

110TH CONGRESS
2D SESSION

H. R. 5665

To impose limitations on investment and certain operations by foreign entities
in the United States.

IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 2008

Mr. TURNER introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Foreign Affairs and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To impose limitations on investment and certain operations
by foreign entities in the United States.

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 “Reciprocity and Fair-
5 ness in Foreign Investment Act”.

6 **SEC. 2. LIMITATIONS ON INVESTMENT AND CERTAIN OPER-**
7 **ATIONS BY FOREIGN ENTITIES.**

8 (a) LIMITATIONS.—

1 (1) ON GOVERNMENT-OWNED ENTERPRISES.—

2 A foreign person that is owned, in whole or in part,
3 or controlled by the government of a foreign country
4 may—

5 (A) acquire or hold an equity interest, or
6 other evidence of ownership, in a corporation,
7 partnership, or other business entity, that is or-
8 ganized under the laws of the United States, or

9 (B) acquire or hold any interest in real
10 property in the United States,

11 only to the same extent as that foreign country al-
12 lows United States persons to acquire or hold (as
13 the case may be) equity interests or other evidences
14 of ownership in comparable business concerns orga-
15 nized under the laws of that foreign country and to
16 acquire or hold interests in comparable real property
17 in that foreign country.

18 (2) INVESTMENT IN AND OPERATION OF CRIT-
19 ICAL INFRASTRUCTURE.—A foreign person may ac-
20 quire or hold a property interest in, or control oper-
21 ations, management, or security operations of, crit-
22 ical infrastructure in the United States only to the
23 same extent as the foreign country of which that for-
24 eign person is a national allows United States per-
25 sons to acquire or hold equivalent property interests

1 or other evidences of ownership in, or to control op-
2 erations, management, or security operations of,
3 comparable critical infrastructure in that country.

4 (b) DEFINITIONS.—In this section:

5 (1) CRITICAL INFRASTRUCTURE.—(A) The
6 term “critical infrastructure” means systems and as-
7 sets, whether physical or virtual, so vital to a coun-
8 try that the incapacity or destruction of such sys-
9 tems and assets would have a debilitating impact on
10 the security, economic security, or public health or
11 safety, of that country. Such term includes—

12 (i) any airport, air navigation facility, or
13 facility that is part of an air traffic control sys-
14 tem;

15 (ii) any bridge, any highway, and any rail-
16 road tracks or facilities;

17 (iii) any port facilities;

18 (iv) any pipeline that transports oil, nat-
19 ural gas, or gasoline or other petroleum prod-
20 ucts; and

21 (v) any electricity generation, transmission,
22 or distribution facilities.

23 (B) The terms “airport”, “air navigation facil-
24 ity”, and “air traffic control system” have the mean-

1 ings given those terms in section 40102 of title 49,
2 United States Code.

3 (2) FOREIGN PERSON.—The term “foreign per-
4 son” means a national of a foreign country.

5 (3) GOVERNMENT.—The term “government of
6 a foreign country” includes any agency or instru-
7 mentality of the government of a foreign country.

8 (4) NATIONAL OF A FOREIGN COUNTRY.—A
9 person is a national of a foreign country if that per-
10 son is—

11 (A) a citizen of that country;

12 (B) an entity organized under the laws of
13 that country (whether the entity is controlled by
14 private persons or government entities);

15 (C) a unit of government of that country;

16 or

17 (D) an entity that is organized under the
18 laws of the United States and is owned or con-
19 trolled by individuals, entities, or units of gov-
20 ernment described in subparagraphs (A), (B),
21 and (C), or any combination thereof.

22 (5) UNITED STATES.—The term “United
23 States” means the several States, the District of Co-
24 lumbia, and any commonwealth, territory, or posses-
25 sion of the United States.

1 (6) UNITED STATES PERSON.—The term
2 “United States person” means—

3 (A) any United States citizen;

4 (B) any entity that is organized under the
5 laws of the United States and is owned or con-
6 trolled by United States citizens, by State or
7 local governments, by the United States, or by
8 any combination thereof.

9 **SEC. 3. ENFORCEMENT.**

10 (a) SECRETARY OF THE TREASURY.—The Secretary
11 of the Treasury, in consultation with the Secretary of
12 Commerce, the Attorney General, and the heads of such
13 other departments and agencies as the Secretary of the
14 Treasury considers appropriate, shall issue such regula-
15 tions as are necessary to carry out section 2.

16 (b) PENALTIES.—

17 (1) CIVIL PENALTIES.—

18 (A) PENALTY.—A civil penalty of not more
19 than \$500,000 shall be imposed on any foreign
20 person who violates section 2 or any regulation
21 issued under subsection (a) of this section.

22 (B) AUTHORITY OF THE SECRETARY OF
23 THE TREASURY.—The Secretary of the Treas-
24 ury has the authority to impose civil penalties
25 under subparagraph (A).

1 (2) OTHER RELIEF.—The Secretary of the
2 Treasury may bring an action in the appropriate
3 United States district court to enjoin any violation
4 of section 2 or any regulation issued under sub-
5 section (a) of this section. In addition, the Attorney
6 General, upon the request of the Secretary of the
7 Treasury, shall seek appropriate relief, including di-
8 vestment relief, in the district courts in order to en-
9 force this Act.

10 **SEC. 4. ANNUAL REPORT.**

11 The Secretary of the Treasury shall, not later than
12 120 days after the date of the enactment of this Act and
13 annually thereafter, issue and make public a report on the
14 laws of each foreign country regarding permissible invest-
15 ment by foreign persons in enterprises organized under
16 the laws of the country and in real property in that coun-
17 try, and permissible control by foreign persons of oper-
18 ations and management of critical infrastructure in that
19 country.

20 **SEC. 5. EFFECTIVE DATE.**

21 (a) IN GENERAL.—Subject to subsection (b), this Act
22 shall take effect 180 days after the date of the enactment
23 of this Act.

24 (b) EXISTING INVESTMENTS.—In order to allow for-
25 eign countries the flexibility to make the necessary

1 changes to their laws so as to allow foreign investment
2 and control affected by this Act, this Act and the regula-
3 tions issued under this Act shall not apply to any equity
4 interest, other property interest, or control of operations
5 or management of infrastructure, acquired before the ef-
6 fective date of this Act until the date that is 1 year after
7 such effective date.

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