

Introduced by

Senator Myrdal

1 A BILL for an Act to create and enact a new section to chapter 11-18 of the North Dakota
2 Century Code, relating to certification of a grantee's right to own property; to amend and reenact
3 sections 11-11-70, 40-05-26, and 47-01-09 of the North Dakota Century Code, relating to the
4 powers of a board of county commissioners, a board of city commissioners, and a city council
5 regarding development by a foreign country of concern or a foreign organization of concern and
6 the prohibition on ownership of real property by a foreign country of concern or a foreign
7 organization of concern; and to provide a penalty.

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

9 **SECTION 1. AMENDMENT.** Section 11-11-70 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **11-11-70. Development by a foreign adversary country of concern or foreign**
12 **organization of concern - Prohibition. (Expired effective July 31, 2025)**

13 1. A board of county commissioners, including a board in a home rule county, may not
14 procure, authorize, or approve a development agreement, building plan, or proposal
15 relating to county development with ~~an individual or government identified as a foreign~~
16 ~~adversary country of concern or a foreign organization of concern~~ under ~~15-CFR 7.4(a)-~~
17 ~~or a person identified on the office of foreign assets control sanctions list~~section
18 47-01-09.

19 2. This section does not apply to a foreign adversary ~~defined under subsection~~
20 ~~4~~organization of concern possessing an interest in real property if the foreign
21 ~~adversary organization of concern:~~

22 a. Is a duly registered business and has maintained a status of good standing with
23 the secretary of state for seven years or longer before August 1, 2023;

- 1 b. Has been approved by the committee on foreign investment in the United States;
- 2 and
- 3 c. Maintains an active national security agreement with the federal government.

4 **SECTION 2.** A new section to chapter 11-18 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Statement of compliance to be filed with recorder - Procedure - Penalty.**

- 7 1. A grantee or grantee's authorized agent who presents a deed to the office of the
8 county recorder shall certify on the face of the deed whether the grantee is:
 - 9 a. Allowed to own property under section 47-01-09; or
 - 10 b. Prohibited from owning property under section 47-01-09.
- 11 2. As used in this section, "deed" has the meaning provided in section 11-18-02.2.
- 12 3. A county recorder may not accept and record a deed unless the deed contains the
13 certification required under subsection 1.
- 14 4. The recorder shall mail or deliver a copy of the deed to the attorney general and the
15 state's attorney of the county where the majority of the property is located within thirty
16 days after the deed is recorded if the grantee or the grantee's authorized agent
17 certifies the grantee is prohibited from owning property under section 47-01-09 or the
18 recorder reasonably believes a certification made pursuant to subdivision a of
19 subsection 1 has been falsified.
- 20 5. The state's attorney shall review the deed within ninety days of receiving the deed
21 from the recorder. If the state's attorney reasonably believes a person has violated this
22 section, the state's attorney shall prosecute the violation in the district court of the
23 county where the majority of the property is located.
- 24 6. Any person that willfully falsifies a statement under subdivision a of subsection 1 is
25 guilty of a class B misdemeanor.

26 **SECTION 3. AMENDMENT.** Section 40-05-26 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **40-05-26. Development by a foreign adversary country of concern or foreign**
29 **organization of concern - Prohibition. (Expired effective July 31, 2025)**

- 30 1. A board of city commissioners or city council, including a board or council in a home
31 rule city, may not procure, authorize, or approve a development agreement, building

1 plan, or proposal relating to city development with an individual or government
2 identified as a foreign adversary country of concern or foreign organization of concern
3 under ~~15 CFR 7.4(a)~~ or a person identified on the office of foreign assets control
4 sanctions list section 47-01-09.

5 2. This section does not apply to a foreign adversary as defined in subsection
6 4 organization of concern possessing an interest in real property if the foreign
7 adversary organization of concern:

- 8 a. Is a duly registered business and has maintained a status of good standing with
9 the secretary of state for seven years or longer before August 1, 2023;
10 b. Has been approved by the committee on foreign investment in the United States;
11 and
12 c. Maintains an active national security agreement with the federal government.

13 **SECTION 4. AMENDMENT.** Section 47-01-09 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **47-01-09. Public or private ownership - All property subject to - Foreign ownership**
16 **prohibited. (~~Effective through July 31, 2025~~)**

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

20 2. Notwithstanding any other provision of law, the following governments or entities may
21 not purchase or otherwise acquire title to real property in this state after July 31,
22 20232025:

- 23 a. A foreign adversary country of concern.
24 b. A foreign ~~business entity~~ organization of concern with a principal executive office
25 located in a foreign country that is identified as a foreign adversary of concern.
26 c. A foreign ~~business entity~~ organization of concern in which a foreign adversary
27 country of concern owns:

28 (1) More than fifty percent of the total controlling interests or total ownership
29 interests, as defined under section 10-19.1-01, in the foreign ~~business~~
30 ~~entity~~ organization of concern, unless the foreign ~~business entity~~

- 1 organization of concern was operating lawfully in the United States on or
2 before August 1, 2023; or
- 3 (2) Fifty percent or less of the total controlling interests or total ownership
4 interests, as defined under section 10-19.1-01, in the foreign ~~business-~~
5 ~~entity~~organization of concern, if the foreign ~~adversary~~country of concern
6 directs the business operations and affairs of the foreign ~~business-~~
7 ~~entity~~organization of concern without the requirement of consent of ~~any-~~
8 ~~nonforeign adversary~~from the committee on foreign investment in the United
9 States, unless the foreign ~~business-entity~~organization of concern was
10 operating lawfully in the United States on or before August 1, 2023.
- 11 3. When requested by a city council or commission, county commission, or title agent or
12 company, the attorney general shall complete a civil review, to the extent allowable by
13 ~~law, relating to.~~ Under the review, the qualifications of any attorney general shall
14 determine whether a foreign adversary business-entity-acquiring organization of
15 concern is qualified and eligible to acquire real property under ~~subdivision c of~~
16 subsection 2.
- 17 4. This section does not apply to ~~an entity~~a foreign organization of concern possessing
18 an interest in real property under subsection 2 if the ~~entity~~foreign organization of
19 concern:
- 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 of a foreign country of concern or foreign ~~business-~~
26 ~~entity~~organization of concern subject to and in violation of this section shall divest itself
27 of all real property in this state within thirty-six months after August 1, 2023.
- 28 6. If a foreign government of a foreign country of concern or foreign ~~business-~~
29 ~~entity~~organization of concern subject to this section fails to divest itself of all real
30 property in this state within the period specified under subsection 4, the state's

- 1 attorney of the county in which the majority of the real property is situated may issue
2 subpoenas to compel witnesses to appear to provide testimony or produce records.
- 3 7. Upon receiving testimony and records, if the state's attorney concludes a foreign
4 government of a foreign country of concern or foreign ~~business entity~~organization of
5 concern, in violation of this section, has failed to divest ownership of real property as
6 required under this section, the state's attorney shall commence an action in the
7 district court of the county in which the majority of the real property is situated. Once
8 the action is commenced, the state's attorney shall file a notice pursuant to section
9 28-05-07 with the recorder of each county where the real property subject to the action
10 is situated. If the court finds divestment of real property under this section is proper,
11 the district court shall enter an order consistent with its findings. As part of the order,
12 the court shall cancel the notice pursuant to section 28-05-08.
- 13 8. Pursuant to an order for divestment, a foreign government of a foreign country of
14 concern or foreign ~~business entity~~organization of concern subject to an order shall
15 divest all real property within six months from the date of the final entry of judgment. A
16 foreign government of a foreign country of concern or foreign ~~business-~~
17 ~~entity~~organization of concern that fails to comply with the court's order is subject to a
18 civil penalty not to exceed twenty-five thousand dollars.
- 19 9. Any real property not divested within the period prescribed by law may be sold at a
20 public sale in the manner provided under chapter 32-19 through an action brought by
21 the state's attorney. A title to real property or encumbrance on the real property may
22 not be deemed invalid by an order of divestiture under this section.
- 23 10. A person that is not subject to this section may not be required to:
24 a. Determine whether another person is subject to this section; or
25 b. Inquire if another person is subject to this section.
- 26 11. ~~For purposes of~~As used in this section, "foreign adversary" :
27 a. "Foreign country of concern" means an individual or a government identified as a
28 foreign adversary in ~~15 CFR 7.4(a)~~15 CFR 791.4 or a person identified on the
29 office of foreign assets control sanctions list.
30 b. "Foreign organization of concern" means an organization domiciled or formed
31 within a foreign country of concern.

- 1 c. "Owner" means the holders of an ownership interest in an organization.