

118TH CONGRESS
2D SESSION

H. R. 7678

To amend the Defense Production Act of 1950 to better address certain transactions by foreign entities of concern, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2024

Ms. SLOTKIN (for herself and Mr. MOORE of Utah) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Foreign Affairs, Energy and Commerce, and Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Defense Production Act of 1950 to better address certain transactions by foreign entities of concern, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Against
5 Foreign Adversary Investments Act of 2024”.

1 **SEC. 2. AUTHORITY OF COMMITTEE ON FOREIGN INVEST-**
2 **MENT IN THE UNITED STATES TO REVIEW**
3 **CERTAIN REAL ESTATE PURCHASES BY FOR-**
4 **EIGN ENTITIES OF CONCERN.**

5 (a) IN GENERAL.—Section 721(a)(4) of the Defense
6 Production Act of 1950 (50 U.S.C. 4565(a)(4)) is amend-
7 ed—

8 (1) in subparagraph (A)—

9 (A) in clause (i), by striking “; and” and
10 inserting a semicolon;

11 (B) in clause (ii), by striking the period at
12 the end and inserting “; and”; and

13 (C) by adding at the end the following new
14 clause:

15 “(iii) any transaction described in
16 subparagraph (B)(vi) proposed or pending
17 on or after the date of enactment of this
18 clause.”;

19 (2) in subparagraph (B), by adding at the end
20 the following new clause:

21 “(vi) Subject to subparagraph (C), the
22 purchase or lease by, or a concession to, a
23 foreign entity of concern of private or pub-
24 lic real estate in the United States if—

1 “(I) the value or fair market
2 value of such purchase, lease, or con-
3 cession exceeds \$1,000,000;

4 “(II) the real estate exceeds 100
5 acres;

6 “(III) the aggregate value or fair
7 market value of such purchase, lease,
8 or concession, in combination with the
9 value or fair market value of other
10 purchases or leases by, or concessions
11 to, such foreign entity during the 3-
12 year period preceding the date of such
13 purchase, lease, or concession, exceeds
14 \$1,000,000;

15 “(IV) the aggregate acreage of
16 such purchase, lease, or concession, in
17 combination with the aggregate acre-
18 age of other purchases or leases by, or
19 concessions to, such foreign entity
20 during the 3-year period preceding the
21 date of such purchase, lease, or con-
22 cession, exceeds 100 acres; or

23 “(V) the structure of which is de-
24 signed or intended to evade or cir-
25 cumvent the application of this clause,

1 as determined by the Committee.”;

2 and

3 (3) in subparagraph (C), by striking “subpara-
4 graph (B)(ii)” and inserting “clause (ii) or (iv) of
5 subparagraph (B)”.

6 (b) FOREIGN ENTITIES OF CONCERN.—Section
7 721(a) of the Defense Production Act of 1950 (50 U.S.C.
8 4565(a)) is amended—

9 (1) by redesignating paragraphs (7) through
10 (13) as paragraphs (8) through (14), respectively;
11 and

12 (2) by inserting after paragraph (6) the fol-
13 lowing new paragraph:

14 “(7) FOREIGN ENTITY OF CONCERN.—The
15 term ‘foreign entity of concern’ has the meaning
16 given that term in section 9901 of the William M.
17 (Mac) Thornberry National Defense Authorization
18 Act for Fiscal Year 2021 (15 U.S.C. 4651).”.

19 (c) FACTORS TO BE CONSIDERED.—Section 721(f)
20 of the Defense Production Act of 1950 (50 U.S.C.
21 4565(f)) is amended—

22 (1) by redesignating paragraphs (8) through
23 (11) as paragraphs (10) through (13), respectively;
24 and

1 (2) by inserting after paragraph (7) the fol-
2 lowing new paragraphs:

3 “(8) the potential effects of a proposed or pend-
4 ing transaction on the national security of the
5 United States, as a result of the effect of such trans-
6 action on the economic security of the United States;

7 “(9) the factors described under section 3 of
8 Executive Order 14083 (50 U.S.C. 4565 note, relat-
9 ing to consideration of evolving national security
10 risks by the Committee on Foreign Investment in
11 the United States), as in effect on January 1,
12 2024;”.

13 (d) MANDATORY DECLARATIONS.—Section
14 721(b)(1)(C)(v)(IV) of the Defense Production Act of
15 1950 (50 U.S.C. 4565(b)(1)(C)(v)(IV)) is amended by
16 adding at the end the following:

17 “(hh) REQUIRED DECLARATIONS FOR CERTAIN
18 REAL ESTATE TRANSACTIONS.—Notwithstanding item
19 (dd), the parties to a real estate transaction described in
20 clause (vi) of subsection (a)(4)(B) shall submit a declara-
21 tion described in subclause (I) with respect to the trans-
22 action.”.

23 (e) REPORTS REQUIRED.—

24 (1) RETROACTIVE APPLICABILITY.—Not later
25 than 180 days after the date of the enactment of

1 this Act, the Secretary of the Treasury, in coordina-
2 tion with Secretary of State and the Secretary of
3 Homeland Security, shall submit to Congress a re-
4 port that includes an assessment of the feasibility of
5 requiring retroactive mitigation measures or divest-
6 ment of real estate described in section
7 721(a)(4)(B)(iv) of the Defense Production Act of
8 1950, as added by this section, that is owned by a
9 foreign entity of concern (as defined in section
10 721(a) of such Act, as amended by this section) that
11 presents a threat to national security (as determined
12 by the Committee on Foreign Investment in the
13 United States (established under such section 721)).

14 (2) ADDITIONAL RESOURCES.—Not later than
15 180 after the date of the enactment of this Act, the
16 Secretary of the Treasury and the Committee on
17 Foreign Investment in the United States shall sub-
18 mit to Congress a report describing any statutory or
19 regulatory changes necessary to carry out this sec-
20 tion and the amendments made by this section.

21 (f) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the date of the enactment
23 of this Act and apply with respect to any covered trans-
24 action the review or investigation of which is initiated

1 under section 721 of the Defense Production Act of 1950
2 on or after such date of enactment.

3 **SEC. 3. REPORT ON PUBLIC OR PRIVATE REAL ESTATE**
4 **PURCHASING ACTIVITIES IN THE UNITED**
5 **STATES BY FOREIGN ENTITIES OF CONCERN.**

6 (a) REPORTS.—

7 (1) IN GENERAL.—Not later than 180 days
8 after the date of enactment of this Act, and annually
9 thereafter, the Director, in coordination with the
10 Secretary of Homeland Security and the head of any
11 other appropriate Federal agency, shall submit to
12 the appropriate congressional committees a report
13 containing a description of the national security
14 risks of the purchase, ownership, or lease of public
15 or private real estate by a foreign entity of concern.

16 (2) CONTENTS.—Each report submitted under
17 paragraph (1) shall include, with respect to the year
18 covered by the report, the following:

19 (A) A list of all real estate in the United
20 States described in clause (vi) of section
21 721(a)(4)(B) of the Defense Production Act of
22 1950, as added by this Act.

23 (B) An analysis of the potential use of real
24 estate for industrial espionage or intellectual
25 property transfer by a foreign entity of concern.

1 (C) An analysis of the potential use by a
2 foreign entity of concern of real estate in close
3 proximity to manufacturing facilities, water
4 sources, and other critical infrastructure to
5 monitor, interrupt, or disrupt activities critical
6 to the national and economic security of the
7 United States.

8 (D) An analysis of other threats to the
9 economic security or national security of the
10 United States due to the ownership, including
11 ownership in the aggregate, of real estate by a
12 foreign entity of concern.

13 (3) UNCLASSIFIED FORM.—Each report sub-
14 mitted under this subsection shall—

15 (A) be submitted in unclassified form, but
16 may include a classified annex; and

17 (B) be consistent with the protection of in-
18 telligence sources and methods.

19 (4) PUBLICLY AVAILABLE.—Upon submitting a
20 report under paragraph (1), the Director shall make
21 publicly available the information included in such
22 report under paragraph (2)(A).

23 (b) DEFINITIONS.—In this section:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Energy and Com-
5 merce of the House of Representatives, the
6 Committee on Homeland Security of the House
7 of Representatives, and the Permanent Select
8 Committee on Intelligence of the House of Rep-
9 resentatives; and

10 (B) the Committee on Environment and
11 Public Works, the Committee on Homeland Se-
12 curity and Governmental Affairs of the Senate,
13 and the Select Committee on Intelligence of the
14 Senate.

15 (2) FOREIGN ENTITY OF CONCERN.—The term
16 “foreign entity of concern” has the meaning given
17 that term in section 9901 of the William M. (Mac)
18 Thornberry National Defense Authorization Act for
19 Fiscal Year 2021 (15 U.S.C. 4651).

20 (3) DIRECTOR.—The term “Director” means
21 the Director of National Intelligence.

22 (4) STATE.—The term “State” has the mean-
23 ing given such term in section 101 of the Com-
24 prehensive Environmental Response, Compensation,
25 and Liability Act of 1980 (42 U.S.C. 9601).

1 **SEC. 4. BEST PRACTICES FOR STATE AND LOCAL OFFI-**
2 **CIALS RELATING TO POTENTIAL TRANS-**
3 **ACTIONS WITH FOREIGN ENTITIES OF CON-**
4 **CERN.**

5 (a) IN GENERAL.—Not later than 180 days after the
6 date of the enactment of this Act, the Director of National
7 Intelligence, in coordination with the Secretary of Home-
8 land Security, the Secretary of Commerce, and the heads
9 of any other Federal department or agencies determined
10 relevant by the Director of National Intelligence, shall de-
11 velop and make publicly available best practices for use
12 by State and local officials with respect to engaging in
13 a potential transaction with a foreign entity of concern.
14 Such best practices shall including an identification of—

15 (1) common risks associated with engaging a
16 foreign entity of concern with respect to such a po-
17 tential transaction; and

18 (2) Federal resources available to assist such
19 officials in determining the specific national security
20 risks, if any, of such a potential transaction.

21 (b) FOREIGN ENTITY OF CONCERN DEFINED.—In
22 this section, the term “foreign entity of concern” has the
23 meaning given that term in section 9901 of the William
24 M. (Mac) Thornberry National Defense Authorization Act
25 for Fiscal Year 2021 (15 U.S.C. 4651).