

HOUSE BILL NO. 1208

Introduced by

Representatives S. Olson, Fisher, D. Johnston, Nehring, J. Olson

Senators Castaneda, Paulson

1 A BILL for an Act to create and enact a new section to chapter 47-02 of the North Dakota
2 Century Code, relating to foreign ownership of real property near military installations; to amend
3 and reenact sections 11-11-70, 40-05-26, and 47-01-09 of the North Dakota Century Code,
4 relating to the powers of a board of county commissioners, a board of city commissioners, and
5 a city council regarding development by a foreign country of concern or foreign organization of
6 concern, prohibiting ownership of real property by a foreign country of concern or a foreign
7 organization of concern; and to provide a penalty.

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

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

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

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

19 2. This section does not apply to a foreign adversary ~~defined under subsection~~
20 ~~4~~organization of concern possessing an interest in real property if the foreign
21 ~~adversary organization of concern:~~

22 a. Is a duly registered business and has maintained a status of good standing with
23 the secretary of state for seven years or longer before August 1, 2023;

- 1 b. Has been approved by the committee on foreign investment in the United States;
2 and
3 c. Maintains an active national security agreement with the federal government.

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

6 **40-05-26. Development by a foreign adversarycountry of concern or foreign**
7 **organization of concern - Prohibition. (~~Expired effective July 31, 2025~~)**

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

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

24 **47-01-09. Public or private ownership - All property subject to - Foreign ownership**
25 **prohibited. (~~Effective through July 31, 2025~~)**

- 26 1. All property in this state has an owner, whether that owner is the United States or the
27 state, and the property public, or the owner an individual, and the property private. The
28 state also may hold property as a private proprietor.
29 2. Notwithstanding any other provision of law, the following governments or entities may
30 not purchase or otherwise acquire title to real property in this state after July 31,
31 20232025:

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

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

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

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

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

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

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

15 **SECTION 4.** A new section to chapter 47-02 of the North Dakota Century Code is created

16 and enacted as follows:

17 **Prohibited ownership near military installations - Penalty.**

- 18 1. For purposes of this section:
- 19 a. "Critical infrastructure" has the meaning provided in section 44-04-24.
- 20 b. "Foreign country of concern" has the meaning provided in section 47-01-09.
- 21 c. "Foreign organization of concern" has the meaning provided in section 47-01-09.
- 22 d. "Military installation" has the meaning provided in section 15.1-04.1-01.
- 23 2. Notwithstanding section 47-01-09 or chapter 47-10.1, a foreign country of concern or
- 24 foreign organization of concern may not:
- 25 a. Lease, purchase, or otherwise acquire title to critical infrastructure or real
- 26 property within ten miles [16.09 kilometers] of a military installation located within
- 27 this state; or
- 28 b. Enter a contract with a person under which a foreign country of concern or
- 29 foreign organization of concern has direct or indirect control of critical
- 30 infrastructure located within this state.

- 1 3. A foreign country of concern or foreign organization of concern in violation of this
2 section shall divest itself of its interest in all critical infrastructure or real property within
3 one year after acquisition. If the foreign country of concern or foreign organization of
4 concern fails to divest its interest in the critical infrastructure or real property within one
5 year, the state's attorney of the county in which the majority of the real property is
6 located may issue a subpoena to compel a witness to appear to provide testimony or
7 produce records.
- 8 4. The state's attorney shall commence an action in the district court of the county in
9 which the majority of the critical infrastructure or real property is located if, upon
10 receiving testimony and records, the state's attorney concludes a foreign country of
11 concern or foreign organization of concern has failed to divest ownership of critical
12 infrastructure or real property as required under this section. When the action is
13 commenced, the state's attorney shall file a notice pursuant to section 28-05-07 with
14 the recorder of each county in which the critical infrastructure or real property subject
15 to the action is located. If the court finds divestment of critical infrastructure or real
16 property is proper under this section, the district court shall enter an order consistent
17 with its findings. As part of the order, the court shall cancel the notice pursuant to
18 section 28-05-08.
- 19 5. Pursuant to an order for divestment, a foreign country of concern or foreign
20 organization of concern shall divest all critical infrastructure or real property within
21 six months from the date of the final entry of judgment. A foreign country of concern or
22 foreign organization of concern that fails to comply with the court's order is subject to a
23 civil penalty not to exceed twenty-five thousand dollars.
- 24 6. Any critical infrastructure or real property not divested within the period prescribed by
25 law may be sold at a public sale in the manner provided under chapter 32-19 through
26 an action brought by the state's attorney. A title to real property or encumbrance on the
27 real property may not be deemed invalid by an order of divestiture under this section.