

As Introduced

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H. B. No. 212

Representatives King, Klopfenstein

Cosponsors: Representatives Seitz, Hoops, Gross, Demetriou, Hall, Lear, Miller, K., Cutrona, Dean, Barhorst, Pizzulli, Willis, Lorenz, Jones, Johnson, Young, T., Click, Kick, Wiggam, Creech, Manchester, Plummer, Stoltzfus, Robb Blasdel, Swearingen, Mathews, Miller, M., Santucci, John, Stewart, McClain, Bird, Fowler Arthur

A BILL

To amend sections 319.202, 2105.16, and 5323.02 and 1
to enact section 5301.256 of the Revised Code to 2
prohibit foreign adversaries and certain 3
businesses from owning real property in Ohio and 4
to name this act the Ohio Property Protection 5
Act. 6

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

Section 1. That sections 319.202, 2105.16, and 5323.02 be 7
amended and section 5301.256 of the Revised Code be enacted to 8
read as follows: 9

Sec. 319.202. Before the county auditor indorses any real 10
property conveyance or manufactured or mobile home conveyance 11
presented to the auditor pursuant to section 319.20 of the 12
Revised Code or registers any manufactured or mobile home 13
conveyance pursuant to section 4503.061 of the Revised Code, the 14
grantee or the grantee's representative shall submit in 15

triplicate a statement, prescribed by the tax commissioner, and 16
other information as the county auditor may require, declaring 17
the value of real property or manufactured or mobile home 18
conveyed, except that when the transfer is exempt under division 19
(G) (3) of section 319.54 of the Revised Code only a statement of 20
the reason for the exemption and, if the statement involves the 21
transfer of real property, the affirmations required by division 22
(C) of this section shall be required. Each statement submitted 23
under this section shall contain the information required under 24
divisions (A) and (B) of this section and, if the statement 25
involves the transfer of real property, the affirmations 26
required by division (C) of this section. 27

(A) Each statement submitted under this section shall 28
either: 29

(1) Contain an affirmation by the grantee that the grantor 30
has been asked by the grantee or the grantee's representative 31
whether to the best of the grantor's knowledge either the 32
preceding or the current year's taxes on the real property or 33
the current or following year's taxes on the manufactured or 34
mobile home conveyed will be reduced under division (A) of 35
section 323.152 or under section 4503.065 of the Revised Code 36
and that the grantor indicated that to the best of the grantor's 37
knowledge the taxes will not be so reduced; or 38

(2) Be accompanied by a sworn or affirmed instrument 39
stating: 40

(a) To the best of the grantor's knowledge the real 41
property or the manufactured or mobile home that is the subject 42
of the conveyance is eligible for and will receive a reduction 43
in taxes for or payable in the current year under division (A) 44
of section 323.152 or under section 4503.065 of the Revised Code 45

and that the reduction or reductions will be reflected in the 46
grantee's taxes; 47

(b) The estimated amount of such reductions that will be 48
reflected in the grantee's taxes; 49

(c) That the grantor and the grantee have considered and 50
accounted for the total estimated amount of such reductions to 51
the satisfaction of both the grantee and the grantor. The 52
auditor shall indorse the instrument, return it to the grantee 53
or the grantee's representative, and provide a copy of the 54
indorsed instrument to the grantor or the grantor's 55
representative. 56

(B) Each statement submitted under this section shall 57
either: 58

(1) Contain an affirmation by the grantee that the grantor 59
has been asked by the grantee or the grantee's representative 60
whether to the best of the grantor's knowledge the real property 61
conveyed qualified for the current agricultural use valuation 62
under section 5713.30 of the Revised Code either for the 63
preceding or the current year and that the grantor indicated 64
that to the best of the grantor's knowledge the property 65
conveyed was not so qualified; or 66

(2) Be accompanied by a sworn or affirmed instrument 67
stating: 68

(a) To the best of the grantor's knowledge the real 69
property conveyed was qualified for the current agricultural use 70
valuation under section 5713.30 of the Revised Code either for 71
the preceding or the current year; 72

(b) To the extent that the property will not continue to 73
qualify for the current agricultural use valuation either for 74

the current or the succeeding year, that the property will be 75
subject to a recoupment charge equal to the tax savings in 76
accordance with section 5713.34 of the Revised Code; 77

(c) That the grantor and the grantee have considered and 78
accounted for the total estimated amount of such recoupment, if 79
any, to the satisfaction of both the grantee and the grantor. 80
The auditor shall indorse the instrument, forward it to the 81
grantee or the grantee's representative, and provide a copy of 82
the indorsed instrument to the grantor or the grantor's 83
representative. 84

(C) Each statement submitted under this section involving 85
the transfer of real property shall contain both of the 86
following: 87

(1) An affirmation by the grantee that the grantee is 88
either: 89

(a) Not prohibited from purchasing or otherwise acquiring 90
real property in this state under division (B) of section 91
5301.256 of the Revised Code; or 92

(b) Prohibited from purchasing or otherwise acquiring real 93
property in this state under division (B) of section 5301.256 of 94
the Revised Code. 95

(2) An affirmation by the grantor that the grantor is 96
either: 97

(a) Subject to, and in violation of division (D) (1) of 98
section 5301.256 of the Revised Code; or 99

(b) Not subject to, or not in violation of division (D) (1) 100
of section 5301.256 of the Revised Code. 101

(D) (1) The grantor shall pay the ~~fee~~ following: 102

(a) The fee required by division (G) (3) of section 319.54 103
of the Revised Code; and, ~~in~~ 104

(b) In the event the board of county commissioners of the 105
county has levied a real property or a manufactured home 106
transfer tax pursuant to Chapter 322. of the Revised Code, the 107
amount required by the real property or manufactured home 108
transfer tax so levied. ~~If~~ 109

(2) If the conveyance is exempt from the fee provided for 110
in division (G) (3) of section 319.54 of the Revised Code and the 111
tax, if any, levied pursuant to Chapter 322. of the Revised 112
Code, the reason for such exemption shall be shown on the 113
statement. ~~"Value" means, in the case of any deed or certificate~~ 114
~~of title not a gift in whole or part, the amount of the full~~ 115
~~consideration therefor, paid or to be paid for the real estate~~ 116
~~or manufactured or mobile home described in the deed or title,~~ 117
~~including the amount of any mortgage or vendor's lien thereon.~~ 118
~~If property sold under a land installment contract is conveyed~~ 119
~~by the seller under such contract to a third party and the~~ 120
~~contract has been of record at least twelve months prior to the~~ 121
~~date of conveyance, "value" means the unpaid balance owed to the~~ 122
~~seller under the contract at the time of the conveyance, but the~~ 123
~~statement shall set forth the amount paid under such contract~~ 124
~~prior to the date of conveyance. In the case of a gift in whole~~ 125
~~or part, "value" means the estimated price the real estate or~~ 126
~~manufactured or mobile home described in the deed or certificate~~ 127
~~of title would bring in the open market and under the then~~ 128
~~existing and prevailing market conditions in a sale between a~~ 129
~~willing seller and a willing buyer, both conversant with the~~ 130
~~property and with prevailing general price levels.~~ 131

(3) No person shall willfully falsify the value of 132

property conveyed. 133

~~(D)~~ (E) The auditor shall indorse each conveyance on its 134
face to indicate the amount of the conveyance fee and compliance 135
with this section and if the property is residential rental 136
property include a statement that the grantee shall file with 137
the county auditor the information required under division (A) 138
or (C) of section 5323.02 of the Revised Code. The auditor shall 139
retain the original copy of the statement of value, forward to 140
the tax commissioner one copy on which shall be noted the most 141
recent assessed value of the property, and furnish one copy to 142
the grantee or the grantee's representative. 143

~~(E)~~ (F) (1) The auditor shall not indorse a conveyance of 144
real property if either of the following apply: 145

(a) The statement submitted under this section does not 146
include both of the affirmations required by division (C) of 147
this section. 148

(b) The grantee affirms, or the auditor has reason to 149
believe that the grantee is prohibited from purchasing or 150
otherwise acquiring real property in this state under division 151
(B) of section 5301.256 of the Revised Code. 152

(2) (a) If division (F) (1) (b) of this section applies, the 153
auditor shall refer the transfer to the county prosecutor of the 154
county in which the real property is located. 155

(b) The county prosecutor shall investigate the allegation 156
and may, in conducting the investigation, issue subpoenas to 157
compel witnesses to appear to provide testimony or produce 158
records. 159

(c) If the county prosecutor determines that the grantee 160
is prohibited from purchasing or otherwise acquiring real 161

property in this state under division (B) of section 5301.256 of 162
the Revised Code, the transfer is void. 163

(d) If the county prosecutor determines that the grantee 164
is not prohibited from purchasing or otherwise acquiring real 165
property in this state under division (B) of section 5301.256 of 166
the Revised Code, the auditor may indorse the conveyance. 167

(e) The county prosecutor shall report the prosecutor's 168
determination under division (F)(2)(c) or (d) of this section to 169
the auditor. 170

(f) An aggrieved party may appeal the county prosecutor's 171
determination to the court of common pleas of the county in 172
which the real property is located. The appeal is subject to the 173
same procedures and requirements as an appeal under section 174
119.12 of the Revised Code. 175

(3) The auditor shall not refuse to indorse a conveyance 176
due to an affirmation by the grantor that the grantor is subject 177
to, and in violation of division (D)(1) of section 5301.256 of 178
the Revised Code. Upon such an affirmation, or if the auditor 179
has reason to believe that the grantor is subject to, and in 180
violation of division (D)(1) of section 5301.256 of the Revised 181
Code, the auditor shall refer information about the grantor and 182
the associated real property transfer to the county prosecutor 183
for investigation and enforcement under divisions (D)(2) to (8) 184
of section 5301.256 of the Revised Code. 185

(G) In order to achieve uniform administration and 186
collection of the transfer fee required by division (G)(3) of 187
section 319.54 of the Revised Code, the tax commissioner shall 188
adopt and promulgate rules for the administration and 189
enforcement of the levy and collection of such fee. 190

~~(F)~~ (H) As used in this section, ~~"residential":~~ 191

(1) "Residential rental property" has the same meaning as 192
in section 5323.01 of the Revised Code. 193

(2) (a) "Value" means, in the case of any deed or 194
certificate of title not a gift in whole or part, the amount of 195
the full consideration therefor, paid or to be paid for the real 196
estate or manufactured or mobile home described in the deed or 197
title, including the amount of any mortgage or vendor's lien 198
thereon. 199

(b) If property sold under a land installment contract is 200
conveyed by the seller under such contract to a third party and 201
the contract has been of record at least twelve months prior to 202
the date of conveyance, "value" means the unpaid balance owed to 203
the seller under the contract at the time of the conveyance, but 204
the statement shall set forth the amount paid under such 205
contract prior to the date of conveyance. 206

(c) In the case of a gift in whole or part, "value" means 207
the estimated price the real estate or manufactured or mobile 208
home described in the deed or certificate of title would bring 209
in the open market and under the then existing and prevailing 210
market conditions in a sale between a willing seller and a 211
willing buyer, both conversant with the property and with 212
prevailing general price levels. 213

Sec. 2105.16. No person who is capable of inheriting shall 214
be deprived of the inheritance by reason of any of the person's 215
ancestors having been aliens. ~~Aliens~~ Except as provided in 216
section 5301.256 of the Revised Code, aliens may hold, possess, 217
and enjoy real property within this state, either by descent, 218
devise, gift, or purchase, as fully as any citizen of the United 219

States or of this state may do. 220

Sec. 5301.256. (A) As used in this section: 221

(1) "Business" means a firm, company, business trust, 222
estate, trust, partnership, limited liability company, 223
association, corporation, sole proprietorship, general 224
partnership, or other business entity. 225

(2) "Control" means the authority, by contract or by law, 226
to direct the affairs and day-to-day operations of a business 227
enterprise without the consent of any other person. 228

(3) "Foreign adversary" means, subject to revision by the 229
secretary of state under division (F) of this section, an 230
individual or a government determined to constitute a foreign 231
adversary by the secretary of commerce of the United States 232
under 15 C.F.R. 7.4, or subject to economic sanctions 233
administered by the office of foreign assets control within the 234
United States department of the treasury. 235

(4) "Own" means possession of more than fifty per cent of 236
the stock, equity, or other ownership interest of a business. 237

(5) "Real property" has the same meaning as in section 238
5701.02 of the Revised Code. 239

(B) On and after the effective date of this section, the 240
following governments, individuals, and businesses shall not 241
purchase or otherwise acquire any interest in real property in 242
this state: 243

(1) A foreign adversary. 244

(2) A business with a principal executive office located 245
in a country governed by a foreign adversary, unless the 246
business: 247

(a) At least seven years before the effective date of this section, filed articles of incorporation or any other documents or applications with the secretary of state as established in section 1329.01, 1701.04, or elsewhere in the Revised Code as a condition precedent to engaging in business in this state; 248
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(b) Is in good standing, full force and effect, or registered with the secretary of state, as applicable, and has continuously maintained that status since a date at least seven years before the effective date of this section; 253
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(c) Has been approved to purchase or otherwise acquire real property in this state by the committee on foreign investment in the United States pursuant to section 721 of the "Defense Production Act of 1950," 50 U.S.C. 2170; and 257
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(d) Is a party to an active national security agreement with the United States government. 261
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(3) A business that is directly or indirectly owned or controlled by a foreign adversary, unless the business is operating lawfully in the United States on the effective date of this section. 263
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(C) A transfer of an interest in real property in violation of division (B) of this section is void. 267
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(D) (1) A foreign adversary or business subject to division (B) of this section shall divest of all real property in this state within thirty-six months after the effective date of this section. 269
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(2) If a county auditor has reason to believe that a foreign adversary or business is subject to, and in violation of division (D) (1) of this section, the auditor shall notify the county prosecutor of each county in which the real property 273
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owned by the foreign adversary or business is located. The 277
county prosecutor shall investigate the allegation, and may, in 278
conducting the investigation, issue subpoenas to compel 279
witnesses to appear to provide testimony or produce records. If 280
the real property is located in more than one county, the county 281
prosecutors of those counties may investigate the allegation 282
collaboratively. 283

(3) Upon receiving testimony and records, if the county 284
prosecutor concludes a foreign adversary or business failed to 285
divest ownership of real property in this state, as required 286
under division (D) (1) of this section, the county prosecutor 287
shall commence an action in the court of common pleas of the 288
county. If the real property is located in more than one county, 289
rather than commencing a separate action in each such county, 290
the county prosecutors may commence one consolidated action in 291
the county in which the majority of the real property owned by 292
the foreign adversary or business is located. In a consolidated 293
action, the court of common pleas of the county in which the 294
majority of the real property owned by the foreign adversary or 295
business is located has territorial jurisdiction over all real 296
property that is the subject of the action. 297

(4) Once the action is commenced, the county prosecutor 298
shall file a notice of the pendency of the action with the 299
county recorder of each county in which the real property 300
subject to the action is located. 301

(5) If the court finds divestment of real property under 302
this section is proper, the court shall enter an order 303
consistent with its findings. 304

(6) A foreign adversary or business subject to an order 305
for divestment under division (D) (5) of this section shall 306

divest all real property in this state within six months after 307
the date of the final entry of judgment. If a foreign adversary 308
or business fails to comply with the court's order, the county 309
prosecutor that commenced the action shall impose a civil 310
penalty on the foreign adversary or business, not to exceed 311
twenty-five thousand dollars. Civil penalties collected in 312
accordance with this division shall be remitted to the general 313
revenue fund. 314

(7) If a foreign adversary or business fails to divest 315
ownership of real property in this state within the period 316
required by division (D) (6) of this section, the court shall 317
declare the real property escheated to the state and order it to 318
be sold pursuant to Chapter 2329. of the Revised Code in the 319
same manner as a foreclosure on a mortgage, except that there 320
shall be no opportunity for redemption under section 2329.33 of 321
the Revised Code. The court shall file a copy of the order with 322
the county recorder of each county in which the real property is 323
located. 324

(8) Upon receiving an order under division (D) (7) of this 325
section, the clerk of the court shall notify the governor that 326
the title to the real property is vested in the state by decree 327
of the court. After the sale, the proceeds of the sale shall be 328
paid as follows: 329

(a) The proceeds shall first be used to pay court costs 330
related to the action or actions initiated pursuant to division 331
(D) (3) of this section. 332

(b) The remaining proceeds, if any, shall be remitted to 333
the general revenue fund. 334

(E) A person that is not subject to divisions (B) and (D) 335

of this section is not required to inquire or determine whether 336
another person is subject to this section. 337

(F) The secretary of state shall periodically review the 338
individuals and governments that are determined to be foreign 339
adversaries and may revise that list, provided that the 340
secretary of state's revisions do not have the effect of 341
providing less stringent protection to real property in this 342
state. 343

Sec. 5323.02. (A) An owner of residential rental property 344
shall file with the county auditor of the county in which the 345
property is located the following information: 346

(1) The name, address, and telephone number of the owner; 347

(2) If the residential rental property is owned by a 348
trust, business trust, estate, partnership, limited partnership, 349
limited liability company, association, corporation, or any 350
other business entity, the name, address, and telephone number 351
of the following: 352

(a) A trustee, in the case of a trust or business trust; 353

(b) The executor or administrator, in the case of an 354
estate; 355

(c) A general partner, in the case of a partnership or a 356
limited partnership; 357

(d) A member, manager, or officer, in the case of a 358
limited liability company; 359

(e) An associate, in the case of an association; 360

(f) An officer, in the case of a corporation; 361

(g) A member, manager, or officer, in the case of any 362

other business entity. 363

(3) The street address and permanent parcel number of the residential rental property. 364
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(B) The information required under division (A) of this section shall be filed and maintained on the tax list or the real property record. 366
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(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. 369
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(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. 372
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(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)~~ division (E) of section 319.202, or division (B) of section 323.131 of the Revised Code. 380
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Section 2. That existing sections 319.202, 2105.16, and 5323.02 of the Revised Code are hereby repealed. 385
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Section 3. This act shall be known as the Ohio Property Protection Act. 387
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