

TO: House Committee on Agriculture and Natural Resources
FROM: Kansas Land Title Association
DATE: February 16, 2023
RE: In Opposition to House Bill 2397

Dear House Committee on Agriculture and Natural Resources members:

I submit comments today on behalf of the Kansas Land Title Association (KLTA), opposing House Bill 2397. Since 1907, the KLTA has represented the interests of the land title industry, consisting of title insurance underwriting companies, title agencies, abstract companies and their employees. We specialize in the orderly and secure transfer of real estate in Kansas by protecting lenders and buyers from financial loss caused by defects in title. We conclude that the unintended consequences of this bill on our industry are impossible to determine and need to be studied further before any action is taken.

House Bill 2397, Section 2, states the following:

Sec. 2. (a) (1) On or after July 1, 2023, no person owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary shall purchase, acquire by grant, devise or descent or otherwise obtain ownership of any interest in real property located in this state

“Foreign adversary” is defined as any person, which includes individuals and entities, determined to be a foreign adversary pursuant to 15 C.F.R. § 7.4. This list currently includes six foreign countries. Our members agree that it would be impossible to determine if a party to a transaction is owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary, making it impossible for us to insure that this law would not be unintentionally and regularly violated. Corporations and other business entities do not provide shareholder or member information of this nature when providing proof of authority to proceed with buying, selling, or encumbering land. It would be impossible for us to confirm that no foreign adversary owns an interest in, controls, or directs an entity that is party to a real estate transaction, considering the various sizes and types of business entities. Further, per section 2(e):

(e) Real property that is the subject matter of a transaction that violates this section shall be subject to forfeiture under K.S.A. 60-4101 et seq., and amendments thereto.

The result would be absolute: an unknown amount of defective titles, litigation, and title claims, with landowners in Kansas as the unintentional victims. Please also consider that the Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA) already requires foreign investors who acquire, transfer, or hold an interest in U.S. agricultural land to report such holdings and transactions to the Secretary of Agriculture. Corporate ownership of agriculture land is already prohibited in Kansas, with exceptions, by K.S.A 17-5904.

Because of the reasons stated above, the Kansas Land Title Association opposes House Bill 2397. Thank you very much for your consideration today.

Ashley Garr
On behalf of the Kansas Land Title Association