

Stricken language would be deleted from and underlined language would be added to present law.
Act 758 of the Regular Session

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: H4/4/23
A Bill

HOUSE BILL 1789

By: Representative McAlindon

By: Senator G. Stubblefield

For An Act To Be Entitled

AN ACT TO CREATE THE TECHNOLOGY PROTECTION ACT; TO PROHIBIT CONTRACTS WITH THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA; TO AMEND THE LAW CONCERNING STATE CONTRACTS; TO AMEND THE DUTIES OF THE OFFICE OF STATE PROCUREMENT; AND FOR OTHER PURPOSES.

Subtitle

TO PROHIBIT CONTRACTS WITH THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA; TO AMEND THE LAW CONCERNING STATE CONTRACTS; AND TO AMEND THE DUTIES OF THE OFFICE OF STATE PROCUREMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 25, Chapter 1, is amended to add an additional subchapter to read as follows:

Subchapter 10 – Prohibited Actions

25-1-1001. Legislative findings.

The General Assembly finds that:

(1) The Communist Party of China's authoritarian governance over the People's Republic of China includes extensive and continuing efforts to destroy any meaningful distinction between the Communist Party of China, the People's Republic of China state, and commercial entities in the People's



Republic of China;

(2) The People's Republic of China's commercial entities are an intrinsic part of Communist Party of China malignant activities globally, which include the Communist Party of China's human rights abuses, military-civil fusion efforts, and military expansion;

(3) Dealings with commercial entities of the People's Republic of China are less likely to be commercially sound because such entities are likely acting on noncommercial motivations and carry an increased political risk;

(4) While a commercial entity of the People's Republic of China is not beyond the reach of the Communist Party of China, the People's Republic of China's state-owned entities present heightened concerns of commercial soundness;

(5) Dealings with commercial entities of the People's Republic of China, and especially state-owned entities, threaten Arkansas security, including by making accessible to the Communist Party of China and People's Republic of China government information about the structure, operations, resources, and infrastructure of the government of Arkansas; and

(6) Dealings with commercial entities of the People's Republic of China, and especially state-owned entities, threaten the privacy and security of residents of Arkansas, to the extent that they involve the personal information of such residents.

25-1-1002. Definitions.As used in this subchapter:

(1) "Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for the purpose of making profit;

(2) "Contract" means the same as defined in the Arkansas Procurement Law, § 19-11-203(5);

(3) "Scrutinized company" means a company owned in whole or with a majority ownership by the government of the People's Republic of China; and

(4) "State agency" means the same as defined in the Arkansas

Procurement Law, § 19-11-203(30).

25-1-1003. Contracts with the Government of People's Republic of China prohibited.

(a) A state agency shall not enter into a contract:

(1) With a scrutinized company; or

(2) That employs a scrutinized company as a subcontractor.

(b) A state agency shall require a company that submits a bid or proposal for a contract for goods or services to certify that the company is not a scrutinized company.

(c) If a state agency or the Office of State Procurement determines that a company has submitted a false certification under subsection (b) of this section:

(1) The company shall be liable for a civil penalty in an amount that is equal to the greater of two hundred fifty thousand dollars (\$250,000) or twice the amount of the contract for which a bid or proposal was submitted;

(2) The state agency or the Office of State Procurement shall terminate the contract with the company; and

(3) The company shall be ineligible to bid on a state contract for five (5) years and then the company's status will be reassessed.

SECTION 2. DO NOT CODIFY. SEVERABILITY CLAUSE. If any provision of this act or the application of this act to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end, the provisions of this act are declared severable.

/s/McAlindon

APPROVED: 4/12/23