

# TEXAS HOUSE of REPRESENTATIVES



## Cole Hefner

District 5

### Summary of Changes for CSHB 17

**-Amend Subchapter H Heading: (minor language clarification)**

SUBCHAPTER H. PURCHASE OR ACQUISITION REAL PROPERTY BY CERTAIN FOREIGN INDIVIDUALS OR ENTITIES

**-Amend Sec. 5.251 Definitions: (additional definitions, ag land, real property, domiciled, designated country)**

-Include new definition of "critical infrastructure"

"Critical infrastructure" has the meaning assigned by Section 424.001, Government Code.

-Include new definition "Agricultural land"

"agricultural land" means land that is located in this state and that is suitable for:

(A) use in production of plants and fruits grown

for human or animal consumption, or plants grown for the production of fibers, floriculture, silviculture, viticulture, horticulture,

or planting seed; or (B) domestic or native farm or ranch animals kept for use or profit.

-Include new definition of "real property"

"Real property" includes

(A) agricultural land;

(B) an improvement located on agricultural land;

(C) commercial property;

(D) industrial property;

(E) groundwater;

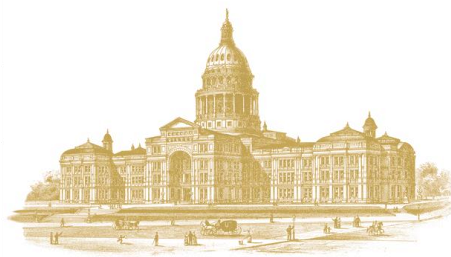
(F) residential property;

(G) a mine or quarry;

(H) a mineral in place;

(I) standing timber; or

(J) water rights.



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-Include new definition of "domiciled"

(a) The country where a person has the person's true, fixed, and permanent home and principal residence and to which the person intends to return whenever absent

-Amend Definition of "designated country" to:

"Designated country" means:

(A) A country identified by the United States Director of National Intelligence as a country that poses a risk to the national security of the United States in at least one of the three most recent Annual Threat Assessments of the U.S. Intelligence Community issued pursuant to Section 108B, National Security Act of 1947 (50 U.S.C. Section 3043b); or

(B) a country designated by the governor under Section 5.254.

**-Amend Sec 5.252 Exceptions: (add nongovernmental organizations excepted if not under control of hostile adversary, further restrict leasehold exception, add residence homestead exception)**

Amend leasehold interest exception:

A single leasehold interest in real property that is less than 20 acres or improvements constructed upon such a leasehold if the duration of the interest is less than 20 years, held by an individual for the duration of the individual's lawful presence in the United States, except that any portion of the leasehold may not be located within:

- (i) 10 miles of critical infrastructure; or
- (ii) 10 miles of the United States border.

Add "nongovernmental organization" to include in exception 2 alongside any other entity not under control of hostile adversary

Include an additional exception for an individual's residence homestead:

real property that is intended for use as an individual's residence homestead, as defined by Section 11.13(j), Tax Code, except that any portion of the residence homestead may not be located within:

- (i) 10 miles of critical infrastructure; or
- (ii) 10 miles of the United States border.



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**-Amend Section 5.253 (NGOs subject to prohibition if hostile adversary-controlled)**

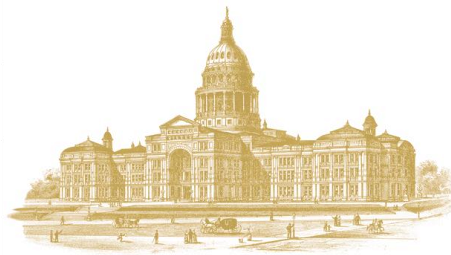
On pg 3 line 13 Add ",nongovernmental organization," after "company" to include NGO into entity prohibition if controlled by hostile adversary

**-Amend Section 5.254 to: (ability for Governor to Remove Countries from list, clarify that designation or removal applies prospectively)**

Sec. 5.254. DESIGNATION OR REMOVAL BY GOVERNOR OF COUNTRY OR ENTITY AS SUBJECT TO PROHIBITION ON PURCHASE OR ACQUISITION OF TO REAL PROPERTY. (a) The governor, after consultation with the public safety director of the Department of Public Safety, may designate or remove a country of which a governmental entity, company, nongovernmental organization, or other entity, or citizen shall be subject to this subchapter.  
(b) The governor shall consult the Homeland Security Council established under Subchapter B, Chapter 421, Government Code, for purposes of making a designation or removal under this section.  
(c) A designation or removal made by the governor under subsection (a) applies prospectively

**-Amend Section 5.255 change to: (original transaction not void and OAG Discovery, SoS Interrogatories and Records)**

Sec. 5.255. INVESTIGATION AND ENFORCEMENT BY ATTORNEY GENERAL; LAW ENFORCEMENT REFERRAL. (a) The attorney general shall establish procedures to examine an acquisition of real property and determine whether an investigation of a possible violation of this subchapter is warranted.  
(b) If the attorney general determines that an investigation of an acquisition of real property is warranted under this section, the attorney general:  
(1) shall investigate the acquisition of real property and determine whether a violation of this subchapter occurred;  
(2) may bring an in rem action against real property to enforce this subchapter in a district court in the county where all or part of the real property that is the subject of the violation is located; and  
(3) may refer the matter to any appropriate local, state, or federal law enforcement agency.



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(4) shall record notice of an action brought under Subsection (a) in the real property records of each county where any part of the real property subject to the action is located.

(5) Except for an acquisition of a leasehold interest not exempt from this subchapter under Section 5.253(4), a purchase or acquisition of real property in violation of Section 5.254 is not void because of the violation, and the validity or enforceability by any person of a purchase contract for or the conveyance of the real property is not otherwise affected by the violation.

-Additionally, amend Attorney General Investigation to include Discover Powers and Secretary of State Interrogatories and Records

ATTORNEY GENERAL INVESTIGATION AND DISCOVERY; SECRETARY OF STATE INTERROGATORIES AND RECORDS. (a)The attorney general may conduct discovery to investigate a potential action under Section 5.255 or in an action brought under Section 5.255, including by:

(1)petitioning for an order authorizing the taking of a deposition under Rule 202, Texas Rules of Civil Procedure; or

(2)if the attorney general has reason to believe that a person may be in possession, custody, or control of any documentary material or other evidence or may have any information relevant to an investigation of a suspected violation of Section 5.254, issuing in writing and serving on the person a civil investigative demand requiring the person to:

(A)produce any of the documentary material for inspection and copying; (B)answer in writing any written interrogatories;

(C)give oral testimony; or

(D)provide any combination of civil investigative demands under Paragraph (A), (B), or (C).

(b)The secretary of state shall on request by the attorney general:

(1)serve interrogatories on an individual or entity as necessary to determine the ownership or control of an organization that is the subject of an action by the attorney general under Section 5.255; and

(2)provide to the attorney general all records held by the secretary relating to the ownership or control of an organization that is the subject of an action by the attorney general under Section 5.255



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**-Amend Section 5.256: (original transaction not void despite violation to maintain chain of title)**

Sec. 5.256. DIVESTITURE; APPOINTMENT OF RECEIVER; DISTRIBUTION OF SALE PROCEEDS. (a) If the district court finds that the real property subject to an action brought under Section 5.255 was purchased or otherwise acquired in violation of Section 5.253, the court shall enter an order that:

- (1) states the court's finding;
- (2) divests the violator's interest in the real property, including selling or disposing of real property or terminating a leasehold; and
- (3) appoints a receiver to manage and control the real property pending any sale or other

disposition of the real property.

(b) On appointment and qualification, a receiver appointed under this section has the powers and duties of a receiver under Chapter 64, Civil Practice and Remedies Code.

(c) Proceeds from the sale or other disposition of real property under an order described by Subsection (a) shall be applied first to satisfy any existing liens on the property and then to pay a fine assessed under Section 5.257(c). The remaining proceeds shall be remitted to the comptroller for deposit in the general revenue fund.

(d) Despite divestiture from a purchaser or lessee who violates this subchapter, the original purchase or acquisition of an interest in real property in violation of Section 5.253 is not void and the rights of a seller or lessor are not affected by the violation.

**-Amend Section 5.257: (include NGOs alongside other hostile adversary-controlled entities subject to penalties)**

Sec. 5.257. OFFENSE; PENALTY. (a) A person commits an offense if the person:

- (1) is prohibited from purchasing or otherwise acquiring an interest in real property under Section 5.253; and
  - (2) intentionally or knowingly purchases or otherwise acquires interest in real property in this state.
- (b) An offense under Subsection (a) is a state jail felony.



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(c) A company, nongovernmental organization, other entity, or individual that is found to have violated this subchapter shall pay to this state a fine equal to the greater of:

(1) \$250,000; or

(2) 50 percent of the market value of the real property that is the subject of the violation.

**-Amend Section 5 (of the bill) change to: (minor language change)**

The changes in law made by this Act apply only to the purchase or acquisition of an interest in real property on or after the effective date of this Act. The purchase or acquisition of an interest in real property before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

