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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To protect U.S. food security, provide the Committee on Foreign Investment in the United States greater jurisdiction over land purchases, impose special guards against foreign adversary purchases of land in the United States near sensitive sites, expand the definition of sensitive sites, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MOOLENAAR introduced the following bill; which was referred to the Committee on _____

A BILL

To protect U.S. food security, provide the Committee on Foreign Investment in the United States greater jurisdiction over land purchases, impose special guards against foreign adversary purchases of land in the United States near sensitive sites, expand the definition of sensitive sites, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protecting U.S. Farm-
3 land and Sensitive Sites From Foreign Adversaries Act”.

4 **SEC. 2. ADDITIONAL DEFINITIONS.**

5 Section 721(a) of the Defense Production Act of
6 1950 (50 U.S.C. 4565(a)) is amended by adding at the
7 end the following:

8 “(14) **ELEVATED RISK REAL ESTATE TRANS-**
9 **ACTION.**—The term ‘elevated risk real estate trans-
10 action’ means a real estate transaction described
11 under paragraph (4)(B)(ii), in which the real es-
12 tate—

13 “(A) is, is located within, or will function
14 as a part of, an air or maritime port;

15 “(B) is in close proximity to a sensitive
16 site;

17 “(C) could reasonably provide the foreign
18 adversary person the ability to collect intel-
19 ligence on activities being conducted at a sen-
20 sitive site;

21 “(D) could otherwise expose national secu-
22 rity activities at a sensitive site; or

23 “(E) is agricultural land that is covered by
24 the reporting requirements under the Agricul-
25 tural Foreign Investment Disclosure Act of

1 1978, as implemented by part 781 of title 7,
2 Code of Federal Regulations.

3 “(15) FOREIGN ADVERSARY.—The term ‘for-
4 eign adversary’ means—

5 “(A) the People’s Republic of China, in-
6 cluding all Special Administrative Regions;

7 “(B) the Republic of Cuba;

8 “(C) the Islamic Republic of Iran;

9 “(D) the Democratic People’s Republic of
10 Korea;

11 “(E) the Russian Federation; and

12 “(F) the Bolivarian Republic of Venezuela.

13 “(16) FOREIGN ADVERSARY PERSON.—The
14 term ‘foreign adversary person’ means—

15 “(A) a foreign adversary;

16 “(B) a foreign person subject to the juris-
17 diction of, or organized under the laws of, a for-
18 eign adversary; and

19 “(C) a foreign person owned, directed, or
20 controlled by an entity described in subpara-
21 graph (A) or (B).

22 “(17) SENSITIVE SITE.—The term ‘sensitive
23 site’ means—

24 “(A) military installations;

1 “(B) a military training route, as defined
2 in section 183a(h) of title 10, United States
3 Code;

4 “(C) airspace designated as special use air-
5 space under part 73 of title 14, Code of Federal
6 Regulations (or a successor regulation) and
7 managed by the Department of Defense;

8 “(D) a controlled firing area, as defined in
9 section 1.1 of title 14, Code of Federal Regula-
10 tions (or a successor regulation) under the ju-
11 risdiction of the Secretary of Defense;

12 “(E) a military operations area, as defined
13 in section 1.1 of title 14, Code of Federal Regu-
14 lations (or a successor regulation);

15 “(F) facilities with respect to which the
16 Secretary of Defense has granted a security
17 clearance;

18 “(G) facilities openly owned or operated by
19 the U.S. intelligence community;

20 “(H) facilities owned or operated by the
21 National Aeronautics and Space Administra-
22 tion;

23 “(I) federally-funded research and develop-
24 ment centers;

1 “(J) university-affiliated research centers
2 of the Department of Defense;

3 “(K) science and technology reinvention
4 laboratories, as designated by the Secretary of
5 Defense under section 4121 of title 10, United
6 States Code;

7 “(L) airports, as listed on the website of
8 the Federal Aviation Administration;

9 “(M) maritime ports, as determined by the
10 Secretary of Transportation;

11 “(N) any electronic or telecommunications
12 facility used to process, store, or transmit infor-
13 mation (including fiber optic nodes, data cen-
14 ters, cloud computing facilities, satellite ground
15 stations, and wireless transmission equipment)
16 if—

17 “(i) the facility is part of a backbone
18 or core network that serves a significant
19 portion of the United States telecommuni-
20 cations network;

21 “(ii) the facility is located in close
22 proximity to another sensitive site;

23 “(iii) the facility is a submarine cable
24 landing station (as defined in section

1 60401(a) of the Infrastructure Investment
2 and Jobs Act (47 U.S.C. 1741(a));

3 “ (iv) the facility is used to process or
4 store a large volume of sensitive informa-
5 tion (such as classified or encrypted com-
6 munications) or other data critical to na-
7 tional security, public safety, or economic
8 security; or

9 “ (v) the Chairman of the Federal
10 Communications Commission determines
11 the facility to be critical communications
12 infrastructure;

13 “ (O) electric powerplants, as determined
14 by the Secretary of Homeland Security; and

15 “ (P) any other site, as determined by the
16 Secretary of Defense or the Secretary of Home-
17 land Security.”.

18 **SEC. 3. PROTECTING U.S. FOOD SECURITY.**

19 Section 721(f) of the Defense Production Act of 1950
20 (50 U.S.C. 4565(f)) is amended—

21 (1) in paragraph (10), by striking “and” at the
22 end;

23 (2) by redesignating paragraph (11) as para-
24 graph (12); and

1 (3) by inserting after paragraph (10) the fol-
2 lowing:

3 “(11) the current and long-term projection of
4 the requirements for sources of food, water, and
5 other agricultural products in the United States in
6 the aggregate, as well as locally and regionally, and
7 the effects a covered transaction may have on
8 United States food security, including through for-
9 eign adversary acquisition of biotechnology related to
10 agriculture; and”.

11 **SEC. 4. EXPANDING THE JURISDICTION OF THE COM-**
12 **MITTEE ON FOREIGN INVESTMENT IN THE**
13 **UNITED STATES OVER REAL ESTATE TRANS-**
14 **ACTIONS.**

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

18 (1) in subparagraph (A)(ii), by striking
19 “clauses (ii) through (v)” and inserting “clauses (ii)
20 through (vi)”;

21 (2) in subparagraph (B)—

22 (A) by redesignating clauses (ii) through
23 (v) as clauses (iii) through (vi), respectively;

24 (B) by inserting after clause (i) the fol-
25 lowing:

1 “(ii) Subject to subparagraphs (C)
2 and (E), the purchase or lease by, or a
3 concession to, a person who is a foreign
4 adversary person of private or public real
5 estate located in the United States.”;

6 (C) in clause (iii), as so redesignated—

7 (i) by striking “foreign person of pri-
8 vate or public real estate” and inserting
9 “foreign person who is not a foreign adver-
10 sary person of private or public real es-
11 tate”; and

12 (ii) in subclause (II)—

13 (I) in item (aa), by inserting
14 “that is a sensitive site” before the
15 semicolon; and

16 (II) in item (bb)—

17 (aa) in subitem (AA), by
18 striking “a United States mili-
19 tary installation or another facil-
20 ity or property of the United
21 States Government that is sen-
22 sitive for reasons relating to na-
23 tional security” and inserting “a
24 sensitive site”;

1 (bb) in subitem (BB), by
2 striking “such an installation, fa-
3 cility, or property” and inserting
4 “a sensitive site”; and

5 (cc) in subitem (CC), by
6 striking “such an installation, fa-
7 cility, or property” and inserting
8 “a sensitive site”; and

9 (D) in clause (v), as so redesignated, in
10 subclause (II), by striking “clause (iii)” and in-
11 serting “clause (iv)”;

12 (3) in subparagraph (C)—

13 (A) in clause (i), by striking “subpara-
14 graph (B)(ii)” and inserting “clause (ii) or (iii)
15 of subparagraph (B)”;

16 (B) in clause (ii)—

17 (i) by striking “subparagraph
18 (B)(ii)(II)(bb)(AA)” and inserting “sub-
19 paragraph (B)(iii)(II)(bb)(AA)”;

20 (ii) by striking “a United States mili-
21 tary installation or another facility or
22 property of the United States Government
23 described in that subparagraph” and in-
24 serting “a sensitive site”; and

25 (C) in clause (iii)—

1 (i) in subclause (I), by striking “sub-
2 paragraph (B)(ii)(II)(bb)” and inserting
3 “subparagraph (B)(iii)(II)(bb)”;

4 (ii) in subclause (II)(bb)(BB), by
5 striking “subparagraph (B)(ii)(II)(bb)”
6 and inserting “subparagraph
7 (B)(iii)(II)(bb)”;

8 (4) in subparagraph (D)—

9 (A) in clause (i), by striking “subpara-
10 graph (B)(iii)” and inserting “subparagraph
11 (B)(iv)”;

12 (B) in clause (iii)—

13 (i) in subclause (I), by striking “sub-
14 paragraph (B)(iii)” and inserting “sub-
15 paragraph (B)(iv)”;

16 (ii) in subclause (II), by striking
17 “subparagraph (B)(iii)(I)” and inserting
18 “subparagraph (B)(iv)(I)”;

19 (C) in clause (iv), by striking “subpara-
20 graph (B)(iii)” each place such term appears
21 and inserting “subparagraph (B)(iv)”;

22 (D) in clause (v), by striking “subpara-
23 graph (B)(iii)” and inserting “subparagraph
24 (B)(iv)”;

1 (5) in subparagraph (E), by striking “clauses
2 (ii) and (iii) of subparagraph (B)” and inserting
3 “clauses (iii) and (iv) of subparagraph (B)”.

4 (b) MANDATORY DECLARATIONS.—Section
5 721(b)(1)(C)(v)(IV) of the Defense Production Act of
6 1950 (50 U.S.C. 4565(b)(1)(C)(v)(IV)) is amended by
7 adding at the end the following:

8 “(hh) REQUIRED DECLARA-
9 TIONS FOR ELEVATED RISK REAL
10 ESTATE TRANSACTION.—Not-
11 withstanding item (dd), the par-
12 ties to an elevated risk real estate
13 transaction shall submit a dec-
14 laration described in subclause
15 (I) with respect to the trans-
16 action.”.

17 **SEC. 5. PRESUMPTION OF UNRESOLVABILITY OF ELE-**
18 **VATED RISK REAL ESTATE TRANSACTIONS.**

19 (a) REQUIREMENT FOR NATIONAL SECURITY INVE-
20 TIGATION.—Section 721(b)(2)(B) of the Defense Produc-
21 tion Act of 1950 (50 U.S.C. 4565(b)(2)(B)) is amended—

22 (1) in clause (i), by striking “or” at the end;

23 (2) in clause (ii), by striking the period at the
24 end and inserting “; or”; and

25 (3) by adding at the end the following:

1 “(iii) a covered transaction is an ele-
2 vated risk real estate transaction, unless
3 the Committee—

4 “(I) determines, by clear and
5 convincing evidence, that the covered
6 transaction is not a risk to national
7 security; and

8 “(II) submits a notification to
9 the Committees on Agriculture and
10 Financial Services of the House of
11 Representatives, the Permanent Select
12 Committee on Intelligence of the
13 House of Representatives, the Com-
14 mittees on Agriculture and Banking,
15 Housing, and Urban Affairs of the
16 Senate, and the Select Committee on
17 Intelligence of the Senate containing
18 such determination and the reasons
19 therefore.”.

20 (b) CONSIDERATION OF ELEVATED RISK REAL ES-
21 TATE TRANSACTIONS.—Section 721(b) of the Defense
22 Production Act of 1950 (50 U.S.C. 4565(b)) is amended
23 by adding at the end the following:

24 “(9) CONSIDERATION OF ELEVATED RISK REAL
25 ESTATE TRANSACTIONS.—For purposes of a review

1 or investigation of an elevated risk real estate trans-
2 action under this subsection, the transaction is pre-
3 sumed to present an unresolvable risk to national se-
4 curity, unless the Committee—

5 “(A) determines, by clear and convincing
6 evidence, that the risk to national security of
7 the transaction can be resolved in a manner
8 other than by suspending or prohibiting the
9 transaction; and

10 “(B) submits a notification to the Commit-
11 tees on Agriculture and Financial Services of
12 the House of Representatives, the Permanent
13 Select Committee on Intelligence of the House
14 of Representatives, the Committees on Agri-
15 culture and Banking, Housing, and Urban Af-
16 fairs of the Senate, and the Select Committee
17 on Intelligence of the Senate containing such
18 determination and the reasons therefore.”.

19 (c) PRESUMPTION THAT THE RISKS OF ELEVATED
20 RISK REAL ESTATE TRANSACTIONS CANNOT BE MITI-
21 GATED OR RESOLVED.—Section 721(l)(3) of the Defense
22 Production Act of 1950 (50 U.S.C. 4565(l)(3)) is amend-
23 ed by adding at the end the following:

24 “(E) APPLICATION TO ELEVATED RISK
25 REAL ESTATE TRANSACTIONS.—Notwith-

1 standing subparagraph (A), an elevated risk
2 real estate transaction shall be presumed to
3 present a risk to national security that cannot
4 be resolved through any agreement or condition,
5 unless the Committee—

6 “(i) determines, by clear and con-
7 vincing evidence, that the risk to national
8 security of the transaction can be so re-
9 solved through such an agreement or con-
10 dition; and

11 “(ii) submits a notification to the
12 Committees on Agriculture and Financial
13 Services of the House of Representatives,
14 the Permanent Select Committee on Intel-
15 ligence of the House of Representatives,
16 the Committees on Agriculture and Bank-
17 ing, Housing, and Urban Affairs of the
18 Senate, and the Select Committee on Intel-
19 ligence of the Senate containing such de-
20 termination and the reasons therefore.”.

21 **SEC. 6. AGRICULTURE REPRESENTATIVE.**

22 Section 721(k)(2) of the Defense Production Act of
23 1950 (50 U.S.C. 4565(k)(2)) is amended—

1 (1) by redesignating subparagraphs (H), (I),
2 and (J) as subparagraphs (I), (J), and (K), respec-
3 tively; and

4 (2) by inserting after subparagraph (G) the fol-
5 lowing:

6 “(H) The Secretary of Agriculture, on all
7 transactions related to the purchase of agri-
8 culture land, agriculture biotechnology, and any
9 other transaction related to the agriculture in-
10 dustry in the United States, as determined by
11 the Secretary of Agriculture.”.

12 **SEC. 7. PRESERVATION OF STATE AUTHORITY.**

13 Section 721 of the Defense Production Act of 1950
14 (50 U.S.C. 4565) is amended by adding at the end the
15 following:

16 “(r) PRESERVATION OF STATE AUTHORITY.—

17 “(1) IN GENERAL.—Nothing in this section
18 may be construed to preempt or supersede any law
19 of a State that—

20 “(A) restricts or prohibits the purchase,
21 lease, or acquisition of real estate or agricul-
22 tural land by a foreign adversary person; and

23 “(B) is of general applicability within that
24 State and does not purport to apply to any spe-
25 cific transaction or party.

1 “(2) STATE DEFINED.—In this subsection, the
2 term ‘State’ means each of the several States, the
3 District of Columbia, and each territory of the
4 United States.”.

5 **SEC. 8. RULEMAKING.**

6 Not later than the end of the 120-day period begin-
7 ning on the date of enactment of this Act, the Committee
8 on Foreign Investment in the United States shall issue
9 rules to carry out the amendments made by this Act.