



OREGON LAND TITLE ASSOCIATION

RE: SB 1023 - Relating to Prohibiting Foreign Adversaries from Acquiring Certain Types of Property and Property Interests

March 10, 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.

Void Title Will Hurt Innocent Buyers and Lenders

SB 1023 **voids** any deed, sales agreement or other instrument that (a) conveys land zoned exclusive farm use, forest use, or mixed farm and forest use or (b) transfers any mining claim, mineral right or water right to a “foreign adversary” as determined by the Oregon Attorney General (“**OAG**”).

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, lease, or other instrument 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 adversaries 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 1023 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, this legislation should give the OAG enforcement authority and investigative powers, and establish due process, followed by voluntary or forced divestment of the real estate as appropriate, since property rights are affected.

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 the OAG 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 a “foreign adversary” was a 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 OAG 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 adversary] to divest itself of all interests in the land within [x days/months/years]. If the [foreign adversary] 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 1023, 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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Suggested Legislative Text for Bills Regarding Foreign Ownership of US Real Estate

State lawmakers are considering bills restricting the ability of certain foreign governments, entities, or individuals to buy property within the state. In some instances, bills prohibit ownership of certain types of property, such as farmland, or disallow property ownership with proximity to agricultural businesses, military bases, critical infrastructure, or other property deemed essential to national security.

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 ownership of US real estate should establish specific processes and procedures to protect valid property interests and avoid penalizing legitimate sellers, lienholders, and future owners of property.

To protect the real estate market and property rights, bills should incorporate the following:

1. Outline of the necessity of exercising state's police powers (include legislative findings as appropriate)

Sample legislative text: *In order to protect the health, safety, and welfare of all citizens of the state, and to protect the integrity and safety of [critical infrastructure, natural resources, and food and other essential agricultural products] from interference or control of foreign adversaries, the legislature, in exercise of its inherent police powers, does hereby enact as follows:*

2. Clear definitions of prohibited parties and affected properties

Definitions should be based on easily ascertainable information as it relates to both the prohibited purchasers and the affected properties. Avoid inadvertent inclusion of individuals, entities or governments based on broad definitions.

3. Express remedy for enforcement

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

4. Identification of the enforcement authority and investigative powers

Sample legislative text: *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.*

5. Provide for divestment of property (via voluntary transfer or forced divestiture following established processes such as judicial foreclosure, receivership, or partition)

Sample legislative text: *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].*

6. Place obligation for compliance on buyers, as only they can determine purchaser eligibility

Sample legislative text: *The responsibility for determining whether an entity is subject to this section rests solely with the [foreign entity] and the attorney general and no other individual or entity. An individual or entity who is not a [foreign entity] shall not be required to determine or inquire whether another person or entity is or may be subject to this section, and shall bear no civil or criminal liability under this section.*

7. Protect lien holders from loss or litigation

Sample legislative text: *Proceeds of the sale shall be disbursed in the following order:*

The payment of authorized costs of the sale, including all approved fees and expenses of the referee and any taxes and assessments due.

The payment, in an amount approved by the court, to the [attorney general] for reimbursement of investigation and litigation costs and expenses.

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.

To the [restricted foreign entity] [state general fund].

8. Protect future property owners from loss or litigation

Sample legislative text: *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.*

9. Safeguard the reliability of US property records

Sample legislative text: *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].*

10. Make restrictions prospective

Sample legislative text: *This section shall apply only to the transfer of an interest in land on or after the effective date of this act.*