

# Protecting Land from Overseas Threats Act

## Prefatory Note

The Act, the Protecting Land from Overseas Threats (PLOT Act), creates restrictions to protect agricultural land, military bases, and critical infrastructure from threats from foreign adversaries. Numerous instances illustrate the federal government's failures in property security, particularly as it pertains to sensitive sites. Instances such as the Blue Hills Wind Farm purchase in Texas, a cryptocurrency farm adjacent to Whiteman Air Force Base in Wyoming, Fufeng Group's plant near Grand Forks Air Force Base, and Gotion Batteries near Camp Grayling, Michigan, demonstrate that the federal government is not currently capable of adequately screening all foreign property purchases. All of these purchases initially evaded scrutiny and came to light primarily through local, informal action, rather than state or federal preemption.

Under the Act, limits on property ownership are established and include registration of existing land ownership by "foreign principals", as well as proscriptive bans on foreign principals owning agricultural land or land near sensitive sites. The Act seeks to place the burden squarely on the purchasers and attempts to avoid placing any burden on the sellers of such properties that foreign principals may seek.

The Act establishes an owner registry, with the Secretary of State serving as the registrar, responsible for providing information to the Attorney General as needed for enforcement of the Act. The Secretary of State is chosen for this purpose as they are a central coordinator and administrative office in many states and often already performs functions such as serving as a property registrar. If, for any reason, the Secretary of State is not an appropriate officer (for example, because they are part of the legislative branch or for other reasons), we suggest assigning these responsibilities to any state office that serves as a registrar for corporate entities or to any state office that oversees property.

Property already held by persons, organizations, or other types of affiliations who could be plausibly understood to meet the definition of "foreign principal" under the act may be exempt from bans on the ownership of the property, but are instead compelled to register with the Secretary of State or face an escalating lien amount against their properties. In the event of any future purchases, purchasers are required to sign and attest to an affidavit stating that they do not meet the definition of a foreign principal, are not acting on behalf of any foreign principal, and are not purchasing to provide property access to any foreign principal.

Foreign principals, for the Act, are currently defined under 15 C.F.R. § 791.4, a regulation promulgated by the United States Department of Commerce to define "foreign governments or foreign non-government persons [who] have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States," entities whom states and their citizens are rightly concerned about. Should 15 C.F.R. § 791.4 deprecate, change location, or otherwise cease to function, the Act includes a fallback list of

the People's Republic of China (inclusive of Hong Kong and Macau), the Russian Federation, the Democratic People's Republic of Korea (North Korea), Iran, Cuba, and Venezuela.

As written, the Act does not specify distance restrictions from sensitive locations.

Legislators should take the most appropriate course of action for their state.

We recommend three areas of caution for state legislators and executive departments in the implementation and execution of the Act:

- 1) States seeking to prevent control of vital lands by foreign adversaries are advised to consider separately defining "foreign principals" as both individuals and organizations. In light of pending litigation (as of August 2025) and a narrow injunction issued in the Circuit Court of Appeals for the Eleventh Circuit, states are advised that separate definitions for organizations and individuals, combined with a severability clause, may help ensure continued effectiveness of the law if litigants prevail on their claim that a state ban on foreign purchases of land is preempted by the Foreign Investment Risk Review Modernization Act of 2018. *See Shen v. Simpson*, Appeal No. 23-12737 (11th Cir.).
  - a. Should a state choose to create this dual-definition framework, drafters should ensure that individuals who are U.S. citizens, regardless of whether they hold dual-citizenship status with a foreign adversary, are not captured under this Act. Irrespective of any bifurcation, it is recommended that a state consolidate oversight of the reporting requirements of this Act with the office or department responsible for overseeing registered entities within the state, for ease of administration.
- 2) As written, for the purpose of ease of prosecuting violators, the Act establishes a requirement for purchasers of land to attest, under penalty of perjury, that they are not a "foreign principal". States that determine that attestation is too burdensome on its citizens, may wish to use alternative means to obtain information relevant for enforcement of this Act. Primarily, this would include the use of information-gathering procedures already required under the anti-money laundering (AML) provisions of the PATRIOT Act. Slight modifications to standard Customer Identification Program forms and forms provided by a state's real estate commission for both financed and unfinanced purchases of real property could help achieve the desired effect.

However, depending on a state's laws related to proof of identity and obtaining government-issued identification, the information available through these forms may not be sufficient to identify foreign adversaries. Additionally, use of this information may be precluded under state privacy laws.

- a. Furthermore, cash-only sales may provide a practical workaround for nefarious actors if there is no attestation requirement and an agent represents neither party. However, such transactions likely violate federal AMLs and are therefore subject to federal law enforcement authority, outside of the purview of a state. In promulgating rules to enforce this Act, the state office tasked with implementing the reporting scheme under this Act should ensure that, subject to the limits of its lawful authority over third parties to real estate transactions, such as agents and lenders, said office or department ensures that necessary reforms are made to collect the most reliable information on a purchaser's citizenship or corporate domicile through existing procedures for transaction reporting for both financed and unfinanced purchases of real property.
- 3) States seeking to prevent control by foreign adversaries of lands adjacent to military facilities may wish to review the definition of "military installation" as provided in the Code of Federal Regulation, 31 C.F.R. § 802.227, as many of the facility types covered under federal law may be irrelevant to the military facilities located within a given state.

1   **(1) Definitions.**

2           (a) “Agricultural land” shall mean the definition provided in [state’s definition of  
3           agricultural land in the title/chapter of its agricultural code, or as defined in the state’s  
4           definition of agricultural land as overseen by its agricultural commissioner or  
5           secretary]

6           (b) “Real property” shall mean any piece of land within this state, including any  
7           artificial or natural property permanently attached to it, including but not limited to,  
8           all buildings and improvements thereon, and all fixtures, rights, and privileges  
9           appertaining thereto.

10          (c) “Foreign adversary” shall mean countries listed in Chapter 15, Section 791.4 of the  
11          Code of Federal Regulations, or any successive place that the adversary list of the  
12          Department of Commerce shall be published.

13                 (i) Should such a list no longer be maintained or published in the Code of  
14                 Federal Regulations, “foreign adversary” shall mean the countries of the  
15                 People’s Republic of China (inclusive of the Hong Kong and Macau Special  
16                 Administrative Regions), the Russian Federation, the Islamic Republic of Iran,  
17                 the Democratic People’s Republic of Korea (North Korea), Cuba, and  
18                 Venezuela.

19          (d) “Foreign principal” means a corporation, individual, group, non-profit organization  
20          as defined by 26 U.S.C.A. §§501(c), or any other organization that is organized under  
21          the laws of, substantially controlled by, is a citizen of, or otherwise affiliated with a  
22          foreign adversary, including the substantial control of operations, boards, ownership,  
23          or other significant influence by a foreign adversary.

24          (e) “Non-resident alien” shall mean any alien who is not currently lawfully admitted  
25          for permanent residence in the United States as defined by 8 U.S.C.A. §1101(a)(20).

26          (f) “Critical infrastructure site” shall mean any of the following:

27                 (i)       A chemical, oil, or other refinery-like manufacturing facility

28                 (ii)       A power generation plant

29                 (iii)       A water treatment or wastewater treatment plant

30                 (iv)       A liquid natural gas or oil terminal

31                 (v)        A telecommunications central switching or connection office

32                 (vi)       A seaport, as defined by 18 U.S.C.A. § 267

33                 (vii)       A spaceport, as defined by 51 U.S.C.A. § 51501(e)

34                 (viii)       A public airport, as defined by 49 U.S.C.A. § 47102(21)

(ix) A gas processing, treatment, or fractionation plant

(x) A facility which processes or manufactures [chemical] fertilizers as defined by [State Agricultural Code §] or their precursors

(g) “Military installation” shall mean any base, camp, post, station, yard, depot, or other property of at least ten (10) acres that is under the jurisdiction of the Department of Defense, is under the operational control of the Secretary of a military department or the Secretary of Defense, is under the jurisdiction or operational control of the [State Military Department] or is satisfies the criteria of “military installation” under 31 C.F.R. § 802.227.

**(2) Prohibition on the ownership of agricultural land by foreign principals.**

(a) A foreign principal may not own directly, indirectly, partly, or have any interest in, or acquire by purchase, grant, devise, or inheritance any agricultural land in this state, except through a *de minimis* ownership in a publicly traded, domestic corporation, and only if the foreign principal’s ownership interest:

(i) Is less than five (5) percent of the total market capitalization of such publicly traded domestic corporation; or

(ii) The acquisition of such agricultural land has been reviewed and approved by the Committee on Foreign Investment in the United States (CFIUS); and

(iii) The purchase agreement approved by CFIUS includes a mitigation or monitoring agreement of the company, regarding its board, its properties, its operations, and any other significant factor which may be influenced consistent with 50 U.S.C.A. § 4565(l)(3)(A) and (l)(6).

(b) A foreign principal that owns or acquires agricultural land in this state before [date after legislative session] may continue to own such land or interest, but may not purchase or otherwise acquire any further lands after [date].

(c) Agricultural land purchased or held before [date] must be registered with the Secretary of State, and such registrations shall include the following information:

(i) The name of the beneficial owner of purchased or otherwise acquired agricultural land, information on the beneficial owner’s affiliations with entities or individuals associated with the operation or ownership of the property, and contact information for parties associated with the administration, operation, or beneficial ownership of the property; and

(ii) The address, including the complete legal description of the parcel(s), as recorded with the applicable registrar’s office, of any agricultural land purchased or otherwise acquired; and

(iii) The total acreage of all parcels to be purchased or held.

(d) Any foreign principal who, owning or acquiring agricultural land before [date], fails to register with [office] shall face a civil penalty of \$1,000 for each day that such registration is not provided to [office]. The [] Secretary of State may place a lien against lands held by foreign principals for any unpaid penalties in this section.

(e) At the time of purchase or other acquisition of agricultural lands in this state, the beneficial owner of agricultural lands, or its agent, must provide an affidavit signed under penalty of perjury attesting that the beneficial owner is:

(i) Not a foreign principal within the meaning of subsection (1)(d) of this section;

(ii) Not acting on behalf, or at the direction of, a foreign principal or foreign adversary;

(iii) Not acquiring the land with the intent to provide a lease or other property access to a foreign principal or foreign adversary or their agents or assigns;

(iv) Is in compliance with all the requirements of this section.

(f) The [state] Real Estate Commission shall adopt rules to implement this subsection, including rules establishing the form for the affidavit required under this subsection.

(g) The agricultural land or an interest in such land that is owned or acquired in violation of this section may be forfeited to the state.

(h) The [entity authorized to place liens under sub. (2)(d)] may initiate a civil action in the [circuit court] of the county in which the property lies for the forfeiture of the agricultural land or any interest therein, against the beneficial owner of agricultural lands.

(i) Upon filing such action, the clerk must record a *lis pendens* in accordance with [state law]. The beneficial owner of agricultural land may at any time petition to modify or discharge the *lis pendens* based upon a finding that there is no probable cause to believe that the agricultural land, or any portion thereof, is owned or held in violation of this section.

(ii) If the [circuit court] finds that the agricultural land, or any portion thereof, is held in violation of this section, the court must enter a final judgment of forfeiture vesting title to the agricultural land in this state [or the lien holding department], subject only to the rights and interests of *bona fide* lienholders, and such final judgment relates back to the date of the *lis pendens*, and notwithstanding the [state uniform declaratory judgments act].

(iii) The [department] may sell the agricultural land subject to a final judgment of forfeiture. Any proceeds from the sale must first be paid to any lienholders of the land, followed by payment of any outstanding fines assessed

pursuant to this section, after which [the department] must be reimbursed for all costs related to the forfeiture civil action and any costs related to the sale of the land. Any remaining proceeds must be paid to the beneficial owner.

(i) A foreign principal or other person that purchases, acquires, or sells agricultural land or any interest in such land in violation of this section commits a [crime a of certain severity].

(j) The Secretary of State shall adopt and promulgate rules to implement and enforce this section.

**(3) Prohibition on the ownership of real property in proximity to critical infrastructure and military installations.**

(a) A foreign principal may not own directly, indirectly, or in partly, or have any interest in, or acquire by purchase, grant, devise, or inheritance, any real property on or within [XX] miles of any military installation or critical infrastructure site in this state, except through *de minimis* ownership in a: publicly traded, domestic corporation, and only if the foreign principal's ownership interest:

(i) Is less than five (5) percent of the total market capitalization of such publicly traded domestic corporation; or

(ii) The acquisition of such agricultural land has been reviewed and approved by the Committee on Foreign Investment in the United States (CFIUS); and

(iii) The purchase agreement approved by CFIUS includes a mitigation or monitoring agreement of the company, regarding its board, its properties, its operations, and any other significant factor which may be influenced consistent with 50 U.S.C.A. § 4565(l)(3)(A) and (l)(6).

(b) A foreign principal that owns or acquires any such land under this subsection within [XX] miles of a military installation or critical infrastructure site in this state before [date] may continue to own such land or interest, but may not purchase or otherwise acquire any further lands after [date].

(c) Any real property purchased or held before [date] must be registered with the Secretary of State and such registrations shall include the following information:

(i) the name of the beneficial owner of purchased or otherwise acquired lands covered under this subsection, information on the beneficial owner's affiliations with entities or individuals associated with the operation or ownership of the property, and contact information for parties associated with the administration, operation, or beneficial ownership of the property; and

(ii) the address, including the complete legal description of the parcel(s), as recorded with the applicable registrar's office, of any lands covered under this subsection purchased or otherwise acquired; and

(iii) the total acreage of all parcels to be purchased or held.

(d) Any foreign principal who, owning or acquiring land within the specified proximity of critical infrastructure and military installations before [date], fails to register with [office] shall face a civil penalty of \$1,000 each day that such registration is not provided to [office]. The [Secretary of State ] may place a lien against lands held by foreign principals for any unpaid penalties in this section.

(e) Subsection 3 shall not apply if a foreign principal, who is a natural person, seeks to purchase one residential property, located on a parcel or group of parcels that is no more than two (2) acres in total size, only if all of the following apply:

(i) the property is not or within [XX] miles of any military installation or critical infrastructure site in this state;

(ii) the foreign principal is a lawful permanent resident of the United States; and

(iii) the purchaser under part (ii) acquires a fee simple absolute interest in the property; and

(iv) no other party, with the exception of the purchaser's spouse, acquires any form of beneficial interest in the property.

(f) At the time of purchase of real property in prohibited proximity to military installations or critical infrastructure sites in this state, the buyer of such lands must provide an affidavit signed under penalty of perjury attesting that the buyer is:

(i) not a foreign principal within the meaning of subsection (1)(d) of this section;

(ii) not acting on behalf, or at the direction of a foreign principal or foreign adversary;

(iii) not acquiring the land with the intent to provide a lease or other property access to a foreign principal or foreign adversary or their agents or assigns;

(iv) is in compliance with all the requirements of this section.

(g) Any interests in land acquired in violation of this subsection shall be forfeited to the state.

(h) The Secretary of State may initiate a civil action in the [circuit court] of the county in which the property lies for the forfeiture of the agricultural land or any interest therein, against the beneficial owner of real property.



(i) Upon filing such action, the clerk must record a *lis pendens* in accordance with [state law]. The beneficial owner of real property may at any time petition to modify or discharge the *lis pendens* based upon a finding that there is no probable cause to believe that the property, or any portion thereof, is owned or held in violation of this section.

(ii) If the [circuit court] finds that the real property, or any portion thereof, is held in violation of this section, the court must enter a final judgment of forfeiture vesting title to the agricultural land in this state [or the lien holding department], subject only to the rights and interests of *bona fide* lienholders, and such final judgment relates back to the date of the *lis pendens*, and notwithstanding the [state uniform declaratory judgments act].

(iii) The [department] may sell the real property subject to a final judgment of forfeiture. Any proceeds from the sale must first be paid to any lienholders of the land, followed by payment of any outstanding fines assessed pursuant to this section, after which [the department] must be reimbursed for all costs related to the forfeiture civil action and any costs related to the sale of the land. Any remaining proceeds must be paid to the beneficial owner.

(i) A foreign principal or other person that purchases, acquires, or sells land or any interest in such land in violation of this section commits a [crime of a certain severity].

(j) The Secretary of State shall adopt and promulgate rules to implement and enforce this section.

#### **(4) Other considerations and exceptions.**

None of the above sections shall apply to a foreign principal that, as recognized and permitted by the United States Department of State, obtains a beneficial interest in real property for diplomatic or consular purposes.

#### **(5) Enforcement.**

(a) The Attorney General shall have the authority to conduct investigations into violations of this Act. The Attorney General may:

(i) require a law enforcement agency, law enforcement official, or any other person or entity to file a statement or report in writing under oath or otherwise, as to all information the Attorney General may consider necessary in conducting such investigations; and

(ii) issue subpoenas, obtain records, conduct hearings, or take any other actions in aid of any investigation.

(b) Upon information or upon the complaint of any person, the Attorney General may maintain an action for declaratory, injunctive, or any other equitable relief in the

12 circuit court against any person or entity who violates any provision of this Act. These  
13 remedies are in addition to, and not in substitution for, other available remedies under  
14 this section.

15 (c) No portion of this Act may be enforced against a United States Citizen.

1 **(6) Severability.**

2 If any provision of this section or the application thereof to any person or circumstance  
3 is held invalid, the remainder of this section and the application of such provision to  
4 other persons or circumstances shall not be affected thereby.

1 **(7) Date of enactment.**

2 This legislation shall go into effect [XX months from passage, or a particular date after  
3 the end of the legislative session].