



RE: SB 641 Relating to Prohibiting China from Buying or Leasing Farmlands

February 19, 2025

Chair Manning Jr., Vice-Chair Thatcher, and Members of the Senate Committee on Veterans, Emergency Management, Federal and World Affairs.

The Oregon Land Title Association (“**OLTA**”) is the professional association for the title insurance industry in Oregon, and membership includes title insurance underwriters and underwritten agent companies, many of which are locally owned throughout the State. OLTA promotes the educational, ethical, professional and legislative interests of the title industry. OLTA works with regulators, legislators, county clerks, and the public to ensure the title industry is responsive to evolving customer needs.

SB 641 prohibits China and Chinese controlled or formed entities from buying or leasing any interest in real property that is zoned for exclusive farm use. The remedy for violation of this proposed law is a void deed or lease.

OLTA is neutral on the policy rationale for this proposed law, **but** OLTA has grave concerns about the reliability of Oregon real estate records when a deed or lease that appears in the real estate records may not in fact be a valid conveyance of a real property interest due to this proposed law, and the effect that this will have on an innocent purchaser or encumbrancer of the affected property.

Conceptual Framework

Real estate transactions represent approximately 13% of U.S. gross domestic product. Given the importance of real estate to the U.S. economy, any law regarding foreign ownership should establish specific processes and procedures to protect valid property interests and avoid penalizing legitimate sellers, creditors, and future owners of property.

OLTA believes that the following changes to SB 641 will better protect the integrity of Oregon’s real estate records and its citizens and businesses:

(1) Designate an Appropriate State Enforcement Authority

To avoid harmful complications created by invalidating property transfers, legislation should give state agencies enforcement authority, providing investigative powers and establishing due process followed by voluntary or forced divestment of the real estate as appropriate.

Sample Language: The attorney general, upon the request of any person or upon receipt of any information which leads the attorney general to believe that a violation of this section may exist, may issue subpoenas requiring the appearance of witnesses, the production of relevant records and the giving of relevant testimony.

(2) State Laws Must Not Void Transactions

Any law must lay out a process for a forced divestment or forfeiture by a court of competent jurisdiction after a state agency brings an enforcement action. Unwinding a transaction via judicial proceeding allows legitimate interest holders and creditors (like mortgage and mechanics lienholders) to be made whole. State laws should expressly state that land titles are not invalid, impaired, or subject to forfeiture because of the foreign status of any former owner or other person having an interest in the property.

Sample Language: A transfer of an interest in land in violation of this section shall be subject to divestiture as set forth in this section.

(3) Follow Existing State Divestment Procedures Like Forfeiture or Foreclosure Laws

The only remedy for violation of these laws should be a forfeiture or foreclosure type action brought by the state to divest the property, which results in an unappealable judgment.

Sample Language: On concluding, as a result of the investigation, that a violation of this section has occurred, the attorney general shall order the [foreign entity] to divest itself of all interests in the land within [x days/months/years]. If the [foreign entity] fails to divest itself of all interests, or if an interest holder timely objects to the order of divestiture, the attorney general shall commence an action in [superior] court. Except in the case of dismissal, the court shall order that the property be sold pursuant to [insert appropriate state statute for judicial foreclosure, receivership, or partition action under a power of sale].

Sample Language: Proceeds of the sale shall be disbursed in the following order:

1. The payment of authorized costs of the sale, including all approved fees and expenses of the referee and any taxes and assessments due.
2. The payment, in an amount approved by the court, to the [attorney general] for reimbursement of investigation and litigation costs and expenses.
3. To bona fide lien holders, in their order of priority, except for liens which under the terms of the sale are to remain on the property.
4. To the [restricted foreign entity] [state general fund].

(4) Safeguard the Reliability of US Property Records

Relevant documents and/or court orders must be recorded by authorized state agencies within local land records. Recordation provides notice of enforcement actions and creates a continuous chain of title, which are necessary to protect future transactions.

Sample Language: No title to an interest in land shall be invalid or subject to divestiture by reason of the violation of this section by any former owner or other person holding or owning a former interest in such land.

Sample Language: Upon commencement of an action under this section, the attorney general shall promptly record a notice of the pendency of the action in the [local land records]. Upon the entry of order for the sale of the property under this section, the attorney general shall promptly record a copy of such order in the [local land records].

In addition to the above suggested language for SB 641, we have also attached a model bill prepared by the Heritage Foundation regarding how to scrutinize foreign adversary real estate purchases.

Thank you for your consideration of this input from OLTA.

Submitted by

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An Act to Scrutinize Foreign Adversary Real Estate Purchases

May 15th, 2024

12 min read



Sec. 1. Definitions. In this Act:

(a) Foreign Adversary.— “Foreign adversary” means:

- (1) The governments of the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, and the Democratic People’s Republic of North Korea;
- (2) Any agency or instrumentality of such governments; and
- (3) Any entity owned or operated in whole or in part by such governments.

(b) People’s Republic of China.— “People’s Republic of China” means the People’s Republic of China (including all provinces and autonomous regions), the Hong Kong Special Administrative Region of the People’s Republic of China, and the Macao Special Administrative Region of the People’s Republic of China; but does not include Taiwan.

(c) Owned or Operated in Whole or in Part.— “Owned or operated in whole or in part” means that a person or entity:

- (1) For a publicly traded company, has the ability to control the company, has access to any material nonpublic technical information in the possession of the company, or has any other rights or involvement in substantive decision-making of the company beyond those available to a retail investor holding an equivalent share of ownership; and
- (2) For a privately held company, has any share of ownership of such company.

(d) Control.— “Control” means the power, direct or indirect, whether or not exercised, to determine, direct, or decide important matters affecting an entity, including but without limitation, through:

- (1) The ownership of at least 20 percent of the total outstanding voting interest in an entity;
- (2) Board representation;
- (3) The ability to appoint or discharge any board members, officers, or directors;
- (4) Proxy voting, a special share, contractual arrangements, legal obligations, formal or informal arrangements to act in concert; or

(5) Other means.

(e) Covered Person.— “Covered person” means:

- (1) Any natural person who is domiciled in a country described in paragraph (1) of subsection (a) and is not a citizen or lawful permanent resident of the United States;
- (2) Any entity organized under the laws of or having its principal place of business in a country described in paragraph (1) of subsection (a);
- (3) Any entity that owns or operates in whole or in part, an entity described in paragraph (3) of subsection (a); or
- (4) Any entity that is owned or operated in whole or in part by a person or entity described in paragraphs (1) through (3) of this subsection.

(f) Critical Infrastructure.— “Critical infrastructure” includes the systems and assets, whether physical or virtual, so vital to [State] that the incapacity or destruction of such systems and assets would have a debilitating impact on [State] security, [State] or national economic security, [State] or national public health or safety, or any combination of those matters.

(g) Real Property.— “Real property” means land, buildings, fixtures, and all other improvements to land.

Sec. 2. Establishment of State Homeland Security Council.

(a) In General.— There is established the [State] Homeland Security Council.

(b) Membership.— The [State] Homeland Security Council shall be composed of:

- (1) The governor or the governor’s designee;
- (2) The lieutenant governor or the lieutenant governor’s designee;
- (3) The attorney general or the attorney general’s designee;
- (4) The adjutant general or the adjutant general’s designee;
- (5) The secretary of agriculture or the secretary of agriculture’s designee; and
- (6) Other persons as appointed by the governor.

(c) Procedures.— The [State] Homeland Security Council shall reach decisions concerning approvals and disapprovals pursuant to this Act pursuant to a majority vote of the membership, provided that the governor or the governor’s designee shall cast four votes and each other member shall cast one vote.

Sec. 3. Prohibitions.

(a) Foreign Adversary Prohibition.— Notwithstanding any other provision of law outside this Act, a foreign adversary shall not directly or indirectly own, purchase, lease, have a controlling interest in, or acquire by any other means any real property or any interest in real property in this state.

(b) Covered Person Prohibitions.— Notwithstanding any other provision of law outside this Act, a covered person shall not directly or indirectly own, purchase, lease, have a controlling interest in, or acquire by any other means any of the following in this state:

- (1) Any real property containing any critical infrastructure, or any interest in such real property;

(2) Any real property within [X miles] of any real property containing critical infrastructure, or any interest in such real property;

(3) Any real property that is agricultural land, or any interest in such real property.

Sec. 4. Security Review.

(a) Reviews Under a Presumption of Disapproval.— Notwithstanding any other provision of law outside this Act, a covered person shall not directly or indirectly own, purchase, lease, have a controlling interest in, or acquire by any other means any of the following in this state, unless the covered person receives prior written notice of approval from the [State] Homeland Security Council:

(1) Any real property within [Y miles] of any critical infrastructure, or any interest in such real property;

(2) More than [Z parcels/acres] of real property, wherever located, or any interest in more than [Z parcels/acres] of such real property.

(b) Reviews Under a Presumption of Approval.— Notwithstanding any other provision of law outside this Act, a covered person shall not directly or indirectly own, purchase, lease, have a controlling interest in, or acquire by any other means any of the following in this state, if the covered person receives prior written notice of disapproval from the [State] Homeland Security Council:

(1) Any real property within [XX miles] of any critical infrastructure, or any interest in such real property;

(2) Any real property that is zoned for commercial purposes, or any interest in such real property;

(3) Any multiple family dwellings containing more than two units, or any interest in such real property.

(c) Security Notice Required.— Any covered person engaging in a transaction concerning any interest in real property described in subsections (a) and (b) of this section shall submit a Security Notice to the [State] Homeland Security Council not less than 30 days prior to the transaction.

(d) Security Notice Defined.— A Security Notice shall include:

(1) An identification of covered persons involved in the transaction;

(2) An identification of the countries of citizenship and domicile of such covered persons;

(3) If the covered person is an entity, an identification of all persons with an ownership interest in the covered person, including the ultimate beneficial owners of the covered person; and

(4) A description of the location of and interests in real property subject to the transaction.

Sec. 5. Single-Family Home Exception.— For a covered person that is a natural person, the following shall not apply with regard to a purchase or sale of [a/up to YY] single-family residential propert[y/ies]:

(a) Paragraph (1) of subsection (a) of Section 4; and

(b) Paragraph (1) of subsection (b) of Section 4.

Sec. 6. Existing Ownership and Interests.— Any interest in real property held by a foreign adversary or covered person prior to the date of the enactment of this Act shall be exempt from the prohibitions and requirements of Sections 3 and 4 of this Act and shall be subject to the following requirements:

(a) Foreign Adversary Ownership.— Any foreign adversary:

- (1) That owns or has any interest in real property described in subsection (a) of Section 3 shall submit a security notification to the [State] Homeland Security Council within 90 days of the enactment of this Act; and
 - (2) That hereinafter comes into possession of such real property or interest in such real property by devise or descent, through the enforcement of security interests, through the collection of debts, or by any other means shall submit a security notification to the [State] Homeland Security Council within 30 days and sell, transfer, or otherwise divest such real property or interest in such real property within 180 days.
- (b) Covered Person Pre-Existing Ownership.— Any covered person that owns or has any interest in real property described in subsection (a) or subsection (b) of Section 4 shall submit a security notification to the [State] Homeland Security Council within 90 days of the enactment of this Act.
- (c) Covered Person Subsequent Ownership.— Any covered person that hereinafter comes into possession of any interest in real property described in subsection (a) or subsection (b) of Section 4 by devise or descent, through the enforcement of security interests, through the collection of debts, or by any other means shall:
- (1) Submit a security notification to the [State] Homeland Security Council within 30 days;
 - (2) For any interest in real property described in subsection (a) of Section 4, if not notified of approval within by the [State] Homeland Security Council within 30 days of the submission of such security notification, shall sell, transfer, or otherwise divest such real property or interest in such real property within 180 days of the submission of such security notification.
 - (3) For any interest in real property described in subsection (b) of Section 4, if notified of disapproval by the [State] Homeland Security Council within 30 days of the submission of such security notification, shall sell, transfer, or otherwise divest such real property or interest in such real property within 180 days of the submission of such security notification.

Sec. 7. Implementation. — The governor shall issue such regulations as are necessary to implement the provisions of this Act, which shall include an accounting of critical infrastructure in [State].

Sec. 8. Enforcement.

- (a) Investigation.— The attorney general shall investigate the purchase, lease, or acquisition of any interest in real property upon receipt of a complaint alleging a violation of the prohibitions and requirements of this Act.
- (b) Structuring.— Transactions structured for the purpose of evading the provisions of this Act shall be considered a violation of this Act.
- (c) Criminal Liability.— Any person who willfully seeks, by fraudulently misrepresenting the identity or interest of a foreign adversary or covered person, to avoid the application of this Act commits a [felony/misdemeanor] of the [N] degree and shall be punishable by not more than [NN] [months/years] imprisonment.
- (d) Eminent Domain.— Subject to Section 5, the [State] Homeland Security Council may, by a majority vote of the membership, direct the Attorney General to initiate proceedings for the condemnation by eminent domain of any interest in real property held by a foreign adversary or covered person and described in Section 6.
- (e) Forfeiture.— Subject to Section 5, the attorney general shall enforce the prohibitions and requirements of Section 3 and Section 4 of this Act for any real property or any interest in real property held in violation of such sections by commencing a receivership proceeding as provided by law and selling the property through the receivership. The following apply to a receivership proceeding under this section:

- (1) Proceeds of the sale shall be disbursed to lienholders, in their order of priority, except for liens which under the terms of the sale are to remain on the property;
- (2) At the receivership sale, lienholders shall be able to have a credit bid;
- (3) No proceeds shall be distributed from the receivership sale to the foreign adversary or covered person. Any excess proceeds are forfeited and shall be transferred to the state general fund by the receiver;
- (4) Upon commencement of an action under this section, the attorney general shall promptly file a notice of lis pendens with the court. Upon the entry of the order for the sale of the property under this section, the attorney general shall promptly record a copy of the order in the office of the county where the property is located which is responsible for the maintenance of property records.
- (5) Any transfer of real property or any interest therein made pursuant to this Act, whether to the state or to a private party, shall be duly recorded in the relevant property records as otherwise provided by law.
- (f) Validity of Title.— No title to real property shall be invalid or subject to divestiture by reason of the violation of this section by any former owner or other individual or entity having formerly held or owned a former interest in the real property.
- (g) Liens.— Divestiture of a foreign adversary or covered person's title under this section shall not be a basis to void, invalidate, or otherwise extinguish any bona fide mortgage, lien, or other interest granted by, through, or under the foreign adversary or covered person.
- (h) Liability Limited.— The responsibility for determining whether an individual or other entity is subject to the prohibitions and requirements of this Act rests solely with a foreign adversary or covered person, the [State] Homeland Security Council, and the attorney general and no other person. A person who is not a foreign adversary or covered person shall bear no civil or criminal liability for failing to determine or make inquiry of whether an individual or other entity is a foreign adversary or covered person.

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