

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 7

FINAL READING

Introduced by DeKay, 40; Hardin, 48.

Read first time January 09, 2025

Committee: Agriculture

1 A BILL FOR AN ACT relating to real property; to amend sections 76-2,141,
2 76-3702, 76-3703, 76-3704, 76-3708, 76-3709, 76-3710, 76-3712, and
3 76-3715, Revised Statutes Cumulative Supplement, 2024; to change
4 provisions relating to affidavits for covered real estate; to define
5 and redefine terms under the Foreign-owned Real Estate National
6 Security Act; to change provisions of such act relating to foreign-
7 owned real estate, oil and gas leases, railroads, public utilities,
8 common carriers, municipalities, manufacturing or industrial
9 establishments, investigations and violations, and civil and
10 criminal immunity; to harmonize provisions; to provide severability;
11 and to repeal the original sections.
12 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 76-2,141, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 76-2,141 (1) For purposes of this section, covered real estate means
4 real estate described in 31 C.F.R. 802.211(b)(3), as such regulation
5 existed on January 1, 2025.

6 (2) Whenever there is a conveyance of covered real estate, the
7 purchaser of the real estate shall complete and sign an affidavit stating
8 that such purchaser is not affiliated with any foreign government or
9 nongovernment person determined to be a foreign adversary pursuant to 15
10 C.F.R. 791.4, as such regulation existed on February 7, 2025 7-4.

11 (3) The affidavit shall be submitted to the register of deeds of the
12 county in which the covered real estate is located. The register of deeds
13 shall not record any instrument reflecting the conveyance of such real
14 estate until he or she has received such affidavit. The register of deeds
15 shall send a copy of the affidavit to the Attorney General.

16 (4) Any person who swears falsely on such an affidavit shall be
17 guilty of a violation of section 28-915.01.

18 (5) The responsibility for determining whether an affidavit is
19 required under this section rests solely with the purchaser, and no
20 individual or entity other than the purchaser shall bear any civil or
21 criminal liability under this section. A violation of this section shall
22 not make any title or interest in land invalid or unmarketable.

23 (6) The affidavit required under this section shall be in
24 substantially the following form:

25 STATE OF NEBRASKA)
26)ss.
27 COUNTY OF)

28 I, (Purchaser), certify under penalty of perjury
29 that I am not affiliated with any foreign government or nongovernment
30 person determined to be a foreign adversary pursuant to 15 C.F.R. 791.4,
31 as such regulation existed on February 7, 2025 7-4.

1 (a) Any person ~~or entity~~ identified on the sanctions lists
2 maintained by the Office of Foreign Assets Control of the United States
3 Department of the Treasury as such sanctions lists existed on January 1,
4 2025; or

5 (b) Any person or foreign government ~~or entity~~ determined by the
6 United States Secretary of Commerce to have engaged in a long-term
7 pattern or serious instances of conduct significantly adverse to the
8 national security of the United States pursuant to 15 C.F.R. 791.4 ~~7.4~~,
9 as such regulation existed on February 7 ~~January 1~~, 2025.

10 **Sec. 3.** Section 76-3703, Revised Statutes Cumulative Supplement,
11 2024, is amended to read:

12 76-3703 (1) Except as provided in the Foreign-owned Real Estate
13 National Security Act, a nonresident alien, a foreign corporation, or
14 foreign a government ~~other than the United States Government or a~~
15 ~~government of its states, political subdivisions, territories, or~~
16 ~~possessions~~, or an agent, a trustee, or a fiduciary thereof:

17 (a) Shall not purchase, acquire title to, or take any real estate or
18 any leasehold interest extending for a period for more than five years or
19 any other greater interest less than fee in any real estate in this state
20 by descent, devise, purchase or otherwise on or after January 1, 2025 ~~7~~
21 ~~except as provided in the Foreign-owned Real Estate National Security~~
22 ~~Act~~; and

23 (b) Shall be in compliance with the federal Agricultural Foreign
24 Investment Disclosure Act of 1978, 7 U.S.C. 3501 et seq., with respect to
25 any real estate in Nebraska.

26 (2) Except as provided in the Foreign-owned Real Estate National
27 Security Act, a restricted entity, a nonresident alien, a foreign
28 corporation, foreign a government ~~other than the United States Government~~
29 ~~or a government of its states, political subdivisions, territories, or~~
30 ~~possessions~~, or an agent, a trustee, or a fiduciary thereof, who ~~that~~ on
31 or after January 1, 2025, purchases, acquires title to, or takes any real

1 estate or any leasehold interest in violation of the Foreign-owned Real
2 Estate National Security Act shall be subject to divestment as prescribed
3 under section 76-3712.

4 (3) Any person, nonresident alien, foreign corporation, or foreign
5 government, or agent, trustee, or fiduciary thereof, of an excepted real
6 estate foreign state as determined by the Committee on Foreign Investment
7 in the United States pursuant to 31 C.F.R. 802.1001(a) and 802.214, as
8 such regulations existed on January 1, 2025, is exempt from the Foreign-
9 owned Real Estate National Security Act except for any restricted entity,
10 or agent, trustee, or fiduciary thereof.

11 **Sec. 4.** Section 76-3704, Revised Statutes Cumulative Supplement,
12 2024, is amended to read:

13 76-3704 (1) Except as provided in subsection (2) of this section,
14 corporations incorporated under the laws of the United States of America,
15 or under the laws of any state of the United States of America, or any
16 foreign corporation or any nonresident alien, doing business in this
17 state, may acquire, own, hold, or operate leases for oil, gas, or other
18 hydrocarbon substances, for a period as long as ten years and as long
19 thereafter as oil, gas, or other hydrocarbon substances shall or can be
20 produced in commercial quantities.

21 ~~(2) A Subsection (1) of this section shall not apply to a restricted~~
22 ~~entity or an agent, trustee, or fiduciary thereof may not acquire, own,~~
23 ~~hold, or operate leases for oil, gas, or other hydrocarbon substances~~
24 ~~pursuant to subsection (1) of this section. A restricted entity, or an~~
25 ~~agent, trustee, or fiduciary thereof, who that violates this section~~
26 ~~subsection (1) of this section shall be in violation of the Foreign-owned~~
27 ~~Real Estate National Security Act and subject to divestment as prescribed~~
28 ~~under section 76-3712.~~

29 **Sec. 5.** Section 76-3708, Revised Statutes Cumulative Supplement,
30 2024, is amended to read:

31 76-3708 (1) Except as provided in subsection (2) of this section,

1 the provisions of sections 76-3703, 76-3706, and 76-3707 shall not apply
2 to the real estate necessary for the construction and operation of
3 railroads, public utilities, and common carriers.

4 (2) The provisions of sections 76-3703, 76-3706, and 76-3707
5 ~~Subsection (1) of this section~~ shall ~~not~~ apply to the real estate of a
6 restricted entity or an agent, trustee, or fiduciary thereof. A
7 restricted entity, or an agent, trustee, or fiduciary thereof, who that
8 violates this section ~~subsection (1) of this section~~ shall be in
9 violation of the Foreign-owned Real Estate National Security Act and
10 subject to divestment as prescribed under section 76-3712.

11 **Sec. 6.** Section 76-3709, Revised Statutes Cumulative Supplement,
12 2024, is amended to read:

13 76-3709 (1) Except as provided in subsection (2) of this section,
14 any nonresident alien, foreign corporation, or foreign government other
15 ~~than the United States Government or a government of its states,~~
16 ~~political subdivisions, territories, or possessions,~~ or an agent,
17 trustee, or fiduciary thereof:

18 (a) May purchase, acquire, hold title to, or be a lessor or lessee
19 of as much real estate as shall be necessary for the purpose of (i)
20 erecting on such real estate manufacturing or industrial establishments,
21 and in addition thereto such real estate as may be required for
22 facilities incidental to such establishments, or (ii) erecting and
23 maintaining establishments primarily operated for the storage, sale, and
24 distribution of petroleum products or hydrocarbon substances, commonly
25 known as filling stations or bulk stations; and

26 (b) Shall not expand establishments or facilities purchased,
27 acquired, held, or leased pursuant to subdivision (1)(a) of this section
28 or build new such establishments or facilities if such nonresident alien,
29 foreign corporation, or foreign government is a restricted entity, or an
30 agent, trustee, or fiduciary thereof.

31 (2)(a) ~~(2)~~ A restricted entity, or an agent, trustee, or fiduciary

1 thereof, shall not purchase, acquire, hold title to, or be a lessor or
2 lessee of real estate pursuant to subdivision (1)(a) of this section
3 unless such restricted entity, or an agent, trustee, or fiduciary
4 thereof, has received: has a national security agreement with the
5 Committee on Foreign Investment in the United States as of January 1,
6 2025, maintains such national security agreement, and certifies the
7 validity of such national security agreement annually to the Department
8 of Agriculture within thirty days after January 1, 2025, and on or before
9 January 15 of each year thereafter.

10 (i) A determination from the Committee on Foreign Investment in the
11 United States that there are no unresolved national security concerns
12 with respect to the real estate transaction and such restricted entity
13 has not undergone a change in control constituting a covered control
14 transaction, as defined in 31 C.F.R. 800.210, as such regulation existed
15 on January 1, 2025, since such determination; or

16 (ii) A national security agreement with the Committee on Foreign
17 Investment in the United States and maintains the validity of such
18 national security agreement.

19 (b) A restricted entity, or an agent, trustee, or fiduciary thereof,
20 who complies with the requirements of subdivision (2)(a)(i) or (ii) of
21 this section shall annually certify such compliance to the Department of
22 Agriculture on or before January 15, 2026, and on or before January 15 of
23 each year thereafter.

24 (3) A restricted entity, or an agent, trustee, or fiduciary thereof,
25 who that violates this section shall be in violation of the Foreign-owned
26 Real Estate National Security Act and subject to divestment as prescribed
27 under section 76-3712.

28 **Sec. 7.** Section 76-3710, Revised Statutes Cumulative Supplement,
29 2024, is amended to read:

30 76-3710 (1) Except as provided in subsection (2) of this section,
31 the provisions of the Foreign-owned Real Estate National Security Act

1 shall not apply to any real estate lying within the corporate limits of
2 cities and villages, or within three miles of such corporate limits, nor
3 to any manufacturing or industrial establishment described in section
4 76-3709.

5 (2) A restricted entity, or an agent, trustee, or fiduciary thereof,
6 who that purchases, acquires, holds title to, or is the lessor or lessee
7 of any real estate lying within the corporate limits of cities and
8 villages, or within three miles of such corporate limits, or any
9 manufacturing or industrial establishment described in section 76-3709
10 shall be subject to sections 76-3703 and 76-3709. A restricted entity, or
11 an agent, trustee, or fiduciary thereof, who that violates this
12 subsection shall be subject to divestment as prescribed under section
13 76-3712.

14 **Sec. 8.** Section 76-3712, Revised Statutes Cumulative Supplement,
15 2024, is amended to read:

16 76-3712 (1) Any person may notify the Department of Agriculture or
17 the Attorney General of a violation or potential violation of the
18 Foreign-owned Real Estate National Security Act.

19 (2) The Department of Agriculture shall investigate violations of
20 the Foreign-owned Real Estate National Security Act. If the Director of
21 Agriculture has reasonable suspicion to believe that a violation of the
22 act has occurred, the director shall refer the suspected violation to the
23 Attorney General or outside counsel retained by the Department of
24 Agriculture for enforcement.

25 (3) The Attorney General or retained outside counsel, upon a
26 referral by the Director of Agriculture or upon the receipt of any
27 information from any person that gives the Attorney General or retained
28 counsel reasonable suspicion to believe that a violation of the Foreign-
29 owned Real Estate National Security Act has occurred, may issue subpoenas
30 requiring the appearance of witnesses, the production of documents, and
31 the giving of relevant testimony. Service of any subpoena shall be made

1 in the same manner as a subpoena issued by any court in this state.

2 (4)(a) After investigation, if the Attorney General or retained
3 outside counsel believes that a violation of the Foreign-owned Real
4 Estate National Security Act has occurred, the Attorney General or
5 retained outside counsel shall notify the person ~~any restricted entity~~
6 believed to have committed or be committing such violation that such
7 person ~~entity~~ may voluntarily divest the ~~any~~ interest in the ~~real~~ estate
8 that is the subject of the violation.

9 (b) The person believed to have committed or be committing a
10 violation ~~restricted entity~~ shall indicate to the Attorney General or
11 retained outside counsel whether such person ~~entity~~ is voluntarily
12 divesting the ~~any~~ interest in the ~~real~~ estate that is the subject of the
13 violation within thirty days of receiving the notice under subdivision
14 (4)(a) of this section.

15 (c) If the person believed to have committed or to be committing a
16 violation ~~restricted entity~~ indicates that such person ~~it~~ is voluntarily
17 divesting the ~~any~~ interest in the ~~real~~ estate that is the subject of the
18 violation, such person ~~the restricted entity~~ shall be entitled to a grace
19 period of one hundred eighty days to voluntarily divest the interest.

20 (d) The grace period of one hundred eighty days shall begin upon the
21 end of the thirty-day period under subdivision (4)(b) of this section.

22 (e) No person ~~The restricted entity~~ shall ~~not~~ sell or otherwise
23 transfer ~~the~~ real estate to another ~~a person or entity~~ prohibited under
24 the act. Any person ~~A restricted entity~~ who violates this subdivision
25 shall be subject to a civil penalty not to exceed fifty thousand dollars
26 per parcel of real estate sold or otherwise transferred to another ~~a~~
27 ~~person or entity~~ prohibited under the act.

28 (5) The Attorney General or retained outside counsel shall commence
29 an action in either the district court in the county in which all or part
30 of the real estate is located or in the district court of Lancaster
31 County if:

1 (a) The person described in subdivision (4)(a) of this section
2 ~~restricted entity~~ fails to indicate to the Attorney General or retained
3 outside counsel that such person ~~the entity~~ is voluntarily divesting the
4 ~~any~~ interest in the real estate that is the subject of the violation
5 within the thirty-day period under subdivision (4)(b) of this section; or

6 (b) Such person ~~The restricted entity~~ fails to voluntarily divest
7 the any interest in the real estate that is the subject of the violation
8 within the grace period of one hundred eighty days.

9 (6) Upon commencement of an action under this section, the Attorney
10 General or retained counsel shall:

11 (a) Promptly record a notice of the pendency of the action in
12 records with the register of deeds in each county in which all or part of
13 the real estate is located; and

14 (b) Serve a copy of the petition by service of process in the same
15 manner as in civil cases as follows on:

16 (i) The owner of the real estate if the owner's address is known;

17 (ii) Any secured party who has registered or filed a lien, mortgage,
18 or trust deed against the real estate or filed a financing statement
19 against the real estate as provided by law if the identity of the secured
20 party can be ascertained by the person ~~entity~~ filing the petition by
21 making a good faith effort to ascertain the identity of the secured
22 party;

23 (iii) Any other bona fide lienholder or secured party or other
24 person holding an interest in the real estate if such party is known; and

25 (iv) Any person residing on the real estate subject to divestment at
26 the time the petition is filed.

27 (7) The court shall have power to hear and determine the questions
28 presented in such case and to declare such real estate to be divested.
29 The burden is on the state to prove by clear and convincing evidence that
30 the real estate is subject to divestment under the Foreign-owned Real
31 Estate National Security Act. If the court finds that the real estate

1 that is the subject of an action commenced under the act was purchased,
2 acquired, taken, or held in violation of the act, the court shall enter
3 an order that:

4 (a) States the findings of the court;

5 (b) Orders the divestment of the interest in the real estate of the
6 person ~~or entity~~ that violated the act;

7 (c) Orders the Attorney General or retained outside counsel to
8 promptly notify ~~Notifies~~ the Governor and the Clerk of the Legislature
9 that the title to such real estate is ordered divested by the decree of
10 the court;

11 (d) Orders the Attorney General or retained outside counsel to
12 promptly record a copy of such divestment order with the register of
13 deeds of each county in which all or part of the real estate is located;

14 (e) Appoints a receiver subject to sections 25-1081 to 25-1092 to
15 manage and control the real estate through the final disposition of the
16 real estate; and

17 (f) Authorizes the proceeds of the divestment to be disbursed in the
18 following order:

19 (i) The payment of any taxes and assessments due;

20 (ii) The payment of court costs related to the action or actions
21 commenced under the Foreign-owned Real Estate National Security Act;

22 (iii) The payment of authorized costs of the sale, including all
23 approved fees and pending sale expenses and expenses of the referee;

24 (iv) Reimbursement of investigation and litigation costs and
25 expenses, in an amount approved by the court, to the Attorney General or
26 retained outside counsel;

27 (v) Payment to bona fide lienholders of the real estate, in order of
28 lien priority, except for liens which under the terms of the divestment
29 are to remain on the real estate; and

30 (vi) Remittance of any remaining proceeds to the State Treasurer for
31 distribution in accordance with Article VII, section 5, of the

1 Constitution of Nebraska.

2 (8) If the interest is a lease, easement, or interest other than fee
3 title, the court shall have power to declare such interest terminated.

4 (9) If the respondent fails to answer or appear for the action
5 commenced pursuant to this section, the court may enter default judgment.

6 **Sec. 9.** Section 76-3715, Revised Statutes Cumulative Supplement,
7 2024, is amended to read:

8 76-3715 Nothing in the Foreign-owned Real Estate National Security
9 Act shall be construed to require any person ~~or entity~~ to determine or
10 inquire whether another person ~~or entity~~ is subject to or in violation of
11 the act, and such person ~~or entity~~ shall bear no civil or criminal
12 liability under the act for the failure to make such determination or
13 inquiry. The Attorney General, retained outside counsel, and Director of
14 Agriculture are responsible for determining whether a person ~~or entity~~ is
15 subject to or in violation of the act.

16 **Sec. 10.** If any section in this act or any part of any section is
17 declared invalid or unconstitutional, the declaration shall not affect
18 the validity or constitutionality of the remaining portions.

19 **Sec. 11.** Original sections 76-2,141, 76-3702, 76-3703, 76-3704,
20 76-3708, 76-3709, 76-3710, 76-3712, and 76-3715, Revised Statutes
21 Cumulative Supplement, 2024, are repealed.