



Contract Changes regarding
Conveyances to Foreign Entities Law

A Forms Update

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Why are we here today?

Florida has a new law going into effect **Saturday, July 1st** which:

- Relates to sales of some properties to some foreign buyers.
- If violated, IMPOSES CIVIL AND CRIMINAL PENALTIES FOR NON-COMPLIANCE.
- Today's topic is being covered to promote compliance with a new law.
- Our session today will not exceed an hour. This means we may not have time for ?s.
- Even so, if you submit your ?s, we will do our best to provide additional information to you at a later date.
- Speaking of questions we will not answer all of your questions today. Not just because of time, but because things are still developing.
- Also as usual, we will share the slides with you next week.



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Let's get started!

- **Goal** - explain changes to Florida Realtors®/Florida Bar Residential Contract For Sale and Purchase (and other Florida Realtors® contract forms)
- This is going to be tricky...**why?**
 - The law which has prompted the changes is brand new.
 - The law is complicated (to the point of being convoluted) and very nuanced.
 - Because this law restricts conveyances of certain Florida properties to certain foreign principals, you, the real estate professional find yourselves in the danger zone of running afoul of fair housing laws...**why?**
 - Fair housing protects buyers from discrimination based upon national origin.
- There is **no searchable data** base to obtain information that will assist identify the properties covered by the law.
- Florida's **agencies have not yet developed forms nor the registration processes** called for by the law.
- We currently have **no court decisions** to guide us.
- This information is for your **own personal understanding**. **BE THE SOURCE OF THE SOURCE ONLY!**



Florida Realtors®/Florida BAR Residential Contract for Sale update

Revision details: Language added that informs buyers and sellers of the new law that regulates and prohibits some sales to some foreign buyers.

When: Saturday, July 1, 2023

Footer: Updated form number: ASIS-6x
Florida Realtors/Florida Bar 6x

*NOTE - No other changes to the contract.

Made for compliance purposes but the actual language is **not** required by statute to be included in the contract.

Identical form changes- July 1st

Other Florida Realtors® Contracts being revised:

- Contract for Residential Purchase and Sale (CRSP-16xx)
- Vacant Land Contract (VAC-14xx)
- Commercial Contract (CC-5x)



Why the revisions?

During its 2023 legislative session, Florida's lawmakers passed a new law: **Part III of Chapter 692, Florida Statutes**

Effective Date: July 1, 2023

The Florida Realtors®/Florida Bar contract revisions were authored by the statewide **Realtor®/Attorney Joint Committee**, approved by Florida Realtors® and the Real Property, Probate and Trust Law Section for The Florida Bar

Revisions are limited. New language was added to the forms:

Directly above the parties' signature (so all other content remains in the same order).

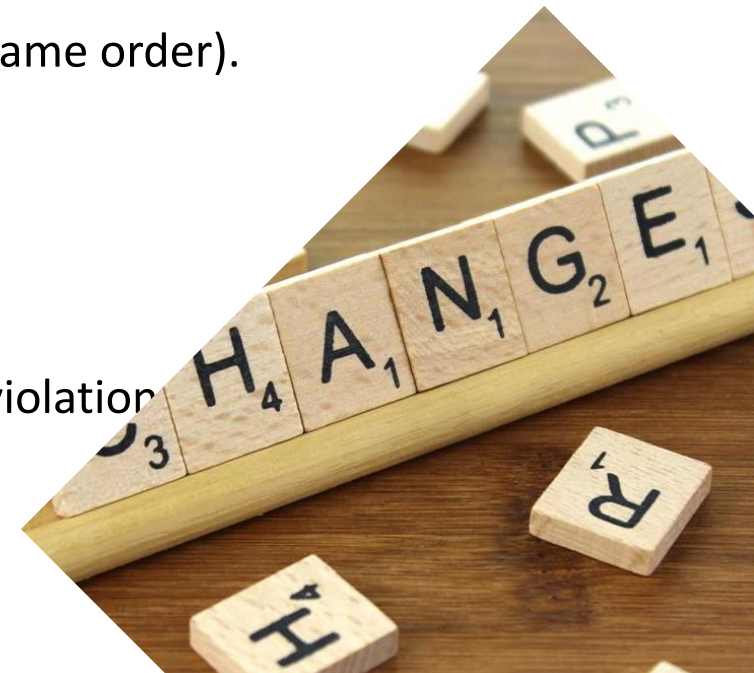
Informs the parties of the new law.

Specifies that buyer must provide an affidavit ***at time of purchase***, which complies with the law.

Includes cautionary advice – speak to counsel.

States that sellers who knowingly violate this law and buyers who buy in violation of the law commit a crime.

Revision does not come directly from the law but **promotes notice of the law**.



Contract Provision - driven by the new law

ATTENTION: SELLER AND BUYER

CONVEYANCES TO FOREIGN BUYERS: *Part III of Chapter 692, Sections 692.201 - 692.205, Florida Statutes, 2023 (the “Act”), in part, limits and regulates the sale, purchase and ownership of certain Florida properties by certain buyers who are associated with a “foreign country of concern”, namely: the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic. **It is a crime to buy or knowingly sell property in violation of the Act.***

At time of purchase, Buyer must provide a signed affidavit which complies with the requirements of the Act. *Seller and Buyer are advised seek legal counsel regarding their respective obligations and liabilities under the Act.*



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Because the revisions were driven by law changes

- Need to take a deeper dive into some of the law changes...*why?*
 - It will help you to understand the new contract language.
- Providing general info today, **just a snapshot of some of the current law changes.**
- **ADVISORY:** currently one lawsuit pending on this new law so the future is unclear. The DOJ has entered the debate.
- There could be fair housing implications, impairment of contract rights implications, civil rights implications among other allegations.
- **NO EDITORIALIZING!**
- To this end, NAR is assisting in the development of a strategy to understand this morass.
- 5 other states have related laws and 30 are considering something similar. Most deal with agricultural land only.



The Elements of Law:

- limits and regulates the sale, purchase, acquisition and ownership of certain Florida properties
- by certain buyers
- who are associated with a “foreign country of concern”
- namely: the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic.
- requires buyer, at time of purchase to provide an affidavit verifying buyer is in compliance with the law. (details to follow)
- Note - affidavit is to be established by FREC and adopted by rule (FREC has not begun this process)

Break it down

Law involves:

Certain buyers

Certain properties





Which buyers???

- Law applies to **foreign principals**:
- Includes **individuals** and **entities, governments, political parties,**
- **IF ASSOCIATED WITH** a foreign country of concern:

the People's Republic of China,
the Russian Federation,
the Islamic Republic of Iran,
the Democratic People's Republic of Korea,
the Republic of Cuba,
the Venezuelan regime of Nicolás Maduro, or
the Syrian Arab Republic

How can a foreign principal can be “**associated with**” foreign country of concern?

- Individual who **is domiciled in a foreign country of concern** and **who is not a U.S. citizen or lawful permanent resident** of the U.S. (domicile vs. national origin)
- any **person** or **collection of persons** having a **controlling interest** in a partnership, association, corporation, trust or any other legal entity **formed for the purpose of owning real property in Florida**
- A **member of a political party** or **any subdivision of a political party** associated with a **country of concern**
- An **official of the government of a foreign** county of concern
- Entities having a **principal place of business** or **subsidiary** in a county of concern including governments, political party, any subdivision of a political party associated with a country of concern

After 7/1, Foreign principals may acquire IF:

- **Diplomatic purpose** - if the real property is being purchased for diplomatic purposes as recognized, acknowledged, or allowed by the Federal government,
- If foreign principal has **de minimus indirect ownership interest**, if foreign principal's ownership in registered equities in a publicly traded company
 - (a) is less than 5 % of a class of SEC registered equities, or in the aggregate of multiple classes of registered equities **or**
 - (b) foreign principal's interest is a non-controlling interest in an entity controlled by a company that is both registered with SEC as investment adviser and is not a foreign entity.

*Other authorized acquisitions noted in later slides

Which properties?

Put the types
of properties
into 3 buckets,
per the
new law.



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Bucket #1:

Agricultural Land



Bucket #1: Agricultural property

What's covered?

- Foreign principals **cannot** directly or indirectly **purchase or acquire** interest in agricultural land after 7/1 (*exceptions on the following slide*)
- Applies to Florida property **classified by the property appraiser** as agricultural land
- If agricultural property is owned by foreign principal **before 7/1**:
 - owner can't acquire more, **and**
 - must register with Department of Agriculture and Consumer Services **by Jan 1, 2024**.

Penalties for violation:

- **Failure to register** subjects the foreign principal to a **civil penalty of \$1,000/day** if registration is late and a **lien may be placed against the property** for unpaid balance
- If ag land is **owned or acquired in violation** of this section, land **may be forfeited** to the state
- “A **foreign principal** who **acquires in violation** of this section” and “a **person** who **knowingly sells**” commits a **misdemeanor**



Foreign principal exceptions for ag property

What's exempt?

- If foreign principal has a **de minimus, indirect** interest *or*
- If foreign principal acquires ag property by **devise, security interest foreclosure or debt collection, after 7/1**, the property **must be transferred within 3 years** of acquiring.
- If foreign principal purchases or acquires for a diplomatic purpose

Penalties for violation:

- Ag land is owned or acquired in violation of this section **may be forfeited to the state.**
- *“A foreign principal who acquires in violation of this section” and “a person who knowingly sells”* commits a **misdemeanor.**



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Bucket #2:

Properties within 10 miles of a Military installation or a facility of critical infrastructure



2nd Bucket- Military Installation and Critical Infrastructure

What's Covered?

- Foreign Principals **cannot** own **directly or indirectly** or **acquire any interest** in properties located **within 10 miles** of **military installation**. (*exceptions stated in following slides*)
- A military installation means a base, camp, post station, yard or center of at least 10 contiguous acres that is under the Dept. of Defense, or affiliates.
- No list exists for this reason.
- If property owned by foreign principal **before 7/1**, owner **can't acquire more** (except by devise or debt collection and divest same within 3 years of acquisition) and must **register** with **Department of Economic Opportunity** by **Dec 31, 2023** (considered **late after 1/31/24**)

Penalties for violation:

- Failure to register subjects the foreign principal to a **civil penalty of \$1,000/day** registration is late and **a lien** may be placed against the property for unpaid balance.
- If land located **within 10 miles** of a military installation is owned or acquired in violation of this section, land may be **forfeited to the state**
- *"A foreign principal **who acquires in violation** of this section"* and *"**a person who knowingly sells**"* commits a **misdemeanor**.



Exceptions: Within 10 miles of military installation.

What's Exempt?

- Foreign principal has **de minimus, indirect** interest.
- Foreign principal purchases or acquires for a **diplomatic purpose**.
- Foreign principal acquires property by **devise or debt collection, after 7/1**. This exception requires the property be **transferred within 3 years** of acquiring; also foreign principal **must register with Department of Economic Opportunity within 30 days after property is acquired**.
- Foreign principal is a **person** (non-entity) who purchases **one residential property up to 2 acres** if **ALL** the following apply:
 - property **not on or within 5 miles of any military installation** in Florida,
 - the person has a **current US visa, not** limited to **tourist based** travel **and visa authorizes the person to be legally in Florida** , or person has documentation that person has been granted **asylum** in US **and**
 - the purchase is **in the name of the person who hold the visa or official documentation**. This exception **requires** the foreign principal must **register with Department of Economic Opportunity** within **30 days after property is acquired**.

Penalties for violation:

- Failure to register subjects the foreign principal to a civil penalty of **\$1,000/day registration** is late and a **lien may be placed** against the property for unpaid balance.
- If property is **owned or acquired in violation** of this section, property may be **forfeited to the state**.
- *“A foreign principal who **acquires in violation** of this section” and “a **person who knowingly sells**” commits a **misdemeanor**.*



2nd Bucket con't- Critical Infrastructure

What's Covered?

- Foreign principals **cannot own or acquire** any interest in properties located **within 10 miles** of any **critical infrastructure facility** if facility has **fences, barriers, or guard posts designed to exclude unauthorized persons**.
- What is a critical infrastructure facility?
- Chemical manufacturing facility, a refinery, an electrical power plant defined in 403.031, a water treatment facility or wastewater treatment plant, a liquid natural gas terminal, a telecommunications neutral switching office, a gas processing plant, including a plant used in the processing, treatment or fractionation of natural gas, as seaport as listing in s 311.09, a spaceport territory per s 331.303 , an airport per s. 333.01.
- There are **no existing, comprehensive list** of these facility.

Within 10 miles of critical infrastructure facility

What's Covered?

- if property owned by foreign principal **before 7/1**, owner **cannot acquire more**
- **EXCEPT** by **devise, foreclosure of security interest or debt collection** and **divest same within 3 years** of acquisition **AND** must **register with Department of Economic Opportunity by Dec 31, 2023** (considered **late after 1/31/24**).

Penalties for violation:

- **Failure to register** subjects the foreign principal to a **civil penalty of \$1,000/day** registration is late and a **lien may be placed** against the property for unpaid balance.
- If land located within 10 miles of a critical infrastructure is **owned or acquired in violation** of this section, land may be **forfeited to the state**
- *“A foreign principal who **acquires in violation** of this section” and “a **person who knowingly sells**” commits a **misdemeanor**.*
- NOTE - Dept. of Economic Opportunity is **becoming Department of Commerce 7/1**, and **no registration process yet** established.

Exceptions: w/in 10 miles of critical infrastructure

What's exempt?

- Foreign principal who acquires for a **diplomatic purpose** or has a **de minimus, indirect** interest *or*
- If foreign principal acquires property **by devise or debt collection, after 7/1**, the property must be **transferred within 3 years of acquiring** and foreign principal **must register** with Department of Economic Opportunity **within 30 days of acquisition**
- Foreign principal is a **person** (non-entity) who purchases **one residential property up to 2 acres** if **ALL** the following apply:
 - property **not on or within 5 miles** of any critical infrastructure in Florida,
 - the person has a **current US visa, not limited to tourist based** travel and visa **authorizes the person to be legally in Florida** , **OR** person has documentation that person has been granted **asylum** in US and
 - the purchase is in the **name of the person who holds the visa or official documentation**. This exception **requires** the foreign principal must **register with Department of Economic Opportunity within 30 days** after property is acquired

Penalties for violation:

- Failure to register subjects the foreign principal to a **civil penalty of \$1,000/day** registration is late and a **lien** may be placed against the property for unpaid balance
- If property is **owned or acquired in violation** of this section, property may be **forfeited to the state**.
- “A foreign principal **who acquires in violation** of this section” and “a **person who knowingly sells**” commits a **misdemeanor**.

Bucket #3:

People's Republic
of China



3RD BUCKET -People's Republic of China

What's Covered?

- Buyers “**associated with**” the **PRC**.
- Individuals **domiciled in the PRC** who are **not US citizens or lawful permanent residents**, an **official** or **member of PRC or Chinese Communist Party** (domiciled vs. national origin)
- Any **person** or **collection of persons** having a **controlling interest** in a partnership, association, corporation, trust or any other legal **entity formed for the purpose of owning real property in Florida “associated with”**
- **Entities** having a **principal place of business** or **subsidiary** in the PRC, **political party**, any **subdivision of a political party “associated with”** the PRC
- The actual **PRC**, the **Chinese Communist Party**
- **Are prohibited from purchasing or acquiring ALL** properties, (exceptions on following slides)
- if property **owned** by foreign principal **before 7/1**, owner **cannot acquire more** (except by **devise, debt collection, and must transfer** the property **within 3 years of acquisition**) and must **register with Department of Economic Opportunity** by **Dec 31, 2023** (considered late after **1/31/24**)

Penalties for violation:

- **Failure to register** subjects the foreign principal to a **civil penalty of \$1,000/day** registration is late and a **lien** may be placed against the property for unpaid balance
- If property located within **5 miles of a military installation** is owned or acquired in **violation** of this section, property may be **forfeited to the state**.
- “A foreign principal **who acquires in violation** of this section” and “a **person who knowingly sells**” commits a **misdemeanor**.

Exceptions to PRC restrictions

What's exempt?

- Foreign principal has **de minimus, indirect** interest.
- Foreign principal purchases or acquires for a **diplomatic** purpose.
- Foreign principal acquires property by **devise or debt collection, after 7/1**. This exception requires the **property be transferred within 3 years of acquiring**; also foreign principal **must register with Department of Economic Opportunity** within **30 days after property is acquired**. **Registration** applies to a PRC buyer who **owns** property in Florida **before 7/1**
- Foreign principal is a **person** (non-entity) who purchases **one residential property up to 2 acres** if **ALL** the following apply:
 - property **not on or within 5 miles of any military installation** in Florida,
 - the person has a **current US visa**, **not** limited to **tourist based** travel and visa **authorizes the person to be legally in Florida** , **or** person has documentation that person has been granted **asylum** in US **and**
 - the purchase is in **the name of the person who hold the visa** or official documentation. . This exception requires the foreign principal **must register with Department of Economic Opportunity within 30 days** after property is acquired

Penalties for violation:

- Failure to register subjects the foreign principal to a **civil penalty of \$1,000/day registration** is late and a **lien** may be placed against the property for unpaid balance.
- If land is **owned or acquired** in violation of this section, land may be **forfeited** to the state.
- A violation of this section of the law constitutes **a felony** and “**a person who knowingly sells**” in violation of this section commits a **misdemeanor**.



What about real estate professionals?

- There is no mention in the law of the real estate professional specifically.
- FREC is mentioned. It is required to create rules, including establishing the affidavit buyers must provide at time of purchase.
 - We will keep you advised.
- Note - statute does provide:
 - The failure to obtain or maintain the affidavit does not affect the title or insurability of the title or
 - Subject the closing agent to civil or criminal liability unless the closing agent has actual knowledge that the transaction will violate the law.
- “A **person** who knowingly sells”. **Person** is not defined.

contract revisions

Format-FR/BAR and all other contract changes:

- Info is contained in new, subparagraph, located last page directly above parties signatures,
- Purposefully designed to attract parties' attention- framed by a box
- The AS IS Residential Contract and the CRSP contract expanded by an additional page because of new language
- There are no blanks to fill in or boxes to check. It is text which the parties should read.
- Language of revision not mandated by statute, but added for parties compliance

Revision summary:

statement that Florida's law regulates and limits purchases by buyers associated with a foreign country of concern which are listed

Includes reference that a violation of the law by buyer and knowing violation by seller is a crime

specifies that buyer must provide an affidavit at time of purchase that complies with the law

Note: Parties are directed to counsel for legal advice and that a knowing violation of the law by seller and a violation of the law by buyers are crimes.

Idea is to make the parties aware of the law and then to get them to counsel for a legal analysis as to their responsibilities



Now, back to
the revision...



614 **THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR.**

615 *Approval of this form by the Florida Realtors and The Florida Bar does not constitute an opinion that any of the*
616 *terms and conditions in this Contract should be accepted by the parties in a particular transaction. Terms and*
617 *conditions should be negotiated based upon the respective interests, objectives and bargaining positions of all*
618 *interested persons.*

619 AN ASTERISK (*) FOLLOWING A LINE NUMBER IN THE MARGIN INDICATES THE LINE CONTAINS A BLANK
620 TO BE COMPLETED.

621 **ATTENTION: SELLER AND BUYER**

622 **CONVEYANCES TO FOREIGN BUYERS:** Part III of Chapter 692, Sections 692.201 - 692.205, Florida Statutes,
623 2023 (the "Act"), in part, limits and regulates the sale, purchase and ownership of certain Florida properties by
624 certain buyers who are associated with a "foreign country of concern", namely: the People's Republic of China, the
625 Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of
626 Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic. **It is a crime to buy or knowingly**
627 **sell property in violation of the Act.**

628 **At time of purchase, Buyer must provide a signed Affidavit which complies with the requirements of the**
629 **Act. Seller and Buyer are advised to seek legal counsel regarding their respective obligations and liabilities under**
630 **the Act.**

631* Buyer: _____ Date: _____

632* Buyer: _____ Date: _____

633* Seller: _____ Date: _____

634* Seller: _____ Date: _____

635 Buyer's address for purposes of notice Seller's address for purposes of notice

636* _____

637* _____

638* _____

639 **BROKER:** Listing and Cooperating Brokers, if any, named below (collectively, "Broker"), are the only Brokers
640 entitled to compensation in connection with this Contract. Instruction to Closing Agent: Seller and Buyer direct
641 Closing Agent to disburse at Closing the full amount of the brokerage fees as specified in separate brokerage
642 agreements with the parties and cooperative agreements between the Brokers, except to the extent Broker has
643 retained such fees from the escrowed funds. This Contract shall not modify any MLS or other offer of compensation
644 made by Seller or Listing Broker to Cooperating Brokers.



Affidavit

- Note – Revision includes that buyer must sign an affidavit *at time of purchase*, under penalty of perjury.
- **STAY IN YOUR LANE!**
- It will include that buyer is not a foreign principal described in the law, or
- if buyer is a foreign principal, that buyer is authorized to purchase pursuant to the law.
- Additionally, buyer is to state that buyer is in compliance with the requirements of the new law.
- FREC is to adopt rules including rules establishing the form for the affidavit but it has not yet done so.
- It is anticipated that all buyers will be providing this affidavit after July 1 but this is not a certainty.

Until FREC establishes an affidavit

- Title agents will decide what affidavit the buyer must sign until the time that FREC establishes the form
- Most likely it will be a form which tracks the statute
- Form may have been suggested for use by the title insurance underwriter, or created by the title agent if an attorney, or one that is being posted on the website of The Florida Land Title Association's (FLTA).
- The documents will be housed on FLTA's website:
- There are 2 affidavits:
 - one is for an individual buyer, the other for an entity.
 - Each conforms to the information on the previous slide which tracks the statute.
 - Each has a notice which serves as a cover sheet with details generally outlining the law, to assist the buyer understand the nature and content of the affidavit.
 - The notices are identical, the affidavits differ only because one is for an individual and one is for an entity).

What have
we
covered?

Forms Update:

- Revised sale contract language- informs buyer and seller at the time they are entering into a contract of the new law
- Addendum to contract- informs buyer and seller after they have already entered into new contract of the new law
- Affidavit buyer must provide at time of purchase

Law Update:

- Reviewed some of the highlights of the new law to give you a general understanding about Conveyances to Foreign Entities

What are some of the challenges?

- Complying with Florida's Conveyances to Foreign Entities law puts you in a zone of risk for violating fair housing laws
- Determining location military installations or a facility of critical concern is **NOT** readily apparent with regard to Florida properties
- Buyers will be unable to provide at time of purchase an affidavit established by FREC, that verifies that buyer is in compliance with the new law, as it has not been created
- Foreign Principal registration processes are not yet in place and there are no structures for the late fees components, like how they can be paid and who will release the liens
- Terms of the law are unclear or undefined such as what is meant by individuals domiciled in a foreign country of concern? What is at time of purchase?
- Violations of the law are crimes; properties conveyed in violation of the law are subject to forfeiture
- Still waiting for FREC rules to be created, so can't inform you yet of that content and possibility responsibilities
- This is a new law that covers legally driven topics such as Visas, diplomatic status, fair housing, de minimus ownership, foreign investments, and others, and expert knowledge is needed.
REMEMBER – SOURCE OF THE SOURCE! NOT THE SOURCE.

How to balance compliance with new law and fair housing?

For now, here is some advice:

Treat every buyer the same.

Continue as usual to work with all buyers, and do not avoid foreign principals because it is complicated

Ensure that it is neither your intent nor motive to discriminate against buyers based upon any protected classes. Do not ask buyers questions about their national origin.

State that it is not your **intent** nor motive to discriminate if you find yourself discussing the new state law with a consumer. Document how the conversation came up and the content of the conversation. **But remember disparate impact!**

Make sure that you also state that the discussion was for purposes of compliance with the new law and document your file that this was part of the conversation.

Do not attempt to explain the law nor give legal advice. Discussing the applicability of the law could lead to fair housing concerns.

Refrain from calculating and representing how far a property is from either a military installation or critical infrastructure, unless you are certain beyond doubt of the information. It could become the basis of a claim against you.

Be careful about statements made in the multiple listing service and other vehicle to promote property.

Let the title agent provide the affidavit to buyer. Suggest that buyer obtain the affidavit as soon as the title agent is identified, so buyer can obtain legal advice if buyer has questions.

Expect to be contacted by testers. Florida is ripe for this type of civil litigation.

So what do you do if buyer says buyer is associated with a country of concern?

- Same thing, send them to legal counsel... **Why?**
 - You are not in the position to provide advice on the law.
 - **Maybe** the buyer **is or is not** a foreign principal?
 - **Maybe** the property **is or is not** one of the covered properties.
 - **Maybe** the law authorizes that purchase, even if the buyer is a foreign principal and the property is covered.
- Ultimately, buyer is at risk if they don't meet the requirements of law. As we said, buyer could face civil action for forfeiture of the property, and would be committing a crime.
- The seller too who knowingly sells to a buyer that can not truthfully sign the affidavit commits a crime.



Some of the ??? heard on the hotline

- Is there is a complete ban on those associated with a foreign country of concern?

No. This law is nuanced.

- How to determine whether a buyer has a de minimus ownership interest?

Although we included a slide with basic parameters, send buyer to an attorney to make the determination.

- Where to direct current foreign principals who own covered property to register?

No registrations are currently up and running yet.

Some of the ??? heard on the hotline

- What if buyer was in compliance with the law at time of purchase, but their visa expires after closing?

Law does not address the scenario, so we are unsure. Some critical timing issues are not answered.

- What discussions should we have with sellers about this new law?

Same discussions that you have with buyers. Make them aware of the existence of this law.

- *If seller wants to market the property being within 5 miles of a military installation, consider that if this is inaccurate, it may appear as if seller was attempting to discourage foreign principals from purchasing the property. **Guard against the appearance of PRETEXT***
- *Phrases like “close proximity to” airports, military bases, etc. are a **calculated risk**.*
- *Any marketing focused on proximity that reduces the foreign principal buyer pool can become the basis for a lawsuit. Best that buyer and seller to make these calculations and representations. **SOURCE OF THE SOURCE!***

Some of the ??? heard on the hotline

- Will buyers deposit be forfeited if buyer is unable or unwilling to sign the affidavit at closing?

Like most deposit questions this is a factually driven determination.

- If I know the buyer buys in violation of the law, what responsibilities do I have if I was an agent in the transaction?

There could be liability. Handle like any situation where parties are intentionally proceeding in violation of the law.



Future plans:

- Keep you informed as to when FREC begins work on the affidavit and content of the rules established.
- Keep you informed when agencies establish registration processes.
- Keep you informed if the forms committee determines new forms or revisions to existing forms are needed to assist with compliance with law.
- Keep you informed of court rulings, agency orders or attorney general opinions on this subject.
- In other words- STAY TUNED. This topic will be evolving.



Resources

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THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR.

Approval of this form by the Florida Realtors and The Florida Bar does not constitute an opinion that any of the terms and conditions in this Contract should be accepted by the parties in a particular transaction. Terms and conditions should be negotiated based upon the respective interests, objectives and bargaining positions of all interested persons.

AN ASTERISK (*) FOLLOWING A LINE NUMBER IN THE MARGIN INDICATES THE LINE CONTAINS A BLANK TO BE COMPLETED.

ATTENTION: SELLER AND BUYER

CONVEYANCES TO FOREIGN BUYERS: Part III of Chapter 692, Sections 692.201 - 692.205, Florida Statutes, 2023 (the "Act"), in part, limits and regulates the sale, purchase and ownership of certain Florida properties by certain buyers who are associated with a "foreign country of concern", namely: the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic. **It is a crime to buy or knowingly sell property in violation of the Act.**

At time of purchase, Buyer must provide a signed Affidavit which complies with the requirements of the Act. Seller and Buyer are advised to seek legal counsel regarding their respective obligations and liabilities under the Act.

Buyer: _____ Date: _____
Buyer: _____ Date: _____
Seller: _____ Date: _____
Seller: _____ Date: _____

Buyer's address for purposes of notice Seller's address for purposes of notice

BROKER: Listing and Cooperating Brokers, if any, named below (collectively, "Broker"), are the only Brokers entitled to compensation in connection with this Contract. Instruction to Closing Agent: Seller and Buyer direct Closing Agent to disburse at Closing the full amount of the brokerage fees as specified in separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the extent Broker has retained such fees from the escrowed funds. This Contract shall not modify any MLS or other offer of compensation made by Seller or Listing Broker to Cooperating Brokers.



MEMORANDUM

SB 264 - Interests of Foreign Countries

SCAN FOR FULL BILL



Florida Governor Ron DeSantis signed [Senate Bill 264](#), Interests of Foreign Countries, effective July 1, 2023. The law, in part, limits and regulates the sale, purchase and ownership of certain properties in Florida by foreign principals, persons and entities described in Part III of Chapter 692, Florida Statutes.

The three sections of the bill that impact the real estate industry are summarized below. The Florida Real Estate Commission (FREC), Department of Agriculture and Consumer Services (DACS), and the Department of Economic Opportunity (DEO) are required to implement specific portions of the bill, so a number of details regarding the law's application are still pending. Florida Realtors® will engage in the implementation process.

This summary is a broad overview of a new and very technical law. Realtors® should advise the parties to real estate transactions to consult an attorney regarding how the law may impact their legal rights and responsibilities. Definitions of bolded and italicized words are provided on the second page. The prohibition against acquisition of real property in these sections does not apply to a purchase for a diplomatic purpose.

Section 5: Purchase of Agricultural Land by Foreign Principals

The bill prohibits the purchase of *agricultural land* by *foreign principals*.

- At time of purchase, buyers of agricultural land must provide a signed affidavit attesting that they are not a foreign principal.
- Persons who acquire or knowingly sell agricultural land in violation of this section commit a misdemeanor.
- FREC is required to adopt rules to implement portions of the statute and develop the affidavit.
- Foreign principals may continue to own agricultural land if owned before July 1, 2023, but must register with DACS.
- Foreign principals may acquire agricultural land on or after July 1, 2023 by devise or descent, through the enforcement of security interests, or through the collection of debts, but must sell within 3 years after acquisition.
- Land acquired in violation of this statute may be forfeited to the state.

Section 6: Purchase of Real Property On or Around Military Installations and Critical Infrastructure

The bill prohibits the purchase of **real property** within 10 miles of any **military installation** or **critical infrastructure facility** in Florida by foreign principals.

- At time of purchase, buyers of property within 10 miles of a military installation or critical infrastructure facility must provide a signed affidavit attesting that they are not a foreign principal.
- Persons who acquire or knowingly sell real property in violation of this section commit a misdemeanor.
- FREC is required to adopt rules to implement portions of the statute and develop the affidavit.
- Foreign principals may continue to own real property within 10 miles of any military installation or critical infrastructure if owned before July 1, 2023, but must register with DEO by December 31, 2023.
- There is an exception for foreign principals, who are natural persons, to purchase one residential property up to 2 acres in size if:
 - The property is not located within 5 miles of any military installation;
 - The person has a U.S. Visa that is not limited to tourism, or has official documentation confirming that the person has been granted asylum in the U.S.; and
 - The purchase is in the name of the person who holds a visa or official documentation.
- Foreign principals may acquire real property within 10 miles of any military installation or critical infrastructure facility in the state on or after July 1, 2023 by devise or decent, through the enforcement of security interests, or through the collection of debts, but must sell within 3 years of acquisition.
- Land acquired in violation of this statute may be forfeited to the state.

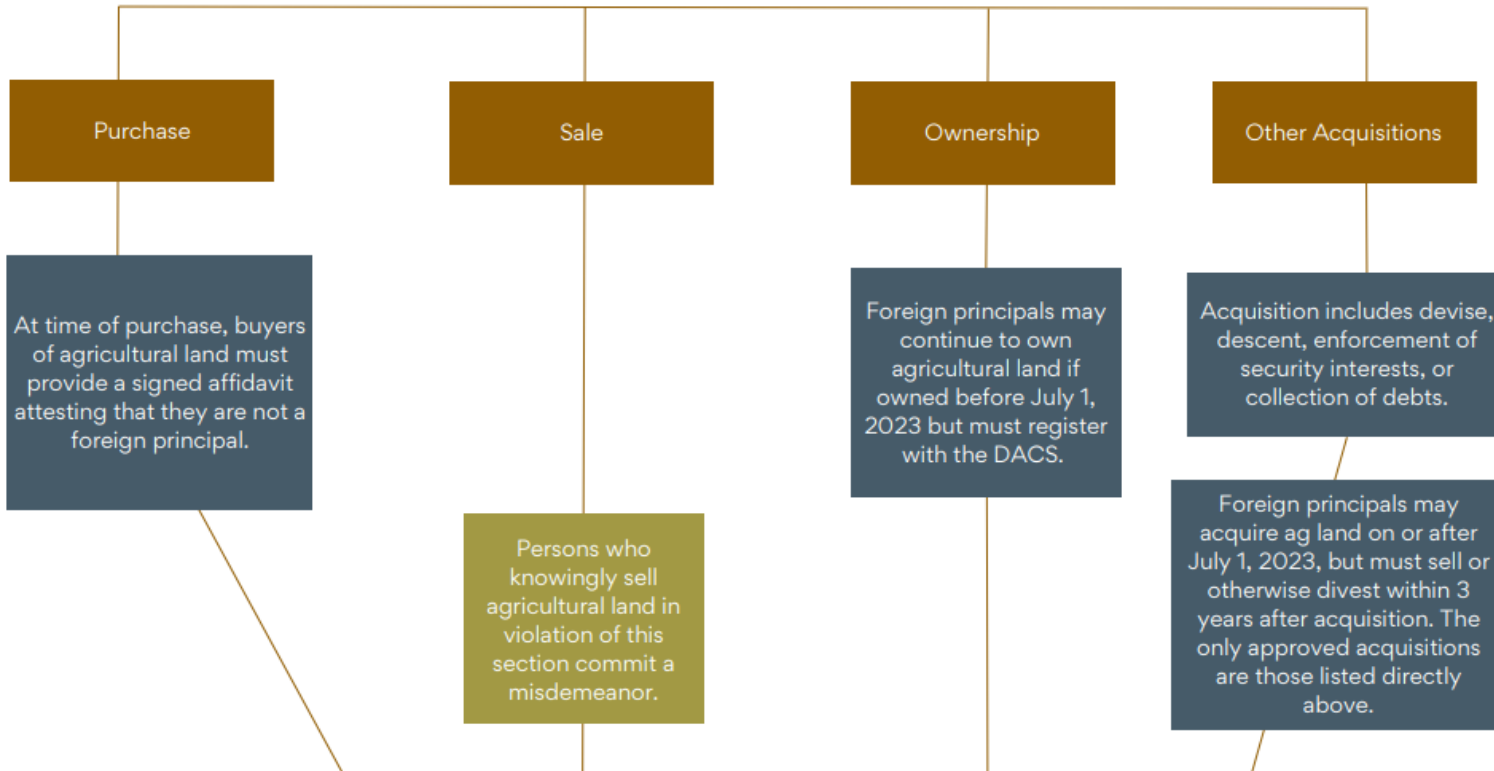
Section 7: Purchase and Acquisition of Real Property by the People's Republic of China (PRC)

The bill prohibits certain PRC persons or entities from owning or acquiring real property in the state.

- At time of purchase, buyers of real property must provide a signed affidavit attesting they are not **"persons or entities associated with the PRC"**.
- FREC is required to adopt rules to implement portions of the statute and develop the affidavit.
- Persons who knowingly sell real property in violation of this section commit a misdemeanor. Any other violation of this section is a felony.
- There is an exception for natural persons associated with the PRC to purchase one residential property up to 2 acres in size if:
 - The property is not located within 5 miles of a military installation;
 - The person has a U.S. Visa that is not limited to tourism, or official documentation confirming that the person has been granted asylum in the U.S.; and
 - The purchase is in the name of the person who holds the visa or official documentation.
- Persons or entities associated with the PRC that own property in Florida before July 1, 2023 may continue to own such property but cannot purchase or inherit additional property and must register with DEO by December 31, 2023.
- Persons or entities associated with the PRC may acquire property in Florida on or after July 1, 2023 by devise or descent, through the enforcement of security interests, or through the collection of debts, but must sell within 3 years of acquisition.
- Property owned or acquired in violation of the new statute may be forfeited to the state.

SB 264

Purchase, Sale, Ownership, and Acquisition of Agricultural Land

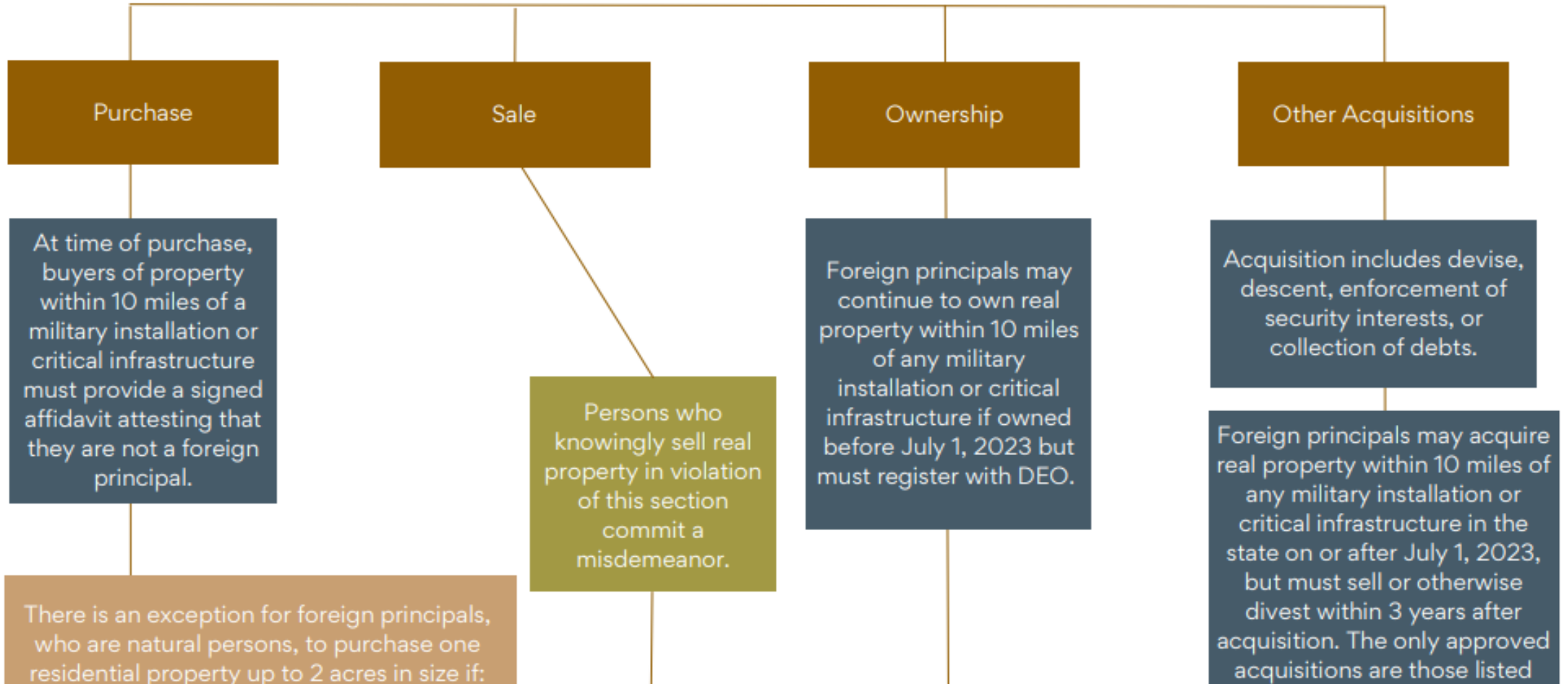


- Persons who violate this statute commit a misdemeanor. Property purchased or acquired in violation of this statute may be forfeited to the state.
- FREC and DACS are required to adopt rules and FREC will develop the affidavit.
- This prohibition does not apply to the purchase of property for a diplomatic purpose.
- ⚠ Due to the complexity of this new law, we recommend that Realtors® advise buyers and sellers to consult an attorney regarding how the law may impact their legal rights and responsibilities.

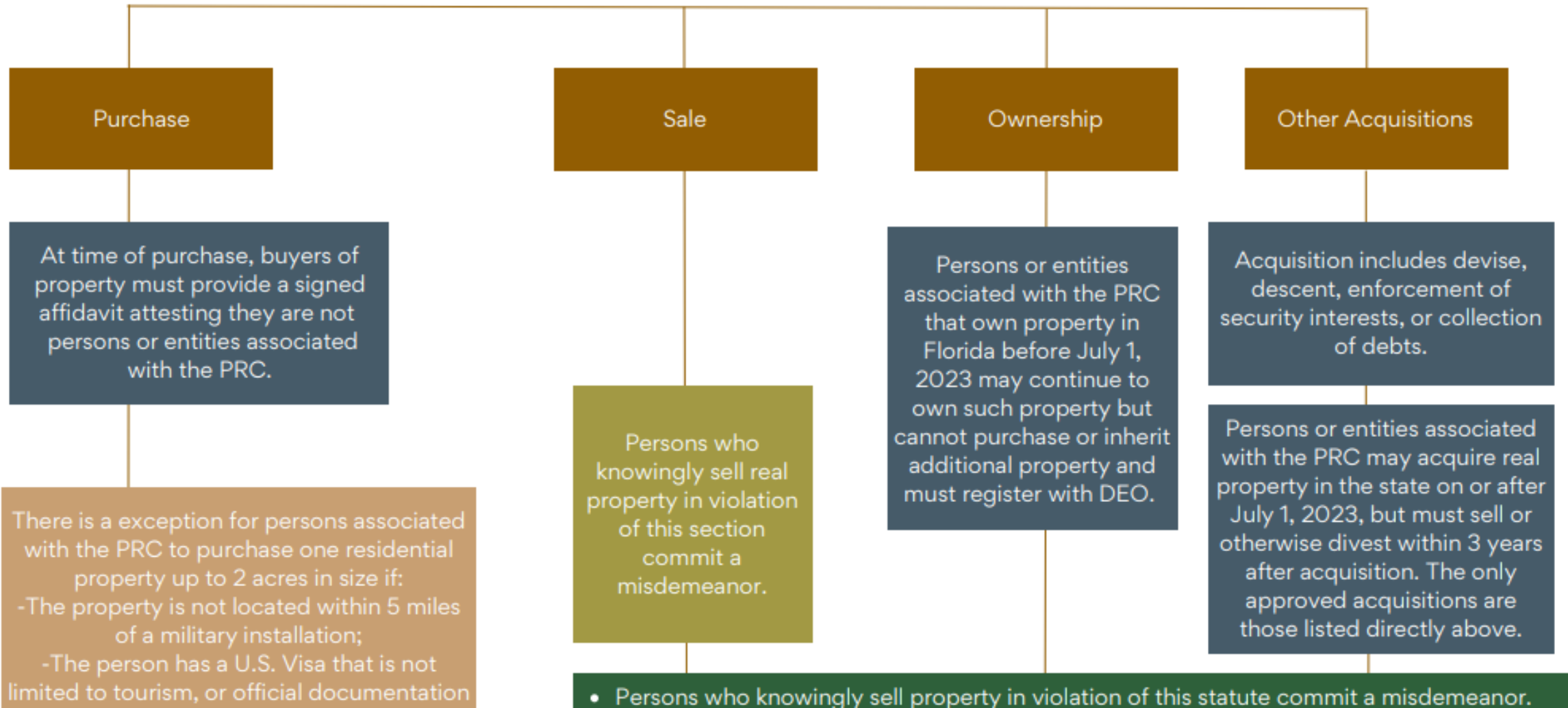


SB 264

Purchase, Sale, Ownership, and Acquisition of Real Property Near Military Installations and Critical Infrastructure



Purchase, Sale, Ownership, and Acquisition of Real Property by People's Republic of China (PRC)



Thanks for attending.



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- Know this is complicated but in sum:
 - You will proceed largely as usual.
 - Although to a certain extent recognize that purchasing and selling real estate in Florida has gotten a bit more complicated and that the potential buyer pool has been reduced by the new law.
- As always, call with questions.
- (407) 438-1409 – FR Legal Hotline
- Marcia and Juana