



# State Regulation of Foreign Ownership of U.S. Land: January 2023 to July 2024

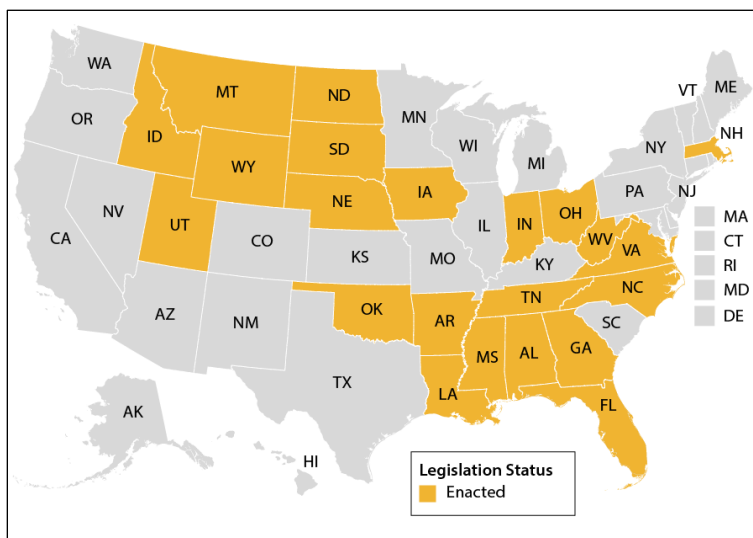
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State and [federal](#) lawmakers have expressed interest in legislative options to address the potential national security and economic implications of foreign ownership of U.S. land. Between January 2023 and July 2024, at least 22 states enacted legislation regulating foreign ownership of real property. A group of plaintiffs filed a [legal challenge](#) to one state law—Florida’s Senate Bill 264 ([SB 264](#))—arguing that it violates their constitutional rights, does not comport with the federal [Fair Housing Act](#), and is preempted by federal law. This Sidebar (1) outlines the recent state legislation on foreign ownership of real property; (2) discusses SB 264 and the lawsuit challenging it; and (3) examines considerations for Congress.

## Many State Legislatures Enacted Laws Regulating Foreign Ownership of U.S. Land in 2023 and 2024

Between January 2023 and July 2024, [Alabama](#), [Arkansas](#), [Georgia](#), [Florida](#), Idaho ([H.B. 173](#) and [H.B. 496](#)), Indiana ([S.B. 477](#), [H.B. 1183](#)), Iowa ([S.F. 2204](#), [S.F. 574](#)), Louisiana ([H.B. 537](#), [H.B. 238](#)), [Mississippi](#), [Montana](#), Nebraska ([L.B. 1301](#), [L.B. 1120](#)), [New Hampshire](#), [North Carolina](#), North Dakota ([HB 1135](#), [SB 2371](#)), [Ohio](#), [Oklahoma](#), South Dakota ([H.B. 1189](#), [H.B. 1231](#)), Tennessee ([H.B. 40](#), [H.B. 2553](#)), [Utah](#), [Virginia](#), [West Virginia](#), and [Wyoming](#) enacted legislation regulating foreign ownership of U.S. land.

**Figure I. States That Enacted Restrictions on Foreign Ownership of U.S. Land Between January 2023 and July 2024**



**Sources:** Ala. Code § 35-1-1 to 35-1-8 (2023); ARK. CODE ANN. § 18-11-101 (2023); FLA. STAT. § 692.201, 692.203–204 (2024); S.B. 420, 157th Gen. Assemb., 2d. Sess. (Ga. 2024); IDAHO CODE § 55-103 (2024); IND. CODE § 1-1-16-1 to 1-1-16-11 (2023); 2024 Ind. Acts 2711; S. 574, 90th Gen. Assemb., Reg. Sess. (Iowa 2024); LA. STAT. ANN. § 9:2717.1 (2023); H.B. 238, Gen. Assemb., 2024 Reg. Sess. (La. 2024) (to be codified at R.S. 3:3613–619); MISS. CODE ANN. § 89-1-23 (2024); MONT. CODE ANN. § 35-30-103 (2023); L.B. 1301, 108th Leg., 2d. Reg. Sess. (Neb. 2024); L.B. 1120, 108th Leg., 2d. Reg. Sess. (Neb. 2024); H.B. 1358, Gen. Ct., 2024 Sess. (N.H. 2024); S. 607, 2024 Gen. Assemb., 1st Sess. (N.C. 2024); N.D. CENT. CODE §§ 10-01.1-01 to 10-01.1-06, 11-11-70 (2023); OHIO REV. CODE ANN. § 5301.256 (2023); OKLA. STAT. tit. 60, § 121 (2023); S.B. 1705, 59th Leg., 2d Reg. Sess. (Okla. 2024); S.D. CODIFIED LAWS §§ 43-2A-1, 59-11-24 (2024); S.D. CODIFIED LAWS §§ 59-11-24, 59-11-24.1, 59-11(1)-(2) (2023); H.B. 1231, 99th Leg., Reg. Sess. (S.D. 2024); Tenn. Code Ann. §§ 66-2-101 to 66-2-102, 66-2-301 to 66-2-306 (2023); H.B. 2553, 113th Gen. Assemb., 2024 Sess. (Tenn. 2024); UTAH CODE ANN. § 63L-13-101 to 63L-13-202 (West 2024); VA. CODE ANN. § 55.1-507 to 55.1-509 (2023); W. VA. CODE § 11A-3-48a (2023), S.F. 77, 6th Leg., Budget Sess. (Wyo. 2024).

## Recent State Laws Differ in Their Restrictions

State laws differ in their approaches and requirements. For example, some states enacted information-gathering laws that [mandate disclosure](#) of, or [require studies on](#), foreign ownership of U.S. land. Other [laws](#) directly [prohibit](#) certain transactions and may [require divestiture](#) of foreign-owned land. Some restrictions apply only to [agricultural land](#); others to land near [military installations](#), [critical infrastructure](#), or [economically valuable sites](#); and others to [all real property](#) within the state.

State laws also vary as to which groups are subject to land ownership restrictions. Some seek to regulate real property transactions with individuals and entities from a [list of named countries](#). Others aim to govern purchases by [all non-U.S. citizens](#). Another set [addresses](#) purchases by individuals and entities from countries [identified](#) on lists maintained under federal law, such as the International Traffic in Arms Regulations ([Tables 1 and 2](#) of 22 C.F.R. § 126); the [foreign adversaries](#) list generated under [Executive Order 13873](#) and its implementing regulations; [sanctions lists](#) maintained by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury; or [countries of particular concern](#) designated by the U.S. Secretary of State.

## SB 264 Creates Two Sets of Restrictions on Land Ownership in Florida

Florida's law, [SB 264](#) (codified at Florida Statutes §§ [692.201–205](#)), effective July 1, 2023, creates two sets of land ownership restrictions. The first set applies to [foreign principals](#) connected with [foreign countries of concern](#) (defined as China, Russia, Iran, North Korea, Cuba, the Venezuelan regime of

Nicolás Maduro, and Syria). *Foreign principals* are defined as the foreign governments themselves, certain corporate and political bodies, and individuals domiciled in the countries of concern who are not U.S. citizens or lawful permanent residents. Individuals and entities in these groups cannot acquire or own agricultural land in Florida or real property within 10 miles of a military installation or critical infrastructure facility in the state.

SB 264's [second set](#) of restrictions applies only to certain individuals and entities connected with the People's Republic of China (PRC)—the PRC itself, certain political bodies and individual members of the PRC or the Communist Party of China, companies organized under PRC law or that have their principal place of business there, and individuals domiciled in the PRC who are not U.S. citizens or lawful permanent residents. These PRC-connected individuals and entities cannot purchase any real property in Florida, absent an exception.

Both sets of restrictions exempt *de minimis* investments in some securities or companies registered with the Securities and Exchange Commission. Individuals with nontourist visas or who have been granted asylum may also purchase one parcel up to 2 acres in size that is not within 5 miles of a military installation. Preexisting land owners that acquired their property before SB 264 became effective can continue to own their parcels, but they cannot buy additional land unless permitted by law. SB 264 [requires](#) all foreign principals—both existing owners and new purchasers—to register land ownership with state officials if the parcel is within 10 miles of a military installation or critical infrastructure. Some PRC-connected individuals and entities [must register](#) regardless of the parcel's location.

## SB 264 Has Been Challenged on Constitutional and Other Grounds

In May 2023, a group of PRC citizens and a Florida corporation [challenged](#) SB 264 under several federal laws. Plaintiffs in the case, *Shen v. Simpson*, include four PRC citizens, lawful residents of the United States and Florida with nonimmigrant visas. [Each](#) says that they have lived in Florida for four or five years and owns or plans to buy residential property. [One plaintiff](#), for example, says that she has contracted for construction of a home she may now be unable to buy, as the Florida law was set to take effect before it is complete. A [fifth plaintiff](#) is a real estate company primarily serving Chinese-speaking clients that claims it stands to lose business under the new law's restrictions.

Plaintiffs [allege](#) violations of the [Equal Protection Clause](#) of the Fourteenth Amendment. In particular, they allege that the Florida law targets them on the basis of [race, alienage, and national origin](#), which the Equal Protection Clause prohibits outside of narrow circumstances. Plaintiffs [also allege](#) violations of the Fourteenth Amendment's [Due Process Clause](#), which generally requires adequate procedures and opportunity to contest the loss of rights or property. The Florida law's restrictions, [they maintain](#), are too ambiguous to comply with due process.

Plaintiffs bring statutory claims as well. Citing its ban on national origin discrimination, plaintiffs [seek](#) relief under the Fair Housing Act, [42 U.S.C. § 3604](#). The Act applies to housing and land for housing and protects anyone aggrieved by a violation—including sellers, buyers, and other transaction participants. The U.S. [Department of Justice](#) has filed a [Statement of Interest](#) supporting the plaintiffs' motion for a preliminary injunction and arguing that SB 264 conflicts with the Equal Protection Clause and the Fair Housing Act.

Finally, plaintiffs [allege](#) that several fields of federal law preempt SB 264. They argue SB 264 interferes with federal law underpinning [OFAC sanctions](#) and the Committee on Foreign Investment in the United States ([CFIUS](#)), which has authority to review the national security implications of some foreign investment in the United States. Plaintiffs also contend the Florida law exceeds [constitutional limits](#) on states' powers over foreign affairs and foreign commerce.

## The Eleventh Circuit Partially Enjoined SB 264 Pending Appeal

After a federal district court initially [denied](#) the plaintiffs' motion for a preliminary injunction seeking to bar enforcement of SB 264, the plaintiffs appealed to the U.S. Court of Appeals for the Eleventh Circuit (Eleventh Circuit). In an opinion discussed in this [Legal Sidebar](#), the Eleventh Circuit [granted](#), in part, a motion for an injunction pending appeal, which prohibits SB 264's enforcement against two of the PRC citizen plaintiffs while the court undertakes a more complete review of the case. The court limited its relief to those two plaintiffs on account of their recent and pending land transactions. The Eleventh Circuit concluded that the plaintiffs had demonstrated a "substantial likelihood of success" on the claim that portions of SB 264 are preempted by [50 U.S.C. § 4565](#)—the statute underlying CFIUS's authorities. The court's four-page order did not address plaintiffs' equal protection or Fair Housing Act challenges, but one circuit judge wrote a [concurring opinion](#) asserting that the court should also have granted relief under the Equal Protection Clause.

The Eleventh Circuit [heard arguments](#) in the case on [April 19, 2024](#). The panel raised questions about standing, The Fair Housing Act, preemption, and equal protection. A decision is [pending](#).

## Considerations for Congress

Some commentators and Members of the [118<sup>th</sup> Congress](#) have called for increased federal scrutiny of foreign ownership of U.S. land due to concerns over issues including national security, economic competitiveness, and the absence of U.S. citizens' reciprocal right to purchase land in some foreign countries. Currently, no federal law comprehensively regulates all foreign purchases of U.S. real property.

One area of congressional interest has been in foreign ownership of U.S. agricultural land. The Agricultural Foreign Investment Disclosure Act of 1978 ([AFIDA](#)), discussed in this [CRS In Focus](#), requires foreign investors to disclose their interests in U.S. [agricultural land](#). The AFIDA framework does not empower the federal government to block purchases or require divestment of agricultural land, even if the foreign ownership is detrimental to U.S. interests. In [FY2022](#) and [FY2023](#) appropriations provisions, Congress built upon AFIDA's framework to require the U.S. Department of Agriculture to expand its reporting and to facilitate transparency with respect to foreign ownership of U.S. agricultural land.

In contrast to AFIDA, the [authorities](#) underlying CFIUS, examined in this [In Focus](#), allow the executive branch to prohibit or impose divestiture of some foreign purchases of U.S. land or to mitigate the national security risks associated with those transactions. While CFIUS has transaction-review authority, its geographic jurisdiction is limited to [covered real estate](#), which is defined by proximity to U.S. [military installations](#), airports, and other [commercial ports](#).

Several bills introduced in the [118<sup>th</sup> Congress](#) would build on the AFIDA and CFIUS authorities. Some proposals would [expand](#) AFIDA reporting mandates or [increase penalties](#) for [nondisclosure](#). Others would [give](#) CFIUS [jurisdiction](#) over [broader](#) categories of [land](#). For example, the Senate [voted](#) to include a provision in the National Defense Authorization Act for Fiscal Year 2024 (FY2024 NDAA), which was not ultimately included in the [enacted legislation](#), but that would have [expanded](#) CFIUS's authority to review certain foreign investments in agricultural land and in U.S. businesses engaged in agriculture or biotechnology related to agriculture. The provision also would have [required the President to prohibit](#) some foreign investment in agriculture-related land or businesses by individuals and entities connected with the PRC, Russia, Iran, and North Korea. Other proposals in the [118<sup>th</sup> Congress](#) would [expand](#) both AFIDA and CFIUS authorities. Another category of bills would [create](#) new stand-alone prohibitions on purchases of U.S. land by [some](#) or [all](#) foreign individuals and entities.

Some [observers](#) and [Members of Congress](#) have expressed concern that state-level restrictions on foreign ownership risk discriminating against people of certain backgrounds or national origins. From before the inception of the PRC government, people of Asian origin, ethnicity, and ancestry, including those with

ties to China, have historically been subject to discriminatory [state](#), local, and [federal](#) laws. Some laws [involved](#) restrictions on [landownership](#). The Supreme Court’s early equal protection jurisprudence, dating back to 1886, [addressed](#) facially neutral ordinances aimed at restricting Chinese business properties based on owners’ “[race and nationality](#).”

Congress could consider using its power to [regulate foreign commerce](#) to enact legislation that preempts state laws regulating foreign ownership of land in the United States. For example, the Preemption of Real Property Discrimination Act ([H.R. 3697](#)), introduced in the 118<sup>th</sup> Congress, would preempt state laws that restrict land purchases based on citizenship. Additional background on preemption principles is available in this [CRS report](#).

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