

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 476

Introduced by Guereca, 7.

Read first time January 21, 2025

Committee:

- 1 A BILL FOR AN ACT relating to the Foreign-owned Real Estate National
- 2 Security Act; to amend sections 76-3701 and 76-3712, Revised
- 3 Statutes Cumulative Supplement, 2024; to provide exemptions; to
- 4 harmonize provisions; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 76-3701, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 76-3701 Sections 76-3701 to 76-3717 and section 3 of this act shall
4 be known and may be cited as the Foreign-owned Real Estate National
5 Security Act.

6 **Sec. 2.** Section 76-3712, Revised Statutes Cumulative Supplement,
7 2024, is amended to read:

8 76-3712 (1) Any person may notify the Department of Agriculture or
9 the Attorney General of a violation or potential violation of the
10 Foreign-owned Real Estate National Security Act.

11 (2) The Department of Agriculture shall investigate violations of
12 the Foreign-owned Real Estate National Security Act. If the Director of
13 Agriculture has reasonable suspicion to believe that a violation of the
14 act has occurred, the director shall refer the suspected violation to the
15 Attorney General or outside counsel retained by the Department of
16 Agriculture for enforcement.

17 (3) The Attorney General or retained outside counsel, upon a
18 referral by the Director of Agriculture or upon the receipt of any
19 information from any person that gives the Attorney General or retained
20 counsel reasonable suspicion to believe that a violation of the Foreign-
21 owned Real Estate National Security Act has occurred, may issue subpoenas
22 requiring the appearance of witnesses, the production of documents, and
23 the giving of relevant testimony. Service of any subpoena shall be made
24 in the same manner as a subpoena issued by any court in this state.

25 (4)(a) After investigation, if the Attorney General or retained
26 outside counsel believes that a violation of the Foreign-owned Real
27 Estate National Security Act has occurred, the Attorney General or
28 retained outside counsel shall notify any restricted entity believed to
29 be committing such violation that such entity may voluntarily divest any
30 interest in real estate that is the subject of the violation.

31 (b) The restricted entity shall indicate to the Attorney General or

1 retained outside counsel whether such entity is voluntarily divesting any
2 interest in real estate that is the subject of the violation within
3 thirty days of receiving the notice under subdivision (4)(a) of this
4 section.

5 (c) If the restricted entity indicates that it is voluntarily
6 divesting any interest in real estate that is the subject of the
7 violation, the restricted entity shall be entitled to a grace period of
8 one hundred eighty days to voluntarily divest the interest.

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

11 (e) The restricted entity shall not sell or otherwise transfer the
12 real estate to a person or entity prohibited under the act. A restricted
13 entity who violates this subdivision shall be subject to a civil penalty
14 not to exceed fifty thousand dollars per parcel of real estate sold or
15 otherwise transferred to a person or entity prohibited under the act.

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

20 (a) The restricted entity fails to indicate to the Attorney General
21 or retained outside counsel that the entity is voluntarily divesting any
22 interest in real estate that is the subject of the violation within the
23 thirty-day period under subdivision (4)(b) of this section; or

24 (b) The restricted entity fails to voluntarily divest any interest
25 in the real estate that is the subject of the violation within the grace
26 period of one hundred eighty days.

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

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

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

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

4 (ii) Any secured party who has registered or filed a lien, mortgage,
5 or trust deed against the real estate or filed a financing statement
6 against the real estate as provided by law if the identity of the secured
7 party can be ascertained by the entity filing the petition by making a
8 good faith effort to ascertain the identity of the secured party;

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

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

13 (7) The court shall have power to hear and determine the questions
14 presented in such case and to declare such real estate to be divested.
15 The burden is on the state to prove by clear and convincing evidence that
16 the real estate is subject to divestment under the Foreign-owned Real
17 Estate National Security Act. If the court finds that the real estate
18 that is the subject of an action commenced under the act was purchased,
19 acquired, taken, or held in violation of the act, the court shall enter
20 an order that:

21 (a) States the findings of the court;

22 (b) Orders the divestment of the interest in the real estate of the
23 person or entity that violated the act;

24 (c) Notifies the Governor that the title to such real estate is
25 ordered divested by the decree of the court;

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

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

1 (f) Authorizes the proceeds of the divestment to be disbursed in the
2 following order:

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

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

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

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

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

14 (vi) Remittance of any remaining proceeds to the State Treasurer for
15 distribution in accordance with Article VII, section 5, of the
16 Constitution of Nebraska.

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

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

21 (10) This section shall not apply to a property interest held or a
22 person or entity holding a property interest pursuant to section 3 of
23 this act. A property interest held or a person or entity holding a
24 property interest pursuant to section 3 of this act shall not be in
25 violation of or in continuing violation of the Foreign-owned Real Estate
26 National Security Act.

27 **Sec. 3.** (1) No person or entity who acquired title to, leased, as
28 either lessor or lessee, purchased, took, acquired by devise or descent,
29 or otherwise acquired any property interest shall have such property
30 interest voided, held invalid, subject to divestiture, or otherwise be
31 subject to the Foreign-owned Real Estate National Security Act if such

1 person or entity:

2 (a) Acquired the property interest while present in the United
3 States as a class of alien authorized to accept employment pursuant to 8
4 C.F.R. 274a.12; or

5 (b) Acquired the property interest and at any time subsequent to
6 such acquisition does not meet the definition of a nonresident alien.

7 (2) A property interest held or acquired while the holder of the
8 property interest did not meet the definition of a nonresident alien, or
9 acquired pursuant to subsection (1) of this section, is not and shall not
10 subsequently be subject to the Foreign-owned Real Estate National
11 Security Act, including any provision that would void, hold invalid, or
12 divest the holder of the property interest, for as long as such holder
13 retains such interest regardless of whether at any time in the future
14 such holder meets the definition of nonresident alien.

15 (3) This section shall not apply to a restricted entity, or their
16 agent, trustee, or fiduciary thereof.

17 **Sec. 4.** Original sections 76-3701 and 76-3712, Revised Statutes
18 Cumulative Supplement, 2024, are repealed.