

Introduced by

Senators Walen, Myrdal, Paulson, Thomas

Representative S. Olson

1 A BILL for an Act to amend and reenact sections 11-11-70, 40-05-26, 47-01-09, and 47-10.1-05
2 of the North Dakota Century Code, relating to the powers of a board of county commissioners, a
3 board of city commissioners, and a city council regarding development by a foreign country of
4 concern or foreign organization of concern, prohibiting ownership of real property by a foreign
5 country of concern or a foreign organization of concern, and required filings for foreign persons
6 investing in agricultural lands; to repeal section 47-10.1-05 of the North Dakota Century Code,
7 relating to required filings for foreign persons investing in agricultural lands; to provide for a
8 legislative management report; to provide a penalty; to provide a contingent effective date; and
9 to provide an expiration date.

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

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

13 **11-11-70. Development by a foreign adversarycountry of concern or foreign**
14 **organization of concern - Prohibition. (Expired effective July 31, 20252027)**

- 15 1. A board of county commissioners, including a board in a home rule county, may not
16 procure, authorize, or approve a development agreement, building plan, or proposal
17 relating to county development with ~~an individual or government identified as a foreign~~
18 ~~adversarycountry of concern or a foreign organization of concern~~ under ~~15-CFR 7.4(a)-~~
19 ~~or a person identified on the office of foreign assets control sanctions list~~section
20 47-01-09.
- 21 2. This section does not apply to a foreign ~~adversary defined under subsection-~~
22 ~~4~~organization of concern possessing an interest in real property if the foreign
23 ~~adversary~~organization of concern:

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

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

8 **40-05-26. Development by a foreign adversarycountry of concern or foreign**
9 **organization of concern - Prohibition. (Expired effective July 31, 20252027)**

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

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

26 **47-01-09. Public or private ownership - All property subject to - Foreign ownership**
27 **prohibited. (Effective through July 31, 20252027)**

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

- 1 2. Notwithstanding any other provision of law, the following governments or entities may
2 not purchase or otherwise acquire title to real property in this state after July 31,
3 ~~2023~~2025:
- 4 a. A foreign ~~adversary~~country of concern.
- 5 b. A foreign ~~business entity~~organization of concern with a principal executive office
6 located in a foreign country ~~that is identified as a foreign adversary of concern~~.
- 7 c. A foreign ~~business entity~~organization of concern in which a foreign
8 ~~adversary~~country of concern owns:
- 9 (1) More than ~~fifty~~twenty-five percent of the ~~total controlling interests or total~~
10 ownership interests, ~~as defined under section 10-19.1-01,~~interest in the
11 foreign ~~business entity~~organization of concern, unless the foreign ~~business-~~
12 ~~entity~~organization of concern was operating lawfully in the United States on
13 August 1, 2023; or
- 14 (2) ~~Fifty~~Twenty-five percent or less of the ~~total controlling interests or total~~
15 ownership interests, ~~as defined under section 10-19.1-01,~~interest in the
16 foreign ~~business entity~~organization of concern, if the foreign ~~adversary-~~
17 country of concern controls or directs the business operations and affairs of
18 the foreign ~~business entity~~organization of concern without the requirement
19 of consent ~~of any nonforeign adversary~~from the committee on foreign
20 investment in the United States, unless the foreign ~~business-~~
21 ~~entity~~organization of concern was operating lawfully in the United States on
22 or before August 1, 2023.
- 23 3. When requested by a city council or commission, county commission, or title agent or
24 company, the attorney general shall complete a civil review, to the extent allowable by
25 law, ~~relating to~~. Under the review, the qualifications of any attorney general shall
26 determine whether a foreign adversary business entity acquiring organization of
27 concern is qualified and eligible to acquire real property under ~~subdivision e of~~
28 subsection 2.
- 29 4. This section does not apply to an ~~entity~~a foreign organization of concern possessing
30 an interest in real property under subsection 2 if the ~~entity~~foreign organization of
31 concern:

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

1 the state's attorney. A title to real property or encumbrance on the real property may
2 not be deemed invalid by an order of divestiture under this section.

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

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

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

6 11. ~~For purposes of~~As used in this section, ~~"foreign adversary"~~:

7 a. "Foreign country of concern" means an individual or a government identified as a
8 foreign adversary in ~~15 CFR 7.4(a)~~under title 15, Code of Federal Regulations,
9 part 791.4(a) or a person identified on the office of foreign assets control
10 sanctions list.

11 b. "Foreign organization of concern" means an organization domiciled or formed
12 within a foreign country of concern.

13 c. "Owns" means the act of holding or possessing an ownership interest in an
14 organization.

15 **Public or private ownership - All property subject to. (Effective after July 31,**
16 **~~2025~~2027)**

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

20 **SECTION 4. AMENDMENT.** Section 47-10.1-05 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **47-10.1-05. Reports - Annual report to the legislative management - Penalty.**

23 ~~The commissioner shall monitor for compliance with this chapter all reports transmitted to~~
24 ~~the commissioner pursuant to~~

25 1. A foreign person required to make a report to the United States department of
26 agriculture under the Agricultural Foreign Investment Disclosure Act of 1978 [Pub. L.
27 95-460; 92 Stat. 1263; 7 U.S.C. 3501 et seq.] shall file a copy of the report with the
28 agriculture commissioner within the time required under title 7, Code of Federal
29 Regulations, part 781.3. The commissioner shall make the reports available to the
30 public.

- 1 2. The commissioner shall provide an annual report to the legislative management by
2 September first of each year. The report must include the number of filings submitted
3 to the commissioner and the number of acres in each county owned by a foreign
4 person required to report under subsection 1.
- 5 3. If a person fails to file a copy of the report required under subsection 1, the attorney
6 general shall impose a civil penalty of up to twenty-five percent of the fair market
7 value, as determined on the date the penalty was imposed, of the person's ownership
8 interest in the agricultural land in this state. The attorney general shall commence an
9 action to collect the civil penalty in the district court of the county in which the majority
10 of the real property is situated or in Burleigh County.

11 **SECTION 5. REPEAL.** Section 47-10.1-05 of the North Dakota Century Code is repealed.

12 **SECTION 6. CONTINGENT EFFECTIVE DATE.** Section 5 of this Act becomes effective on
13 the date the legislative council receives certification from the agriculture commissioner that the
14 Agricultural Foreign Investment Disclosure Act of 1978 [Pub. L. 95-460; 92 Stat, 1263; 7 U.S.C.
15 3501 et seq.] has been repealed.