

April 7, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2371

- Page 1, line 5, replace "; and to declare an emergency" with "; to provide 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 the second "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 ownership interests in the foreign business entity as defined under subsection 45 of section 10-19.1-01, 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 ownership interests in the foreign business entity as defined under subsection 45 of section 10-19.1-01, if the foreign adversary actually 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 6, replace "for" with "on"

Page 3, line 6, remove "direct"

Page 3, line 9, after "4." insert "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.

5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
- 10."

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, after line 10, insert:

"SECTION 4. LEGISLATIVE MANAGEMENT STUDY - REAL ESTATE OWNERSHIP AND CONDUCT OF BUSINESS 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 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 a federally created list.
4. The study must determine how to create and implement a security verification system that would:
 - a. Review business records and perform background checks on any existing entity not considered a foreign adversary;
 - b. Identify optimal methods for state officials to work and collaborate with national intelligence agents at the state and federal level; and
 - c. Outline what constitutes a national security threat and which person or agency has the authority to declare a national security threat.
5. 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."

Page 3, remove line 11

Renumber accordingly