

BILL ANALYSIS: HB 243

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MARCH 2025

ISSUE

It's no secret that the Texas economy is one of the largest economies in the world, and that Texas is one of the friendliest places to do business. According to the Office of the Texas Governor, "There are already more than 1,900 foreign corporations doing business in the state—a number that only continues to grow as more and more international firms choose Texas for their next business investment" (2023). While Texas welcomes foreign corporations who wish to invest in our economy, some lawmakers are concerned about the sincerity of their actions. House Bill (HB) 243 seeks to grant the Texas attorney general the power "to acquire by eminent domain certain real property owned by aliens or foreign entities" in order to ensure that laws are not broken and that Texas's critical infrastructure is protected (HB 243, 2025, p. 1). Eminent domain is "the right or power of a sovereign state to appropriate private property for the promotion of the general welfare" (*Tex. Highway Dep't v. Weber*, 1949). In Texas, this power is exercised by state and local governments, as well as private entities in limited circumstances. As global dynamics intensify, the ownership of real property—especially real property in proximity to critical infrastructure by foreign entities—poses potential security risks and legal challenges. By enabling state intervention when properties are used unlawfully or when essential infrastructure are threatened, this legislation seeks to safeguard state interests and to maintain the integrity of vital systems. HB 243 ensures that foreign ownership does not compromise the safety and functionality of assets fundamental to Texas's economy and public welfare.

ANALYSIS

Section 1 begins by defining specific terms listed in the bill such as "alien," "critical infrastructure," and "foreign." Most important of these definitions is the definition of "critical infrastructure," which means "infrastructure in one of the following categories," which includes energy, dams, food and agriculture, water and wastewater systems, and more (HB 243, 2025, p. 2).

Section 2 states the bill's applicability, notably that the bill applies only to real property in Texas that is under ownership by either an alien, foreign business, foreign government, or by an agent, trustee or fiduciary of an alien, foreign business, or foreign government.

Section 3 describes the legal process related to the attorney general's use of eminent domain proceedings. The attorney general may bring an action to obtain a court order that authorizes the attorney general to initiate eminent domain proceedings to acquire real property. The attorney general may do this only if the

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attorney general has reason to believe and can show that real property is being used in a manner that violates state or federal law or creates a risk to the state's critical infrastructure, as defined in Section 1. The attorney general may bring this action to a district court in the county where all or part of the real property sought to be acquired is located. Upon showing that the real property is being used in a manner that violates the law or endangers critical infrastructure, the court shall enter an order stating these findings.

Upon entry of a court order showing that the real property is being used in a manner that violates law (state or federal) or a showing that the real property is being used in a manner that creates risk for the state's critical infrastructure, the attorney general may then initiate eminent domain proceedings to acquire the property. HB 243 allows for eminent domain only under Chapter 21 of the Texas Property Code, which primarily concerns the procedures and requirements for exercising eminent domain in Texas. This chapter outlines the rights of property owners, the condemnation process, and compensation requirements. HB 243 also states that Chapter 2206 of the Texas Government Code does not apply to this bill. Chapter 2206 restricts the use of eminent domain by private entities for economic development. Thus, HB 243 may not be used to acquire real property owned by aliens or foreign entities by private entities or for economic development.

Section 4 states that any real property acquired by the state via eminent domain proceedings under this bill shall be owned by the state and managed by the General Land Office. The effective date of this bill is September 1, 2025.

RECOMMENDATIONS FOR IMPROVEMENT

- Clarification of definitions, as the definition of "critical infrastructure" is quite broad. It would be beneficial to further specify which types of properties within these sectors are targeted, in order to avoid sweeping interpretations.
- Ensure that the definitions of "alien" and "foreign" are aligned with existing federal definitions to avoid inconsistency.
- Specify the type and standard to be used when the attorney general moves to show that the property is being used in a manner that violates law or creates risk to critical infrastructure in order to prevent arbitrary use of eminent domain powers.
- Include explicit protections or procedures to safeguard the rights of property owners during the eminent domain process to ensure due process. For example, require that property owners receive adequate notice and the opportunity to contest the claims in court.
- Establish a mechanism for oversight or independent review of the decisions to initiate eminent domain actions (perhaps involving a legislative committee or an independent board) in order to ensure transparency and accountability.
- Clearly outline an appeals process for property owners who wish to challenge the court's order authorizing eminent domain, ensuring they have a clear path to contest decisions before higher courts.
- Include stronger language that clearly indicates that this law only applies to alien- or foreign-owned real property. Similarly, lay out a test or percentage of foreign ownership for joint ventures between domestic and foreign entities that co-own real property.

REFERENCES

- HB 243. Filed. 89th Texas Legislature. Regular. (2025). <https://capitol.texas.gov/tlodocs/89R/billtext/pdf/HB00243I.pdf>
- Office of the Texas Governor. (2023). *Texas Trade & FDI*. https://gov.texas.gov/uploads/files/business/Trade_FDI.pdf
- Tex. Highway Dep't v. Weber*, 219 S.W.2d 70, 72 (Tex. 1949). <https://www.txcourts.gov/media/1454467/200393d2.pdf>

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