

117TH CONGRESS
1ST SESSION

S. 1278

To require the Committee on Foreign Investment in the United States to review any purchase or lease of real estate near a military installation or military airspace in the United States by a foreign person connected to or subsidized by the Russian Federation, the People's Republic of China, the Islamic Republic of Iran, or the Democratic People's Republic of Korea, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 21, 2021

Mr. CRUZ (for himself and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To require the Committee on Foreign Investment in the United States to review any purchase or lease of real estate near a military installation or military airspace in the United States by a foreign person connected to or subsidized by the Russian Federation, the People's Republic of China, the Islamic Republic of Iran, or the Democratic People's Republic of Korea, 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 Military
3 Installations and Ranges Act of 2021”.

4 **SEC. 2. REVIEW BY COMMITTEE ON FOREIGN INVESTMENT**
5 **IN THE UNITED STATES OF REAL ESTATE**
6 **PURCHASES OR LEASES NEAR MILITARY IN-**
7 **STALLATIONS OR MILITARY AIRSPACE.**

8 (a) INCLUSION IN DEFINITION OF COVERED TRANS-
9 ACTION.—Section 721(a)(4) of the Defense Production
10 Act of 1950 (50 U.S.C. 4565(a)(4)) is amended—

11 (1) in subparagraph (A)—

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

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

16 (C) by adding at the end the following:

17 “(iii) any transaction described in
18 subparagraph (B)(vi) that is proposed,
19 pending, or completed on or after the date
20 of the enactment of the Protecting Military
21 Installations and Ranges Act of 2021.”;
22 and

23 (2) in subparagraph (B), by adding at the end
24 the following:

25 “(vi) Notwithstanding clause (ii) or
26 subparagraph (C), the purchase or lease

1 by, or a concession to, a foreign person of
2 private or public real estate—

3 “(I) that is located in the United
4 States and within—

5 “(aa) 100 miles of a military
6 installation (as defined in section
7 2801(c)(4) of title 10, United
8 States Code); or

9 “(bb) 50 miles of—

10 “(AA) a military train-
11 ing route (as defined in sec-
12 tion 183a(h) of title 10,
13 United States Code);

14 “(BB) airspace des-
15 ignated as special use air-
16 space under part 73 of title
17 14, Code of Federal Regula-
18 tions (or a successor regula-
19 tion), and managed by the
20 Department of Defense;

21 “(CC) a controlled fir-
22 ing area (as defined in sec-
23 tion 1.1 of title 14, Code of
24 Federal Regulations (or a
25 successor regulation)) used

1 by the Department of De-
2 fense; or

3 “(DD) a military oper-
4 ations area (as defined in
5 section 1.1 of title 14, Code
6 of Federal Regulations (or a
7 successor regulation)); and

8 “(II) if the foreign person is
9 owned or controlled by, is acting for
10 or on behalf of, or receives subsidies
11 from—

12 “(aa) the Government of the
13 Russian Federation;

14 “(bb) the Government of the
15 People’s Republic of China;

16 “(cc) the Government of the
17 Islamic Republic of Iran; or

18 “(dd) the Government of the
19 Democratic People’s Republic of
20 Korea.”.

21 (b) MANDATORY UNILATERAL INITIATION OF RE-
22 VIEWS.—Section 721(b)(1)(D) of the Defense Production
23 Act of 1950 (50 U.S.C. 4565(b)(1)(D)) is amended—

24 (1) in clause (iii), by redesignating subclauses
25 (I), (II), and (III) as items (aa), (bb), and (cc), re-

1 spectively, and by moving such items, as so redesign-
 2 nated, 2 ems to the right;

3 (2) by redesignating clauses (i), (ii), and (iii) as
 4 subclauses (I), (II), and (III), respectively, and by
 5 moving such subclauses, as so redesignated, 2 ems
 6 to the right; and

7 (3) by striking “Subject to” and inserting the
 8 following:

9 “(i) IN GENERAL.—Subject to”; and

10 (4) by adding at the end the following:

11 “(ii) MANDATORY UNILATERAL INITI-
 12 ATION OF CERTAIN TRANSACTIONS.—The
 13 Committee shall initiate a review under
 14 subparagraph (A) of a covered transaction
 15 described in subsection (a)(4)(B)(vi).”.

16 (c) CERTIFICATIONS TO CONGRESS.—Section
 17 721(b)(3)(C)(iii) of the Defense Production Act of 1950
 18 (50 U.S.C. 4565(b)(3)(C)(iii)) is amended—

19 (1) in subclause (IV), by striking “; and” and
 20 inserting a semicolon;

21 (2) in subclause (V), by striking the period at
 22 the end and inserting “; and”; and

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

24 “(VI) with respect to covered
 25 transactions described in subsection

1 (a)(4)(B)(vi), to the members of the
 2 Senate from the State in which the
 3 military installation, military training
 4 route, special use airspace, controlled
 5 firing area, or military operations
 6 area is located, and the member from
 7 the Congressional District in which
 8 such installation, route, airspace, or
 9 area is located.”.

10 **SEC. 3. LIMITATION ON APPROVAL OF ENERGY PROJECTS**
 11 **RELATED TO REVIEWS CONDUCTED BY COM-**
 12 **MITTEE ON FOREIGN INVESTMENT IN THE**
 13 **UNITED STATES.**

14 (a) REVIEW BY SECRETARY OF DEFENSE.—Section
 15 183a of title 10, United States Code, is amended—

16 (1) by redesignating subsections (f), (g), and
 17 (h) as subsections (g), (h), and (i), respectively; and

18 (2) by inserting after subsection (e) the fol-
 19 lowing new subsection (f):

20 “(f) SPECIAL RULE RELATING TO REVIEW BY COM-
 21 MITTEE ON FOREIGN INVESTMENT OF THE UNITED
 22 STATES.—(1) If, during the period during which the De-
 23 partment of Defense is reviewing an application for an en-
 24 ergy project filed with the Secretary of Transportation
 25 under section 44718 of title 49, the purchase, lease, or

1 concession of real property on which the project is planned
2 to be located is under review or investigation by the Com-
3 mittee on Foreign Investment in the United States under
4 section 721 of the Defense Production Act of 1950 (50
5 U.S.C. 4565), the Secretary of Defense—

6 “(A) may not complete review of the project
7 until the Committee concludes action under such
8 section 721 with respect to the purchase, lease, or
9 concession; and

10 “(B) shall notify the Secretary of Transpor-
11 tation of the delay.

12 “(2) If the Committee on Foreign Investment in the
13 United States determines that the purchase, lease, or con-
14 cession of real property on which an energy project de-
15 scribed in paragraph (1) is planned to be located threatens
16 to impair the national security of the United States and
17 refers the purchase, lease, or concession to the President
18 for further action under section 721(d) of the Defense
19 Production Act of 1950 (50 U.S.C. 4565(d)), the Sec-
20 retary of Defense shall—

21 “(A) find under subsection (e)(1) that the
22 project would result in an unacceptable risk to the
23 national security of the United States; and

1 “(B) transmit that finding to the Secretary of
 2 Transportation for inclusion in the report required
 3 under section 44718(b)(2) of title 49.”.

4 (b) REVIEW BY SECRETARY OF TRANSPORTATION.—
 5 Section 44718 of title 49, United States Code, is amend-
 6 ed—

7 (1) by redesignating subsection (h) as sub-
 8 section (i); and

9 (2) by inserting after subsection (g) the fol-
 10 lowing new subsection:

11 “(h) SPECIAL RULE RELATING TO REVIEW BY COM-
 12 MITTEE ON FOREIGN INVESTMENT OF THE UNITED
 13 STATES.—The Secretary of Transportation may not issue
 14 a determination pursuant to this section with respect to
 15 a proposed structure to be located on real property the
 16 purchase, lease, or concession of which is under review or
 17 investigation by the Committee on Foreign Investment in
 18 the United States under section 721 of the Defense Pro-
 19 duction Act of 1950 (50 U.S.C. 4565) until—

20 “(1) the Committee concludes action under
 21 such section 721 with respect to the purchase, lease,
 22 or concession; and

23 “(2) the Secretary of Defense—

24 “(A) issues a finding under section 183a(e)
 25 of title 10; or

1 “(B) advises the Secretary of Transpor-
2 tation that no finding under section 183a(e) of
3 title 10 will be forthcoming.”.

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