

The Changing Rules of Real Estate: How SB264 Affects Foreign Purchasers and Owners of Real Estate in Florida

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Foreign purchasers and owners of real estate in Florida need to be aware of SB264. This law, which was recently signed by Governor Ron DeSantis, has important implications for foreign nationals who want to invest in Florida properties. The purpose of SB264, also known as "Interests of Foreign Countries," is to protect U.S. national security interests in Florida. Beginning on July 1, 2023, this law restricts the purchase of certain types of properties by foreign nationals from countries of concern.

Restrictions on Buying Prohibited Land

The new law restricts foreign nationals from the People's Republic of China, Russia, Iran, North Korea, Cuba, Venezuela, and Syria from buying agricultural land or any real property within ten miles of a military base or critical infrastructure facility in Florida. Further, this law covers buildings, fixtures and other improvements on any such real property ("Prohibited Land").

Who Counts as a Foreign National?

For the purpose of this article, foreign nationals are individuals from the countries mentioned above who are not U.S. citizens or lawful permanent residents. SB264 also includes companies controlled by people from countries of concern or which are formed for the purpose of owning property in Florida.

Registration and Affidavit Requirements

Foreign nationals who own or buy Prohibited Land before July 1, 2023, must register with the Department of Agriculture and Consumer Services (DACS) by July 1, 2024. Failure to do so can result in a civil penalty of \$1,000 per day.

In addition, all purchasers of real estate in Florida must provide a written statement (affidavit) confirming that they are not foreign nationals and that they have complied with SB264. The Florida Real Estate Commission will provide specific details of what needs to be included in the affidavit.

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It's not clear if this provision applies to commercial leases where the tenant, a company from one of the countries of concern, owns the fixtures or improvements constructed on the premises. Further clarification is needed.

Restrictions on Residential Property Ownership

Foreign nationals who are individuals can buy one residential property up to two acres in size, as long as it's not within five miles of Prohibited Land. To be eligible for this exception, the investor must have a valid non-tourist U.S. visa or official documentation granting asylum in the United States.

Criminal Penalties

SB264 establishes the following penalties:

- Second-degree misdemeanor for (i) a foreign national (other than from the People's Republic of China) to purchase or acquire any Prohibited Land, and (ii) a seller to knowingly sell Prohibited Land or any interest to a foreign national.
- Third-degree felony for a foreign national from the People's Republic of China to purchase or acquire Prohibited Land.
- First-degree misdemeanor to knowingly sell Prohibited Land to a foreign national from the People's Republic of China.

Conclusion

The full extent and interpretation of SB264 is unknown. There will be more developments and litigation related to this law. If you're a real estate investor or seller in Florida, it's a good idea to learn about the details of SB264 and consult with a lawyer to make sure you comply with the law and minimize any potential risks.