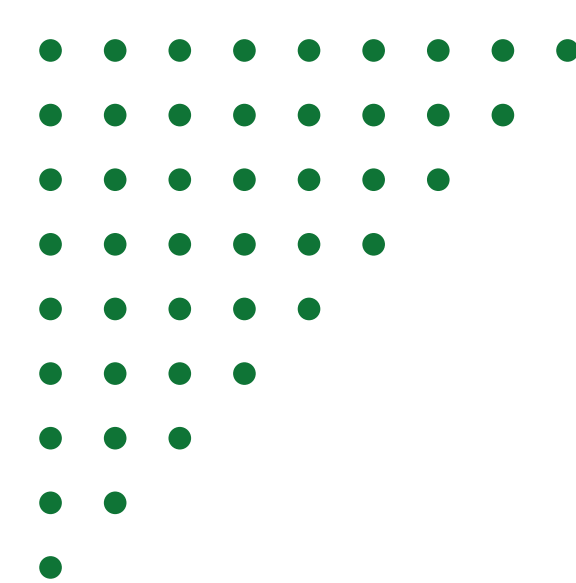




# WHO CAN (AND CAN'T) BUY IN FLORIDA

11.4.24





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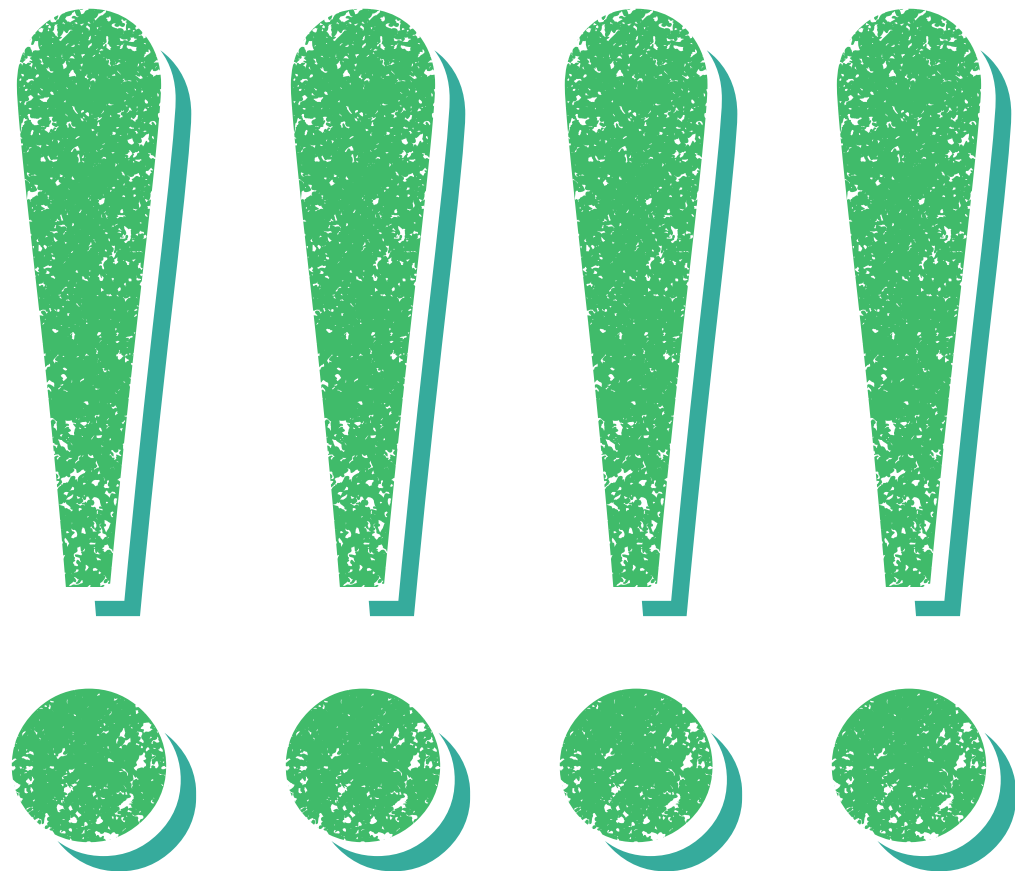
# AGENDA

- **Legislative process**
- **Quick recap of SB 264**
- **Agency rulemaking**
- **Litigation updates**
- **Fair housing issues and best practices**
- **Resources**



# DISCLAIMER:

This program is only meant to provide education and information on relevant legal topics facing the industry and is not a substitute for legal advice or representation.







## QUICK RECAP



# LEGISLATIVE PROCESS

- **SB 264 (2023) passed; effective July 1, 2023**
- **Chapter 692, Florida Statutes**
- **Rulemaking to implement the law is now final**





## QUICK RECAP

# SUMMARY

**SB 264 restricts “foreign principals” from “foreign countries of concern” from owning, having a controlling interest in, or acquiring by purchase, grant, devise, or descent an interest in certain Florida real property.**





## QUICK RECAP



# “FOREIGN PRINCIPALS”

(a) The government or any official of the government of a foreign country of concern

(b) A political party or member of a political party or any subdivision of a political party in a foreign country of concern

(c) A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country of concern, or a subsidiary of such entity

(d) Any person who is domiciled in a foreign country of concern and is not a citizen or lawful permanent resident of the United States

(e) Any person, entity, or collection of persons or entities, described in paragraphs (a) through (d) having a controlling interest in a partnership, association, corporation, organization, trust, or any other legal entity or subsidiary formed for the purpose of owning real property in this state





## QUICK RECAP



# “FOREIGN COUNTRIES OF CONCERN”

- People’s Republic of China
- Russian Federation
- Islamic Republic of Iran
- Democratic People’s Republic of Korea
- Republic of Cuba
- Venezuelan Regime of Nicolás Maduro
- Syrian Arab Republic





## QUICK RECAP



# GENERAL PROHIBITIONS

- **Owning, having a controlling interest in, or acquiring:**
  - **Real property within 10 miles of any military installation or critical infrastructure in Florida**
  - **Agricultural land**
- **China-specific restrictions on real property, generally**





## QUICK RECAP



# CURRENT OWNERS

If “foreign principals,” they must register real property located on or within 10 miles of any military installation or critical infrastructure facility with Florida’s Department of Economic Opportunity ([www.floridajobs.org](http://www.floridajobs.org)).





## QUICK RECAP



# PROSPECTIVE BUYERS

**Must sign affidavit at the closing table to attest that they are not prohibited from acquiring real property under SB 264.**





## QUICK RECAP



# PENALTIES

- **Civil (fines, liens, forfeiture)**
- **Criminal (fines, jail time)**





## QUICK RECAP



# EXCEPTIONS

- **EB-5 visa holders**
- **Foreign principals who are “natural persons” with valid non-tourist visas or who have been granted asylum may purchase one residential real property, as long as it is less than 2 acres in size and not within 5 miles of a military installation**

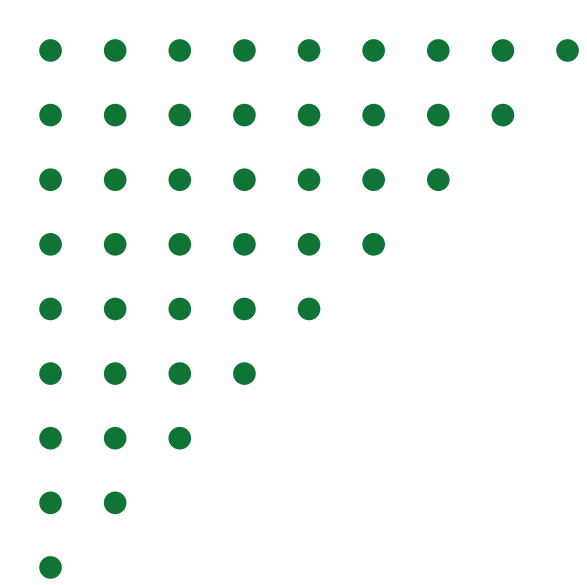




# RULEMAKING SUMMARY

- **Florida Real Estate Commission**
  - Rule Chapter 61J2-10.200 (January 17, 2024)
  - Affidavit form buyers are to use at closing
- **Florida Department of Commerce**
  - Rule 73C-60, F.A.C. (January 4, 2024)
  - Applies to the purchase of real property on or around military installations or critical infrastructure (not agricultural land or China-specific restrictions)
  - Established registration system
  - Does not apply to leases
  - EB-5 exception
- **Department of Agriculture and Consumer Services**
  - Rule 5J-27, F.A.C. (April 4, 2024)
  - Applies to agricultural land
  - Note differences in definitions





# LITIGATION UPDATES

# SHEN V. SIMPSON

**May 22, 2023:** ACLU and other advocacy groups filed a federal lawsuit in northern Florida on behalf of multiple plaintiffs to challenge SB 264.

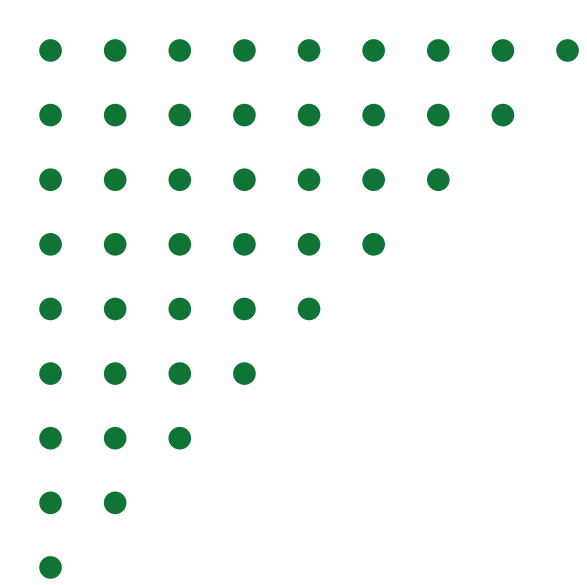
**August 23, 2023:** Court denied plaintiffs' motion to pause the enforcement of the law pending the outcome of the litigation. Plaintiffs appealed.

**February 2, 2024:** Appellate court paused the enforcement of the law, but only as to the specific plaintiffs.

**April 19, 2024:** Appellate court heard the rest of the issues in the appeal. Still waiting on that decision.







## LITIGATION UPDATES

# NHFA V. FLORIDA

**May 6, 2024:** National Fair Housing Alliance (NFHA), Asian Real Estate Association of America (AREAA), Housing Opportunities Project for Excellence, and Fair Housing Center of the Greater Palm Beaches filed a fair housing discrimination lawsuit in federal court.


**September 27, 2024:** Court paused this case pending outcome of the appeal in *Shen v. Simpson*.







## **FAIR HOUSING ISSUES & BEST PRACTICES**

- 
- **Use the FLORIDA REALTORS<sup>®</sup>’  
disclaimers and forms in  
FormSimplicity**
  - **Do not do your own due  
diligence**
  - **Lawyer up**
  - **Tell your customers to get  
advice from their own counsel**

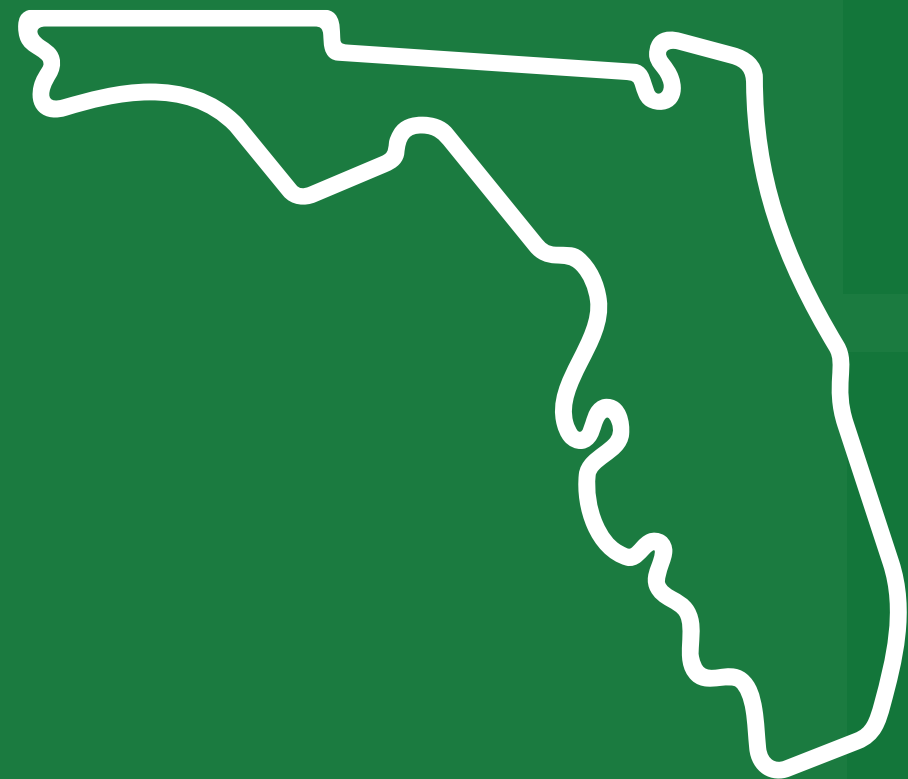




## LEGAL UPDATES



# RESOURCES



## FULL TEXT OF SB 264



## FLORIDA REALTORS® MEMO & FLOWCHART





# QUESTIONS?

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