

## Criminal Penalties in Florida for Failing to Provide Affidavit about Foreign Entities at Closing

By Zach Liebetreu

Effective July 1, 2023, new Florida legislation (FL SB264) prohibits the purchase of Florida agricultural lands and land within 10 miles of military bases or critical infrastructure by foreign principals from China, Cuba, Iran, North Korea, Russia, Syria and Venezuela.

Additionally, an affidavit will be required if the property in the transaction is agricultural land or within 10 miles of a military installation or critical infrastructure facility. Given the proximity of many properties to critical infrastructure and the criminal penalties for violating the law, this affidavit will likely be used at closings on all properties.

Property buyers or sellers who violate the restrictions could face up to 60 days in prison and a \$500 fine. Agricultural land acquired in violation of the ban may result in forfeiture of the property to the state. (Fla. Stat. Section 692.202). Property sellers who knowingly violate this law and sell property to Chinese foreign principals could face up to one year in prison and a \$1,000 fine. Chinese nationals who violate the law could face up to five years in prison and a \$5,000 fine. Furthermore, closing agents will have civil and criminal liability if they have actual knowledge the transaction will result in a violation of these laws.

The Florida Real Estate Commission (“FREC”) is charged with responsibility for implementing the new law and releasing the affidavit. To date, this affidavit has not been released. There will also be a new disclosure in the FAR/BAR contract, which also has not been updated.

The legislation allows for properties to be grandfathered in. If you are a foreign principal and own property (prior to July 1) within 10 miles of critical infrastructure, you must register with the Florida Department of Economic Opportunity (DEO) by December 31, 2023, or a fine of \$1,000 a day will begin accruing after January 31, 2024. The DEO can collect this fine by placing a lien on the property. Of course, you are also prohibited from acquiring additional property within 10 miles of critical infrastructure or military installations. (Fla. Stat. 692.203 (2)). If you are a foreign principal who owned agricultural land (prior to July 1), you are allowed to continue owning such land and will have until July 1, 2024, to register with the Department of Agriculture and Consumer Services. Failure to register can result in a civil penalty of \$1,000 per day and result in a lien. Of course, you will not be allowed to acquire additional agricultural land.

While there is an emergency preliminary injunction filed by the Florida American Civil Liberties Union in the case *Shen v. Simpson*, it is still pending. Therefore, this law is active and in full effect.

If you have any questions regarding the new statutes under Conveyances to Foreign Entities or any other real estate matter, please contact any of the listed Roetzel attorneys.

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