

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2371

Introduced by

Senators Paulson, Larsen, Wobbema

Representatives Fisher, Hoverson, Louser

1 A BILL for an Act to create and enact a new section to chapter 11-11 and a new section to
2 chapter 40-05 of the North Dakota Century Code, relating to the power of counties and
3 municipalities to prohibit local development by a foreign adversary; to amend and reenact
4 section 47-01-09 of the North Dakota Century Code, relating to the prohibition on ownership of
5 real property by a foreign adversary; ~~and~~ to provide for a legislative management study; to
6 provide an expiration date; and to declare an emergency.

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

8 **SECTION 1.** A new section to chapter 11-11 of the North Dakota Century Code is created
9 and enacted as follows:

10 **Development by a foreign adversary - Prohibition.**

- 11 1. A board of county commissioners, including a board in a home rule county, may not
12 procure, authorize, or approve a development agreement, building plan, or proposal
13 relating to county development with an individual or government identified as a foreign
14 adversary under 15 CFR 7.4(a) or a person identified on the office of the foreign
15 assets control sanctions list.
- 16 2. This section does not apply to a foreign adversary defined under subsection 1
17 possessing an interest in real property if the foreign adversary:
- 18 a. Is a duly registered business and has maintained a status of good standing with
19 the secretary of state for seven years or longer before the effective date of this
20 Act;
- 21 b. Has been approved by the committee for foreign direct investment in the United
22 States; and
- 23 c. Maintains an active national security agreement with the federal government.

1 **SECTION 2.** A new section to chapter 40-05 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Development by a foreign adversary - Prohibition.**

4 1. A board of city commissioners or city council, including a board or council in a home
5 rule city, may not procure, authorize, or approve a development agreement, building
6 plan, or proposal relating to city development with an individual or government
7 identified as a foreign adversary under 15 CFR 7.4(a) or a person identified on the
8 office of the foreign assets control sanctions list.

9 2. This section does not apply to a foreign adversary as defined in subsection 1
10 possessing an interest in real property if the foreign adversary:

11 a. Is a duly registered business and has maintained a status of good standing with
12 the secretary of state for seven years or longer before the effective date of this
13 Act;

14 b. Has been approved by the committee for foreign direct investment in the United
15 States; and

16 c. Maintains an active national security agreement with the federal government.

17 **SECTION 3. AMENDMENT.** Section 47-01-09 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **47-01-09. Public or private ownership - All property subject to - Foreign ownership**
20 **prohibited.**

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

24 2. Notwithstanding any other provision of law, the following governments or entities may
25 not purchase, ~~hold,~~ or otherwise acquire title to real property in this state after the
26 effective date of this Act:

27 a. A foreign government listed as a foreign adversary.

28 b. A foreign business entity that ~~is:~~

29 (1) ~~Headquartered~~ Maintains its principal place of business in a country that is a
30 foreign adversary;

31 (2) Directly or indirectly is held or controlled by a foreign adversary;

- 1 (3) Owned by the majority of stock or other ownership interests of which is held
2 or controlled by individuals who are citizens of a foreign adversary; or
3 (4) A company owned by, or the majority of stock or other ownership interest of
4 which is held or controlled by, a company or entity described in paragraph 3.
- 5 3. This section does not apply to an entity possessing an interest in real property under
6 subsection 2 if the entity:
- 7 a. Is a duly registered business and has maintained a status of good standing with
8 the secretary of state for seven years or longer before the effective date of this
9 Act;
- 10 b. Has been approved by the committee for foreign direct investment in the United
11 States; and
- 12 c. Maintains an active national security agreement with the federal government.
- 13 4. A foreign government or foreign business entity subject to and in violation of this
14 section shall divest itself of all real property in this state within thirty-six months after
15 the effective date of this Act.
- 16 5. If a foreign government or foreign business entity subject to this section fails to divest
17 itself of all real property in this state within the period specified under subsection 4, the
18 the state's attorney of the county in which the majority of the real property is situated
19 may issue subpoenas to compel witnesses to appear to provide testimony or produce
20 records.
- 21 6. Upon receiving testimony and records, if the state's attorney concludes a foreign
22 government or foreign business entity, in violation of this section, has failed to divest
23 ownership of real property as required under this section, the state's attorney shall
24 commence an action in the district court of the county in which the majority of the real
25 property is situated. Once the action is commenced, the state's attorney shall file a
26 notice pursuant to section 28-05-07 with the recorder of each county where the real
27 property subject to the action is situated. If the court finds divestment of real property
28 under this section is proper, the district court shall enter an order consistent with its
29 findings. As part of the order, the court shall cancel the notice pursuant to section
30 28-05-08.

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

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

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

11 a. Determine whether another person is subject to this section; or

12 b. Inquire if another person is subject to this section.

13 10. For purposes of this subsection, "foreign adversary" means an individual or a
14 government identified as a foreign adversary in 15 CFR 7.4(a) or a person identified
15 on the office of foreign assets control sanctions list.

16 **SECTION 4. LEGISLATIVE MANAGEMENT STUDY - REAL PROPERTY AND**
17 **COMMERCIAL ASSET OWNERSHIP AND OPERATION OF BUSINESS AND CHARITABLE**
18 **ENTITIES BY FOREIGN ADVERSARIES.**

19 1. During the 2023-24 interim, the legislative management shall study the number of
20 persons that own or control any real estate or commercial assets or operate a
21 business within this state which is owned by, controlled by, or subject to the jurisdiction
22 or direction of foreign adversaries or individuals acting on behalf of or in conjunction
23 with foreign adversaries or persons listed on the office of foreign assets control
24 sanctions list.

25 2. The study must attempt to craft a definition of foreign adversary and ascertain the
26 number of such persons residing in this state which operate a business or a charitable
27 enterprise or have obtained a beneficial interest in real estate, commercial assets, or a
28 business or charitable organization in this state.

29 3. The study must consider which federal foreign adversary list would be best suited for
30 use for the security of this state and the impact of implementing and using a federally
31 created list.

- 1 4. The study must determine how to define, create, and implement a security review
2 verification system that monitors and reviews the actions of foreign adversaries that
3 operate a business or a charitable enterprise or have obtained a beneficial interest in
4 real estate, commercial assets, or a business or charitable organization in this state.
- 5 5. The study must:
 - 6 a. Identify optimal methods for state officials to work and collaborate with national
7 intelligence agents at the state and federal level regarding background checks,
8 national security, and state security;
 - 9 b. Outline what constitutes a national security threat and which person or agency
10 has the authority to declare a national security threat and security threat to this
11 state;
 - 12 c. Identify which state agencies are best equipped to create, implement, and
13 operate a security review verification system that monitors and reviews foreign
14 adversaries operating a business or a charitable enterprise or that have obtained
15 a beneficial interest in real estate, commercial assets, or a business or charitable
16 organization in this state;
 - 17 d. Identify the proper structure and function of a security review verification system;
 - 18 e. Identify the individuals and persons eligible to operate a business or a charitable
19 enterprise or that have obtained a beneficial interest in real estate, commercial
20 assets, or a business or charitable organization in this state, under the security
21 review verification system; and
 - 22 f. Identify other necessary changes to current industry practices relating to
23 ownership of real property or commercial assets and the operation of business or
24 charitable entities by a foreign adversary.
- 25 5. The study must include under which circumstances, if any, foreign adversaries are
26 prohibited from owning real property in this state, and under which circumstances, if
27 any, foreign adversaries are permitted to own real property in this state.
- 28 6. The legislative management shall report its findings and recommendations, together
29 with any legislation required to implement the recommendations, to the sixty-ninth
30 legislative assembly.

1 **SECTION 5. EXPIRATION DATE.** Sections 1 through 3 of this Act are effective through
2 July 31, 2025, and after that date are ineffective.

3 **SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.