12           prosecute the action in the district court of the county in which the registered agent of  
13           the organization is located or in Burleigh County.
- 14           4. The state auditor shall perform a biennial performance audit of the program created  
15           under subsection 2. The state auditor shall provide a report on the findings of the audit  
16           to the legislative management by August first of each even-numbered year.
- 17           5. An organization that willfully violates this section is guilty of a class B misdemeanor.
- 18           **SECTION 3.** A new subsection to section 54-09-02 of the North Dakota Century Code is  
19           created and enacted as follows:
- 20           Issue subpoenas, administer oaths, and compel attendance of witnesses and the  
21           production of documents, whenever necessary to review a filing subject to the  
22           program established under section 2 of this Act.