

118TH CONGRESS  
2D SESSION

# S. 3948

To amend the Defense Production Act of 1950 to better address certain transactions by foreign entities of concern, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

MARCH 14, 2024

Ms. STABENOW (for herself and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

---

## A BILL

To amend the Defense Production Act of 1950 to better address certain transactions by foreign entities of concern, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Against  
5 Foreign Adversary Investments Act of 2024”.

1 **SEC. 2. AUTHORITY OF COMMITTEE ON FOREIGN INVEST-**  
2 **MENT IN THE UNITED STATES TO REVIEW**  
3 **CERTAIN REAL ESTATE PURCHASES BY FOR-**  
4 **EIGN ENTITIES OF CONCERN.**

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

8 (1) in subparagraph (A)—

9 (A) in clause (i), by striking “; and” and  
10 inserting a semicolon;

11 (B) in clause (ii), by striking the period at  
12 the end and inserting “; and”; and

13 (C) by adding at the end the following new  
14 clause:

15 “(iii) any transaction described in  
16 subparagraph (B)(vi) proposed or pending  
17 on or after the date of the enactment of  
18 this clause.”;

19 (2) in subparagraph (B), by adding at the end  
20 the following new clause:

21 “(vi) Subject to subparagraph (C), the  
22 purchase or lease by, or a concession to, a  
23 foreign entity of concern of private or pub-  
24 lic real estate in the United States if—

1           “(I) the value or fair market  
2 value of such purchase, lease, or con-  
3 cession exceeds \$1,000,000;

4           “(II) the real estate exceeds 100  
5 acres;

6           “(III) the aggregate value or fair  
7 market value of such purchase, lease,  
8 or concession, in combination with the  
9 value or fair market value of other  
10 purchases or leases by, or concessions  
11 to, such foreign entity during the 3-  
12 year period preceding the date of such  
13 purchase, lease, or concession, exceeds  
14 \$1,000,000;

15           “(IV) the aggregate acreage of  
16 such purchase, lease, or concession, in  
17 combination with the aggregate acre-  
18 age of other purchases or leases by, or  
19 concessions to, such foreign entity  
20 during the 3-year period preceding the  
21 date of such purchase, lease, or con-  
22 cession, exceeds 100 acres; or

23           “(V) the structure of such pur-  
24 chase, lease, or concession is designed  
25 or intended to evade or circumvent

1 the application of this clause, as de-  
2 termined by the Committee.”; and

3 (3) in subparagraph (C)(i), by striking “sub-  
4 paragraph (B)(ii)” and inserting “clause (ii) or (iv)  
5 of subparagraph (B)”.

6 (b) DEFINITION OF FOREIGN ENTITIES OF CON-  
7 CERN.—Section 721(a) of the Defense Production Act of  
8 1950 (50 U.S.C. 4565(a)) is amended—

9 (1) by redesignating paragraphs (7) through  
10 (13) as paragraphs (8) through (14), respectively;  
11 and

12 (2) by inserting after paragraph (6) the fol-  
13 lowing new paragraph:

14 “(7) FOREIGN ENTITY OF CONCERN.—The  
15 term ‘foreign entity of concern’ has the meaning  
16 given that term in section 9901 of the William M.  
17 (Mac) Thornberry National Defense Authorization  
18 Act for Fiscal Year 2021 (15 U.S.C. 4651).”.

19 (c) FACTORS TO BE CONSIDERED.—Section 721(f)  
20 of the Defense Production Act of 1950 (50 U.S.C.  
21 4565(f)) is amended—

22 (1) by redesignating paragraphs (8) through  
23 (11) as paragraphs (10) through (13), respectively;  
24 and

1           (2) by inserting after paragraph (7) the fol-  
2           lowing new paragraphs:

3           “(8) the potential effects of a proposed or pend-  
4           ing transaction on the national security of the  
5           United States as a result of the impact of the trans-  
6           action on the economic security of the United States;

7           “(9) the factors described in section 3 of Exec-  
8           utive Order 14083 (50 U.S.C. 4565 note; relating to  
9           consideration of evolving national security risks by  
10          the Committee on Foreign Investment in the United  
11          States), as in effect on January 1, 2024;”.

12          (d)       MANDATORY       DECLARATIONS.—Section  
13          721(b)(1)(C)(v)(IV) of the Defense Production Act of  
14          1950 (50 U.S.C. 4565(b)(1)(C)(v)(IV)) is amended by  
15          adding at the end the following:

16                               “(hh) REQUIRED DECLARA-  
17                               TIONS FOR CERTAIN REAL ES-  
18                               TATE TRANSACTIONS.—Notwith-  
19                               standing item (dd), the parties to  
20                               a real estate transaction de-  
21                               scribed       in       subsection  
22                               (a)(4)(B)(vi) shall submit a dec-  
23                               laration described in subclaus-  
24                               e (I) with respect to the trans-  
25                               action.”.

1 (e) REPORTS REQUIRED.—

2 (1) RETROACTIVE APPLICABILITY.—Not later  
3 than 180 days after the date of the enactment of  
4 this Act, the Secretary of the Treasury, in coordina-  
5 tion with Secretary of State and the Secretary of  
6 Homeland Security, shall submit to Congress a re-  
7 port that includes an assessment of the feasibility of  
8 requiring retroactive mitigation measures or divest-  
9 ment of real estate described in clause (vi) of section  
10 721(a)(4)(B) of the Defense Production Act of  
11 1950, as added by this section, that is owned by a  
12 foreign entity of concern (as defined in paragraph  
13 (7) of section 721(a) of such Act, as amended by  
14 this section) that presents a threat to national secu-  
15 rity (as determined by the Committee on Foreign In-  
16 vestment in the United States).

17 (2) ADDITIONAL RESOURCES.—Not later than  
18 180 after the date of the enactment of this Act, the  
19 Secretary of the Treasury and the Committee on  
20 Foreign Investment in the United States shall sub-  
21 mit to Congress a report describing any statutory or  
22 regulatory changes necessary to carry out this sec-  
23 tion and the amendments made by this section.

24 (f) EFFECTIVE DATE.—The amendments made by  
25 this section shall take effect on the date of the enactment

1 of this Act and apply with respect to any covered trans-  
2 action the review or investigation of which is initiated  
3 under section 721 of the Defense Production Act of 1950  
4 on or after such date of enactment.

5 **SEC. 3. REPORT ON PUBLIC OR PRIVATE REAL ESTATE**  
6 **PURCHASING ACTIVITIES IN THE UNITED**  
7 **STATES BY FOREIGN ENTITIES OF CONCERN.**

8 (a) REPORTS.—

9 (1) IN GENERAL.—Not later than 180 days  
10 after the date of the enactment of this Act, and an-  
11 nually thereafter, the Director, in coordination with  
12 the Secretary of Homeland Security and the head of  
13 any other appropriate Federal agency, shall submit  
14 to the appropriate congressional committees a report  
15 containing a description of the national security  
16 risks of the purchase, ownership, or lease of public  
17 or private real estate by a foreign entity of concern.

18 (2) CONTENTS.—Each report submitted under  
19 paragraph (1) shall include, with respect to the year  
20 covered by the report, the following:

21 (A) A list of all real estate in the United  
22 States described in clause (vi) of section  
23 721(a)(4)(B) of the Defense Production Act of  
24 1950, as added by this Act.

1           (B) An analysis of the potential use of real  
2           estate for industrial espionage or intellectual  
3           property transfer by a foreign entity of concern.

4           (C) An analysis of the potential use by a  
5           foreign entity of concern of real estate in close  
6           proximity to manufacturing facilities, water  
7           sources, and other critical infrastructure to  
8           monitor, interrupt, or disrupt activities critical  
9           to the national and economic security of the  
10          United States.

11          (D) An analysis of other threats to the  
12          economic security or national security of the  
13          United States due to the ownership, including  
14          ownership in the aggregate, of real estate by a  
15          foreign entity of concern.

16          (3) UNCLASSIFIED FORM.—Each report sub-  
17          mitted under this subsection shall—

18                 (A) be submitted in unclassified form, but  
19                 may include a classified annex; and

20                 (B) be consistent with the protection of in-  
21                 telligence sources and methods.

22          (4) PUBLICLY AVAILABLE.—Upon submitting a  
23          report under paragraph (1), the Director shall make  
24          publicly available the information included in such  
25          report under paragraph (2)(A).



1 (b) DEFINITIONS.—In this section:

2 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
3 TEES.—The term “appropriate congressional com-  
4 mittees” means—

5 (A) the Committee on Energy and Com-  
6 merce, the Committee on Homeland Security,  
7 and the Permanent Select Committee on Intel-  
8 ligence of the House of Representatives; and

9 (B) the Committee on Environment and  
10 Public Works, the Committee on Homeland Se-  
11 curity and Governmental Affairs, and the Select  
12 Committee on Intelligence of the Senate.

13 (2) FOREIGN ENTITY OF CONCERN.—The term  
14 “foreign entity of concern” has the meaning given  
15 that term in section 9901 of the William M. (Mac)  
16 Thornberry National Defense Authorization Act for  
17 Fiscal Year 2021 (15 U.S.C. 4651).

18 (3) DIRECTOR.—The term “Director” means  
19 the Director of National Intelligence.

20 (4) STATE.—The term “State” has the mean-  
21 ing given such term in section 101 of the Com-  
22 prehensive Environmental Response, Compensation,  
23 and Liability Act of 1980 (42 U.S.C. 9601).

1 **SEC. 4. BEST PRACTICES FOR STATE AND LOCAL OFFI-**  
2 **CIALS RELATING TO POTENTIAL TRANS-**  
3 **ACTIONS WITH FOREIGN ENTITIES OF CON-**  
4 **CERN.**

5 (a) **IN GENERAL.**—Not later than 180 days after the  
6 date of the enactment of this Act, the Director of National  
7 Intelligence, in coordination with the Secretary of Home-  
8 land Security, the Secretary of Commerce, and the heads  
9 of any other Federal department or agencies determined  
10 relevant by the Director of National Intelligence, shall de-  
11 velop and make publicly available best practices for use  
12 by State and local officials with respect to engaging in  
13 a potential transaction with a foreign entity of concern.  
14 Such best practices shall including an identification of—

15 (1) common risks associated with engaging a  
16 foreign entity of concern with respect to such a po-  
17 tential transaction; and

18 (2) Federal resources available to assist such  
19 officials in determining the specific national security  
20 risks, if any, of such a potential transaction.

21 (b) **FOREIGN ENTITY OF CONCERN DEFINED.**—In  
22 this section, the term “foreign entity of concern” has the  
23 meaning given that term in section 9901 of the William  
24 M. (Mac) Thornberry National Defense Authorization Act  
25 for Fiscal Year 2021 (15 U.S.C. 4651).

