**Public Comment on the Department of Treasury's Proposed Rule to Expand CFIUS Coverage of Real Estate Transactions Near Military Installations:**

**Thursday, August 8, 2024**

Dear Sir or Madam,

The National Iranian American Council (NIAC), a grassroots organization representing Iranian Americans committed to peace and civil rights, notes the Department of Treasury's proposed rule to update the jurisdiction of the Committee on Foreign Investment in the United States (CFIUS) involving real estate transactions near military installations in the United States. CFIUS is the appropriate authority for investigating any potential national security implications of real estate transactions, and it makes sense for CFIUS to regularly update guidelines to reflect evolving national security implications of land and property transactions. While examining the possible impact of transactions on national security, including under this new guidance, we urge CFIUS to uphold federal government protections against discrimination on the basis of national origin and to target enforcement narrowly and appropriately at actors who could implicate national security concerns based on their actions, rather than subjecting them to suspicion on the basis of their heritage.

Regrettably, NIAC and other allied civil rights and immigrant community organizations have witnessed a growing xenophobic trend to impose 21st century "alien land laws" across the United States. These laws restrict the ability to purchase property on the basis of national origin, reflecting the ugly and discriminatory laws primarily targeted at Asian Americans roughly a century ago. This effort, justified by vague national security concerns related to land ownership by foreign nationals, risks winding back the clock on civil rights and ensuring discrimination against many communities, including the Iranian-American community.

As a result, aside from updating CFIUS guidance, we urge further action from the Department of Treasury to coordinate with other agencies – including the Department of Justice, the Department of Housing and Urban Development, the Department of Commerce, and the Department of Agriculture – to implement an all of government response to alien land laws in order to better safeguard the right to purchase property, irrespective of national origin. We believe that CFIUS, as the primary federal actor tasked with responding to potential national security concerns regarding property purchases, has a mandate to address these issues at the federal level. As a result, CFIUS also has a role to educate lawmakers at the Congressional, state and municipality level regarding how CFIUS is investigating valid national security concerns regarding real estate transactions. In so doing, CFIUS can help uphold the federal government's interest and mandate to prevent discrimination, including the right to purchase property irrespective of one's national origin.

This trend of alien land laws first came to NIAC's attention in November of 2022, when SB 147 was introduced in the Texas State Senate and received the support of the Texas governor. The proposed bill originally stated that "an individual who is a citizen of China, Iran, North Korea, or Russia… may not purchase or otherwise acquire title to real property in this state." The civil rights implications of such language is clear, as the bill neither exempted U.S. citizens who might hold dual nationality with the targeted countries, nor green card holders or others holding a valid visa, such as refugees. A blanket ban on purchasing property on the basis of national origin is plainly discriminatory, and far more likely to implicate ordinary people - including some who fled authoritarian regimes - than it is to thwart any perceived national security threat.

However, civil society organizations – including the National Iranian American Council, Asian Americans Advancing Justice, Asian Texans for Justice, National Asian Pacific American Bar Association, and others – rallied to sound the alarm over the dangerous proposal equating individuals with their governments and noting that passage could set a slippery slope to new forms of discrimination. Not only did NIAC and partner organizations succeed in securing updated language which eliminated the threat of impact on American citizens, but our coalition ultimately prevented the bill from passing the legislative session in which the bill was originally introduced. Despite this success, legislators in the Texas Senate have indicated their intention to continue pursuing passage of a new version of the bill in a legislative session beginning in 2025.

John Yang, Executive Director of Asian Americans Advancing Justice, recently testified at the Texas Senate Committee on State Affairs, where he spoke on the dangerous resurgence of alien land laws. In his testimony, he recognized that "at bottom, these laws exact a clear cost on Texas and Texans from the affected countries without a clear benefit that is being offered." He further emphasized that "we must make a clear distinction between these governmental regimes – and how we address these governmental regimes – and the people that are subjugated by these regimes."

While the original push for modern alien land laws gained prominence in Texas, Florida remains one of the largest states to have not only introduced, but also to have passed and enacted a new wave alien land law via SB 264. That state law restricts any individual "domiciled" in a "foreign country of concern" from purchasing many types of property in the state of Florida. However, following codification of SB 264, a group of individuals threatened to be impacted have challenged the law in court in *Shen v. Simpson*. Thankfully, on February 1st, 2024, Florida's Eleventh Circuit Court of Appeals granted a partial injunction to two of the plaintiffs after finding substantial likelihood of success in their claim that SB 264 is preempted by federal law.

Notably, the U.S. Department of Justice submitted an amicus brief on behalf of the federal government to support the plaintiffs' injunction on June 27th, 2023, where they highlighted SB

264's likely violation of both the Fair Housing Act as well as the Equal Protection Clause of the Fourteenth Amendment in the U.S. Constitution. While the final outcome of *Shen v. Simpson* has yet to be determined, this unique input from the Department of Justice only further illustrates how modern day alien land laws impose discrimination based on national origin and are not an effective way to maintain national security.

Several other states have also passed and codified alien land laws, including Georgia, Louisiana, Alabama, Tennessee, Montana, Indiana and North Dakota. These states' laws vary in the degree of their restriction of real property purchases and property within proximity to critical/military infrastructure as well as in the level of individual targeting. Of significant concern, however, is Indiana's enacted SB 0477, which directly prohibits any citizen of China, Iran, North Korea or Russia from purchasing, leasing, or acquiring any "parcel of real property that is (1) located in Indiana; and (2) directly adjacent to a military installation." This law adopts a discriminatory approach to the mandate of CFIUS, and risks interfering with efforts by CFIUS to appropriately protect national security interests.

Additionally, discriminatory proposals have been considered at the federal level, including the Promoting Agriculture Safeguards and Security (PASS) Act, which has been spun off into various amendments to must-pass national security bills. That proposal would bar citizens of China, Russia, Iran and North Korea from making certain large-scale agricultural purchases, drawing opposition from community organizations and civil rights organizations alike.

Thankfully, Representative Judy Chu (CA) – Chair of the Congressional Asian Pacific American Caucus – has taken actionable steps to counter both state and federal alien land law proposals. During a Senate Agriculture Committee hearing on foreign ownership of U.S. agricultural land held on September 27, 2023, Rep. Chu submitted a statement for the record, where she outlined effective alternatives to the blatant restriction of land ownership based solely on national origin like Florida's SB 264. In her statement, she first proposed that rather than engaging in discriminatory actions, Congress should instead target foreign governments and sanctioned entities. Second, Rep. Chu urged additional efforts to study the issue as a whole further, emphasizing that legislatures have been quick to draft legislation before truly understanding the scope of the issues.

We appreciate your consideration of this comment and the issues that we have raised, and look forward to an opportunity to discuss further.

Sincerely,

Ryan Costello
Policy Director, National Iranian American Council