

Introduced by

Legislative Management

(Agriculture and Natural Resources Committee)

1 A BILL for an Act to create and enact a new section to chapter 11-18 and a new section to
2 chapter 54-09 of the North Dakota Century Code, relating to the certification of a foreign
3 grantee's right to own property and the filing of foreign ownership information statements with
4 the secretary of state; to amend and reenact sections 11-11-70, 40-05-26, 47-01-09, and
5 47-10.1-05 of the North Dakota Century Code, relating to the powers of a board of county
6 commissioners, a board of city commissioners, and a city council regarding development by a
7 foreign country of concern or foreign organization of concern, prohibiting ownership of real
8 property by a foreign country of concern or a foreign organization of concern, and required
9 filings for foreign persons investing in agricultural lands; to repeal section 47-10.1-05 of the
10 North Dakota Century Code, relating to required filings for foreign persons investing in
11 agricultural lands; to provide a penalty; and to provide a contingent effective date.

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

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

15 **11-11-70. Development by a foreign adversary country of concern or foreign**
16 **organization of concern - Prohibition. (~~Expired effective July 31, 2025~~)**

17 1. A board of county commissioners, including a board in a home rule county, may not
18 procure, authorize, or approve a development agreement, building plan, or proposal
19 relating to county development with ~~an individual or government identified as a foreign~~
20 ~~adversary country of concern or a foreign organization of concern~~ under ~~15 CFR 7.4(a)~~
21 ~~or a person identified on the office of foreign assets control sanctions list~~ section
22 47-01-09.

- 1 2. This section does not apply to a foreign adversary defined under subsection-
2 ~~4~~organization of concern possessing an interest in real property if the foreign
3 ~~adversary~~organization of concern:
- 4 a. Is a duly registered business and has maintained a status of good standing with
5 the secretary of state for seven years or longer before August 1, 2023;
6 b. Has been approved by the committee on foreign investment in the United States;
7 and
8 c. Maintains an active national security agreement with the federal government.

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

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

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

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

3 **40-05-26. Development by a foreign adversarycountry of concern or foreign**
4 **organization of concern - Prohibition. (Expired effective July 31, 2025)**

- 5 1. A board of city commissioners or city council, including a board or council in a home
6 rule city, may not procure, authorize, or approve a development agreement, building
7 plan, or proposal relating to city development with an individual or government
8 identified as a foreign adversarycountry of concern or foreign organization of concern
9 under 15 CFR 7.4(a) or a person identified on the office of foreign assets control
10 sanctions listsection 47-01-09.
- 11 2. This section does not apply to a foreign adversary as defined in subsection
12 4organization of concern possessing an interest in real property if the foreign
13 adversaryorganization of concern:
- 14 a. Is a duly registered business and has maintained a status of good standing with
15 the secretary of state for seven years or longer before August 1, 2023;
- 16 b. Has been approved by the committee on foreign investment in the United States;
17 and
- 18 c. Maintains an active national security agreement with the federal government.

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

21 **47-01-09. Public or private ownership - All property subject to - Foreign ownership**
22 **prohibited. (Effective through July 31, 2025)**

- 23 1. All property in this state has an owner, whether that owner is the United States or the
24 state, and the property public, or the owner an individual, and the property private. The
25 state also may hold property as a private proprietor.
- 26 2. Notwithstanding any other provision of law, the following governments or entities may
27 not purchase or otherwise acquire title to real property in this state after July 31,
28 20232025:
- 29 a. A foreign adversarycountry of concern.
- 30 b. A foreign business entityorganization of concern with a principal executive office
31 located in a foreign country that is identified as a foreign adversaryof concern.

- 1 c. A foreign ~~business entity~~organization of concern in which a foreign adversary
2 owns:
- 3 (1) ~~More than fifty percent of the total controlling interests or total ownership~~
4 ~~interests, as defined under section 10-19.1-01, in the foreign business~~
5 ~~entity, unless the foreign business entity was operating lawfully in the United~~
6 ~~States on August 1, 2023; or~~
- 7 (2) ~~Fifty percent or less of the total controlling interests or total ownership~~
8 ~~interests, as defined under section 10-19.1-01, in the foreign business~~
9 ~~entity, if the foreign adversary country of concern owns any ownership~~
10 ~~interest in the foreign organization of concern or the foreign country of~~
11 ~~concern controls or directs the business operations and affairs of the foreign~~
12 ~~business entityorganization of concern without the requirement of consent of~~
13 ~~any nonforeign adversaryfrom the committee on foreign investment in the~~
14 ~~United States, unless the foreign ~~business entity~~organization of concern~~
15 ~~was operating lawfully in the United States on or before August 1, 2023.~~
- 16 3. When requested by a city council or commission, county commission, or title agent or
17 company, the attorney general shall complete a civil review, to the extent allowable by
18 law, ~~relating to~~. Under the review, the ~~qualifications of any~~attorney general shall
19 determine whether a foreign adversary ~~business entity~~ acquiring organization of
20 ~~concern is qualified and eligible to acquire~~ real property under ~~subdivision c of~~
21 subsection 2.
- 22 4. This section does not apply to ~~an entity~~ a foreign organization of concern possessing
23 an interest in real property under subsection 2 if the ~~entity~~foreign organization of
24 ~~concern~~:
25 a. Is a duly registered business and has maintained a status of good standing with
26 the secretary of state for seven years or longer before August 1, 2023;
27 b. Has been approved by the committee on foreign investment in the United States;
28 and
29 c. Maintains an active national security agreement with the federal government.

- 1 5. A foreign government of a foreign country of concern or foreign ~~business-~~
2 entityorganization of concern subject to and in violation of this section shall divest itself
3 of all real property in this state within thirty-six months after August 1, 2023.
- 4 6. If a foreign government of a foreign country of concern or foreign ~~business-~~
5 entityorganization of concern subject to this section fails to divest itself of all real
6 property in this state within the period specified under subsection 4, the state's
7 attorney of the county in which the majority of the real property is situated may issue
8 subpoenas to compel witnesses to appear to provide testimony or produce records.
- 9 7. Upon receiving testimony and records, if the state's attorney concludes a foreign
10 government of a foreign country of concern or foreign ~~business-~~entityorganization of
11 concern, in violation of this section, has failed to divest ownership of real property as
12 required under this section, the state's attorney shall commence an action in the
13 district court of the county in which the majority of the real property is situated. Once
14 the action is commenced, the state's attorney shall file a notice pursuant to section
15 28-05-07 with the recorder of each county where the real property subject to the action
16 is situated. If the court finds divestment of real property under this section is proper,
17 the district court shall enter an order consistent with its findings. As part of the order,
18 the court shall cancel the notice pursuant to section 28-05-08.
- 19 8. Pursuant to an order for divestment, a foreign government of a foreign country of
20 concern or foreign ~~business-~~entityorganization of concern subject to an order shall
21 divest all real property within six months from the date of the final entry of judgment. A
22 foreign government of a foreign country of concern or foreign ~~business-~~
23 entityorganization of concern that fails to comply with the court's order is subject to a
24 civil penalty not to exceed twenty-five thousand dollars.
- 25 9. Any real property not divested within the period prescribed by law may be sold at a
26 public sale in the manner provided under chapter 32-19 through an action brought by
27 the state's attorney. A title to real property or encumbrance on the real property may
28 not be deemed invalid by an order of divestiture under this section.
- 29 10. A person that is not subject to this section may not be required to:
30 a. Determine whether another person is subject to this section; or
31 b. Inquire if another person is subject to this section.

- 1 11. For purposes of ~~As used in~~ this section, "foreign adversary":
- 2 a. "Foreign country of concern" means an individual or a government identified as a
- 3 foreign adversary in ~~15 CFR 7.4(a)~~under title 15, Code of Federal Regulations,
- 4 part 791.4(a) or a person identified on the office of foreign assets control
- 5 sanctions list.
- 6 b. "Foreign organization of concern" means an organization domiciled or formed
- 7 within a foreign country of concern.
- 8 c. "Owns" means the act of holding or possessing an ownership interest in an
- 9 organization.

10 ~~Public or private ownership - All property subject to. (Effective after July 31, 2025)~~

11 ~~All property in this state has an owner, whether that owner is the United States or the state,~~

12 ~~and the property public, or the owner an individual, and the property private. The state also may~~

13 ~~hold property as a private proprietor.~~

14 **SECTION 5. AMENDMENT.** Section 47-10.1-05 of the North Dakota Century Code is

15 amended and reenacted as follows:

16 **47-10.1-05. Reports - Annual report to the legislative management - Penalty.**

17 ~~The commissioner shall monitor for compliance with this chapter all reports transmitted to~~

18 ~~the commissioner pursuant to~~

- 19 1. A foreign person required to make a report to the United States department of
- 20 agriculture under the Agricultural Foreign Investment Disclosure Act of 1978 [Pub. L.
- 21 95-460; 92 Stat. 1263; 7 U.S.C. 3501 et seq.] shall file a copy of the report with the
- 22 agriculture commissioner within the time required under title 7, Code of Federal
- 23 Regulations, part 781.3. The commissioner shall make the reports available to the
- 24 public.
- 25 2. The commissioner shall provide an annual report to the legislative management by
- 26 September first of each year. The report must include the number of filings submitted
- 27 to the commissioner and the number of acres in each county owned by a foreign
- 28 person required to report under subsection 1.
- 29 3. If a person fails to file a copy of the report required under subsection 1, the attorney
- 30 general shall impose a civil penalty of up to twenty-five percent of the fair market
- 31 value, as determined on the date the penalty was imposed, of the person's ownership

1 interest in the agricultural land in this state. The attorney general shall commence an
2 action to collect the civil penalty in the district court of the county in which the majority
3 of the real property is situated or in Burleigh County.

4 **SECTION 6.** A new section to chapter 54-09 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Statement of ownership - Secretary of state to forward certain filings - Penalty.**

- 7 1. An organization required to file with the secretary of state and a beneficial ownership
8 information statement with the financial crimes enforcement network under the
9 Corporate Transparency Act [Pub. L. 116-283; 134 Stat. 4604; 31 U.S.C. 5336] also
10 shall file a statement with the secretary of state certifying whether the organization is a
11 foreign organization of concern under section 47-01-09. An organization required to
12 file a statement under this section shall file the statement simultaneously with the
13 articles of incorporation, articles of organization, certificate of authority, or other
14 organization registration document required by the secretary of state.
- 15 2. The secretary of state shall review each filing upon receipt. If the secretary of state
16 discovers any filing in which the statement of ownership was falsified and the filing
17 violates section 47-01-09 or chapter 47-10.1, the secretary of state shall forward the
18 filing to the attorney general.
- 19 3. If the attorney general determines a violation occurred, the attorney general shall
20 prosecute the action in the district court of the county in which the registered agent of
21 the organization is located or in Burleigh County.
- 22 4. An organization that willfully violates this section is guilty of a class B misdemeanor.

23 **SECTION 7. REPEAL.** Section 47-10.1-05 of the North Dakota Century Code is repealed.

24 **SECTION 8. CONTINGENT EFFECTIVE DATE.** Section 7 of this Act becomes effective on
25 the date the legislative council receives certification from the agriculture commissioner that the
26 Agricultural Foreign Investment Disclosure Act of 1978 [Pub. L. 95-460; 92 Stat, 1263; 7 U.S.C.
27 3501 et seq.] has been repealed.