

HOUSE BILL NO. 1503

Introduced by

Representatives Hoverson, Timmons

Senator Paulson

1 A BILL ~~for an Act to amend and reenact section 47-01-09 and subsection 1 of section~~
 2 ~~47-10.1-02 of the North Dakota Century Code, relating to prohibition of foreign ownership of real~~
 3 ~~property; and to provide for retroactive application:~~ for an Act to create and enact a new
 4 subsection to section 54-12-01 and a new section to chapter 54-12 of the North Dakota Century
 5 Code, relating to ownership of real property and commercial assets by foreign adversaries; to
 6 provide for a legislative management study; and to provide an expiration date.

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

8 ~~SECTION 1. AMENDMENT.~~ Section 47-01-09 of the North Dakota Century Code is
 9 amended and reenacted as follows:

10 ~~47-01-09. Public or private ownership -- All property subject to -- Foreign ownership~~
 11 ~~prohibited.~~

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

15 ~~2. Notwithstanding any other provision of law, a government of a foreign country or a~~
 16 ~~foreign business entity, permanent resident, or alien may not directly or indirectly~~
 17 ~~acquire an ownership interest in real property in this state unless the individual is an~~
 18 ~~alien entitled to enter the United States under the provisions of a treaty of commerce~~
 19 ~~and navigation between the United States and the foreign state of which the individual~~
 20 ~~is a national, solely to develop and direct the operations of an enterprise in which the~~
 21 ~~individual has invested or to direct the operations of an enterprise in which the~~
 22 ~~individual is actively in the process of investing a substantial amount of capital.~~

23 ~~3. Any government of a foreign country or a foreign business entity, permanent resident,~~
 24 ~~or alien that acquires an ownership interest in real property after the effective date of~~

~~this Act, has one year from the effective date of this Act to divest the ownership interest in the real property. The one-year period is deemed a covenant running with the title to the real property against any grantee or assignee. Any real property not divested within one year must be sold at public sale in the manner prescribed by law for the foreclosure of a real estate mortgage by action.~~

~~**SECTION 2. AMENDMENT.** Subsection 1 of section 47-10.1-02 of the North Dakota Century Code is amended and reenacted as follows:~~

~~1. An individual who is not a citizen of the United States, a citizen of Canada, or a permanent resident alien of the United States may not acquire directly or indirectly any interest in agricultural land unless:~~

~~a. The individual is an alien entitled to enter the United States under the provisions of a treaty of commerce and navigation between the United States and the foreign state of which the individual is a national, solely to develop and direct the operations of an enterprise in which the individual has invested or to direct the operations of an enterprise in which the individual is actively in the process of investing a substantial amount of capital;~~

~~b. The individual resides in this state for at least ten months out of every year;~~

~~c. The individual actively participates in the operation of the agricultural land;~~

~~d. The agricultural landholding does not exceed six hundred forty acres [258.99 hectares]; and~~

~~e. The agricultural landholding includes a dairy operation.~~

~~**SECTION 3. RETROACTIVE APPLICATION.** This Act applies retroactively to ownership interests in real property acquired after July 31, 2020.~~

SECTION 1. A new subsection to section 54-12-01 of the North Dakota Century Code is created and enacted as follows:

Conduct reviews and issue permits to a covered person as provided under section 2 of this Act and continue to assess threats to the state from malign activities, efforts, or influence by persons owned by a foreign adversary.

SECTION 2. A new section to chapter 54-12 of the North Dakota Century Code is created and enacted as follows:

Regulation of covered persons.

1 Notwithstanding any other provision of law:

2 1. For purposes of this section:

3 a. "Covered person" means a person that owns or controls any real estate or
4 commercial assets or operates a business within this state which is owned by,
5 controlled by, or subject to the jurisdiction or direction of a foreign adversary or an
6 individual acting on behalf of or in conjunction with a foreign adversary, except
7 the term does not include a person that, as of the effective date of this Act, has
8 been a registered business and in good standing in this state for seven years or
9 longer, or a person that has been approved by the committee on foreign
10 investment in the United States and maintains an active national security
11 agreement with the federal government of the United States.

12 b. "Foreign adversary" means an individual or a government identified as a foreign
13 adversary in 15 CFR 7.4(a).

14 2. A covered person may not own real estate, commercial assets, or operate a business
15 within this state without first registering as a covered person and obtaining a permit
16 from the attorney general. The registration of a covered person must include the
17 beneficial or ownership interests of any person associated with the covered person,
18 including the nation in which the covered person is domiciled, operated within and
19 from, or owned wholly or in part.

20 3. Upon receiving the information in subsection 2, the attorney general shall conduct a
21 state security review. The review must:

22 a. Be completed within ninety days of receiving the information under subsection 2;

23 b. Include information from any federal and state military and intelligence
24 organizations operating within this state;

25 c. Be conducted in conjunction with any relevant state, county, or municipal bodies
26 to assess the potential impacts to any federal or state military and intelligence
27 organizations operating within this state; and

28 d. Be made available as a public record if the covered person conducts business in
29 this state and to the extent the review does not reflect information provided by the
30 covered person and identified as confidential or proprietary, as provided by
31 section 44-04-18.4.

1 4. All criminal violations committed by a covered person, constituting a threat to the state,
2 must be reported immediately to the attorney general. If deemed necessary by the
3 attorney general, the attorney general may report criminal violations to any state and
4 federal authorities. If the attorney general review uncovers proof of any criminal
5 violation under county, state, or federal law that constitutes a threat to this state within
6 the previous five-year period, the permit must be revoked. If a covered person's permit
7 is revoked, the covered person has thirty business days to appeal the attorney
8 general's decision to the appropriate district court in the county where the covered
9 person is domiciled. Failure to appeal revocation within the permitted period
10 constitutes a waiver of appeal. If the permit ultimately is revoked by the attorney
11 general or the district court, the attorney general shall notify the covered person of the
12 official revocation, and the covered person must be provided:

13 a. Twelve months to wind down all business enterprises in the state; and

14 b. Thirty-six months to divest of ownership of all real property and commercial
15 assets within this state.

16 5. An active, registered business that has maintained a status of good standing with the
17 secretary of state for seven years or longer, or a business approved by the committee
18 on foreign direct investment, is not exempt from a state security review directed by the
19 attorney general under this section.

20 6. This section applies to any covered person that:

21 a. Is domiciled in this state;

22 b. Operates a duly registered business in this state;

23 c. Operates a charitable enterprise in this state; or

24 d. Obtains any beneficial interest in real estate, commercial assets, or a business or
25 charitable organization in this state.

26 7. Any organization, on the effective date of this Act, owning real estate or commercial
27 assets or operating a business, that would otherwise be considered a covered person
28 under this section, is subject to the annual permit review process effective one
29 hundred eighty days from the effective date of this Act.

30 **SECTION 3. LEGISLATIVE MANAGEMENT STUDY - NUMBER OF COVERED**

31 **PERSONS IN NORTH DAKOTA.** During the 2023-24 interim, the legislative management shall

1 consider studying the number of persons that own or control any real estate or commercial
2 assets or operate a business within this state which is owned by, controlled by, or subject to the
3 jurisdiction or direction of foreign adversaries or individuals acting on behalf of or in conjunction
4 with foreign adversaries. This study must attempt to ascertain the number of such persons
5 residing in this state which operate a business or a charitable enterprise or have obtained a
6 beneficial interest in real estate, commercial assets, or a business or charitable organization in
7 this state. The legislative management shall report its findings and recommendations, together
8 with any legislation required to implement the recommendations, to the sixty-ninth legislative
9 assembly.

10 **SECTION 4. EXPIRATION DATE.** Sections 1 and 2 of this Act are effective through July 31,
11 2025, and after that date are ineffective.