

## HOUSE SUMMARY OF SENATE AMENDMENTS

**HB 537**

**2023 Regular Session**

**Hodges**

CONTRACTS: Provides for a prohibition against foreign adversary purchasing, leasing, or acquiring land

### Synopsis of Senate Amendments

1. Provides for immunity from liability for sellers or lessors except for foreign adversaries or a person connected with a foreign adversary.
2. Defines juridical person.
3. Exempts mortgage loan servicers from liability for failure to identify a party to a transaction who is a foreign adversary.
4. Exempts certain juridical persons who own and conduct oil and gas operations located in La. from the application of proposed law.
5. Removes identification of specific countries that are identified as foreign adversaries in 15 CFR 7.4(a).
6. Makes technical changes.

### Digest of Bill as Finally Passed by Senate

Proposed law provides that beginning Aug. 1, 2023, no foreign adversary or person connected with a foreign adversary may purchase, lease, or acquire immovable property in this state.. Proposed law further provides that parties to the contract with a foreign adversary may rescind the contract prior to the transfer of the immovable property if it is determined that the purchaser or lessee is a foreign adversary or a person connected with a foreign adversary.

Proposed law provides that proposed law is not applicable to existing contracts to purchase, lease, or otherwise acquire immovable property prior to Aug. 1, 2023.

Proposed law provides that a person may rely on an affidavit made by a person intended to acquire or holding an interest in immovable property to the effect that the person is not a foreign adversary or a person connected with a foreign adversary.

Proposed law provides that no seller or lessor shall be liable under proposed law except for a foreign adversary or person connected with a foreign adversary that is required to forfeit or dispose of property as ordered by the court as provided by proposed law.

Proposed law provides that the attorney general may bring an action for injunctive relief in the name of the state against a foreign adversary or the person connected with a foreign adversary prior to or after the transfer of property is complete.

Proposed law provides that venue shall be brought in the district court having civil jurisdiction in any parish in which a portion of the immovable property is located.

Proposed law provides that the attorney general may recover reasonable attorney fees and court costs.

Proposed law provides that the attorney general may open an investigation.

Proposed law provides that if an action is brought pursuant to proposed law the attorney general shall record in the public mortgage records of the parish clerk of court of each parish in which any portion of the immovable property is located a notice of pendency of action pursuant to present law (C.C.P. Art. 3751, et seq.) and provide written notice to mortgage, lien, privilege, and other encumbrance holders in the manner provided by present law (R.S. 40:2608 and R.S. 14:90.1).

Present law (C.C.P. Art. 3751, et seq.) provides for notice of pendency of actions.

Present law (R.S. 40:2608) provides for the sale of property pending forfeiture of property that is not evidence of a criminal violation by any law enforcement agency under the Seizure and Controlled Dangerous Substances Property Forfeiture Act of 1989 (R.S. 40:2601, et seq.).

Present law (R.S. 14:90.1) provides for the seizure and disposition of evidence, property, and proceeds for the crime of gambling and related offenses.

Proposed law provides that the property be sold at judicial sale in accordance with present law (C.C.P. Art. 2331, et seq.)

Present law (C.C.P. Art. 2331, et seq.) provides for judicial sales under fieri facias.

Proposed law provides that a court may order that the property be sold to someone who is not a foreign adversary or to a person that is not connected to a foreign adversary or sold at judicial sale. Proposed law provides that the court shall order that the price of the sale be not less than the sum of all of the following:

- (1) Ad valorem taxes and other liens payable to a political subdivision on the property.
- (2) Indebtedness secured by a conventional mortgage on the property.
- (3) Indebtedness secured by a judicial or legal mortgage on the property.
- (4) Indebtedness secured by a lien or privilege on the property.
- (5) Commissions due to a real estate broker or real estate agent.
- (6) Costs related to the perfection of the sale.

Proposed law provides that any immovable acquired by a foreign adversary or person connected with a foreign adversary is subject to civil forfeiture to the state. After satisfying all mortgages, liens, privileges, and other encumbrances encumbering the property, the remaining proceeds of the sale shall be paid to the Dept. of Justice to fund services for veterans of foreign wars. Proposed law provides that the attorney general may enter into cooperative endeavor agreements to provide such services.

Proposed law provides that all forfeitures and dispositions under proposed law shall not affect the rights of any person unless the attorney general proves beyond a reasonable doubt that the person entered into the transaction for the purpose of aiding a foreign adversary or person connected with a foreign adversary in compromising the security of the U.S.

Proposed law provides that no attorney, title insurer, title insurance producer, title insurance agency producer, lender, mortgage loan servicer, notary public, real estate agent, real estate broker, seller, or lessor shall have a duty to make an investigation as to whether a party is a foreign adversary.

Proposed law provides that the provisions of proposed law shall not apply to the following:

- (1) A natural person who is a U.S. citizen, either by birth or being granted lawful

permanent residency status.

- (2) A person who is not a U.S. citizen but is a permanent legal resident or lawfully present in the U.S. with a valid visa issued by U.S. Citizenship and Immigration Services.
- (3) A juridical person wholly owned by persons who qualify under proposed law.
- (4) Immovable property purchased, leased, or otherwise acquired by a natural person that is used as a single family residential property.
- (5) A juridical person that owned and conducted oil and gas operations located in La. prior to July 1, 2023 and granted a U.S. Dept. of the Treasury, Office of Foreign Assets Control (OFAC) General License and purchases or acquires property in Louisiana that is subject to the OFAC General License.

Proposed law defines "foreign adversary" and "person connected with a foreign adversary".

Present law (15 CFR 7.4(A)) provides that certain foreign governments or foreign non-government persons are significantly adverse to the national security of the U.S. and are considered foreign adversaries.

Proposed law provides that proposed law shall only apply to property acquired by a foreign adversary or person connected with a foreign adversary on or after Aug. 1, 2023, and the property shall only be subject to forfeiture during the period in which the foreign adversary or person connected with a foreign adversary owns the property. Proposed law provides that rights in an immovable property shall not be void or voidable because the property or right held in the property was previously held by a prohibited foreign adversary or person connected with a foreign adversary.

(Adds R.S. 9:2717.1)