

RÉSUMÉ DIGEST

ACT 420 (HB 238)

2024 Regular Session

Echols

New law restricts any foreign adversary or prohibited foreign actor from directly or indirectly, owning, acquiring, leasing, or otherwise obtaining any interest, in agricultural land as defined in existing law (R.S. 3:3602).

New law allows a prohibited foreign actor to sell or convey its ownership interest of agricultural land.

New law allows a person to conclusively rely upon an affidavit made by a person who is intending to acquire or hold an interest in immovable property only if that person is not a foreign adversary or a prohibited foreign actor. Further provides an exception for when fraud is committed.

New law defines "controlling interest" as the power to direct the management or policies of a company.

New law defines "foreign adversary" as an individual or a government identified as a foreign adversary pursuant to 15 CFR 7.4, including the People's Republic of China and the Hong Kong Special Administrative Region, Republic of Cuba, Islamic Republic of Iran, Democratic People's Republic of Korea, Russian Federation, and Venezuela under the leadership of Nicolas Maduro. Specifies that it does not include a person who is a legal permanent resident with lawful presence in the U.S.

New law defines "immovable property" as agricultural land as defined in existing law (R.S. 3:3602).

New law defines "prohibited foreign actor" as a corporation, LLC, pension or investment fund, trust, or limited liability partnership in which a foreign adversary has a controlling interest.

New law exempts foreign business entities that might otherwise qualify as a foreign adversary from the ownership restrictions applicable to agricultural lands under the following circumstances:

- (1) If the right is guaranteed by a treaty or if the person's country of origin affords certain real estate rights to U.S. citizens.
- (2) If a title to agricultural land is held as a security to indebtedness or real estate acquired upon collection of a debt.
- (3) If such foreign business entity is a religious, educational, charitable, and scientific corporation.
- (4) If inherited land, or land received by such foreign business entity as payment for a debt, is sold or transferred within five years.

New law provides that any prohibited foreign actor that violates new law is subject to a civil penalty of \$50,000 and forfeiture of the agricultural land if such entity does not divest itself of land acquired in violation of new law within one year after judgment is entered in this action.

New law authorizes a party to a contract to purchase, lease, or acquire immovable property to rescind such contract for violations of new law.

New law authorizes the attorney general to bring an action for injunctive relief against the foreign adversary or a prohibited foreign actor to restrain and enjoin the sale or lease of immovable property. Establishes a process for such action if the attorney general elects to seek enforcement. Provides certain requirements for the attorney general to serve an investigative demand or subpoena for deposition testimony of a person who has information or other evidence of an alleged violation of new law. Further provides form, notice, and service requirements for such investigative demands and subpoenas. Authorizes the attorney

general to apply to the court for an order compelling compliance with the investigative demand or subpoena if no protective order is secured. Further authorizes the attorney general to use other procedures authorized by law for a violation of new law.

New law authorizes the court, when petitioned by the attorney general, to issue additional orders such as revocation, forfeiture, or suspension of licensure; to appoint a receiver; to dissolve a domestic corporation; to suspend or terminate a foreign company's right to do business in the state, to require restitution; and to require civil forfeiture or divestiture of immovable property.

New law specifies that if the attorney general determines that a violation has occurred, he may order the foreign adversary or prohibited foreign actor to divest himself of all interest in the land within 90 days if the attorney general concludes that a violation of new law has occurred. Further authorizes a foreign adversary or any holder of interest to seek judicial review after the attorney general's final determination related to an order of divestiture.

New law authorizes the attorney general to bring an action to divest the interest of a foreign adversary or prohibited foreign actor for failure to divest of the interest or if the holder of the interest submits a written request for a judicial determination.

New law authorizes the attorney general to cause the petition or other pleading to be cancelled from the mortgage records no later than three business days from judgment or after a request for cancellation by any interested party who is not a foreign adversary or prohibited foreign actor.

New law provides required legal procedures for forfeitures.

New law specifies that the failure to identify a buyer as a foreign adversary does not create additional liability for those involved in the consummation of a real estate transaction.

Effective August 1, 2024.

(Adds R.S. 3:3613-3619)