

109TH CONGRESS
2D SESSION

S. 2410

To amend the Homeland Security Act of 2002 to limit foreign control of investments in certain United States critical infrastructure.

IN THE SENATE OF THE UNITED STATES

MARCH 14, 2006

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

A BILL

To amend the Homeland Security Act of 2002 to limit foreign control of investments in certain United States critical infrastructure.

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 “Foreign Investment
5 Transparency and Security Act of 2006”.

1 **SEC. 2. LIMITS ON FOREIGN CONTROL OF INVESTMENTS IN**
2 **CERTAIN UNITED STATES CRITICAL INFRA-**
3 **STRUCTURE.**

4 (a) IN GENERAL.—Title II of the Homeland Security
5 Act of 2002 (6 U.S.C. 201 et seq.) is amended by adding
6 at the end the following:

7 **“Subtitle E—Limits on Foreign**
8 **Control of Investments in Cer-**
9 **tain United States Critical In-**
10 **frastructure**

11 **“SEC. 241. DEFINITIONS.**

12 “As used in this subtitle—

13 “(1) the term ‘foreign government controlled
14 entity’ means any entity in which a foreign govern-
15 ment owns a majority interest, or otherwise controls
16 or manages the entity; and

17 “(2) the term ‘general business corporation’
18 means any entity that qualifies for treatment for
19 Federal taxation purposes under subchapter C or
20 subchapter S of the Internal Revenue Code of 1986,
21 established or organized under the laws of any
22 State.

23 **“SEC. 242. LIMITATION ON FOREIGN INVESTMENTS.**

24 “(a) IN GENERAL.—A foreign government controlled
25 entity may acquire, own, or otherwise control or manage
26 any critical infrastructure of the United States only

1 through the establishment or operation of a foreign owned
2 general business corporation that meets the requirements
3 of subsection (b).

4 “(b) REQUIREMENTS.—For purposes of this section,
5 a general business corporation shall—

6 “(1) have a board of directors, the majority of
7 which is comprised of United States citizens;

8 “(2) have a chief security officer who is a
9 United States citizen, responsible for safety and se-
10 curity issues related to the critical infrastructure;
11 and

12 “(3) maintain all records related to operations,
13 personnel, and security of the United States general
14 business corporation in the United States.

15 “(c) RULE OF CONSTRUCTION.—Nothing in this sub-
16 title may be construed to restrict or otherwise alter the
17 authority of the President or the Committee on Foreign
18 Investment in the United States (or any successor thereto)
19 as the designee of the President, under section 721 of the
20 Defense Production Act of 1950.

21 **“SEC. 243. REGULATIONS REQUIRED.**

22 “Not later than 6 months after the date of enactment
23 of this subtitle, the Secretary, in coordination with the
24 Secretary of the Treasury, shall promulgate final regula-
25 tions to carry out this subtitle.

1 **“SEC. 244. EFFECTIVE DATE.**

2 “(a) IN GENERAL.—Section 242 shall apply begin-
3 ning on the date that is 6 months after the date of enact-
4 ment of this subtitle.

5 “(b) EXISTING ENTITIES.—A foreign government
6 controlled entity that owns or otherwise controls or man-
7 ages any critical infrastructure of the United States on
8 the effective date of this subtitle shall comply with the re-
9 quirements of this subtitle not later than 180 days after
10 that effective date.”.

11 (b) CONFORMING AMENDMENT.—The table of con-
12 tents under section 1(b) of the Homeland Security Act of
13 2002 (6 U.S.C. 101) is amended by inserting after the
14 item relating to section 237 the following:

“Subtitle E—Limits on Foreign Control of Investments in Certain United
States Critical Infrastructure

“Sec. 241. Definitions.

“Sec. 242. Limitation on foreign investments.

“Sec. 243. Regulations required.

“Sec. 244. Effective date.”.

15 **SEC. 3. MARITIME SECURITY.**

16 (a) FINDINGS.—Congress finds that—

17 (1) existing scanning processes for maritime
18 containers are insufficient;

19 (2) it should be the goal of the United States
20 to scan 100 percent of inbound maritime containers;
21 and

1 (3) the maritime container inspection system
2 employed in Hong Kong shows promise in enhancing
3 the maritime security capabilities of the United
4 States.

5 (b) AMENDMENTS TO HOMELAND SECURITY ACT.—

6 (1) IN GENERAL.—Subtitle A of title IV of the
7 Homeland Security Act (6 U.S.C. 201 et seq.) is
8 amended by adding at the end the following:

9 **“SEC. 404. REPORT ON SCANNING OF MARITIME CON-**
10 **TAINERS.**

11 “(a) REPORT TO CONGRESS.—Not later than 90 days
12 after the date of enactment of this section, the Secretary
13 shall submit a report to Congress detailing the processes
14 and policies for implementation of a scanning system for
15 100 percent of the inbound maritime containers described
16 in subsection (a).

17 “(b) DEFINITION OF CONTAINER.—The term ‘con-
18 tainer’ has the meaning given the term in the Inter-
19 national Convention for Safe Containers, with annexes,
20 done at Geneva December 2, 1972 (29 UST 3707).”.

21 (2) CONFORMING AMENDMENT.—The table of
22 contents under section 1(b) of the Homeland Secu-
23 rity Act of 2002 (6 U.S.C. 101) is amended by in-

- 1 serting after the item relating to section 403 the fol-
- 2 lowing:

“Sec. 404. Report on scanning of maritime containers.”.

