**As Introduced**

**136th General Assembly**

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**Representatives King, Klopfenstein**

**Cosponsors: Representatives Barhorst, Bird, Brennan, Claggett, Click, Creech, Thomas, D., Deeter, Demetriou, Jones, Dovilla, Ferguson, Fischer, Fowler Arthur, Ghanbari, Gross, Hall, T., Hiner, Holmes, Hoops, Daniels, Thomas, J., John, Miller, K., Ritter, Kishman, Lampton, Lear, Dean, Lorenz, Johnson, Mathews, A., Mathews, T., McClain, Miller, M., Mullins, Newman, Oelslager, Pizzulli, Plummer, Ray, Richardson, Robb Blasdel, Santucci, Rogers, Schmidt, Stewart, Swearingen, Young, Williams, Willis, Workman, Humphrey, Sigrist**

# A BILL

To amend sections 319.202, 5301.256, and 5323.02 of the Revised Code to modify the law that prohibits certain governments, businesses, and individuals from acquiring certain real property and to name this act the Ohio Property Protection Act.

## BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

**Section 1.** That sections 319.202, 5301.256, and 5323.02 of the Revised Code be amended to read as follows:

**Sec. 319.202.** Before the county auditor indorses any real property conveyance or manufactured or mobile home conveyance presented to the auditor pursuant to section 319.20 of the Revised Code or registers any manufactured or mobile home conveyance pursuant to section 4503.061 of the Revised Code, the grantee or the grantee's representative shall submit, either

electronically or three written copies of, a statement, in the form prescribed by the tax commissioner, and other information as the county auditor may require, declaring the value of real property or manufactured or mobile home conveyed, except that, subject to division (C) of this section, when the transfer is exempt under division (G)(3) of section 319.54 of the Revised Code only a statement of the reason for the exemption shall be required. Each statement submitted under this section shall contain the information required under divisions (A) and (B) of this section and, if the statement involves the transfer of protected property, the affirmations required by division (C) of this section.

(A) Each statement submitted under this section shall either:

(1) Contain an affirmation by the grantee that the grantor has been asked by the grantee or the grantee's representative whether to the best of the grantor's knowledge either the preceding or the current year's taxes on the real property or the current or following year's taxes on the manufactured or mobile home conveyed will be reduced under division (A) of section 323.152 or under section 4503.065 of the Revised Code and that the grantor indicated that to the best of the grantor's knowledge the taxes will not be so reduced; or

(2) Be accompanied by a sworn or affirmed instrument stating:

(a) To the best of the grantor's knowledge the real property or the manufactured or mobile home that is the subject of the conveyance is eligible for and will receive a reduction in taxes for or payable in the current year under division (A) of section 323.152 or under section 4503.065 of the Revised Code

and that the reduction or reductions will be reflected in the grantee's taxes;

(b) The estimated amount of such reductions that will be reflected in the grantee's taxes;

(c) That the grantor and the grantee have considered and accounted for the total estimated amount of such reductions to the satisfaction of both the grantee and the grantor. The auditor shall indorse the instrument, return it to the grantee or the grantee's representative, and provide a copy of the indorsed instrument to the grantor or the grantor's representative.

(B) Each statement submitted under this section shall either:

(1) Contain an affirmation by the grantee that the grantor has been asked by the grantee or the grantee's representative whether to the best of the grantor's knowledge the real property conveyed qualified for the current agricultural use valuation under section 5713.30 of the Revised Code either for the preceding or the current year and that the grantor indicated that to the best of the grantor's knowledge the property conveyed was not so qualified; or

(2) Be accompanied by a sworn or affirmed instrument stating:

(a) To the best of the grantor's knowledge the real property conveyed was qualified for the current agricultural use valuation under section 5713.30 of the Revised Code either for the preceding or the current year;

(b) To the extent that the property will not continue to qualify for the current agricultural use valuation either for

the current or the succeeding year, that the property will be subject to a recoupment charge equal to the tax savings in accordance with section 5713.34 of the Revised Code;

(c) That the grantor and the grantee have considered and accounted for the total estimated amount of such recoupment, if any, to the satisfaction of both the grantee and the grantor. The auditor shall indorse the instrument, forward it to the grantee or the grantee's representative, and provide a copy of the indorsed instrument to the grantor or the grantor's representative.

(C) Each statement submitted under this section involving the transfer of protected property shall contain both of the following:

(1) An affirmation by the grantee as to whether the grantee is prohibited from purchasing or otherwise acquiring protected property under section 5301.256 of the Revised Code;

(2) An affirmation by the grantor as to whether the grantor is prohibited from purchasing or otherwise acquiring protected property under section 5301.256 of the Revised Code and, if so, whether the protected property that is the subject of the transfer was acquired before the effective date of this amendment, before the date the grantor became subject to division (B) of section 5301.256 of the Revised Code, or pursuant to an exemption under division (D) of that section.

(D)(1) The grantor shall pay the ~~fee~~ following:

(a) The fee required by division (G)(3) of section 319.54 of the Revised Code; ~~and, in~~

(b) In the event the board of county commissioners of the county has levied a real property or a manufactured home

transfer tax pursuant to Chapter 322. of the Revised Code, the amount required by the real property or manufactured home transfer tax so levied. ~~If~~

(2) If the conveyance is exempt from the fee provided for in division (G)(3) of section 319.54 of the Revised Code and the tax, if any, levied pursuant to Chapter 322. of the Revised Code, the reason for such exemption shall be shown on the statement. ~~"Value" means, in the case of any deed or certificate of title not a gift in whole or part, the amount of the full consideration therefor, paid or to be paid for the real estate or manufactured or mobile home described in the deed or title, including the amount of any mortgage or vendor's lien thereon. If property sold under a land installment contract is conveyed by the seller under such contract to a third party and the contract has been of record at least twelve months prior to the date of conveyance, "value" means the unpaid balance owed to the seller under the contract at the time of the conveyance, but the statement shall set forth the amount paid under such contract prior to the date of conveyance. In the case of a gift in whole or part, "value" means the estimated price the real estate or manufactured or mobile home described in the deed or certificate of title would bring in the open market and under the then existing and prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.~~

(3) No person shall willfully falsify the value of property conveyed.

~~(D)~~ (E) The auditor shall indorse each conveyance on its face to indicate the amount of the conveyance fee and compliance with this section and if the property is residential rental

property include a statement that the grantee shall file with the county auditor the information required under division (A) or (C) of section 5323.02 of the Revised Code. The auditor shall retain the original copy of the statement of value, forward to the tax commissioner one copy on which shall be noted the most recent assessed value of the property, and furnish one copy to the grantee or the grantee's representative.

~~(E)~~ (F)(1) The auditor shall not indorse a conveyance of protected property if the statement submitted under this section does not include both of the affirmations required by division (C) of this section.

(2) The auditor shall refer information about a conveyance of protected property to the county sheriff for investigation and enforcement under division (G) of section 5301.256 of the Revised Code if either of the following apply:

(a) The grantee affirms, or the auditor has reason to believe, that the grantee is prohibited from purchasing or otherwise acquiring protected property under section 5301.256 of the Revised Code.

(b) The grantor affirms, or the auditor has reason to believe, that the grantor has acquired protected property in violation of section 5301.256 of the Revised Code.

(G) The auditor shall not refuse to indorse a conveyance for either of the reasons specified in division (F)(2) of this section.

(H) In order to achieve uniform administration and collection of the transfer fee required by division (G)(3) of section 319.54 of the Revised Code, the tax commissioner shall adopt ~~and promulgate~~ rules for the administration and

enforcement of the levy and collection of such fee.

~~(F)~~ (I) As used in this section~~, "residential~~ :

(1) "Agricultural land" and "protected property" have the same meanings as in section 5301.256 of the Revised Code.

(2) "Residential rental property" has the same meaning as in section 5323.01 of the Revised Code.

(3)(a) "Value" means, in the case of any deed or certificate of title not a gift in whole or part, the amount of the full consideration therefor, paid or to be paid for the real estate or manufactured or mobile home described in the deed or title, including the amount of any mortgage or vendor's lien thereon.

(b) If property sold under a land installment contract is conveyed by the seller under such contract to a third party and the contract has been of record at least twelve months prior to the date of conveyance, "value" means the unpaid balance owed to the seller under the contract at the time of the conveyance, but the statement shall set forth the amount paid under such contract prior to the date of conveyance.

(c) In the case of a gift in whole or part, "value" means the estimated price the real estate or manufactured or mobile home described in the deed or certificate of title would bring in the open market and under the then existing and prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

**Sec. 5301.256.** (A) As used in this section:

(1) "Agriculture" has the same meaning as in section 1.61

of the Revised Code.

(2) "Agricultural land" means land suitable for use in agriculture and includes water on and upon and air space over and above the land and natural products and deposits that are unsevered from the land.

(3) "Person" includes ~~all of the following:~~

~~(a) Individuals;~~

~~(b) Firms~~individuals, businesses, countries, criminal enterprises, gangs, cartels, organizations, and governments.

(4) "Business" includes firms, companies, business trusts, estates, trusts, sole proprietorships, partnerships, general partnerships, limited liability companies, associations, corporations, and any other legal, business, or commercial entities~~;~~

~~(c) Governments~~ .

(5) "Government" means a government other than the government of the United States, its states, subdivisions, territories, or possessions~~;~~

~~(d) Legal or commercial entities, organizations, joint ventures, and nonprofits~~.

(6) "Real property" means land and improvements to land and includes water on and upon and air space over and above the land and natural products and deposits that are unsevered from the land.

(7) "Protected property" means real property in this state that is any of the following:

(a) Agricultural land;

(b) Located within a twenty-five mile radius of any installation under the jurisdiction of the armed forces, as defined in section 5903.01 of the Revised Code, such as a military base, a camp, or an airport;

(c) Located within a twenty-five mile radius of a critical infrastructure facility, as defined in section 2911.21 of the Revised Code.

(8) "Control" means the authority, by contract or by law, to direct the affairs and day-to-day operations of a business without the consent of any other person.

(9) "Own" means possession of more than fifty per cent of the stock, equity, or other ownership interest of a business.

(10) "Foreign adversary" means a country listed on the registry published by the secretary of state under division (H) of this section.

~~(B)(1)~~ (B) On or after the effective date of this ~~section, no person listed in the registry published by the secretary of state under division (G) of this section, and no agent, trustee, or fiduciary of such a person~~amendment, none of the following persons shall, directly or indirectly, purchase or otherwise acquire ~~agricultural land in this state~~ protected property:

(1) A person listed on the registry published by the secretary of state under division (H) of this section;

(2) A government of a foreign adversary;

(3) An individual who is a citizen of a foreign adversary, regardless of whether that same individual is also a citizen or national of one or more other countries, other than the United States, that are not foreign adversaries;

(4) A business that is headquartered in a foreign adversary;

(5) A business that is directly or indirectly owned or controlled by one or more persons described in divisions (B)(1) to (4) of this section, or an agent, fiduciary, or trustee of such persons;

(6) Except as otherwise provided in division (D)(3) of this section, an agent, fiduciary, or trustee of a person described in divisions (B)(1) to (5) of this section.

~~(2)~~ (C) A person~~, agent, trustee or fiduciary~~ subject to division ~~(B)(1)~~ (B) of this section that directly or indirectly owns or holds ~~agricultural land in this state as described in division (B)(1) of this section~~ protected property before the effective date of this ~~section~~ amendment, may continue to own or hold the ~~agricultural land~~protected property, but shall not purchase or otherwise acquire, directly or indirectly, additional ~~agricultural land in this state that is subject to the restriction in division (B)(1) of this section~~ protected property, unless an exception described in division ~~(C)~~ (D) of this section applies.

~~(C)~~ (D) The ~~restriction on acquiring agricultural land~~ restrictions set forth in division ~~(B)(1)~~ (B) of this section ~~does~~ do not apply to any of the following:

(1) ~~Agricultural land~~ Protected property acquired by devise or descent. ~~However~~Except as otherwise provided in division (C) of this section, a person ~~listed in the registry published by the secretary of state under division (G)~~ subject to division (B) of this section~~, or an agent, trustee, or fiduciary thereof,~~ that directly or indirectly acquires ~~the~~

~~agricultural land~~protected property, or ~~an~~ a direct or indirect interest in ~~agricultural land,~~protected property by devise or descent ~~on or after the effective date of this section~~ shall divest ~~itself~~ of all right, title, and interest in the ~~agricultural land~~ protected property, whether direct or indirect, within two years ~~from~~ after the date of acquisition.

(2) ~~Agricultural land~~ Protected property that is acquired, directly or indirectly, by a process of law in the collection of debts, by a deed in lieu of foreclosure, pursuant to a forfeiture of a contract for deed, or by any procedure for the enforcement of a lien or claim on the ~~agricultural land~~protected property, whether created by mortgage or otherwise. ~~Agricultural land~~ Except as otherwise provided in division (C) of this section, protected property so acquired shall be sold or otherwise disposed of within two years after title is transferred. ~~Agricultural~~ If the protected property is agricultural land, pending the sale or disposition, the land shall not be used for any purpose other than agriculture, and the land shall not be used for agriculture under lease to an individual, trust, corporation, partnership, or other business entity subject to the restrictions under division ~~(B)(1)~~ (B) of this section.

~~(D)~~ (3) Protected property directly or indirectly acquired by agent, fiduciary, or trustee of a person described in divisions (B)(1) to (5) of this section acting in the agent's, fiduciary's, or trustee's personal capacity, if both of the following apply:

(a) The agent, fiduciary, or trustee is not a person described in divisions (B)(1) to (5) of this section;

(b) The agent, fiduciary, or trustee is not purchasing or

otherwise acquiring the property to circumvent the restrictions prescribed by this section.

(4) Protected property directly or indirectly acquired by an individual who is a United States citizen or national, unless that individual is purchasing or otherwise acquiring the property as an agent, fiduciary, or trustee of a person described in divisions (B)(1) to (5) of this section.

(E) A person ~~listed in the registry published by the secretary of state under~~ subject to division ~~(G)~~ (B) of this section~~, or an agent, trustee, or fiduciary of such a person,~~ shall not directly or indirectly transfer title to or an interest in ~~agricultural land~~ protected property to another person ~~listed in that registry, or an agent, trustee, or fiduciary thereof~~subject to that division, ~~except by devise or descent~~unless an exception described in division (D) of this section applies.

~~(E)~~ (F) A person or an agent, trustee, or fiduciary that directly or indirectly purchases or otherwise acquires ~~agricultural land in this state described in division (B)(1) of this section, other than by devise or descent, after the effective date of this section~~ protected property, and that ~~is~~ subsequently ~~added to the registry published by the secretary of state under~~ becomes subject to division ~~(G)~~ (B) of this section, ~~shall divest itself of all right, title, and interest in the agricultural land within two years from the date the person is added to the registry~~may continue to own or hold the protected property but shall not purchase or otherwise acquire, directly or indirectly, additional protected property unless an exception described in division (D) of this section applies.

~~(F)(1)~~ (G)(1) If ~~the secretary of state~~ a county auditor

finds or has reason to believe that a person ~~listed on the registry published under division (G) of this section~~, ~~or an~~ agent, trustee, or fiduciary ~~thereof,~~ subject to division (B) of this section has acquired, or holds title to, or interest in, ~~agricultural land~~ protected property in this state in violation of this section, the ~~secretary of state~~ auditor shall ~~report the violation to the attorney general~~notify the county sheriff of each county in which the protected property is located. The county sheriff shall investigate the allegation. If the protected property is located in more than one county, the county sheriffs of those counties may investigate the allegation collaboratively.

(2) Upon ~~receipt of the report from the secretary of state, the attorney general~~ concluding the investigation, if the county sheriff determines that a violation has occurred, the county sheriff shall refer the violation to the county prosecutor. Upon receiving such a referral, the county prosecutor shall ~~initiate~~ commence an action in the court of common pleas of ~~any~~ the county ~~in which the agricultural land is located seeking relief in accordance with this section~~. If the ~~agricultural land~~ protected property is located in more than one county, ~~or adjoining tracts of agricultural land are located in more than one county,~~ rather than commencing a separate action in each such county, the county prosecutors may commence one consolidated action in the county in which the majority of the ~~agricultural land~~ territory of the protected property is located ~~shall have~~ . In a consolidated action, the court of common pleas of the county in which the majority of the territory of the protected property is located has territorial jurisdiction over ~~agricultural land~~ all protected property that is the subject of the action. ~~The attorney general may initiate an action in the~~

~~court of common pleas of more than one county, if necessary, in which case, the court of common pleas in that county shall have jurisdiction over the action in matters as it relates to the portion of the agricultural land that is located in that county.~~

(3) ~~The attorney general~~ Once the action is commenced, the county prosecutor shall file a notice of the pendency of the action with the county recorder of each county in which ~~any of~~ the ~~agricultural land~~ protected property subject to the action is located.

(4) If the court finds that the ~~agricultural land~~ protected property in question has been acquired or held in violation of this section, it shall do all of the following:

(a) Enter an order so declaring;

(b) File a copy of the order with the county recorder of each county in which ~~any portion of~~ the ~~agricultural land~~ protected property is located;

(c) ~~Declare the agricultural land escheated to the state;~~

~~(d)~~ Order that the ~~escheated agricultural land~~ protected property be sold pursuant to Chapter 2329. of the Revised Code in the same manner as a foreclosure on a mortgage, except that there shall be no opportunity for redemption under section 2329.33 of the Revised Code.

(5) Upon receiving an order under division ~~(F)(4)~~ (G)(4) of this section, the clerk of the court shall notify the governor that the ~~title to the agricultural land~~ protected property is ~~vested in the state~~ to be sold by decree of the court. After the sale, the proceeds ~~of the sale~~ shall be paid as follows:

(a) ~~The proceeds shall first be used~~ First, to pay court costs related to the action or actions~~ initiated pursuant to division (F)(2) of this section~~;

(b) ~~The remaining proceeds, if any, shall be paid~~ Second, to bona fide lien holders, in their order of priority, except for liens that under the terms of the sale are to remain on the property;

(c) Third, ~~to the person whose agricultural land escheated, but only in an amount not exceeding the actual cost paid by the person for that agricultural land;~~

~~(c) The proceeds remaining after payments have been made pursuant to divisions (F)(5)(a) and (b) of this section shall be paid~~ to the general fund of each county in which the ~~agricultural land~~ protected property is located, proportionally, based on the percentage of the territory located in each county.

~~(G)~~ (H)(1) The secretary of state shall compile and ~~periodically~~ update at least one time every six months a registry of foreign adversaries and other persons that, based on the best information available to the secretary of state, constitute a threat to the agricultural production, critical infrastructure, security, or military defense of this state, or the United States~~, if permitted to acquire agricultural land described in division (B)(1) of this section~~.

(2) The registry shall be published on the secretary of state's web site.

(3) The secretary of state shall consult all of the following in compiling the registry:

~~(1)~~ (a) The list of persons determined ~~to be foreign adversaries~~ by the secretary of commerce of the United States

~~under 15 C.F.R. 7.4~~to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or the security and safety of United States persons and, therefore, to constitute foreign adversaries for the purposes of Executive Order 13873, issued by the president of the United States on May 15, 2019;

~~(2)~~(b) The terrorist exclusion list compiled by the secretary of state of the United States in consultation with the attorney general of the United States under 8 U.S.C. 1182;

~~(3)~~(c) The list of countries determined by the secretary of state of the United States that have repeatedly provided support for acts of international terrorism under 50 U.S.C. 4813(c) and 22 U.S.C. 2780(d);

~~(4)~~(d) The list of individual and entities designated by, or in accordance with Executive Order 13224, issued by the president of the United States on September 23, ~~2021~~2001, or Executive Order 13268, issued by the president of the United States on July 2, 2002.

~~(H)~~ (4) The secretary of state shall not include on the registry any person that does not appear on at least one of the federal lists described in division (H)(3) of this section.

(I)(1) No person is required to determine or inquire whether another person is or may be subject to division (B) of this section unless the person is either:

(a) Subject to division (B) of this section;

(b) A county auditor, county sheriff, county prosecutor, or trier of fact of a court of common pleas acting in the person's official capacity as provided in this section or section 319.302 of the Revised Code;

(2) A person that is not subject to division (B) of this section bears no liability under this section.

(3) No title to an interest in real property is invalid or subject to divestment by reason of a violation of this section by any former owner or other person holding or owning a former interest in such real property.

(J) The purpose of establishing the restrictions as set forth in this section is to recognize that the state has a substantial and compelling interest in protecting its agricultural production, critical infrastructure, security, and military defense.

**Sec. 5323.02.** (A) An owner of residential rental property shall file with the county auditor of the county in which the property is located the following information:

(1) The name, address, and telephone number of the owner;

(2) If the residential rental property is owned by a trust, business trust, estate, partnership, limited partnership, limited liability company, association, corporation, or any other business entity, the name, address, and telephone number of the following:

(a) A trustee, in the case of a trust or business trust;

(b) The executor or administrator, in the case of an estate;

(c) A general partner, in the case of a partnership or a limited partnership;

(d) A member, manager, or officer, in the case of a limited liability company;

(e) An associate, in the case of an association;

(f) An officer, in the case of a corporation;

(g) A member, manager, or officer, in the case of any other business entity.

(3) The street address and permanent parcel number of the residential rental property.

(B) The information required under division (A) of this section shall be filed and maintained on the tax list or the real property record.

(C) An owner of residential rental property shall update the information required under division (A) of this section within sixty days after any change in the information occurs.

(D) The county auditor shall provide an owner of residential rental property located in a county that has a population of more than two hundred thousand according to the most recent decennial census with notice pursuant to division (B) of section 323.131 of the Revised Code of the requirement to file the information required under division (A) of this section and the requirement to update that information under division (C) of this section.

(E) The owner of residential real property shall comply with the requirements under divisions (A) and (C) of this section within sixty days after receiving the notice provided under division (D) of this section, division ~~(D)~~ (E) of section 319.202, or division (B) of section 323.131 of the Revised Code.

(F) Any agent designated by the owner to manage the property on the owner's behalf may file or update any information, or do anything otherwise required by this section,

on the owner's behalf.

**Section 2.** That existing sections 319.202, 5301.256, and 5323.02 of the Revised Code are hereby repealed.

**Section 3.** This act shall be known as the Ohio Property Protection Act.