

1 AN ACT relating to the acquisition and ownership of real property by a foreign
2 principal.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO
5 READ AS FOLLOWS:

6 *As used in Sections 1 to 3 of this Act:*

7 *(1) "Adversarial foreign government" means a government or state-controlled*
8 *enterprise of a foreign nation determined by the United States Secretary of*
9 *Commerce to have engaged in a long-term pattern or serious instances of*
10 *conduct significantly adverse to the national security of the United States or the*
11 *security and safety of the people of the United States;*

12 *(2) "Agricultural land" has the same meaning as in KRS 132.010;*

13 *(3) "De minimis indirect interest" means ownership of registered equities in a*
14 *publicly traded company, and the ownership interest is either:*

15 *(a) Less than five percent (5%) of any class of registered equities or less than*
16 *five percent (5%) in the aggregate in multiple classes of registered equities;*

17 *or*

18 *(b) A noncontrolling interest in an entity controlled by a company that is both*
19 *registered with the United States Securities and Exchange Commission as*
20 *an investment adviser under the Investment Advisers Act of 1940, as*
21 *amended, and is not a foreign entity;*

22 *(4) "Foreign principal" means:*

23 *(a) An adversarial foreign government;*

24 *(b) An official of an adversarial foreign government; or*

25 *(c) A citizen of an adversarial foreign government; and*

26 *(5) "State-controlled enterprise" means a business enterprise in which a foreign*
27 *government has a controlling interest.*

1 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) As used in this section, "department" means the Kentucky Department of
4 Agriculture.

5 (2) Notwithstanding any other provision of law to the contrary, a foreign principal
6 shall not directly or indirectly own, have a controlling interest in, or acquire by
7 purchase, grant, devise, or descent agricultural land or any interest, except a de
8 minimis indirect interest, in agricultural land in this Commonwealth.

9 (3) A foreign principal that directly or indirectly owns or acquires agricultural land
10 or any interest in agricultural land in this Commonwealth before the effective
11 date of this Act may continue to own or hold the agricultural land or interest, but
12 shall not purchase or otherwise acquire by grant, devise, or descent any
13 additional agricultural land or interest in agricultural land in this
14 Commonwealth.

15 (4) (a) A foreign principal that directly or indirectly owns or acquires agricultural
16 land or any interest in agricultural land in this Commonwealth before the
17 effective date of this Act shall register the ownership or interest with the
18 department by January 1, 2025. The department shall, by promulgation of
19 an administrative regulation in accordance with KRS Chapter 13A,
20 establish a form for the registration required under this subsection. The
21 form shall be available on the department's website and shall include, at a
22 minimum, the following:

23 1. The name of the owner of the agricultural land or the owner of the
24 interest in agricultural land;

25 2. The address of the agricultural land, the property value
26 administrator's parcel identification number, and the property's legal
27 description; and

1 3. The number of acres of the agricultural land.

2 (b) A foreign principal that fails to timely file a registration with the department
3 shall be subject to a civil penalty of one thousand dollars (\$1,000) for each
4 day that the registration is not timely filed or is incomplete. The department
5 may place a lien against the unregistered agricultural land for the unpaid
6 balance of any penalties assessed under this paragraph.

7 (5) Notwithstanding subsection (2) of this section, a foreign principal may acquire
8 agricultural land on or after the effective date of this Act by devise or descent,
9 through the enforcement of security interests, or through the collection of debts,
10 provided that the foreign principal sells, transfers, or otherwise divests itself of
11 the agricultural land within three (3) years after acquiring the agricultural land.

12 (6) (a) At the time of sale or transfer, a grantee of agricultural land or an interest
13 in agricultural land shall provide an affidavit signed under penalty of
14 perjury attesting that the grantee is:

15 1. Not a foreign principal; and

16 2. In compliance with the requirements of this section.

17 (b) The grantee shall file the completed affidavit with the department within ten
18 (10) days of the transfer.

19 (c) The failure to verify execution of the affidavit or the failure of the grantee
20 to file the affidavit with the department shall not:

21 1. Affect the title or insurability of the title for the agricultural land; or

22 2. Subject the closing agent to civil or criminal liability, unless the
23 closing agent has actual knowledge that the transaction will result in a
24 violation of this section.

25 (d) The Kentucky Real Estate Commission shall promulgate regulations in
26 accordance with KRS Chapter 13A to implement this subsection, including
27 regulations establishing the form for the affidavit required under this

1 subsection.

2 (7) (a) Agricultural land or an interest in agricultural land that is owned or
3 acquired in violation of this section shall be forfeited to the Commonwealth.

4 (b) The department shall initiate a civil action in the Circuit Court of the
5 county in which the property is located for the forfeiture of the agricultural
6 land or any interest in the agricultural land.

7 (c) Upon filing the action with the court, the department shall file a notice of lis
8 pendens in the office of the county clerk of the county in which the property
9 is located. The defendant may at any time petition to modify or discharge
10 the lis pendens based upon a finding that there is no probable cause to
11 believe that the agricultural land, or any portion of the agricultural land, is
12 owned or held in violation of this section.

13 (d) If the court finds that the agricultural land, or any portion of the
14 agricultural land, is owned or held in violation of this section, the court
15 shall enter a final judgment of forfeiture vesting title to the agricultural
16 land in this Commonwealth, subject only to the rights and interests of bona
17 fide lienholders. The final judgment shall relate back to the date of the lis
18 pendens notice.

19 (e) The department shall sell the agricultural land subject to a final judgment
20 of forfeiture. Any proceeds from the sale shall first be paid to any
21 lienholders of the agricultural land, followed by payment of any outstanding
22 finances assessed pursuant to this section, after which the department shall be
23 reimbursed for all costs related to the forfeiture civil action and any costs
24 related to the sale of the agricultural land. Any remaining proceeds shall be
25 paid to the property owner.

26 (f) At any time during the forfeiture proceeding the department may seek an ex
27 parte order of seizure of the agricultural land upon a showing that the

1 defendant's control of the agricultural land constitutes a clear and present
2 danger to the Commonwealth.

3 (8) A foreign principal that violates this section shall be guilty of a Class A
4 misdemeanor.

5 (9) A person who knowingly sells agricultural land or any interest in agricultural
6 land in violation of this section shall be guilty of a Class A misdemeanor.

7 (10) The department shall promulgate administrative regulations in accordance with
8 KRS Chapter 13A to implement this section.

9 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO
10 READ AS FOLLOWS:

11 (1) As used in this section, "cabinet" means the Cabinet for Economic Development.

12 (2) Notwithstanding any other provision of law to the contrary, a foreign principal
13 shall not directly or indirectly own, or have a controlling interest in, or acquire by
14 purchase, grant, devise, or descent any interest, except a de minimis indirect
15 interest, in real property on or within ten (10) miles of any military installation in
16 this Commonwealth.

17 (3) A foreign principal that directly or indirectly owns or acquires any interest in real
18 property on or within ten (10) miles of any military installation in this
19 Commonwealth before the effective date of this Act may continue to own or hold
20 the real property, but shall not purchase or otherwise acquire by grant, devise, or
21 descent any additional real property on or within ten (10) miles of any military
22 installation in this Commonwealth.

23 (4) (a) A foreign principal shall register with the cabinet if the foreign principal
24 owns or acquires real property on or within ten (10) miles of any military
25 installation in this Commonwealth as authorized under subsection (5) of
26 this section or if the foreign principal owned or acquired an interest, other
27 than a de minimis indirect interest, in the real property before the effective

1 date of this Act. The cabinet shall, by promulgation of an administrative
2 regulation in accordance with KRS Chapter 13A, establish a form for the
3 registration required under this subsection. The form shall be available on
4 the cabinet's website and shall include, at a minimum, the following:

- 5 1. The name of the owner of the real property; and
6 2. The address of the real property, the property valuation
7 administrator's parcel identification number, and the property's legal
8 description.

9 (b) A foreign principal that fails to timely file a registration with the cabinet
10 shall be subject to a civil penalty of one thousand dollars (\$1,000) for each
11 day that the registration is not timely filed or is incomplete. A foreign
12 principal shall register a property interest owned before the effective date of
13 this Act by December 31, 2024. The registration shall be considered
14 untimely after January 31, 2025. A foreign principal who owns or acquires
15 real property on or after the effective date of this Act, as authorized under
16 subsection (5) of this section, shall register the real property within thirty
17 (30) days after the property is owned or acquired. The cabinet may place a
18 lien against the unregistered real property for the unpaid balance of any
19 penalties assessed under this paragraph.

20 (5) Notwithstanding subsection (2) of this section, a foreign principal may purchase
21 one (1) residential real property that is up to two (2) acres in size if:

22 (a) The parcel is not on or within five (5) miles of any military installation in
23 this Commonwealth;

24 (b) The person has a current verified United States visa that is not limited to
25 authorizing tourist-based travel or the person has official documentation
26 confirming that the person has been granted asylum in the United States,
27 and the visa or documentation authorizes the person to be legally present

1 within this Commonwealth; and

2 (c) The purchase is recorded in the name of the person who holds the visa or
3 official documentation described in paragraph (b) of this subsection.

4 (6) Notwithstanding subsections (2) and (3) of this section, a foreign principal may
5 acquire real property or any interest in real property that is on or within ten (10)
6 miles of any military installation in this Commonwealth on or after the effective
7 date of this Act by devise or descent, through the enforcement of security
8 interests, or through the collection of debts, provided that the foreign principal
9 sells, transfers, or otherwise divests itself of the real property within three (3)
10 years after acquiring the real property.

11 (7) (a) At the time of sale or transfer, a grantee of the real property that is on or
12 within ten (10) miles of any military installation in this Commonwealth
13 shall provide an affidavit signed under penalty of perjury attesting that the
14 grantee is:

15 1. Neither a foreign principal nor a foreign principal prohibited from
16 purchasing the subject real property; and

17 2. In compliance with the requirements of this section.

18 (b) The grantee shall file the completed affidavit with the cabinet within ten
19 (10) days of the transfer.

20 (c) The failure to verify execution of the affidavit or the failure of the grantee
21 to file the affidavit with the cabinet shall not:

22 1. Affect the title or insurability of the title for the real property; or

23 2. Subject the closing agent to civil or criminal liability, unless the
24 closing agent has actual knowledge that the transaction will result in a
25 violation of this section.

26 (d) The Kentucky Real Estate Commission shall promulgate regulations in
27 accordance with KRS Chapter 13A to implement this subsection, including

1 regulations establishing the form for the affidavit required under this
2 subsection.

3 (8) (a) If any real property is owned or acquired in violation of this section, the real
4 property shall be forfeited to the Commonwealth.

5 (b) The cabinet shall initiate a civil action in the Circuit Court of the county in
6 which the property is located for the forfeiture of the real property or any
7 interest in the real property.

8 (c) Upon filing the action with the court, the cabinet shall file a notice of lis
9 pendens in the office of the county clerk of the county in which the property
10 is located. The defendant may at any time petition to modify or discharge
11 the lis pendens based upon a finding that there is no probable cause to
12 believe that the real property, or any portion of the real property, is owned
13 or held in violation of this section.

14 (d) If the court finds that the real property, or any portion of the real property,
15 is owned or held in violation of this section, the court shall enter a final
16 judgment of forfeiture vesting title to the real property in this
17 Commonwealth, subject only to the rights and interests of bona fide
18 lienholders. The final judgment shall relate back to the date of the lis
19 pendens notice.

20 (e) The cabinet shall sell the real property subject to a final judgment of
21 forfeiture. Any proceeds from the sale shall first be paid to any lienholders
22 of the land, followed by payment of any outstanding fines assessed pursuant
23 to this section, after which the cabinet shall be reimbursed for all costs
24 related to the forfeiture civil action and any costs related to the sale of the
25 land. Any remaining proceeds shall be paid to the property owner.

26 (f) At any time during the forfeiture proceeding the cabinet may seek an ex
27 parte order of seizure of the real property upon a showing that the

1 defendant's control of the real property constitutes a clear and present
2 danger to the state.

3 (9) A foreign principal that purchases or acquires real property or any interest in
4 real property in violation of this section shall be guilty of a Class A misdemeanor.

5 (10) A person who knowingly sells real property or any interest in real property in
6 violation of this section shall be guilty of a Class A misdemeanor.

7 (11) The cabinet shall promulgate administrative regulations in accordance with KRS
8 Chapter 13A to implement this section.

9 ➔Section 4. KRS 381.320 is amended to read as follows:

10 Any alien, not an enemy, may take and hold any personal property except chattels real. If
11 such alien resides within this Commonwealth^[state] he or she may take and hold, subject
12 to the limitations set forth in Sections 2 and 3 of this Act, any lands for the purposes of
13 residence, or of occupation by him or her or his or her servants, or for the purpose of any
14 business, trade, or manufacture, for as long as he or she remains a resident of the
15 Commonwealth^[state]. An alien so taking and holding shall have like rights, remedies
16 and exemptions concerning such property as if he or she were a citizen of the United
17 States.