

25.1352.01000

Sixty-ninth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2361

Introduced by

Senators Castaneda, Paulson, Enget

Representatives Frelich, S. Olson, Rohr

1 A BILL for an Act to amend and reenact sections 11-11-70, 40-05-26, and 47-01-09 of the North
2 Dakota Century Code, relating to ownership of land and development projects by a foreign
3 adversary; and to provide for a legislative management report.

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

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

7 **11-11-70. Development by a foreign adversary - Prohibition. (Expired effective**
8 **July 31, ~~2025~~2027)**

- 9 1. A board of county commissioners, including a board in a home rule county, may not
10 procure, authorize, or approve a development agreement, building plan, or proposal
11 relating to county development with an individual or government identified as a foreign
12 adversary under ~~15 CFR 7.4(a)~~ title 15, Code of Federal Regulations, part 791.4(a) or
13 a person identified on the office of foreign assets control sanctions list.
- 14 2. This section does not apply to a foreign adversary defined under subsection 1
15 possessing an interest in real property if the foreign adversary:
- 16 a. Is a duly registered business and has maintained a status of good standing with
17 the secretary of state for seven years or longer before August 1, 2023;
- 18 b. Has been approved by the committee on foreign investment in the United States;
19 and
- 20 c. Maintains an active national security agreement with the federal government.

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

1 **40-05-26. Development by a foreign adversary - Prohibition. (Expired effective**
2 **July 31, ~~2025~~2027)**

- 3 1. A board of city commissioners or city council, including a board or council in a home
4 rule city, may not procure, authorize, or approve a development agreement, building
5 plan, or proposal relating to city development with an individual or government
6 identified as a foreign adversary under ~~15 CFR 7.4(a)~~title 15, Code of Federal
7 Regulations, part 791.4(a) or a person identified on the office of foreign assets control
8 sanctions list.
9 2. This section does not apply to a foreign adversary as defined in subsection 1
10 possessing an interest in real property if the foreign adversary:
11 a. Is a duly registered business and has maintained a status of good standing with
12 the secretary of state for seven years or longer before August 1, 2023;
13 b. Has been approved by the committee on foreign investment in the United States;
14 and
15 c. Maintains an active national security agreement with the federal government.

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

18 **47-01-09. Public or private ownership - All property subject to - Foreign ownership**
19 **prohibited. (Effective through July 31, ~~2025~~2027)**

- 20 1. All property in this state has an owner, whether that owner is the United States or the
21 state, and the property public, or the owner an individual, and the property private. The
22 state also may hold property as a private proprietor.
23 2. Notwithstanding any other provision of law, the following governments or entities may
24 not purchase or otherwise acquire title to real property in this state after July 31, 2023:
25 a. A foreign adversary.
26 b. A foreign business entity with a principal executive office located in a country that
27 is identified as a foreign adversary.
28 c. A foreign business entity in which a foreign adversary owns:
29 (1) More than fifty percent of the total controlling interests or total ownership
30 interests, as defined under section 10-19.1-01, in the foreign business

- 1 entity, unless the foreign business entity was operating lawfully in the United
2 States on August 1, 2023; or
- 3 (2) Fifty percent or less of the total controlling interests or total ownership
4 interests, as defined under section 10-19.1-01, in the foreign business
5 entity, if the foreign adversary directs the business operations and affairs of
6 the foreign business entity without the requirement of consent of any
7 nonforeign adversary, unless the foreign business entity was operating
8 lawfully in the United States on August 1, 2023.
- 9 3. When requested by a city council or commission, county commission, or title agent or
10 company, the attorney general shall complete a civil review, to the extent allowable by
11 law, relating to the qualifications of any foreign adversary business entity acquiring real
12 property under subdivision c of subsection 2.
- 13 4. This section does not apply to an entity possessing an interest in real property under
14 subsection 2 if the entity:
- 15 a. Is a duly registered business and has maintained a status of good standing with
16 the secretary of state for seven years or longer before August 1, 2023;
- 17 b. Has been approved by the committee on foreign investment in the United States;
18 and
- 19 c. Maintains an active national security agreement with the federal government.
- 20 5. A foreign government or foreign business entity subject to and in violation of this
21 section shall divest itself of all real property in this state within thirty-six months after
22 August 1, 2023.
- 23 6. If a foreign government or foreign business entity subject to this section fails to divest
24 itself of all real property in this state within the period specified under subsection 4, the
25 state's attorney of the county in which the majority of the real property is situated may
26 issue subpoenas to compel witnesses to appear to provide testimony or produce
27 records.
- 28 7. Upon receiving testimony and records, if the state's attorney concludes a foreign
29 government or foreign business entity, in violation of this section, has failed to divest
30 ownership of real property as required under this section, the state's attorney shall
31 commence an action in the district court of the county in which the majority of the real

1 property is situated. Once the action is commenced, the state's attorney shall file a
2 notice pursuant to section 28-05-07 with the recorder of each county where the real
3 property subject to the action is situated. If the court finds divestment of real property
4 under this section is proper, the district court shall enter an order consistent with its
5 findings. As part of the order, the court shall cancel the notice pursuant to section
6 28-05-08.

7 8. Pursuant to an order for divestment, a foreign government or foreign business entity
8 subject to an order shall divest all real property within six months from the date of the
9 final entry of judgment. A foreign government or foreign business entity that fails to
10 comply with the court's order is subject to a civil penalty not to exceed twenty-five
11 thousand dollars.

12 9. Any real property not divested within the period prescribed by law may be sold at a
13 public sale in the manner provided under chapter 32-19 through an action brought by
14 the state's attorney. A title to real property or encumbrance on the real property may
15 not be deemed invalid by an order of divestiture under this section.

16 10. A person that is not subject to this section may not be required to:
17 a. Determine whether another person is subject to this section; or
18 b. Inquire if another person is subject to this section.

19 11. For purposes of this section, "foreign adversary" means an individual or a government
20 identified as a foreign adversary in 15 CFR 7.4(a) title 15, Code of Federal
21 Regulations, part 791.4(a) or a person identified on the office of foreign assets control
22 sanctions list.

23 **Public or private ownership - All property subject to. (Effective after July 31,**
24 **~~2025~~2027)**

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

28 ~~**SECTION 4. DEPARTMENT OF EMERGENCY SERVICES - FOREIGN ADVERSARY**~~
29 ~~**THREAT ASSESSMENT - REPORT - ONE-TIME FUNDING - LEGISLATIVE MANAGEMENT**~~
30 ~~**REPORT.**~~

31 1. The department of emergency services shall: