

New Florida Law Banning Real Estate Ownership by Foreign Principals From Certain Foreign Countries

May 16, 2023

On May 8, 2023, Gov. Ron DeSantis signed into law Senate Bill 264, creating Florida Statutes sections 692.201 through 692.205, which prohibits the direct or indirect ownership of various categories of real estate by individuals and companies (in addition to government and party officials) from a number of foreign nations.

Subject to limited exceptions, statutorily defined “foreign principals,” which includes a number of individuals and corporate structures, “from foreign countries of concern,” including China, Russia, Iran, North Korea, Cuba, Venezuela, and Syria, will be subject to the new ownership prohibitions and reporting requirements. Furthermore, the law puts a particular emphasis on various Chinese parties, with stricter restrictions and heightened penalties. A brief breakdown of the restrictions follows:

	On or within 5 miles of a military installation	Outside 5 miles of a military installation, but on or within 10 miles of either a military installation or a critical infrastructure facility	Outside 10 miles of a military installation and a critical infrastructure facility
Foreign principals of Russia, Iran, North Korea, China, Cuba, Venezuela, and Syria	All direct or indirect ownership is prohibited, subject to the limited exemptions stated below.	A natural person holding a valid non-tourist visa or being granted asylum may own (a) one residential real property, (b) up to 2 acres in size, and (c) title in the name of the person who holds the valid visa or official documentation. All other direct and indirect ownership is prohibited, subject to the limited exemptions stated below.	Direct or indirect ownership is prohibited, subject to the exemptions stated below; ownership is otherwise unrestricted.

Prohibited parties of China	All direct or indirect ownership is prohibited, subject to the limited exemptions stated below.	A natural person holding a valid non-tourist visa or being granted asylum may own (a) one residential real property, (b) up to 2 acres in size, and (c) title must be held in the name of the person who holds the valid visa or official documentation. All other direct and indirect ownership is prohibited, subject to the limited exemptions stated below.	A natural person holding a valid non-tourist visa or being granted asylum may own (a) one residential real property, (b) up to 2 acres in size, and (c) title must be held in the name of the person who holds the valid visa or official documentation. All other direct and indirect ownership is prohibited, subject to the limited exemptions stated below.
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The established limited exemptions to the above limitations are:

- **De minimis indirect ownership:** Exception applies to ownership through a publicly traded company that is either less than 5% or is a non-controlling interest in an entity controlled by a non-foreign entity registered with the SEC as an investment adviser.
- **Acquisition through probate or debt collection:** A prohibited party may acquire interest by devise or descent, enforcement of security interests, or collection of debt on or after July 1, 2023, but must sell within three years.

The law also creates a number of registration, reporting, and affidavit requirements; imposes civil and criminal penalties; and introduces a procedure by which property can be forfeited to the state if a violation is discovered.

Registration and reporting requirements for existing affected property owners must be completed generally by December 31, 2023, while all new transactions that occur after July 1, 2023, must be registered and reported within 30 days of the transaction. The law provides no stated exemption for properties that go under contract before July 1, 2023, but will not close until after that date.

Given the highly technical nature of the new law combined with the complexities of real estate ownership, investment, and lending, this alert only provides highlights of the new law. If you have questions about the impact of Senate Bill 264 on real estate holdings or investments, please contact the authors of this article.

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