Advancing Justice-Atlanta’s Statement Against SB 132

We ask that you oppose SB 132, which would preclude noncitizens and foreign persons of certain targeted countries from acquiring farmland or real property in Georgia.

- The country list referenced in the bill is not related to the stated legislative purpose, which allegedly is to protect Georgia’s agricultural industry or food security. It uses a list of countries created by the Secretary of Commerce\(^1\) to secure the information and communications technology and services supply chain.\(^2\)

- The bill raises serious legal concerns. It would be vulnerable to legal challenges and potentially expose sellers or realtors to legal liability.
  - This bill may violate the Equal Protection Clause of the Fourteenth Amendment, which prohibits discrimination based on race, nationality, or national origin.\(^3\)
  - This bill would also violate the Supremacy Clause of the Constitution because it interferes with the exclusive power of the Congress to regulate immigration.\(^4\) It authorizes a person or entity other than the federal government to classify noncitizens independent of federal immigration law.\(^5\)
  - By targeting individuals from specific countries, this bill discriminates against individuals based on their national origin and thus constitutes a potential violation of the Fair Housing Act.\(^6\) It would also compel sellers or realtors to choose between compliance with this bill or violation of the Fair Housing Act.

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\(^1\) 15 CFR § 7.4. This list includes six countries: China (including Hong Kong), Cuba, Iran, North Korea, Russia, and Venezuela (the Maduro Regime).
\(^3\) In *Fujii v. State*, 38 Cal. 2d 718 (1952), the California Supreme Court determined that the Alien Land Law, which prohibited farm land ownership on the basis of race and nationality, violated the Equal Protection Clause of the Fourteenth Amendment.
\(^4\) In *Arizona v. United States*, 567 U.S. 387 (2012), the controlling decision on the issue of federal preemption under the Supremacy Clause, the Supreme Court provides that state laws are preempted when they regulate conduct in a field where Congress has exclusive governance, and when they conflict with federal law.
\(^5\) In *Villas at Parkside Partners v. City of Farmers Branch*, Tex., 726 F.3d 524 (5th Cir. 2013), the court relied on *Arizona v. United States* to preempt a rental ordinance that determined a noncitizen tenant’s "unlawful presence" independent of federal immigration law.
\(^6\) 42 U.S.C. § 3601 et seq.

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The substitute bill exempts “legal residents” from the ban on land purchase. However, the term “legal residents” is vague and misleading, as it is neither enumerated in federal immigration law nor defined in other parts of the bill. It is also unclear whether this term applies to a noncitizen who has been lawfully admitted, to a noncitizen who currently maintains lawful immigration status, or to a noncitizen who is seeking or undergoing a change of immigration status. The bill’s language also categorically precludes undocumented noncitizens of targeted countries from acquiring farmland or certain real property.

Because an average person - or even a broker or realtor - is not capable of determining which individuals are exempted or restricted, this bill will produce arbitrary enforcement. This is dangerous as it imposes restrictions on land ownership and compels divestiture of property rights (lines 43-55).

The bill would ban targeted individuals from owning real property in metro Atlanta, Augusta, Savannah, and dozens of other densely populated cities in Georgia. Lines 40-42 prohibits individuals - not just foreign governments - from acquiring real property (“agricultural land or land”) within a 25-mile radius of any military installations.

The bill would primarily affect a select group of immigrants who have recently moved to, or who are planning to move to Georgia. Such disparate treatment dangerously evokes the “immigrants as threat” trope.

- This bill would deprive targeted immigrants of land or home ownership, which is widely considered to be the bedrock of a family life and the principal vehicle of generational wealth. It would also encumber small business ventures held by noncitizen immigrants who are seeking to establish roots and invest in the State of Georgia.

- As a result, this bill would discourage immigrant settlement and limit economic opportunities in a draconian fashion. It amounts to a dubious attempt to address national security concerns at the expense of innocent individuals who become casualties of geopolitics.

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A “military installation” on U.S soil is defined in 10 USC § 2801(c)(4) as “a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department.” We used the CFUS Part 802 Geographic Reference Tool to identify potentially affected areas. [https://mtgis-portal.geo.census.gov/arcgis/apps/webappviewer/index.html?id=0bb1d5751d76498181b4b531987cg263](https://mtgis-portal.geo.census.gov/arcgis/apps/webappviewer/index.html?id=0bb1d5751d76498181b4b531987cg263)

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