

1 laws of or having its principal place of business in a
2 foreign country, or a subsidiary of that entity;

3 (4) Any person who is domiciled in a foreign country and
4 is not a citizen or lawful permanent resident of the
5 United States; or

6 (5) Any person, entity, or collection of persons or
7 entities, described in paragraphs (1) through (4)
8 having a controlling interest in a partnership,
9 association, corporation, organization, trust, or any
10 other legal entity or subsidiary formed for the
11 purpose of owning real property in the State.

12 "Real property" means lands, structures, and interests
13 therein and natural resources including water, minerals, and all
14 things connected with land, including lands under water and
15 riparian rights, space rights, air rights, and any and all other
16 things and rights usually included within the term.

17 **§ -2 Purchase of real property by foreign principals**
18 **prohibited.** (a) A foreign principal shall not directly or
19 indirectly own, have a controlling interest in, or acquire by
20 purchase, grant, devise, or descent real property or any
21 interest, except a de minimus indirect interest, in real



1 property in the State. A foreign principal has a de minimus
2 indirect interest if the ownership is the result of the foreign
3 principal's ownership of registered equities in a publicly
4 traded company owning the real property and if the foreign
5 principal's ownership interest in the company is either:

6 (1) Less than five per cent of any class of registered
7 equities or less than five per cent in the aggregate
8 in multiple classes of registered equities; or

9 (2) A noncontrolling interest in any entity controlled by
10 a company that is both registered with the United
11 States Securities and Exchange Commission as an
12 investment adviser under the Investment Advisers Act
13 of 140 (15 U.S.C. 80b-1 et seq.), as amended, and is
14 not a foreign entity.

15 (b) Notwithstanding subsection (a), a foreign principal
16 that directly or indirectly owns or acquires real property or an
17 interest in real property in the State before July 1, 2024, may
18 continue to own or hold the real property or interest, but shall
19 not purchase or otherwise acquire by grant, devise, or descent
20 any additional real property or interest in real property in the



1 State unless the foreign principal divests the real property or
2 interest as provided in section -4.

3 **§ -3 Ownership of real property by foreign principals;**
4 **registration required.** (a) A foreign principal that directly
5 or indirectly owns or acquires real property or any interest,
6 other than a de minimus indirect interest, in real property in
7 the State before July 1, 2024, shall register the ownership with
8 the department by January 1, 2025, on a form prescribed by the
9 department. The form shall include, at a minimum:

- 10 (1) The name of the owner of the real property or the
11 owner of the interest in the real property;
12 (2) The address of the real property, the real property's
13 tax map key number, and the real property's legal
14 description; and
15 (3) The number of acres of the real property.

16 (b) A foreign principal that fails to timely file a
17 registration with the department shall be subject to a civil
18 penalty of \$1,000 for each day that the registration is late.
19 The department may place a lien against the unregistered real
20 property for the unpaid balance of any penalties assessed under
21 this subsection.



1 **§ -4 Acquisition of real property by a foreign principal**
2 **after July 1, 2024; divestment required.** Notwithstanding
3 section -2, a foreign principal may acquire real property
4 on or after July 1, 2024, by devise or descent, through the
5 enforcement of security interests, or through the collection of
6 debts; provided that the foreign principal shall sell, transfer,
7 or otherwise divest itself of the real property within three
8 years of acquiring the real property.

9 **§ -5 Purchase of real property; affidavit required.** (a)
10 At the time of purchase, a buyer of real property or an interest
11 in real property shall provide an affidavit signed under penalty
12 of perjury attesting that the buyer is:

13 (1) Not a foreign principal; and

14 (2) In compliance with the requirements of this chapter.

15 (b) The failure to obtain or maintain the affidavit under
16 subsection (a) shall not:

17 (1) Affect the title or insurability of the title for the
18 real property; or

19 (2) Subject the closing agent to civil or criminal
20 liability, unless the closing agent has actual



1 knowledge that the transaction will result in a
2 violation of this chapter.

3 (c) The real estate commission shall adopt rules to
4 implement this section, including rules to establish the form
5 for the affidavit.

6 **§ -6 Forfeiture.** (a) Real property or an interest in
7 real property that is owned or acquired in violation of this
8 chapter may be forfeited to the State.

9 (b) The department may initiate a civil action in the
10 circuit court in the county in which the real property is
11 located for the forfeiture of the real property or any interest
12 therein. An action under this section shall be preferred over
13 all other civil causes, except election cases, without respect
14 to position on the calendar.

15 (c) Upon filing the action, the clerk of the court shall
16 record a lis pendens concerning the real property with the
17 bureau of conveyances.

18 (d) The defendant may at any time petition to modify or
19 discharge the lis pendens based upon a finding that there is no
20 probable cause to believe that the real property, or any portion
21 thereof, is owned or held in violation of this chapter.



1 (e) If the court finds that the real property, or any
2 portion thereof, is owned or held in violation of this chapter,
3 the court shall enter a final judgment of forfeiture vesting
4 title to the real property in the State, subject only to the
5 rights and interests of bona fide lienholders. The final
6 judgment shall be retroactive to the date the lis pendens was
7 filed.

8 (f) The department may sell the real property subject to a
9 final judgment of forfeiture. The proceeds from the sale, if
10 any, shall be paid in the following priority:

- 11 (1) To any lienholders of the real property;
- 12 (2) To the department to pay any outstanding fines
13 assessed pursuant to this chapter;
- 14 (3) To the department to reimburse the department for all
15 costs related to the forfeiture civil action and any
16 costs related to the sale of the real property; and
- 17 (4) To the real property owner.

18 (g) At any time during the forfeiture proceeding, the
19 department may seek an ex parte order of seizure of the real
20 property upon a showing that the defendant's control of the real
21 property constitutes a clear and present danger to the State.



1 **§ -7 Inapplicability to real property for diplomatic**
 2 **purposes.** This chapter shall not apply to a foreign principal
 3 that acquires real property for a diplomatic purpose that is
 4 recognized, acknowledged, or allowed by the federal government.

5 **§ -8 Criminal penalties.** (a) A foreign principal that
 6 purchases or acquires real property or any interest therein in
 7 violation of this chapter shall be guilty of a misdemeanor.

8 (b) A person who knowingly sells real property or any
 9 interest in real property in violation of this chapter shall be
 10 guilty of a misdemeanor.

11 **§ -9 Rules.** The department may adopt rules pursuant to
 12 chapter 91 necessary to effectuate the purposes of this
 13 chapter."

14 SECTION 2. In accordance with section 9 of article VII, of
 15 the Constitution of the State of Hawaii and sections 37-91 and
 16 37-93, Hawaii Revised Statutes, the legislature has determined
 17 that the appropriation contained in this Act will cause the
 18 state general fund expenditure ceiling for fiscal year 2024-2025
 19 to be exceeded by \$, or per cent. The reasons
 20 for exceeding the general fund expenditure ceiling are that the



1 appropriation made in this Act is necessary to serve the public
2 interest and to meet the needs provided for by this Act.

3 SECTION 3. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so much
5 thereof as may be necessary for fiscal year 2024-2025 for the
6 department of the attorney general to administer its duties
7 under section 1 of this Act.

8 The sum appropriated shall be expended by the department of
9 the attorney general for the purposes of this Act.

10 SECTION 4. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 5. This Act shall take effect on July 1, 2024.

14

INTRODUCED BY: 



S.B. NO. 2617

Report Title:

AG; Foreign Ownership; Purchase of Real Property; Prohibition; Registration; Forfeiture; Penalties; General Fund Expenditure Ceiling Exceeded; Appropriation

Description:

Prohibits foreign principals from acquiring real property in the State or any interest in real property in the State, except a de minimus indirect interest. Defines foreign principal. Requires a foreign principal that owns real property that was acquired before this measure's effective date to register the ownership with the Attorney General. Requires a buyer of real property to provide a signed affidavit attesting that the buyer is not a foreign principal. Authorizes the forfeiture of real property or an interest in real property that is owned or acquired unlawfully. Establishes penalties. Declares that the appropriation exceeds the state general fund expenditure ceiling for 2024-2025. Appropriates moneys.

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