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# Do New Florida Restrictions On Foreign Landownership Do More Harm Than Good For CRE?

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New landownership restrictions have gone into effect in Florida, spurring commercial real estate professionals to question the economic impact they will have on assets.

### Florida Senate Bill 264

(<https://www.flsenate.gov/Committees/BillSummaries/2023/html/3145>), or the Interests of Foreign Countries bill, restricts “real property ownership by foreign principles, which are certain individuals and entities associated with foreign countries of concern.” The law specifies the countries of concern as China, Russia, Iran, North Korea, Cuba, Venezuela and Syria.

While this new law prohibits citizens from these countries from owning agricultural land or property within 10 miles of a military base or “critical infrastructure,” it specifically bans those domiciled in China from owning any property throughout the state, regardless of location or asset type.

“This law is highly significant, and the restrictions are pretty all-encompassing,” said Ira Teicher, partner at Hogan Lovells LLP (<https://www.hoganlovells.com>). “We are now in a situation where Florida has written legislation that excludes a broad swath of foreign investors and nationals from participating in real estate transactions in Florida.”

Foreign investment has long been a key component of the U.S. real estate market, Teicher said. Florida accounted for approximately 23% (<https://www.benoitproperties.com/news/florida-ranked-top-destination-for-foreign-real-estate-buyers/#:~:text=Florida%20accounts%20for%2023%25%20of,interest%20in%20the> of total foreign real estate investment in the country last year. Florida has traditionally attracted a wide variety of real estate investors, both domestic and international, and is proving to be one of the preferred markets for foreign buyers and investors (<https://www.investopedia.com/foreign-purchases-of-us-homes-fall-to-lowest-since-2009-7568338>) — especially South Florida (<https://www.bisnow.com/south-florida>).

Teicher added that in today’s market, the price points of Florida commercial real estate are generally commensurate with top prices in every market. The Florida market has grown and matured over the past several years, leaving behind the days when a group of friends could combine resources and buy a hotel or office building, he said.

“There’s so much interest in Florida real estate, particularly in South Florida, and we are seeing a more sophisticated source of capital enter the market,” Teicher said. “By limiting the pool of prospective owners, landlords and developers, you’re clearly curtailing the growth opportunity for the overall market to continue to expand.”

Teicher said that commercial real estate in the region is often purchased through private equity (<https://www.bisnow.com/tags/private-equity>) vehicles, whether it be a private equity fund, a REIT or a syndicator pooling a group of investors together to buy a piece of property. While local developers, operators and sponsors may not be directly impacted by this new law, the equity they need to put into the deal often comes from a third party, including institutional and noninstitutional investors.

Though there are limited exceptions (<https://www.flsenate.gov/Committees/BillSummaries/2023/html/3145>) to the bill, including the purchase of one residential property that is more than 5 miles from military infrastructure, critics of the bill have claimed that it is discriminatory against certain groups. A lawsuit to repeal the statute (<https://www.aclu.org/press-releases/federal-district-court-refuses-to-halt-floridas-discriminatory-housing-law>) has been filed in the federal court system, alleging a violation of the 14th Amendment. The court, however, hasn't granted a preliminary injunction, so the entire action is now on appeal, Teicher said.

The state also needs to flesh out how SB 264 is intended to work, he said.

“The statute itself was pretty bare-bones,” Teicher said. “It was drafted very broadly, so the entire real estate community is anxiously awaiting to see how it all shakes out.”

Teicher said that looking forward, the question now becomes: From a societal perspective, does the market want to be in a position where this much capital is potentially sidelined? Will market inefficiencies be inadvertently created? To what extent will other states follow suit (<https://www.bisnow.com/national/news/land/restrictions-land-ownership-foreign-countries-china-119066>)?

Only time will tell Florida CRE professionals the long-term impacts of the statute, as it is so far unquantifiable how much money will be eliminated from the market. But Teicher said it will most likely be significant.

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