

2026 South Dakota Legislature

Senate Bill 60

AMENDMENT 60A FOR THE INTRODUCED BILL

1 **An Act to restrict ownership of ~~certain~~ real property ~~near military installations~~
2 interests by certain prohibited entities and to provide for enforcement.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That a NEW SECTION be added to a NEW CHAPTER in title 43:**

5 Terms used in this chapter mean:

6 (1) "Military installation," any federally or state owned, leased, or operated base,
7 building, camp, post, reservation, or other facility to which active duty or reserve
8 members of the armed forces or civilian employees are assigned pursuant to orders
9 issued by the United States Department of Defense or the South Dakota National
10 Guard;

11 (2) "Prohibited entity," any entity as defined in § 43-2A-1; and

12 (3) "Real property interest," any direct or indirect legal or equitable stake in real
13 property as evidenced by a contract for deed, deed, easement, ~~last will and~~
14 ~~testament~~, lease, option, purchase agreement, trust, or other instrument; and

15 (3) "Restricted zone," an area within a ten-mile radius, measured in a straight line,
16 from any point on the boundary of a military installation.

17 **Section 2. That a NEW SECTION be added to a NEW CHAPTER in title 43:**

18 After the expiration of any applicable divestment period provided in section 3 of
19 this Act, a prohibited entity, ~~as defined in § 43-2A-1, may not, during any time in which~~
20 there exists a military installation in this state:

21 (1) Hold or obtain any real property interest located, in whole or in part, ~~within a~~
22 ~~restricted zone in this state~~ ; or

23 (2) Directly or indirectly control, finance, or hold a legal or equitable interest in any
24 entity that holds a real property interest in ~~a restricted zone this state.~~

1 **Section 3. That a NEW SECTION be added to a NEW CHAPTER in title 43:**

2 ADuring any time in which there exists a military installation in this state, a
3 prohibited entity, as defined in § 43-2A-1, which that acquires a real property interest in
4 a restricted zone this state:

- 5 (1) Through descent or devise, must dispose of the interest within three years of
6 acquiring the interest; or
7 (2) By any means other than descent or devise, must dispose of the interest within
8 two years of the date the interest was initially acquired in violation of this chapter.

9 **Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 43:**

10 For any transfer of a real property interest in a restricted zone, a transferee shall execute an
11 affidavit, under penalty of perjury, declaring that, as of the date of the transfer, the
12 transferee's acquisition of the interest does not violate this chapter. The affidavit must be
13 recorded in the office of the register of deeds of the county in which the interest is located.

14 The transferee's failure to execute an affidavit under this section does not:

- 15 (1) Affect the marketability or insurability of the title to the interest; or
16 (2) Subject a closing agent, real estate broker or salesperson, or title insurance company to
17 civil or criminal liability, unless the person has actual knowledge that the transaction is in
18 violation of this chapter.

19 The electronic recording commission shall, by rule promulgated pursuant to chapter 1-26,
20 establish a standard form for the affidavit required by this section.

21 **Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 43:**

22 The attorney general shall investigate any alleged violation of this chapter.

23 Upon commencing an enforcement action pursuant to section 6-5 of this Act, the
24 attorney general may, in addition to any authority granted under §§ 15-6-28.2 to 15-6-
25 28.4, inclusive, subpoena from any foreign entity, foreign government, foreign person,
26 prohibited entity, or resident, as those terms are defined in § 43-2A-1, any:

- 27 (1) Contract, purchase agreement, or other transaction document related to a real
28 property interest in a restricted zone this state;
29 (2) Deed or title to the interest;

- 1 (3) Documentation concerning the financing or ownership of the interest;
- 2 (4) Documentation identifying any party to a transaction related to the interest; and
- 3 (5) Any other documentation or information necessary to investigate or substantiate
4 an alleged violation of this chapter.

5 **Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 43:**

6 The attorney general shall enforce the provisions of this chapter. Any real property
7 interest owned in violation of this chapter must be forfeited to the state or terminated, as
8 applicable.

9 Upon substantiation of an allegation that a prohibited entity holds an interest in a
10 restricted zone this state in violation of this chapter, the attorney general ~~shall may~~
11 commence an action, in the circuit court for the county in which the real property is
12 located, for forfeiture or termination of the interest.

13 The court may not order forfeiture or termination of the interest unless the action
14 is brought within three years after evidence of the violation is referred to the attorney
15 general.

16 If the court finds that the interest is held in violation of this chapter, the court
17 must:

18 (1) Enter a judgment declaring the prohibited entity's interest void as of the date of
19 the judgment; and

20 (2) Order that the interest be forfeited or terminated, as applicable;

21 If the court orders forfeiture of the interest, the court must enter a judgment
22 directing the attorney general to sell the property and specifying that the sale is for the
23 benefit of the person that held the interest immediately before entry of the judgment,
24 subject to the distribution of proceeds pursuant to section 7.6 of this Act.

25 Upon commencing an action pursuant to this section, the attorney general shall
26 cause a notice of lis pendens to be recorded with the register of deeds for the county in
27 which the interest is located.

28 **Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 43:**

29 Proceeds from the sale of a real property interest ordered pursuant to section 6.5
30 of this Act must be distributed in the following order:

31 (1) Payment of the costs of the sale, including all approved fees and expenses, and
32 any taxes and assessments due;

- 1 (2) Payment, in an amount approved by the court, to the attorney general for
2 reimbursement of investigation and litigation costs and expenses;
- 3 (3) Payment to bona fide lienholders, in order of priority, except for any lien remaining
4 against the real property under the terms of the sale; and
- 5 (4) Payment of any remaining proceeds to the person that held the interest
6 immediately before entry of judgment.

7 Nothing in this section creates a cause of action against the state or limits the discretion
8 of the attorney general to decline to bring an action under this chapter.

9 **Section 7. That a NEW SECTION be added to a NEW CHAPTER in title 43:**

10 Except as expressly provided in this chapter, a person that is not a prohibited entity
11 does not have any duty to determine or inquire whether another person is a prohibited
12 entity or is otherwise subject to this chapter.

13 A person that is not a prohibited entity may not be held liable under this chapter
14 for failing to determine or inquire whether another person is a prohibited entity.

15 **Section 8. That a NEW SECTION be added to a NEW CHAPTER in title 43:**

16 The attorney general shall promulgate rules, pursuant to chapter 1-26, to identify
17 restricted zones and provide maps or other public notice of the restricted zones. Nothing
18 in this chapter:

- 19 (1) Creates a cause of action against the state or limits the discretion of the attorney
20 general to decline to bring an action under this chapter; or
- 21 (2) Limits any penalty or remedy set forth in chapter 43-2A regarding the ownership
22 or leasing of agricultural land.

23 **Section 9. That a NEW SECTION be added to a NEW CHAPTER in title 43:**

24 This chapter does not apply to:

- 25 (1) Any real property interest held by a publicly traded company in the United States,
26 which was acquired before July 1, 2026 an entity that has received clearance,
27 approval, or a determination of no unresolved national security concerns from the
28 Committee on Foreign Investment in the United States, including any entity
29 operating in compliance with a mitigation or national security agreement under
30 section 721 of the Defense Production Act of 1950, 50 U.S.C. § 4565 (January 1,
31 2026);

- 1 (2) The exchange, expansion, purchase, relocation, or sale of a real property interest
2 approved by the governing body of a county, municipality, or other political
3 subdivision of this state; or
4 (3) Any real property interest held by a prohibited entity solely for the purpose of
5 securing indebtedness, if the prohibited entity does not take possession of, or
6 obtain voting or managerial control over, the real property interest;
7 (4) Stock ownership in a publicly traded entity by a foreign person, as defined in § 43-
8 2A-1, if the foreign person does not control or operate the publicly traded entity,
9 provided that de minimis stock ownership is not considered control or operation for
10 purposes of this section;
11 (5) Any real property interest held by an individual who is a lawful permanent resident
12 or citizen of the United States, including a dual citizen; or
13 (6) Any real property interest held by an individual with lawful status, as defined in §
14 32-12-1.1.