

Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by replacing sections 380-382 with the following:

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3 380 New Subdivision; Ownership or Lease of Real Property by Foreign Principals from Foreign
4 Countries of Concern. Amend RSA 477 by inserting after section 477:22-a the following new
5 subdivision:

6 Ownership or Lease of Real Property by Foreign Principals from Foreign Countries of Concern
7 477:22-b Definitions. In this subdivision:

8 I. "Company" or "development" means a sole proprietorship, organization, association,
9 corporation, partnership, trust, venture, group, subgroup, or any other entity or organization,
10 including its subsidiary or affiliate, that exists for profit-making purposes or to otherwise secure
11 economic advantage.

12 II. "Foreign country of concern" means the People's Republic of China, the Russian
13 Federation, the Islamic Republic of Iran, the Syrian Arab Republic, and the Democratic People's
14 Republic of Korea, including any agencies, institutions, instrumentalities, ruling political parties, or
15 any other entity exercising significant control over any of these listed countries.

16 III. "Foreign principal" means:

17 (a) The government or any government official, in any capacity, of a foreign country of
18 concern.

19 (b) A company, development, or other entity organized under the laws of, or having its
20 principal place of business in, a foreign country of concern.

21 (c) Any natural person who is an employee or agent of a foreign country of concern.

22 IV. "Real property" means property consisting of land, buildings, crops, or other resources
23 still attached to or within the land or improvements or fixtures permanently attached to the land or
24 a structure on it.

25 477:22-c Ownership, Control, and Occupancy; Prohibitions.

26 I. No foreign principal may acquire any permanent or temporary ownership or controlling
27 interest in real property within the state of New Hampshire by any means, including but not limited
28 to, purchase, grant, contract, eminent domain, or demise.

29 II. No foreign principal may lease or otherwise enter into a contract to occupy or control or
30 allow another foreign principal or agent to occupy or control, any real property within the state of
31 New Hampshire.

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1 III. With regard to any provision of this subdivision, a real estate or closing agent shall bear
2 no obligation or requirement to instruct, disclose, assist, or authenticate a person or entity who
3 leases or acquires, or seeks to lease or acquire, an ownership or controlling interest in real property.
4 Responsibility for knowledge of and compliance with the provisions of this subdivision shall lie solely
5 with the foreign principal.

6 477:22-d Illegal Acquisition of Property by a Foreign Principal.

7 I. Acquisition of property in violation of RSA 477:22-c is a:

8 (a) Class B felony, when committed by a natural person.

9 (b) Class A felony, when committed by an entity defined in RSA 477:22-b, I.

10 II. The attorney general's office may refer a violation of this section for prosecution to the
11 county attorney's office in the county in which the subject property is located.

12 III. The attorney general's office may pursue a forfeiture action according to RSA 477:22-e
13 against a person or entity convicted of an offense under paragraph I of this section.

14 477:22-e Forfeiture of Real Property.

15 I. The department of justice may bring a forfeiture action according to this section against a
16 person or entity who secured any ownership interest in real property in violation of this subdivision
17 and who is convicted of an offense under RSA 477:22-d, I regarding that subject property.

18 II. Real property that is the subject of a conviction under RSA 477:22-d, I may be seized by
19 the state and forfeited as provided in this section. Property seized under this section may be held by
20 the state to secure it prior to forfeiture proceedings.

21 III. The state may seize the subject property by filing in the registry of deeds in the county
22 where the property is located a notice of attachment stating that the state has attached the
23 identified property pursuant to this section.

24 IV. The state shall have a lien on any property subject to forfeiture under this section upon
25 seizure of such property. Upon forfeiture, the state's title to the property relates back to the date of
26 seizure.

27 V. Within 30 days of the seizure of any real property under paragraph II, the attorney
28 general shall file a petition in the superior court of the county in which the property was seized,
29 requesting forfeiture of the property. The court shall issue an order of notice requiring the state to
30 send by certified mail a copy of the petition to all owners of the property, including those with partial
31 ownership or controlling interests, and to other persons appearing to have an interest in the
32 property. If no such petition is filed within 30 days of the seizure of the property, the property shall
33 be returned to its owners.

34 VI. Within 30 days of receipt of the attorney general's petition for forfeiture, the court shall
35 schedule a hearing. This hearing shall be conducted as a civil action. The court may order
36 forfeiture of the property seized under paragraph II if the state establishes, by a preponderance of
37 the evidence, that (a) the ownership or controlling interest in the property was acquired in violation

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1 of this section, and (b) that the person or entity holding their interest in the property knew or should
2 have known that they acquired their interest in violation of this chapter.

3 VII. If forfeiture is granted, the attorney general shall provide for the disposition of the
4 forfeited property in any manner not prohibited by law, including retention of the property for
5 official use by law enforcement or other public agencies, or by sale at public auction. The attorney
6 general shall pay the reasonable expenses of the seizure, forfeiture proceeding, and sale of property
7 from the proceeds of any public auction of forfeited items or from any penalty obtained under this
8 chapter. All outstanding recorded liens on any property forfeited shall be paid in full within a
9 reasonable time following the court proceedings.

10 477:22-f Rulemaking. The attorney general shall adopt rules, pursuant to RSA 541-A, relative
11 to provisions of this subdivision that the attorney general determines require administrative rules.

12 381 Effective Date. Section 380 of this act shall take effect upon its passage.

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AMENDED ANALYSIS

Add:

134. This bill prohibits foreign principals from countries of concern from acquiring ownership, controlling, or occupancy interests in real property in the state, and provides for criminal penalties and forfeiture proceedings in the event of illegal acquisition.

UNAPPROVED