



Since 1894



Date: February 16, 2023

To: House Committee on Agriculture  
Rep. Ken Rahjes, Chair

From: Aaron M. Popelka, V.P. of Legal and Governmental Affairs, Kansas Livestock Association

Re: **HB 2397 AN ACT concerning real property; relating to the conveyance thereof; prohibiting the conveyance of title to certain real property to foreign adversaries; establishing criminal penalties therefor; requiring the attorney general to investigate such conveyances.**

Position: Neutral, In-Person

*The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing more than 5,700 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf, and stocker cattle production; cattle feeding; dairy production; swine production; grazing land management; and diversified farming operations.*

*KFB is the state's largest general farm organization representing more than 30,000 farm and ranch families through our 105 county Farm Bureau associations.*

Thank you, Chairman Rahjes, and members of the Committee, for allowing the Kansas Livestock Association (KLA) and Kansas Farm Bureau (KFB) the opportunity to share our views on HB 2397. I am delivering joint testimony, on behalf of the two largest agricultural organizations in the state, to urge caution on this topic and avoid unnecessary market restrictions that could result in our organizations' neutral stance becoming opposition.

As a general matter, KLA and KFB believe in free markets. Modern agricultural operations are diverse, and often, must find unique ways to access capital. Given the global nature of markets, equity and debt financing could come from foreign sources. If these sources are from allies of the United States, such arrangements should not be discouraged. In addition, many friendly nations have allowed, and will continue to allow, U.S. citizens to own and operate land in their country. Currently, federal law requires all purchases of agricultural land by foreign nationals to be reported to the U.S. Department of Agriculture (USDA), which publishes an annual report<sup>1</sup>. USDA's latest report discloses that nearly one-third of all foreign owned agricultural land is held by Canadians. This is followed by the Netherlands with 13 percent, Italy with 7 percent, the United Kingdom with 6 percent, and Germany with 5 percent. China is near the

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<sup>1</sup> [https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdfiles/EPAS/PDF/2020\\_afida\\_annual\\_report.pdf](https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdfiles/EPAS/PDF/2020_afida_annual_report.pdf)

bottom of the list with 352,140 acres nation-wide, which is slightly less than 1 percent of foreign-held acres.

While KLA and KFB policy supports the free market with minimal government intrusion, we understand that at times steps should be taken in the interest of national and state security. In our view, this issue is best handled by the federal government and we would first ask that you allow Congress to address this issue. In the 118<sup>th</sup> Congress, U.S. Senator Tommy Tuberville introduced, and U.S. Senator Roger Marshall sponsored, S. 68. This bill places the Secretary of Agriculture on the Committee on Foreign Investment in the United States. It also requires the committee to review any investment that could result in foreign control of any U.S. agricultural business.

However, we understand that some may want the State of Kansas to take a position. To that end, we have worked with Chairman Rahjes to craft a bill that we believe balances national security concerns with our freedom of operation principals. While there may be some technical amendments that need to be made when the Committee takes up HB 2397, we would warn against adding amendments that would increase the number or method of designating foreign nationals prohibited from owning land in Kansas, set acreage limitations or exclusions, or create subclasses of property subject to, or exempt from, the prohibition. Not only would such amendments restrict market participants, but could also render this bill unconstitutional with regard to the Commerce Clause and what is known as the Dormant Commerce Clause of the U.S. Constitution.

KLA and KFB appreciate the opportunity to submit testimony on the various aspects of HB 2379. While we do not oppose the bill in its current form, we caution the committee against amendments that would restrict access to capital, unnecessarily restrict participants in the Kansas land market, or run afoul of the Kansas or U.S. Constitutions.