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Florida Enacts Law Imposing Significant Nationality-Based Restrictions on Ownership of Property by Individuals from “Foreign Countries of Concern”

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On May 8, 2023, Florida Governor Ron DeSantis signed into law [**Florida Senate Bill SB 264 \(FL 264\), Interests of Foreign Countries**](#). The law, which will become effective on July 1, 2023, unless the effective date is delayed by litigation, will place significant restrictions on land ownership by “foreign principals” from specified “foreign countries of concern” (i.e. China, Venezuela, Syria, Russia, Iran, North Korea, and Cuba). Specifically, FL 264 prohibits foreign principals from these countries from owning or acquiring agricultural land in the state or owning or acquiring any interest in real property within 10 miles of any military installation or critical infrastructure in the state. Persons who are U.S. citizens or lawful permanent residents are not foreign principals for purposes of FL 264.

A summary of the major provisions of this law:

- A foreign principal may not directly or indirectly own, have a controlling interest in, or acquire agricultural land or any interest in such land, other than a *de minimus* indirect interest, which is generally defined as being a less than a 5% ownership of the entity or company owning the land.
- Similarly, a foreign principal may not directly or indirectly own, have a controlling interest in, or acquire any interest in real property on or within 10 miles of any military installation or critical infrastructure facility in Florida. The *de minimus* indirect interest *exception* also applies to this provision.
- Critical infrastructure facility is broadly defined to include each of the following facilities that employ measures such as fences, barriers, or guard posts that are designed to exclude unauthorized persons: chemical manufacturing facilities, refineries, electrical power plants, liquid natural gas terminals, telecommunications central switching offices, gas processing plants, seaports, spaceport territories, and airports.
- As of July 1, 2023, buyers will be required to provide an affidavit attesting that the buyer is not a foreign principal.
- An exemption exists for agricultural land owned before July 1, 2023, but foreign principals who own agricultural land after that date and wish to continue to do so must comply with a registration requirement. Foreign principals who fail to register in a timely fashion will be subject to a \$1,000 per day civil penalty.
- Consequences for noncompliance with the ownership provisions include both civil (including forfeiture) and criminal (knowing sale of agricultural land or real property on or around a military installation or critical infrastructure facility to a foreign principal is a misdemeanor of the second degree).

In addition to the restrictions highlighted above, the law also imposes specific limits on property ownership by citizens of the People's Republic of China:

- Prohibits China, the Chinese Communist Party or other Chinese political party officials or members, Chinese business organizations, and persons domiciled in China, but who are not citizens or lawful permanent residents of the United States from purchasing or acquiring any interest in real property in the state.
- Similar to the provisions highlighted above, the law creates a registration requirement for owners prior to the effective date and requires buyers of real property after the effective date submit an affidavit attesting that the buyer is not subject to the requirements of this section.
- Provides a limited exception from the ownership restrictions for the purchase of one residential property by a Chinese national (directly in their own name) of up to two acres, as long as it is not on or within five miles of any military installation in the state and the purchaser possesses a valid U.S. visa. Real property that is used for diplomatic purposes is also exempted.
- The law includes a *de minimus* indirect interest exception and also precludes a group of individuals with *de minimus* indirect interests from pooling their ownership to acquire a controlling interest in a property.
- Civil and criminal penalties may be imposed for failure to follow the statute's requirements.

While the new law has been characterized by [Governor DeSantis](#) as "following through on our commitment to crack down on Communist China," the bill has created concerns about racial profiling and discrimination. Congressional Asia Pacific American Caucus Chair Representative Judy Chu (CA-28) [stated](#) that "the [Florida] government's scapegoating and stripping of the land ownership rights of Asian American communities are stains on our nation's history." Critics have also argued that the law violates the [Fair Housing Act](#), which includes provisions against discrimination of home buyers based on race or national origin. On May 22, 2023, a [lawsuit](#) was filed challenging the law on constitutional and discriminatory grounds. The plaintiffs are represented by the American Civil Liberties Union, the ACLU of Florida, DeHeng Law Offices PC, and the Asian American Legal Defense and Education Fund (AALDEF), in coordination with the Chinese American Legal Defense Alliance (CALDA).

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