

April 22, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2371

That the House recede from its amendments as printed on pages 1702-1705 of the Senate Journal and pages 1943-1945 of the House Journal and that Engrossed Senate Bill No. 2371 be amended as follows:

Page 1, line 5, replace "and to declare an emergency" with "to provide for a legislative management study; and to provide an expiration date"

Page 1, line 13, after the underscored closing parenthesis insert "or a person identified on the office of the foreign assets control sanctions list"

Page 1, line 19, replace "for" with "on"

Page 1, line 19, remove "direct"

Page 2, line 5, after the underscored closing parenthesis insert "or a person identified on the office of the foreign assets control sanctions list"

Page 2, line 11, replace "for" with "on"

Page 2, line 11, remove "direct"

Page 2, line 22, remove ", hold,"

Page 2, line 22, after "state" insert "after the effective date of this Act"

Page 2, line 23, remove "government listed as a foreign"

Page 2, line 24, remove "that is:"

Page 2, line 25, replace "(1) Headquartered" with "with a principal executive office located"

Page 2, line 25, after "is" insert "identified as"

Page 2, line 25, remove the underscored semicolon

Page 2, remove lines 26 through 29

Page 2, line 30, remove "which is held or controlled by, a company or entity described in paragraph 3"

Page 2, after line 30, insert:

"c. A foreign business entity in which a foreign adversary owns:

(1) More than fifty percent of the total controlling interests or total ownership interests, as defined under section 10-19.1-01, in the foreign business entity, unless the foreign business entity was operating lawfully in the United States on the effective date of this Act; or

(2) Fifty percent or less of the total controlling interests or total ownership interests, as defined under section 10-19.1-01, in the foreign business entity, if the foreign adversary directs the business operations and affairs of the foreign business entity

without the requirement of consent of any nonforeign adversary, unless the foreign business entity was operating lawfully in the United States on the effective date of this Act."

Page 3, line 1, after "3." insert "The attorney general shall complete a review of security concerns relating to any foreign business entity acquiring real property under subdivision c of subsection 2.

4."

Page 3, line 6, replace "for" with "on"

Page 3, line 6, remove "direct"

Page 3, line 9, replace "4." with:

- "5. A foreign government or foreign business entity subject to and in violation of this section shall divest itself of all real property in this state within thirty-six months after the effective date of this Act.
6. If a foreign government or foreign business entity subject to this section fails to divest itself of all real property in this state within the period specified under subsection 4, the the state's attorney of the county in which the majority of the real property is situated may issue subpoenas to compel witnesses to appear to provide testimony or produce records.
7. Upon receiving testimony and records, if the state's attorney concludes a foreign government or foreign business entity, in violation of this section, has failed to divest ownership of real property as required under this section, the state's attorney shall commence an action in the district court of the county in which the majority of the real property is situated. Once the action is commenced, the state's attorney shall file a notice pursuant to section 28-05-07 with the recorder of each county where the real property subject to the action is situated. If the court finds divestment of real property under this section is proper, the district court shall enter an order consistent with its findings. As part of the order, the court shall cancel the notice pursuant to section 28-05-08.
8. Pursuant to an order for divestment, a foreign government or foreign business entity subject to an order shall divest all real property within six months from the date of the final entry of judgment. A foreign government or foreign business entity that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars.
9. Any real property not divested within the period prescribed by law may be sold at a public sale in the manner provided under chapter 32-19 through an action brought by the state's attorney. A title to real property or encumbrance on the real property may not be deemed invalid by an order of divestiture under this section.
10. A person that is not subject to this section may not be required to:
 - a. Determine whether another person is subject to this section; or
 - b. Inquire if another person is subject to this section.

11."

Page 3, line 9, replace "subsection" with "section"

Page 3, line 10, after the underscored closing parenthesis insert "or a person identified on the office of foreign assets control sanctions list"

Page 3, replace line 11 with:

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

1. During the 2023-24 interim, the legislative management shall study the number of persons that own or control any real estate or commercial assets or operate a business within this state which is owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries or individuals acting on behalf of or in conjunction with foreign adversaries or persons listed on the office of foreign assets control sanctions list.
2. The study must attempt to craft a definition of foreign adversary and ascertain the number of such persons residing in this state which operate a business or a charitable enterprise or have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state.
3. The study must consider which federal foreign adversary list would be best suited for use for the security of this state and the impact of implementing and using a federally created list.
4. The study must determine how to define, create, and implement a security review verification system that monitors and reviews the actions of foreign adversaries that operate a business or a charitable enterprise or have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state.
5. The study must:
 - a. Identify optimal methods for state officials to work and collaborate with national intelligence agents at the state and federal level regarding background checks, national security, and state security;
 - b. Outline what constitutes a national security threat and which person or agency has the authority to declare a national security threat and security threat to this state;
 - c. Identify which state agencies are best equipped to create, implement, and operate a security review verification system that monitors and reviews foreign adversaries operating a business or a charitable enterprise or that have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state;
 - d. Identify the proper structure and function of a security review verification system;

- e. Identify the individuals and persons eligible to operate a business or a charitable enterprise or that have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state, under the security review verification system; and
 - f. Identify other necessary changes to current industry practices relating to ownership of real property or commercial assets and the operation of business or charitable entities by a foreign adversary.
- 5. The study must include under which circumstances, if any, foreign adversaries are prohibited from owning real property in this state, and under which circumstances, if any, foreign adversaries are permitted to own real property in this state.
 - 6. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

SECTION 5. EXPIRATION DATE. This Act is effective through July 31, 2025, and after that date is ineffective."

Renumber accordingly