

HOUSE BILL No. 2766

By Committee on Appropriations

Requested by Representative Croft

2-8

1 AN ACT concerning real property; relating to certain lands and military
2 installations; creating the Kansas land and military installation
3 protection act; prohibiting foreign principals from countries of concern
4 from holding any interest in certain real property in this state;
5 prohibiting foreign principals from countries of concern from receiving
6 any economic development program benefits; amending K.S.A. 2023
7 Supp. 60-4104 and repealing the existing section.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

10 New Section 1. (a) Sections 1 through 7, and amendments thereto,
11 shall be known and may be cited as the Kansas land and military
12 installation protection act.

13 (b) It is declared that the purpose of this act is to protect certain real
14 property and military installations located in this state by prohibiting
15 countries of concern and any agent thereof from acquiring any interest in
16 such real property.

17 New Sec. 2. As used in sections 1 through 7, and amendments
18 thereto:

19 (a) "Attorney general" means the attorney general of the state of
20 Kansas.

21 (b) "Company" means any:

22 (1) For-profit corporation, partnership, limited partnership, limited
23 liability partnership, limited liability company, joint venture, trust,
24 association, sole proprietorship or other organization, including any:

25 (A) Subsidiary of such company, a majority ownership interest of
26 which is held by such company;

27 (B) parent company that holds a majority ownership interest of such
28 company; and

29 (C) other affiliate or business association of such company whose
30 primary purpose is to make a profit; or

31 (2) nonprofit organization.

32 (c) (1) "Country of concern" means the following:

33 (A) People's republic of China, including the Hong Kong special
34 administrative region;

35 (B) republic of Cuba;

- 1 (C) islamic republic of Iran;
2 (D) democratic people's republic of Korea;
3 (E) Russian federation; and
4 (F) Bolivarian republic of Venezuela.
- 5 (2) "Country of concern" does not include the republic of China
6 (Taiwan).
- 7 (d) "De minimis indirect interest" means any interest in real property
8 that is:
- 9 (1) The result of ownership of registered securities in a publicly
10 traded company; and
11 (2) such ownership is:
- 12 (A) Less than 5% of any class of registered securities or less than 5%
13 of the aggregate registered securities of multiple classes of securities; or
14 (B) a noncontrolling interest in an entity that is controlled by a
15 company that is registered with the United States securities and exchange
16 commission as an investment adviser under the investment advisers act of
17 1940, P.L. 117-263 and is not a foreign entity.
- 18 (e) "Domicile" means the country where:
- 19 (1) A company is organized;
20 (2) a company completes a substantial portion of its business; or
21 (3) a majority of a company's ownership interest is held.
- 22 (f) "Economic development incentive program" means:
- 23 (1) Any economic development incentive program administered
24 wholly or in part by the secretary of commerce;
25 (2) any tax credit program, except for social and domestic tax credits,
26 regardless of the administering state agency;
27 (3) property that has been exempted from ad valorem taxation under
28 the provisions of section 13 of article 11 of the constitution of the state of
29 Kansas;
30 (4) property that has been purchased, acquired, constructed,
31 reconstructed, improved, equipped, furnished, repaired, enlarged or
32 remodeled with all or any part of the proceeds of revenue bonds issued
33 under any authority granted in article 17 of chapter 12 of the Kansas
34 Statutes Annotated, and amendments thereto;
35 (5) any economic development fund, including, but not limited to, the
36 job creation program fund established by K.S.A. 74-50,224, and
37 amendments thereto, and the economic development initiatives fund
38 established by K.S.A. 79-4804, and amendments thereto; and
39 (6) any other economic development incentive program that provides
40 any form of tax credit, abatement or exemption or financial assistance
41 provided by or authorized by a governmental entity.
- 42 (g) "Foreign entity" means any company whose domicile is any
43 country other than the United States.

1 (h) "Foreign principal" means:

2 (1) The government or any official of the government of a country of
3 concern;

4 (2) any political party, subdivision thereof or any member of a
5 political party of a country of concern;

6 (3) any corporation, partnership, association, organization or other
7 combination of persons organized under the laws of or having its principal
8 place of business in a country of concern. "Foreign principal" includes any
9 subsidiary owned or wholly controlled by any such entity;

10 (4) any agent of or any entity otherwise under the control of a country
11 of concern;

12 (5) any individual whose residence is in a country of concern and
13 who is not a citizen or lawful permanent resident of the United States; or

14 (6) any individual, entity or combination thereof described in
15 paragraphs (1) through (5) that has a controlling interest in any company
16 formed for the purpose of holding any interest in real property.

17 (i) "Interest in real property" means any:

18 (1) Ownership interest in any parcel of real property acquired by
19 purchase, gift, grant, devise, bequest or other transfer of such interest;

20 (2) ownership or other interest in any easement or other right of
21 egress onto or across any parcel of real property;

22 (3) ownership or other interest in any right to any oil, gas, minerals or
23 water located on or under any parcel of real property; and

24 (4) any interest or right to possess or use any parcel of real property
25 acquired by the execution of a lease, lease-purchase or any other form of
26 rental agreement.

27 (j) "Military installation" means any land, buildings or other
28 structures owned or controlled by any division of the United States
29 department of defense, Kansas national guard or any other federal or state
30 agency that is critical to the safety and security of Kansas or the United
31 States.

32 (k) "Non-notified transaction" means any transaction involving
33 foreign investment in the United States that is not voluntarily submitted to
34 the committee on foreign investment in the United States for review
35 pursuant to 50 U.S.C. § 4565.

36 (l) "Real property" means any real estate located in this state except
37 residential real property.

38 (m) "Residential real property" means real property that is used
39 exclusively as a place of residence for human habitation.

40 (n) "Social and domestic tax credits" means the adoption credit
41 created pursuant to K.S.A. 79-32,202a, and amendments thereto, the
42 earned income tax credit created pursuant to K.S.A. 79-32,205, and
43 amendments thereto, the food sales tax credit created pursuant to K.S.A.

1 79-32,271, and amendments thereto, the child and dependent care tax
 2 credit created pursuant to K.S.A. 79-32,111c, and amendments thereto, and
 3 the homestead property tax refund created pursuant to K.S.A. 79-4501 et
 4 seq., and amendments thereto.

5 (o) "State agency" means any department, authority, bureau, division,
 6 office or other governmental agency of this state.

7 (p) "Tax credit program" means any credit allowed against the tax
 8 imposed by the Kansas income tax act, the premium or privilege fees
 9 imposed pursuant to K.S.A. 40-252, and amendments thereto, or the
 10 privilege tax as measured by net income of financial institutions imposed
 11 pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and
 12 amendments thereto.

13 New Sec. 3. (a) Except as provided in subsection (d), no foreign
 14 principal shall directly or indirectly own or acquire any interest in any real
 15 property located within 150 miles of the boundary of any military
 16 installation located in this state or any adjacent state, except a de minimis
 17 interest in such real property.

18 (b) Any foreign principal that directly or indirectly owns or acquires
 19 any interest in real property as described in subsection (a) shall file
 20 registration of such ownership with the attorney general in such form and
 21 manner as prescribed by the attorney general not later than 90 days after
 22 July 1, 2024, or the date such interest is acquired, whichever is later. Such
 23 filing shall include:

- 24 (1) The name of the individual or entity holding such interest;
- 25 (2) the date of acquisition;
- 26 (3) the address and legal description of the real property; and
- 27 (4) the number of acres comprising the real property.

28 (c) (1) Any foreign principal that directly or indirectly owns or
 29 acquires any interest in real property as described in subsection (a) and
 30 that has registered such interest in accordance with subsection (b) shall
 31 divest such interest in such real property not later than 360 days after
 32 either July 1, 2024, or the date such interest is acquired, whichever is later.

33 (2) Any foreign principal that directly or indirectly owns or acquires
 34 any interest in real property as described in subsection (a) that fails to
 35 register such interest as required under subsection (b) shall divest such
 36 interest in such real property not later than 180 days after either July 1,
 37 2024, or the date such interest is acquired, whichever is later.

38 (3) A copy of all documentation evidencing such divestiture shall be
 39 submitted to the attorney general in such manner as prescribed by the
 40 attorney general not later than 30 days after the effective date of such
 41 divestiture.

42 (d) A foreign principal may acquire an interest in real property by
 43 devise or bequest, through the enforcement of any security interest or

1 through the collection of a debt. Any such acquisition shall be subject to
2 the provisions of subsections (b) and (c).

3 New Sec. 4. (a) Any person may report a suspected violation of
4 section 3, and amendments thereto, to the attorney general in such form
5 and manner as prescribed by the attorney general. The attorney general
6 shall investigate any reports that the attorney general reasonably suspects
7 constitutes a violation of section 3, and amendments thereto.

8 (b) Upon finding that a violation of section 3, and amendments
9 thereto, has occurred, the attorney general may commence an action in a
10 court of competent jurisdiction to enforce the provisions of section 3, and
11 amendments thereto. In any such action, the attorney general may seek:

12 (1) A court order directing the defendant to divest such defendant's
13 interest in such real property;

14 (2) injunctive relief;

15 (3) civil forfeiture of the defendant's interest in such real property
16 pursuant to K.S.A. 60-4101 et seq., and amendments thereto; and

17 (4) reasonable attorney fees and court costs.

18 New Sec. 5. No foreign principal shall receive any direct benefit
19 related to any economic development program regardless of the form of
20 such benefit.

21 New Sec. 6. (a) The attorney general shall establish policies and
22 procedures for the reporting of information concerning non-notified
23 transactions to the attorney general. Any person may report information
24 concerning such transactions in such form and manner as prescribed by the
25 attorney general.

26 (b) The attorney general shall prepare and submit a report on any
27 identified non-notified transactions to the committee on foreign investment
28 in the United States. A copy of such report shall be submitted to the
29 governor, the adjutant general and the standing committees on federal and
30 state affairs of the senate and the house of representatives.

31 (c) On or before February 1 of each year, the attorney general shall
32 prepare and submit a report to the governor, the adjutant general, the
33 standing committee on commerce, labor and economic development of the
34 house of representatives and the standing committee on commerce of the
35 senate.

36 (d) The attorney general shall retain copies of any documents that are
37 made a part of or otherwise submitted to the committee on foreign
38 investment in the United States along with the report required under
39 subsection (b).

40 (e) On or before January 1, 2025, the attorney general shall adopt
41 rules and regulations to implement the provisions of this section.

42 New Sec. 7. Sections 1 through 6, and amendments thereto, are
43 declared severable. Any provision of sections 1 through 6, and

1 amendments thereto, or the application thereof to any person or
2 circumstance that is held to be unconstitutional or invalid shall not affect
3 the validity of any remaining provisions of sections 1 through 6, and
4 amendments thereto, or the applicability of such provisions to any person
5 or circumstance.

6 Sec. 8. K.S.A. 2023 Supp. 60-4104 is hereby amended to read as
7 follows: 60-4104. Conduct and offenses giving rise to forfeiture under this
8 act, whether or not there is a prosecution or conviction related to the
9 offense, are:

10 (a) All offenses which statutorily and specifically authorize forfeiture;

11 (b) violations involving controlled substances, as described in K.S.A.
12 21-5701 through 21-5717, and amendments thereto;

13 (c) theft, as defined in K.S.A. 21-5801, and amendments thereto;

14 (d) criminal discharge of a firearm, as defined in K.S.A. 21-6308(a)
15 (1) and (a)(2), and amendments thereto;

16 (e) gambling, as defined in K.S.A. 21-6404, and amendments thereto,
17 and commercial gambling, as defined in K.S.A. 21-6406(a)(1), and
18 amendments thereto;

19 (f) counterfeiting, as defined in K.S.A. 21-5825, and amendments
20 thereto;

21 (g) unlawful possession or use of a scanning device or reencoder, as
22 described in K.S.A. 21-6108, and amendments thereto;

23 (h) medicaid fraud, as described in K.S.A. 21-5925 through 21-5934,
24 and amendments thereto;

25 (i) an act or omission occurring outside this state, which would be a
26 violation in the place of occurrence and would be described in this section
27 if the act occurred in this state, whether or not it is prosecuted in any state;

28 (j) an act or omission committed in furtherance of any act or omission
29 described in this section including any inchoate or preparatory offense,
30 whether or not there is a prosecution or conviction related to the act or
31 omission;

32 (k) any solicitation or conspiracy to commit any act or omission
33 described in this section, whether or not there is a prosecution or
34 conviction related to the act or omission;

35 (l) terrorism, as defined in K.S.A. 21-5421, and amendments thereto,
36 illegal use of weapons of mass destruction, as defined in K.S.A. 21-5422,
37 and amendments thereto, and furtherance of terrorism or illegal use of
38 weapons of mass destruction, as described in K.S.A. 21-5423, and
39 amendments thereto;

40 (m) unlawful conduct of dog fighting and unlawful possession of dog
41 fighting paraphernalia, as defined in K.S.A. 21-6414(a) and (b), and
42 amendments thereto;

43 (n) unlawful conduct of cockfighting and unlawful possession of

1 cockfighting paraphernalia, as defined in K.S.A. 21-6417(a) and (b), and
2 amendments thereto;

3 (o) selling sexual relations, as defined in K.S.A. 21-6419, and
4 amendments thereto, promoting the sale of sexual relations, as defined in
5 K.S.A. 21-6420, and amendments thereto, and buying sexual relations, as
6 defined in K.S.A. 21-6421, and amendments thereto;

7 (p) human trafficking and aggravated human trafficking, as defined in
8 K.S.A. 21-5426, and amendments thereto;

9 (q) violations of the banking code, as described in K.S.A. 9-2012, and
10 amendments thereto;

11 (r) mistreatment of a dependent adult, as defined in K.S.A. 21-5417,
12 and amendments thereto;

13 (s) giving a worthless check, as defined in K.S.A. 21-5821, and
14 amendments thereto;

15 (t) forgery, as defined in K.S.A. 21-5823, and amendments thereto;

16 (u) making false information, as defined in K.S.A. 21-5824, and
17 amendments thereto;

18 (v) criminal use of a financial card, as defined in K.S.A. 21-5828, and
19 amendments thereto;

20 (w) unlawful acts concerning computers, as described in K.S.A. 21-
21 5839, and amendments thereto;

22 (x) identity theft and identity fraud, as defined in K.S.A. 21-6107(a)
23 and (b), and amendments thereto;

24 (y) electronic solicitation, as defined in K.S.A. 21-5509, and
25 amendments thereto;

26 (z) felony violations of fleeing or attempting to elude a police officer,
27 as described in K.S.A. 8-1568, and amendments thereto;

28 (aa) commercial sexual exploitation of a child, as defined in K.S.A.
29 21-6422, and amendments thereto;

30 (bb) violations of the Kansas racketeer influenced and corrupt
31 organization act, as described in K.S.A. 21-6329, and amendments thereto;

32 (cc) indecent solicitation of a child and aggravated indecent
33 solicitation of a child, as defined in K.S.A. 21-5508, and amendments
34 thereto;

35 (dd) sexual exploitation of a child, as defined in K.S.A. 21-5510, and
36 amendments thereto; ~~and~~

37 (ee) violation of a consumer protection order as defined in K.S.A. 21-
38 6423, and amendments thereto; *and*

39 *(ff) violation of the Kansas land and military installation protection*
40 *act as described in section 3, and amendments thereto.*

41 Sec. 9. K.S.A. 2023 Supp. 60-4104 is hereby repealed.

42 Sec. 10. This act shall take effect and be in force from and after its
43 publication in the statute book.