

In the House of Representatives, U. S.,

November 17, 2020.

Resolved, That the bill from the Senate (S. 1869) entitled “An Act to require the disclosure of ownership of high-security space leased to accommodate a Federal agency, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; FINDINGS.***

2 (a) *SHORT TITLE.*—*This Act may be cited as the “Se-*
3 *cure Federal Leases from Espionage And Suspicious En-*
4 *tanglements Act” or the “Secure Federal LEASEs Act”.*

5 (b) *FINDINGS.*—*Congress finds that—*

6 (1) *the Government Accountability Office has re-*
7 *ported that the Federal Government often leases high-*
8 *security space from private sector landlords;*

9 (2) *the General Services Administration collects*
10 *highest- level and immediate ownership information*
11 *through the System for Award Management, but it is*
12 *not currently required to collect beneficial ownership*
13 *information and lacks an adequate system for doing*
14 *so;*

(3) *the General Services Administration and Federal agencies with leasing authority may not know if foreign owners have a stake in the buildings leased by the agencies, either through foreign-incorporated legal entities or through ownership in United States-incorporated legal entities, even when the leased space is used for classified operations or to store sensitive data; and*

(4) *according to a report of the Government Accountability Office, dated January 2017, that examined the risks of foreign ownership of Government-leased real estate, “leasing space in foreign-owned buildings could present security risks such as espionage and unauthorized cyber and physical access”.*

SEC. 2. DEFINITIONS.

In this Act:

(1) *BENEFICIAL OWNER.—*

(A) *IN GENERAL.—Except as provided in subparagraph (B), the term “beneficial owner” means, with respect to a covered entity, each natural person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise—*

(i) exercises control over the covered entity; or

1 (ii) *has a substantial interest in or re-*
 2 *ceives substantial economic benefits from the*
 3 *assets of the covered entity.*

4 (B) *EXCEPTIONS.—The term “beneficial*
 5 *owner” does not include, with respect to a cov-*
 6 *ered entity—*

7 (i) *a minor child;*

8 (ii) *a person acting as a nominee,*
 9 *intermediary, custodian, or agent on behalf*
 10 *of another person;*

11 (iii) *a person acting solely as an em-*
 12 *ployee of the covered entity and whose con-*
 13 *trol over or economic benefits from the cov-*
 14 *ered entity derives solely from the employ-*
 15 *ment status of the person;*

16 (iv) *a person whose only interest in the*
 17 *covered entity is through a right of inherit-*
 18 *ance, unless the person also meets the re-*
 19 *quirements of subparagraph (A); or*

20 (v) *a creditor of the covered entity, un-*
 21 *less the creditor also meets the requirements*
 22 *of subparagraph (A).*

23 (C) *ANTI-ABUSE RULE.—The exceptions*
 24 *under subparagraph (B) shall not apply if used*

1 *for the purpose of evading, circumventing, or*
 2 *abusing the requirements of this Act.*

3 (2) *CONTROL.*—*The term “control” means, with*
 4 *respect to a covered entity—*

5 *(A) having the authority or ability to deter-*
 6 *mine how a covered entity is utilized; or*

7 *(B) having some decision-making power for*
 8 *the use of a covered entity.*

9 (3) *COVERED ENTITY.*—*The term “covered enti-*
 10 *ty” means—*

11 *(A) a person, corporation, company, busi-*
 12 *ness association, partnership, society, trust, or*
 13 *any other nongovernmental entity, organization,*
 14 *or group; or*

15 *(B) any governmental entity or instrumen-*
 16 *tality of a government.*

17 (4) *EXECUTIVE AGENCY.*—*The term “Executive*
 18 *agency” has the meaning given the term in section*
 19 *105 of title 5, United States Code.*

20 (5) *FEDERAL AGENCY.*—*The term “Federal agen-*
 21 *cy” means any Executive agency or any establish-*
 22 *ment in the legislative or judicial branch of the Gov-*
 23 *ernment.*

24 (6) *FEDERAL LESSEE.*—*The term “Federal les-*
 25 *see”—*

1 (A) means the Administrator of General
 2 Services, the Architect of the Capitol, or the head
 3 of any Federal agency, other than the Depart-
 4 ment of Defense, that has independent statutory
 5 leasing authority; and

6 (B) does not include the head of an element
 7 of the intelligence community.

8 (7) *FEDERAL TENANT*.—The term “Federal ten-
 9 ant”—

10 (A) means a Federal agency that is occu-
 11 pying or will occupy a high-security leased space
 12 for which a lease agreement has been secured on
 13 behalf of the Federal agency; and

14 (B) does not include an element of the intel-
 15 ligence community.

16 (8) *FOREIGN ENTITY*.—The term “foreign entity”
 17 means a covered entity that is headquartered or in-
 18 corporated in a country that is not the United States.

19 (9) *FOREIGN PERSON*.—The term “foreign per-
 20 son” means an individual who is not a United States
 21 person.

22 (10) *HIGH-SECURITY LEASED SPACE*.—The term
 23 “high-security leased space” means a space leased by
 24 a Federal lessee that—

1 (A) will be occupied by Federal employees
2 for nonmilitary activities; and

3 (B) has a facility security level of III, IV,
4 or V, as determined by the Federal tenant in
5 consultation with the Interagency Security Com-
6 mittee, the Department of Homeland Security,
7 and the General Services Administration.

8 (11) *HIGHEST-LEVEL OWNER.*—The term “high-
9 est-level owner” means the entity that owns or con-
10 trols an immediate owner of the offeror of a lease, or
11 that owns or controls 1 or more entities that control
12 an immediate owner of the offeror.

13 (12) *IMMEDIATE OWNER.*—The term “immediate
14 owner” means an entity, other than the offeror of a
15 lease, that has direct control of the offeror, including
16 ownership or interlocking management, identity of
17 interests among family members, shared facilities and
18 equipment, and the common use of employees.

19 (13) *INTELLIGENCE COMMUNITY.*—The term “in-
20 telligence community” has the meaning given the
21 term in section 3 of the National Security Act of 1947
22 (50 U.S.C. 3003).

23 (14) *SUBSTANTIAL ECONOMIC BENEFITS.*—The
24 term “substantial economic benefits” means, with re-
25 spect to a natural person described in paragraph

1 (1)(A)(ii), *having an entitlement to the funds or as-*
 2 *sets of a covered entity that, as a practical matter,*
 3 *enables the person, directly or indirectly, to control,*
 4 *manage, or direct the covered entity.*

5 (15) *UNITED STATES PERSON.—The term*
 6 *“United States person” means an individual who—*

7 (A) *is a citizen of the United States; or*

8 (B) *is an alien lawfully admitted for per-*
 9 *manent residence in the United States.*

10 (16) *WIDELY HELD.—The term “widely held”*
 11 *means a fund that has not less than 100 natural per-*
 12 *sons as direct or indirect investors.*

13 **SEC. 3. DISCLOSURE OF OWNERSHIP OF HIGH-SECURITY**
 14 **SPACE LEASED FOR FEDERAL AGENCIES.**

15 (a) *REQUIRED DISCLOSURES.—Before entering into a*
 16 *lease agreement with a covered entity or approving a nova-*
 17 *tion agreement with a covered entity involving a change*
 18 *of ownership under a lease that will be used for high-secu-*
 19 *rity leased space, a Federal lessee shall require the covered*
 20 *entity to identify and disclose whether the immediate or*
 21 *highest-level owner of the leased space, including an entity*
 22 *involved in the financing thereof, is a foreign person or a*
 23 *foreign entity, including the country associated with the*
 24 *ownership entity.*

1 (b) *NOTIFICATION.*—*If a disclosure is made under sub-*
 2 *section (a), the Federal lessee shall notify the Federal tenant*
 3 *of the building or other improvement that will be used for*
 4 *high-security space in writing, and consult with the Federal*
 5 *tenant, regarding security concerns and necessary mitiga-*
 6 *tion measures, if any, prior to award of the lease or ap-*
 7 *proval of the novation agreement.*

8 (c) *TIMING.*—

9 (1) *IN GENERAL.*—*A Federal lessee shall require*
 10 *a covered entity to provide the information described*
 11 *in subsection (a) when first submitting a proposal in*
 12 *response to a solicitation for offers issued by the Fed-*
 13 *eral lessee.*

14 (2) *UPDATES.*—*A Federal lessee shall require a*
 15 *covered entity to submit an update of the information*
 16 *described in subsection (a) annually, beginning on the*
 17 *date that is 1 year after the date on which the Fed-*
 18 *eral tenant began occupancy, with information in-*
 19 *cluding—*

20 (A) *the list of immediate or highest-level*
 21 *owners of the covered entity during the preceding*
 22 *1-year period of Federal occupancy; or*

23 (B) *the information required to be provided*
 24 *relating to each such immediate or highest-level*
 25 *owner.*

1 **SEC. 4. IMMEDIATE, HIGHEST-LEVEL, AND BENEFICIAL**
 2 **OWNERS.**

3 (a) *PLAN.*—*The General Services Administration, in*
 4 *coordination with the Office of Management and Budget,*
 5 *shall develop a Government-wide plan for agencies (as such*
 6 *term is defined in section 551 of title 5, United States Code)*
 7 *for identifying all immediate, highest-level, or beneficial*
 8 *owners of high-security leased spaces before entering into*
 9 *a lease agreement with a covered entity for the accommoda-*
 10 *tion of a Federal tenant in a high-security leased space.*

11 (b) *REQUIREMENTS.*—

12 (1) *CONTENTS.*—*The plan described in sub-*
 13 *section (a) shall include a process for collecting and*
 14 *utilizing the following information on each imme-*
 15 *diate, highest-level, or beneficial owner of a high-secu-*
 16 *rity leased space:*

17 (A) *Name.*

18 (B) *Current residential or business street*
 19 *address.*

20 (C) *An identifying number or document*
 21 *that verifies identity as a United States person,*
 22 *foreign person, or foreign entity.*

23 (2) *DISCLOSURES AND NOTIFICATIONS.*—*The*
 24 *plan described in subsection (a) shall—*

1 (A) require the disclosure of any immediate,
 2 highest-level, or beneficial owner that is a foreign
 3 person;

4 (B) require that, if the Federal lessee is as-
 5 signing the building or other improvement that
 6 will be used for high-security space to a Federal
 7 tenant, the Federal tenant shall be notified of the
 8 disclosure described in subparagraph (A); and

9 (C) exclude collecting ownership informa-
 10 tion on widely held pooled-investment vehicles,
 11 mutual funds, trusts, or other pooled-investment
 12 vehicles.

13 (c) *REPORT AND IMPLEMENTATION.*—The General
 14 Services Administration shall—

15 (1) not later than 1 year after the date of enact-
 16 ment of this Act, submit the plan described in sub-
 17 section (a) to the Committee on Homeland Security
 18 and Governmental Affairs of the Senate and the Com-
 19 mittee on Transportation and Infrastructure of the
 20 House of Representatives;

21 (2) not later than 2 years after the date of enact-
 22 ment of this Act, implement the plan described in
 23 subsection (a); and

24 (3) not later than 1 year after the implementa-
 25 tion of the plan described in subsection (a), and each

10 *A lease agreement between a Federal lessee and a cov-*
11 *ered entity for the accommodation of a Federal agency in*
12 *a building or other improvement that will be used for high-*
13 *security leased space shall include language that provides*
14 *that—*

(1) the covered entity and any member of the property management company who may be responsible for oversight or maintenance of the high-security leased space shall not—

19 (A) maintain access to the high-security
20 leased space; or

21 (B) have access to the high-security leased
22 space without prior approval from the Federal
23 tenant;

24 (2) access to the high-security leased space or
25 any property or information located within that

1 *space will only be granted by the Federal tenant if the*
 2 *Federal tenant determines that the access is clearly*
 3 *consistent with the mission and responsibilities of the*
 4 *Federal tenant; and*

5 *(3) the Federal lessee shall have written proce-*
 6 *dures in place, signed by the Federal lessee and the*
 7 *covered entity, governing access to the high-security*
 8 *leased space in case of emergencies that may damage*
 9 *the leased property.*

10 **SEC. 6. AGENCY NOTIFICATIONS.**

11 *Not later than 60 days after the date of enactment of*
 12 *this Act, the Administrator of General Services, in consulta-*
 13 *tion with the Office of Management and Budget, shall pro-*
 14 *vide notification to relevant Executive branch agencies with*
 15 *independent leasing authorities of the requirements of this*
 16 *Act.*

17 **SEC. 7. APPLICABILITY.**

18 *Except where otherwise provided, this Act shall apply*
 19 *with respect to any lease or novation agreement entered into*
 20 *on or after the date that is 6 months after the date of enact-*
 21 *ment of this Act.*

Attest:

Clerk.

116TH CONGRESS
2D Session

S. 1869

AMENDMENT