Deadline: FL Law Restricting Foreign Real Estate Ownership.

Photo Credits: Gov. Ron DeSantis of Florida spoke in Rochester, N.H., last month.Credit…David Degner for The New York Times

Florida Law Restricting Foreign Ownership Real Estate Ownership based on certain nationalities and with a registration deadline of December 31, 2023.

This is an updated version of our previous post [Florida's 2023 Legislative Highlights: Law Restricting Foreign Ownership of Real Estate and more laws enacted by Gov. DeSantis] published in August 2023. This version only centers on the Florida Law Restricting Foreign Ownership of Real Property, based on certain nationalities and with a registration deadline of December 31, 2023.

On May 8, 2023, Florida Governor Ron DeSantis signed into law Senate Bill 264 ("SB 264"), which restricts the ability of a series of governmental bodies and persons or entities referred to as "foreign principals" from or domiciled in any "foreign country of concern" to directly or indirectly own, have a controlling interest in, or acquire any interest in "real property" (including land, buildings, fixtures, and all other improvements to land) in the state of Florida, subject to certain limited exceptions.

The law defines as "foreign principal":

- The government or any official of the government of a foreign country of concern.
- A political party or member of a political party or any subdivision of a political party in a foreign country of concern.
- A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country of concern or a subsidiary of such entity.
- Any person who is domiciled in a foreign country of concern and is not a citizen or lawful permanent resident of the United States or
- Any person, entity, or collection of persons or entities described in subclauses (a) through (d) having a 'controlling interest' in a partnership, association, corporation, organization, trust, or any other legal entity or subsidiary formed for the purpose of owning real property in Florida.

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The law also indicates as a “foreign country of concern” China, Russia, Iran, North Korea, Cuba, Venezuela, or Syria (including any agency or other entity with significant control of such foreign country of concern). Moreover, definitions include as a controlling interest, “the power to direct or cause the direction of the management or policies of a company, whether through the ownership of securities, by contract, or otherwise. A person or entity that directly or indirectly has the right to vote 25% or more of the voting interests of the company or is entitled to 25% or more of its profits is presumed to have a controlling interest.” So even though a principal may not have over 50% ownership in the entity, if this controlling interest exists, then the law assumes it as a controlling interest, and therefore the law applies in full.

SB 264 has extensive and far-reaching restrictions on foreign principals owning direct or indirect interests in real property consisting of “Agricultural Land” and/or real property within 10 miles from “Critical Infrastructure.”

Final rules were published on September 20, 2023, regarding purchasing real property on or around military installations or critical infrastructure facilities. Subsequently, other Florida institutions followed with additional steps to further speed up this new law’s implementation.

Critical infrastructure is defined, among other things, as chemical manufacturing facilities, refineries, electrical power plants, liquid natural gas terminals, telecommunications central switching offices, gas processing plants, seaports, spaceport territories, and airports.

An exemption exists for agricultural land owned before July 1, 2023. Still, foreign principals who own agricultural land after that date and wish to continue to do so must comply with a registration requirement.

Legal procedures challenging the validity of the law continue to be dealt with in Florida and federal courts, and at this time, the law remains in full force, so the due date of December 31 is to be observed.

Noncompliance sanctions

Florida has already published an online registration link and due date, as mentioned above, on 12.31.2024. Lack of compliance may cause high civil and criminal penalties, including a $1,000 ***per day*** civil penalty for foreign principals who fail to register promptly.

Civil and criminal penalties include the knowing sale of agricultural land or real property on or around a military installation or critical infrastructure facility to a foreign principal, representing a second-degree misdemeanor.

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Please do not hesitate to contact us to assist you in registering your property in the U.S. to avoid stiff penalties and criminal prosecution. Please call us at 305-831-4093 or email us requesting our assistance at taxes@guillenpujol.com.

The Guillen Pujol CPA Group team.