

Facts Report to Against SB147, SB552, SB711, and HB2788

During the hearing about SB147 and SB711 on March 2nd, the statements made by Senator Lois Kolkhorst on SB147 and by Senator Perry on SB711 are extremely concerning to us. These statements and the motives behind these and other bills are not premised on factual data, but appear to come from partial and distorted news report and media, political opinions, and comments that tend to inflame and exaggerate the effects of foreign land purchases by Chinese investors and immigrants.

To address Sen Kolkhorst's and Sen Perry's remarks, we compiled a report based on the official published data from USDA and established sources such as the National Association of Realtors. It is our hope that this report and the accompanying data can help you understand the actual situation on land purchases and ownership in Texas.

Below is a summary of the findings:

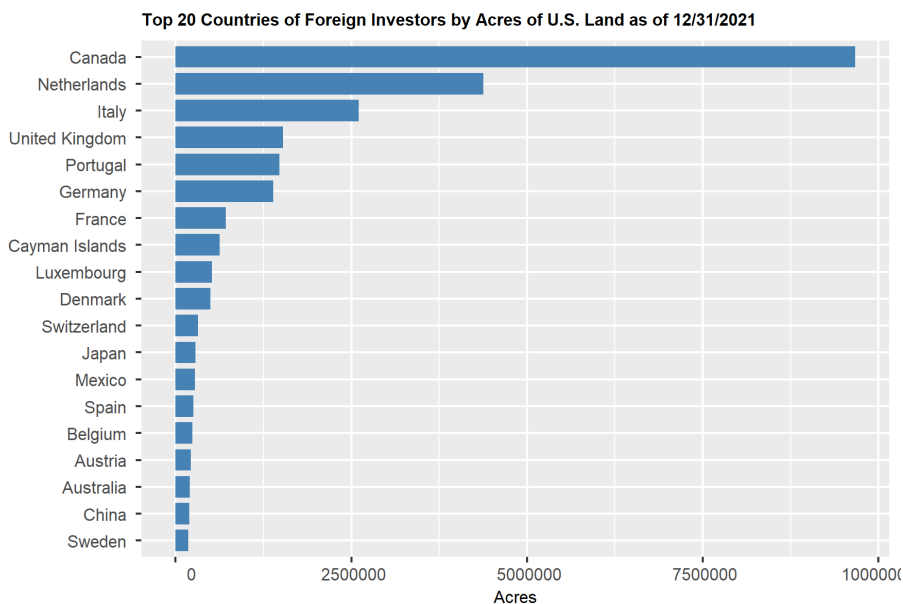
- **Part 1:** Chinese investors take up less than 1% of farmland owned by all foreign investors in the US, and only 2% of Chinese overseas agricultural investment is in North America.
- **Part 2:** The number of homes purchased by Chinese buyers in the US only take up 6% of all foreign buyer purchases, and Texas is NOT in the Top 10 Investment Destinations for Chinese buyers.
- **Part 3:** California's SB 224 and SB1084 only prohibit "foreign governments" from purchasing land, rather than individuals and privately-owned companies from four specific countries.
- **Part 4:** No state bills single out certain countries' individuals or business entities to exclude them from purchasing land.
- **Part 5:** Canadian law does not single out any individuals based on national origin, and only limits the purchase of residential properties. Many foreigners, such as workers and international students, are exempt from the law.
- **Part 6:** The existing CFIUS, FIRRMA Laws, and Lone Star Infrastructure Protection Act protect our state security effectively.

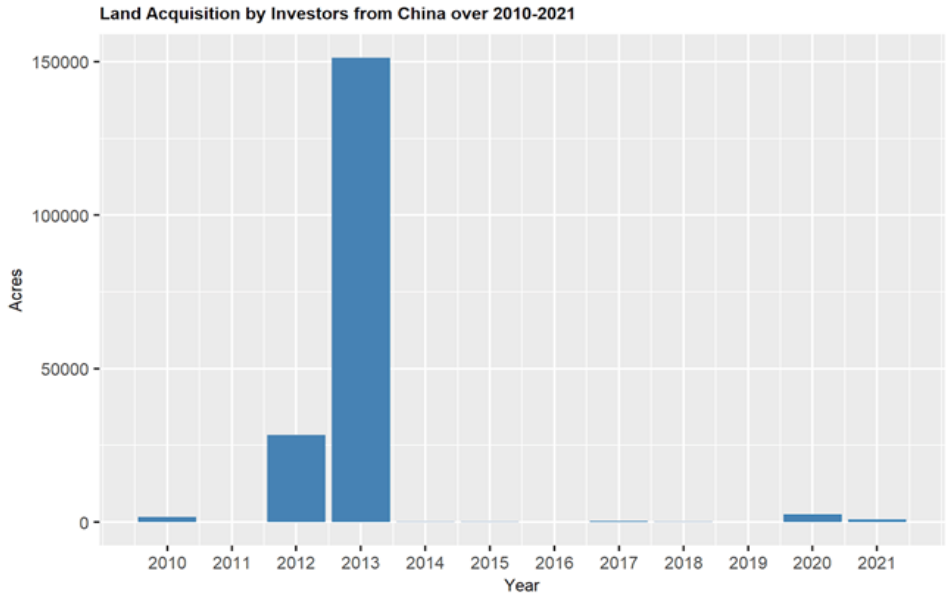
Part 1: Chinese investors' ownership of agricultural land in the United States

1. Chinese investors take <1% of farmland owned by foreign investors in the US

According to the Foreign Holdings of U.S. Agricultural Land Report by USDA in 2021, more than 35 million acres of farmland in the U.S. are owned by foreign investors. Chinese investors own and control nearly 0.384 million acres of US Agricultural and Non Agricultural land, which is slightly less than 1 percent of foreign-held acres. By way of comparison – the entire United States of America is 2.43 billion acres in size.

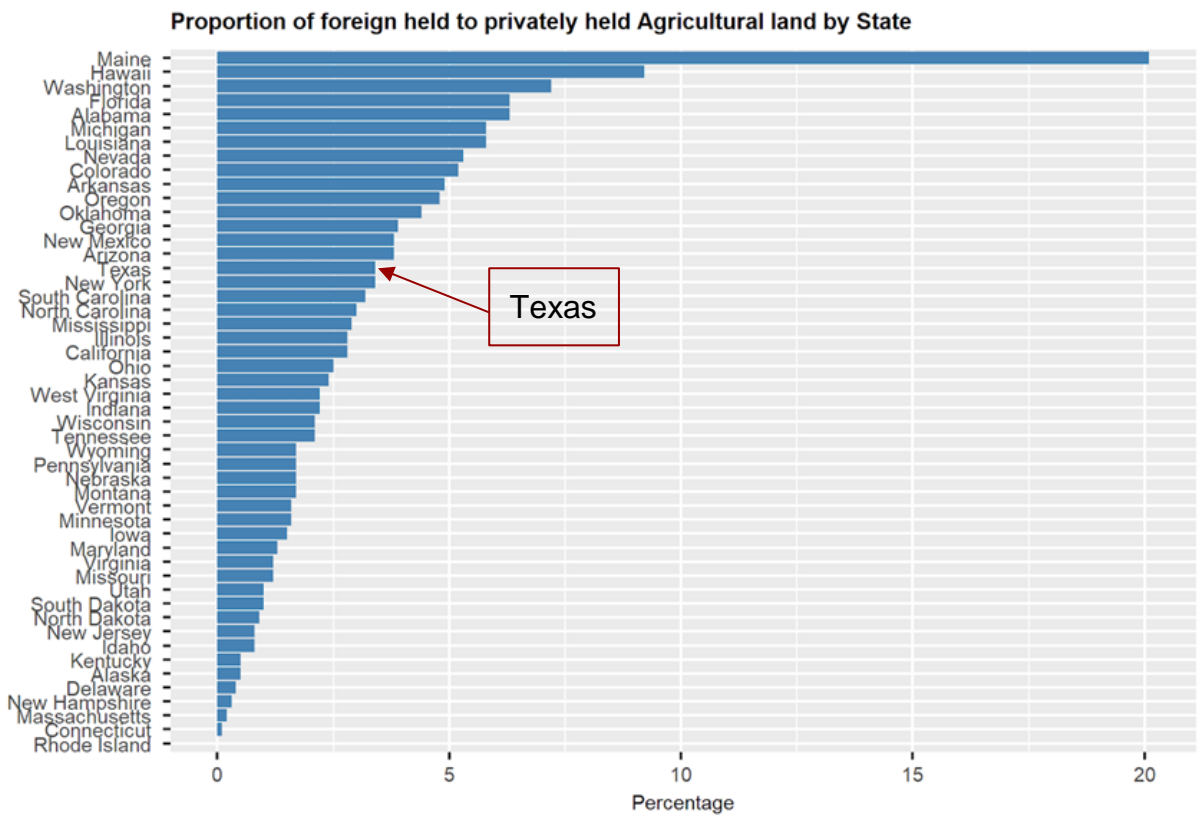
Of the 109 countries that own U.S. agricultural land, China ranks No. 18, far behind No. 1 Canada (12.8 million acres). And there is no trend to indicate or suggest that there is an increase of land acquisition by investors from China in the past five years.





2. Chinese investors own a very small percentage of agricultural land in Texas.

Foreign holdings of Texas land, in total, account for 3.4% of all private agricultural land in Texas.



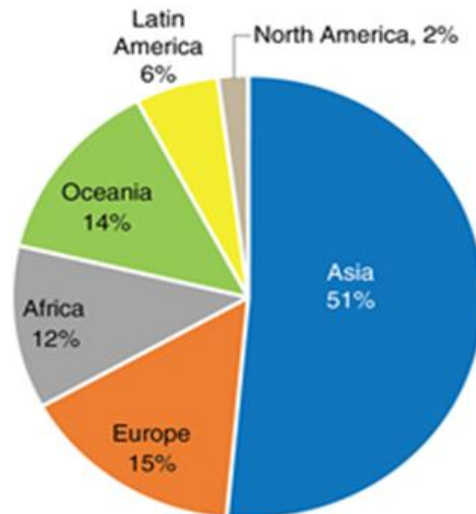
In Texas, Canadian investors still own the largest amount of reported foreign-held agricultural and non-agricultural land, at 30%, or 1.6 million acres. On the other hand, due to the very limited and low volume of ownership, the amount of Chinese ownership is not even reported in 2021 (see below).

Report 1B U.S. Agricultural and NonAgricultural Landholdings (Acres) by Country of Foreign Investor							
By State as of December 31, 2021							
State Name	Canada	Netherlands	Italy	United Kingdom	Germany	All Others	Totals
Oregon	416,078	41,883	7,000	78,843	5,155	667,371	1,216,329
Pennsylvania	128,649	11,613	1,338	50,382	14,688	147,155	353,824
Puerto Rico	49	0	0	0	2,322	724	3,095
Rhode Island	0	0	0	0	0	17	17
South Carolina	23,564	259,127	5,723	6,846	80,601	141,293	517,154
South Dakota	123,931	4,300	2,116	88,843	27,551	136,108	382,849
Tennessee	15,145	174,961	1,569	62,256	9,034	194,477	457,441
Texas	1,617,634	392,101	216,749	173,774	332,679	2,656,706	5,389,643
Utah	9,921	20,301	13,457	32,844	305	48,407	125,235
Vermont	34,529	4,188	68	14,991	3,233	28,461	85,470
Virginia	41,357	22,957	2,650	39,266	26,689	126,574	259,493
Washington	754,217	157,253	10,013	226,208	46,546	399,323	1,593,559
West Virginia	56,011	24,824	4,067	8,929	9,593	189,464	292,888
Wisconsin	84,897	5,444	2,943	16,392	11,653	429,983	551,313
Wyoming	105,258	9,374	8,230	87,192	44,902	176,618	431,574
Grand Totals:	12,845,210	4,875,034	2,703,340	2,537,898	2,269,292	15,612,297	40,843,070

3. Only 2% of Chinese overseas agricultural investment is in North America

Senator Lois W. Kolkhorst stated that China's agricultural investment abroad grew more than tenfold between 2009 and 2016. This number came from USDA research (See Reference 2). In the same article, it shows half of China's overseas agricultural investment went to Asia in 2014, but only 2% targeted North America (Reference 2).

Half of China's overseas agricultural investment went to Asia in 2014, but only 2 percent targeted North America



Source: USDA, Economic Research Service analysis of data from China National Bureau of Statistics.

Reference:

1. Foreign Holdings of U.S. Agricultural Land Report by USDA (2021):

https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdfiles/EPAS/PDF/2021_afida_annual_report_through_12_31_2021.pdf

2. China's Agricultural Investment Abroad Is Rising:

<https://www.ers.usda.gov/amber-waves/2018/april/china-s-agricultural-investment-abroad-is-rising/>

Part 2: The number of homes owned by Chinese buyers only amount to 6% of foreign buyer purchases

Based on the 2022 International Transactions in U.S. Residential Real Estate report released by the National Association of Realtors, there are fewer Chinese buyers purchasing existing homes in the US year over year.

National Level:

1. The share of foreign buyers decreased by dollar volume and units;

Foreign buyers made up a smaller share of the U.S. existing home sales market from 2021 to 2022. The share of foreign buyer purchases to existing-home sales decreased to 1.6% (1.8% in the prior period) while the dollar volume of foreign buyer purchases to the total existing-home sales volume decreased to 2.6% (2.8% in the prior period).

Dollar Volume and Number of Foreign Buyer Purchases of Existing-home Sales								
Survey Year	Dollar Volume			Number of Homes Purchased			As a Percent of Sales	
	All Foreign Buyers	Non-resident foreign buyer purchases (Type A)	Resident foreign buyer purchases (Type B)	All Foreign Buyers	Non-resident foreign buyer purchases (Type A)	Resident foreign buyer purchases (Type B)	Dollar Volume	Units
2020	\$74.0	\$33.0	\$41.0	154,000	59,576	94,386	4.4%	2.8%
2021	\$54.4	\$22.0	\$32.4	107,000	44,600	62,400	2.8%	1.8%
2022	\$59.0	\$24.9	\$34.1	98,600	42,000	56,600	2.6%	1.6%

Reference period is April of the preceeding year to March of the current year

2. Based on the number of homes purchased, China slid to the third place as the country of origin with a 6% share;

Measured by the number of homes purchased, Canadians remained the top foreign buyers during April 2021-March 2022, accounting for 11% of the number of foreign buyer home purchases (8% in the prior period).

China, which slid to third place in 2021 retained its position as the third largest foreign buyer, with a 6% share; while India is in the fourth place with a 5% share.

	Percent Share of Top 10 Countries of Origin to Foreign Buyer Purchases									
	Canada	Mexico	China*	India	Brazil	Colombia	Germany	United Kingdom	France	Japan
2019	11%	9%	11%	5%	2%	1%	2%	3%	2%	1%
2020	12%	9%	12%	6%	3%	4%	2%	2%	2%	2%
2021	8%	7%	6%	4%	1%	2%	1%	4%	1%	2%
2022	11%	8%	6%	5%	3%	3%	2%	2%	2%	1%

3. Even the share of potential Chinese clients decreased

Percent Share of Responses on Countries U.S. Clients Searched for Property Abroad decreased from 8% to 3%;

Percent Share of Responses on Countries U.S. Clients Searched for Property Abroad										
	Mexico	Costa Rica	China**	Spain	Colombia	Dominican Republic	Canada	Portugal	Germany	France
2015	14%	12%	8%	4%	3%	2%	6%	1%	3%	3%
2016	13%	4%	4%	3%	4%	2%	3%	1%	1%	2%
2017	12%	7%	4%	3%	1%	1%	2%	1%	*	2%
2018	10%	3%	3%	1%	*	1%	3%	1%	1%	3%
2019	9%	3%	3%	1%	1%	0%	3%	1%	1%	1%
2020	6%	3%	3%	2%	2%	2%	4%	*	1%	2%
2021	7%	3%	4%	2%	1%	2%	5%	1%	*	1%
2022	11%	3%	3%	3%	3%	3%	3%	2%	2%	2%

* less than 1%

**China includes buyers from the People's Republic of China, Hong Kong, and Taiwan.

Top 10 list is based on the most recent year.



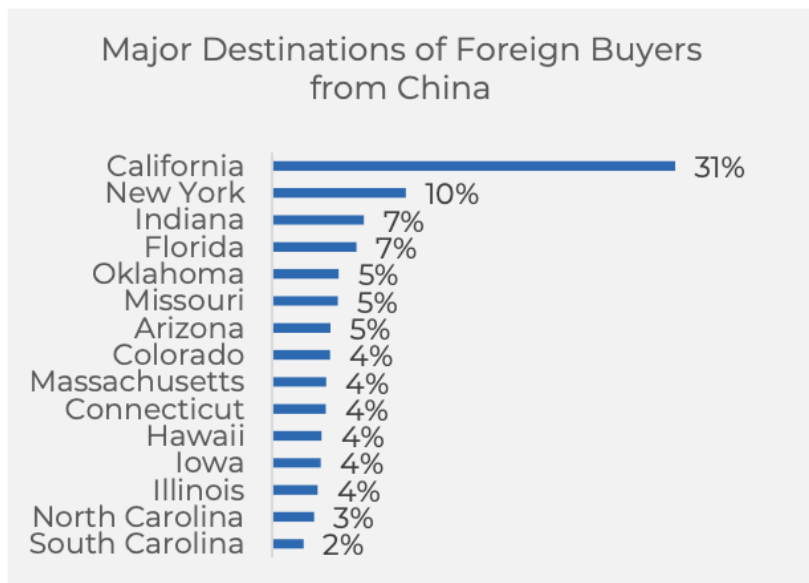
Texas Level

4. Texas is not listed in the top 10 major destinations for Chinese buyers.

Among the total number of Existing-Homes purchased by buyers from China (6100, year 2022), homes located in Texas - account for less than 1% of total homes purchased, according to the Major Destination of Foreign Buyers from China.

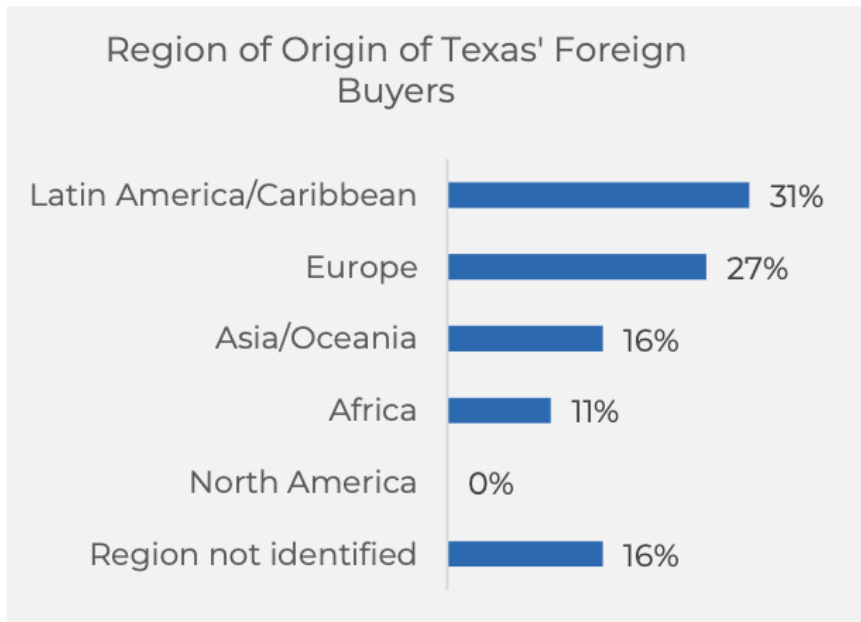
Number of Existing-Homes Purchased by Top 6 Foreign Buyers

	Canada	Mexico	China*	India	Brazil	Colombia	All Foreign Buyers	Share of Top 6
2022	11,300	7,800	6,100	5,100	3,200	3,000	98,600	37%



5. The majority of international buyers in Texas are from Latin America/the Caribbean, and Europe.

Texas was the third top foreign buyer destination, with an 8% share. Thirty-one percent of Texas buyers came from Latin America/the Caribbean, and 27% from Europe. Texas was the top destination among Mexican buyers, and the second highest destination among Colombian buyers.



Based on the above, there is no evidence to suggest an increase in foreign buyers from China for either the U.S. or the Texas market.

Resource:

2022 International Transactions in U.S. Residential Real Estate:

www.nar.realtor/sites/default/files/documents/2022-international-transactions-in-us-residential-real-estate-07-18-2022.pdf

Part 3: California SB 224 and SB1084 DO NOT identify individual or countries' name

California Senate Bill 224 and California Senate Bill 1084 are premised the existing law providing that “all property has an owner, whether that owner is the state, and the property is public, or the owner is an individual, and the property is private.” **These two bills intend to address the ownership boundary of agricultural land, and to forbid the ownership of agricultural land if the owner is a foreign government.**

There is a key difference between the California bills and the proposed bills in Texas. California bills ban all foreign governments, but Texas bills ban individuals and privately-owned companies from four specific countries.

California Senate Bill 224 “would prohibit a foreign government from purchasing, acquiring, leasing, or holding an interest, as defined, in agricultural land within the State of California. The bill would exempt land held by foreign governments before January 1, 2024, from that prohibition.” Note that in CA Senate Bill 224, “foreign government” means a government or the state controlled-enterprise of a foreign government.

California Senate Bill 1084 “would prohibit a foreign government from purchasing, acquiring, leasing, or holding an interest, as defined, in agricultural land within the State of California. The bill would exempt land held by foreign governments before January 1, 2023, from that prohibition, and would specify that it does not apply to federally recognized Indian tribes or their government units and enterprises.” Again, this bill notes that “foreign government” means a government or the state controlled-enterprise of a foreign government.

Clearly, California Senate Bills 224 and 1084 are not targeting toward individuals and privately-owned enterprises, as these bills equally ban all foreign enterprises, i.e. controlled by foreign governments, from the purchase of agricultural lands. In the Texas Bills relating to agricultural lands, however, the prohibition targets individuals, companies and governments from four specific foreign countries.

References:

California Senate Bill 224 legislative history:

<https://legiscan.com/CA/bill/SB224/2023>

California Senate Bill 224 text:

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240SB224#99INT

California Senate Bill 1084 text:

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB1084

Part 4: No state bills so far has singled out certain countries' individuals or business entities to exclude them from purchasing land

It is of paramount importance to ensure that any farm lands owned by foreign individuals or entities must be reviewed in compliance with federal or state regulations. At the Federal level, the Agriculture Foreign Investment Disclosure Act ("AFIDA") of 1978 requires investors in American farmland to report property purchases to the United States Department of Agriculture (USDA). The Farmland Security Act of 2022 requires the USDA to submit to Congress an annual report on foreign investments in agricultural land in the United States, including a description of the impact that foreign ownership of agricultural land has on family farms, rural communities, and the domestic food supply.

At the state level, recent state laws or proposals seeking to restrict foreign ownership of farmland are highlighted below:

- Alabama SB 14 was proposed in December 2021 to "restrict ownership of agricultural land to United States citizens and resident aliens only." Alabama's SB 14 took a similar approach to Iowa's foreign ownership law.
- Arkansas SB312, including identical language and provisions contained in Missouri's foreign ownership law, does not restrict foreign ownership of agricultural land. Rather, it simply requires certain "foreign persons" to report their ownership interest in agricultural land within the state to the Secretary of the Arkansas Department of Agriculture.
- California SB 1084 was passed on September 12, 2022 to restrict certain foreign investments in the state's agricultural land. Its purpose was to restrict potential "foreign government control of California's agricultural land and natural resources" and to "secure the integrity" of the state's farmland "due to the effects it has on the global food security." As such, the bill provides that "a foreign government shall not purchase, acquire, lease, or hold any interest in agricultural land in the State of California."
- Indiana SB 388 was enacted in 2022 to restrict a "foreign business entity" from purchasing certain types of agricultural land located within the state. This state law only prohibits foreign business entities from purchasing farmlands that are for crop and timber production.

As shown above, state laws that have limited foreign ownership of agricultural land either forbid ownership of foreign individuals entirely (e.g., Alabama), follow reporting requirements (e.g., Arkansas), or specifically forbid ownership of foreign government (e.g., California), or forbid foreign business entities from owning land specifically for purposes of crop and timber production (e.g., Indiana).

Based on the most recent study about statutes regulating ownership of agricultural land in 2/2023, **there are no states with an absolute prohibition on foreign ownership.**

Details by state are here: <https://nationalaglawcenter.org/state-compilations/aglandownership/>

Unlike all the state laws, Texas bills SB147, SB711, SB552, and HB2788 explicitly or implicitly single out individuals and business entities from certain countries as being forbidden from owning any property or agricultural land. The importance of national security notwithstanding, any state bill introduced for national security concerns should achieve this purpose without discriminating against any specific country's nationals.

Resource:

State Proposals on Restricting Foreign Ownership of Farmland

<https://nationalaglawcenter.org/state-proposals-on-restricting-foreign-ownership-of-farmland-part-one/>

Foreign Ownership of Ag Land: Federal & State Legislative Update:
<https://nalcprowpenginepowered.com/wp-content/uploads/assets/Webinars/Foreign-Land-Ownership.pdf>

Foreign Ownership of Ag Land: Legal background and updates:

<https://nalcprowpenginepowered.com/wp-content/uploads/2021/10/Presentation-Slides.pdf>

Part 5 Canadian law is completely different in context and effect

On January 1st, 2023, the Prohibition on the Purchase of Residential Property by Non-Canadians Act went into effect in Canada, and it will expire in 2025. (The new law's link: <https://laws-lois.justice.gc.ca/eng/acts/P-25.2/page-1.html>)

This new law prohibits some foreign investors from purchasing residential properties in Canada for the next two years. The act defines non-Canadians as those who are not:

- Canadian citizens.
- Permanent residents of Canada.
- Persons registered under the Indian Act.

However, this Canadian legislation makes plenty of common-sense exceptions to who are considered true 'foreign investors'. These exceptions include:

- Non-residents married to a citizen.
- Diplomats and members of international organizations who are living in Canada.
- Refugees and those with temporary resident status.
- **Workers who have worked and filed tax returns in Canada for three out of the four years before buying property.**
- **International students who have spent most of the previous five years in the country (they can buy a property up to \$500,000).**

Compared to SB 147, SB 552, SB 711, and HB2788, the Canadian law has FOUR fundamental differences:

1. The goal of the Canadian law is to control drastic increases in housing prices, and not national security.
2. The Canadian law only applies to residential property.
3. The Canadian law does not differentiate foreigners by their nation of origin. It does not single out any countries.
4. It is much easier to obtain permanent residency in Canada than the U.S. International students, who have completed their two years in a post-secondary institution and with experience working in a skillful position for 12 months, are permitted to apply for Permanent Residency in Canada. However, it can take 10 to 15 years for Chinese to receive permanent residency after their graduation from colleges in the U.S.

Part 6: The existing CFIUS and FIRRMA laws, as well as Lone Star Infrastructure Protection Act

CFIUS stands for Committee on Foreign Investment in the US. It is a federal interagency committee authorized to review certain transactions involving foreign investment in the United States in order to determine the effect of such transactions on the national security of the United States. (<https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius>).

CFIUS used to govern only transactions that involve the acquisition of existing companies, but was expanded through FIRRMA 2018 (Foreign Investment Risk Review Modernization Act of 2018). Since then, foreign companies (or individuals) investing in the U.S. cannot lease or purchase land within a certain distance from certain military bases, sea or airports (<https://home.treasury.gov/system/files/206/Summary-of-FIRRMA.pdf>).

Through CFIUS and FIRRMA, the U.S. has been successfully deterring foreign companies from setting up operations near critical infrastructure sites. The existing federal laws do not single out certain individual countries. Thus, it would reduce the risks of discrimination, and it is less likely to cause an increase in anti-Asian sentiment throughout the country.

The covered transactions under FIRRMA are narrowly tailored to protecting national security. It is not overly broad. The covered real estate transactions include transactions meeting certain criteria and that are in and/or around specific airports, maritime ports, or military installations. It reduces the risks of undermining legitimate and rightful real estate transactions.

Further, the covered transactions are not automatically blocked. Parties to a covered transaction can submit a filing with the CFIUS, and CFIUS can decide whether a transaction would impact national security and whether to recommend the President to block the transaction. Again, it reduces the risks of blocking legitimate, harmless real estate transactions.

Furthermore, in 2021, Texas passed the Lone Star Infrastructure Protection Act (SB 2116), which was co-sponsored by many of our current senators here.

If there are any particular purchases that are potentially threatening our national security and are not addressed by the existing CFIUS at the federal level and Lone Star Infrastructure Protection Act at the state level, we encourage the state to investigate, take action, and publicize such deals.

So far we have not heard about any investigations on any questionable real property purchases in Texas, nor have we seen any list of deals of questionable purchasers.

Obviously having additional Texas laws like this would result in over-regulation of the same transaction at both the federal and state levels. It would also require Texas to designate or establish an agency to review covered real estate transactions. Further, it would unnecessarily increase the complexity and costs of legitimate, rightful real estate transactions.