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# OHIO LEGISLATIVE SERVICE COMMISSION

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## Substitute Bill Comparative Synopsis

### H.B. 212

### 135<sup>th</sup> General Assembly

House Civil Justice

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This table summarizes how the latest substitute version of H.B. 212 (I\_135\_0275-15) differs from the “As Introduced” version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (As Introduced)	Latest Version (I_135_0275-15)
<b>Prohibition on acquisition of real property</b>	
<p>Prohibits all individuals and governments determined by the U.S. Secretary of Commerce to be “foreign adversaries” or subject to economic sanctions administered by the U.S. Office of Foreign Assets Control (OFAC), and certain associated businesses, from purchasing or acquiring an interest in <b>any real property</b> in Ohio (R.C. 5301.256(B)).</p>	<p>Instead prohibits all of the following from purchasing or acquiring an interest in <b>protected property</b>:</p> <ul style="list-style-type: none"> <li>▪ A government of a country determined by the Ohio Secretary of State to constitute a threat to the critical infrastructure, security, or military defense of Ohio or the United States (referred to by the bill as a “foreign adversary”);</li> <li>▪ An individual who is a citizen of a foreign adversary regardless of dual citizenship;</li> <li>▪ A business that is headquartered in a foreign adversary;</li> <li>▪ An agent, fiduciary, or trustee of any of the foregoing persons;</li> <li>▪ A business that is directly or indirectly owned or controlled by any of the foregoing persons (R.C. 5301.256(B)).</li> </ul>
<p>Applies to all real property (R.C. 5301.256).</p>	<p>Applies to “protected property,” which the bill</p>

Previous Version (As Introduced)	Latest Version (I_135_0275-15)
<p>Requires foreign adversaries and associated businesses to divest of all current real property holdings in Ohio within 36 months after the bill's effective date <i>(R.C. 5301.256(D)(1))</i>.</p>	<p>defines as agricultural land or real property located within 25 miles of either of the following:</p> <ul style="list-style-type: none"> <li>▪ An installation under the jurisdiction of the armed forces, such as a military base, camp, or airport;</li> <li>▪ A critical infrastructure facility <i>(R.C. 5301.256(A)(7))</i>.</li> </ul> <p>Allows any person subject to the bill's restrictions to continue to own or hold protected property acquired before the bill's effective date but prohibits such persons from acquiring additional protected property. In addition, if a person acquires protected property after the bill's effective date, then later becomes subject to the bill's restrictions, requires the person to divest of all right, title, and interest in the property within two years after the date the person becomes subject to the bill's restrictions <i>(R.C. 5301.256(C) and (F))</i>.</p>
Conveyance forms and procedures	
<p>Requires the statement filed with the county auditor in connection with the conveyance of real property to include affirmations by the buyer and seller as to whether they are prohibited from acquiring real property under the restrictions prescribed by the bill and, in the case of the seller, whether the real property that is the subject of the conveyance must be divested of under the bill's requirements <i>(R.C. 319.202)</i>.</p> <p>Prohibits the county auditor from indorsing a conveyance of real property if either of the following apply:</p> <ul style="list-style-type: none"> <li>▪ The statement does not include the affirmations required by the bill;</li> <li>▪ The buyer affirms, or the county auditor has reason to believe, that the buyer is prohibited from acquiring real property <i>(R.C. 319.202(F)(1))</i>.</li> </ul>	<p>Similar to the As Introduced version, but replaces the seller's affirmation as to whether the protected property must be divested of with an affirmation as to whether the protected property was acquired before the bill's effective date <i>(R.C. 319.202(C))</i>.</p> <p>Prohibits the county auditor from indorsing a conveyance of protected property only if the statement does not include the required affirmations <i>(R.C. 319.202(F)(1))</i>.</p>

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<p>Requires the county auditor to refer conveyances of real property that the auditor declines to indorse to the county prosecutor for investigation. Allows the auditor to indorse the conveyance if the prosecutor determines that the buyer is not prohibited from acquiring the real property. <i>(R.C. 319.202(F)(2).)</i></p>	<p>Instead requires the county auditor to notify the county sheriff if either of the following apply:</p> <ul style="list-style-type: none"> <li>▪ The buyer affirms, or the auditor has reason to believe, that the buyer is prohibited from acquiring protected property;</li> <li>▪ The seller affirms, or the auditor has reason to believe that the seller has acquired protected property in violation of the bill <i>(R.C. 319.202(F)(2)).</i></li> </ul>
Exemptions	
<p>Exempts from the bill’s restrictions a business to which all of the following apply:</p> <ul style="list-style-type: none"> <li>▪ Has filed articles of incorporation or any other documents or applications as a condition precedent to engage in business at least seven years before the bill’s effective date;</li> <li>▪ Is in good standing, full force and effect, or registered with the Ohio Secretary of State and has maintained that status for at least seven years before the bill’s effective date;</li> <li>▪ Has been approved to purchase or otherwise acquire real property by the U.S. Committee on Foreign Investment pursuant to the “Defense Production Act of 1950”;</li> <li>▪ Is a party to an active national security agreement with the U.S. government;</li> <li>▪ Is operating lawfully in the U.S. as of the bill’s effective date <i>(R.C. 5301.256(B)(2)).</i></li> </ul> <p>No provision.</p>	<p>No provision.</p> <p>Exempts protected property acquired by device or descent but, if the protected property is acquired by a person subject to the bill’s restrictions after the bill’s effective date, requires the person to divest of their interest within two years after the acquisition <i>(R.C. 5301.256(D)(1)).</i></p>

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No provision.	Exempts protected property acquired by a process of law in the collection of debts, by deed in lieu of foreclosure, forfeiture of a contract for deed, or by any procedure for the enforcement of a lien or claim on the protected property. Requires a person subject to the bill's restrictions to divest of protected property acquired under this exemption after the bill's effective date within two years after the acquisition. Specifies that, in the case of agricultural land, the land must not be used for any purposes other than agriculture. Specifies that agricultural land acquired under this exemption may not be used for agriculture under lease to an individual or business subject to the bill's restrictions. (R.C. 5301.256(D)(2).)
No provision.	Exempts protected property acquired by an agent, fiduciary or trustee of a foreign adversary, citizen of a foreign adversary, or business subject to the bill's restrictions if the agent, fiduciary, or trustee is not themselves subject to the bill's restrictions and is not purchasing or acquiring the protected property to circumvent the requirements of the bill (R.C. 5301.256(D)(3)).
Enforcement	
Specifies that any transfer of an interest in real property in violation of the bill is void (R.C. 5301.256(C)).	No provision.
Requires the county auditor to report suspected violations of the bill's restrictions on acquiring real property to the county prosecutor for investigation and enforcement (R.C. 5301.256(D)(2)).	Instead requires the county auditor to report suspected violations of the bill's restrictions to the county sheriff for investigation (R.C. 5301.256(G)(1)).
Requires the county prosecutor, upon determining that a violation has occurred, to commence an action in the court of common pleas in which the real property is located (R.C. 5301.256(D)(2)).	Similar to the As Introduced version, but requires the county sheriff to first refer a violation to the county prosecutor (R.C. 5301.256(G)(2)).
If the real property is located in more than one county, allows the county prosecutors to commence one consolidated action in the county	Similar to the As Introduced version, but also allows county sheriffs to investigate allegations

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<p>in which the majority of the real property is located (<i>R.C. 5301.256(D)(3)</i>).</p> <p>Requires the court to enter an order for divestment of real property acquired or held in violation of the bill’s restrictions. Allows the property owner six months to comply with the court order before the property escheats to the state. Requires the county prosecutor to impose a \$25,000 civil penalty on a person that fails to timely comply with a court-ordered divestment. Requires property that escheats to the state to be sold at public auction in the same manner as in a foreclosure on a mortgage. (<i>R.C. 5301.256(D)(5), (6), and (7)</i>.)</p> <p>Requires the proceeds of the sale to be distributed as follows:</p> <ul style="list-style-type: none"> <li>▪ First, to pay court costs related to the action or actions;</li> <li>▪ Second, to the General Revenue Fund (<i>R.C. 5301.256(D)(8)</i>).</li> </ul>	<p>collaboratively (<i>R.C. 5301.256(G)(1) and (2)</i>).</p> <p>Instead requires the court to directly order the protected property be sold in the same manner as a foreclosure on a mortgage. There is no six-month divestment period. (<i>R.C. 5301.256(G)(5)</i>.)</p> <p>Requires the proceeds of the sale to be distributed as follows:</p> <ul style="list-style-type: none"> <li>▪ First, to pay court costs related to the action or actions;</li> <li>▪ Second, to bona fide lienholders in order of priority, except for liens that are to remain on the property under the terms of the sale;</li> <li>▪ Third, to the general fund of each county in which the protected property is located, proportionally, based on the percentage of the territory located in each county (<i>R.C. 5301.256(G)(5)</i>).</li> </ul>
Third-party duties	
<p>Specifies that no person other than a foreign adversary or associated business is required to inquire or determine whether another person is subject to the bill’s restrictions on acquiring or holding an interest in real property in Ohio (<i>R.C. 5301.256(E)</i>).</p> <p>No provision.</p>	<p>Similar to the As Introduced version, but includes a county auditor, county sheriff, county prosecutor, or trier of fact of a court of common pleas in the list of those required to inquire or determine if another person is subject to the bill’s restrictions (<i>R.C. 5301.256(I)(1)</i>).</p> <p>Stipulates that no title to an interest in real property is invalid or subject to divestment if a former owner is subject to the bill’s restrictions (<i>R.C. 5301.256(I)(3)</i>).</p>

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No provision.	Specifies that a person not subject to the bill's restrictions bears no liability under the bill <i>(R.C. 5301.256(I)(2))</i> .
<b>Interaction with current law</b>	
Introduced before the enactment of H.B. 33 of the 135 <sup>th</sup> General Assembly.	Harmonizes the bill with current law, enacted by H.B. 33, which prohibits persons determined by the Ohio Secretary of State to constitute a threat to the agricultural production of Ohio or the U.S. from acquiring agricultural land.