

Calendar No. 196

116TH CONGRESS
1ST SESSION

S. 1869

[Report No. 116-92]

To require the disclosure of ownership of high-security space leased to accommodate a Federal agency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2019

Mr. PETERS (for himself and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

SEPTEMBER 10, 2019

Reported by Mr. JOHNSON, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To require the disclosure of ownership of high-security space leased to accommodate a Federal agency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

4 (a) ~~SHORT TITLE.~~—This Act may be cited as the
5 “Secure Federal Leases from Espionage And Suspicious

1 Entanglements Act” or the “Secure Federal LEASES
2 Act”.

3 (b) FINDINGS.—Congress finds that—

4 (1) the Government Accountability Office has
5 reported that the Federal Government often leases
6 high-security space from private sector landlords;

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

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

21 (4) according to a report of the Government
22 Accountability Office, dated January 2017, that ex-
23 amined the risks of foreign ownership of Govern-
24 ment-leased real estate, “leasing space in foreign-
25 owned buildings could present security risks such as

1 espionage and unauthorized cyber and physical ac-
 2 cess”.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) **BENEFICIAL OWNER.**—

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

12 (i) exercises control over the covered
 13 entity; or

14 (ii) has a substantial interest in or re-
 15 ceives substantial economic benefits from
 16 the assets of the covered entity.

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

20 (i) a minor child;

21 (ii) a person acting as a nominee,
 22 intermediary, custodian, or agent on behalf
 23 of another person;

24 (iii) a person acting solely as an em-
 25 ployee of the covered entity and whose con-

1 trol over or economic benefits from the
2 covered entity derives solely from the em-
3 ployment status of the person;

4 (iv) a person whose only interest in
5 the covered entity is through a right of in-
6 heritance, unless the person also meets the
7 requirements of subparagraph (A); or

8 (v) a creditor of the covered entity,
9 unless the creditor also meets the require-
10 ments of subparagraph (A).

11 (C) ~~ANTI-ABUSE RULE.~~—The exceptions
12 under subparagraph (B) shall not apply if used
13 for the purpose of evading, circumventing, or
14 abusing the requirements of this Act.

15 (2) ~~CLOSELY HELD.~~—The term “closely held”
16 means a fund that has less than 100 natural persons
17 as direct or indirect investors.

18 (3) ~~CONTROL.~~—The term “control” means,
19 with respect to a covered entity—

20 (A) having the authority or ability to de-
21 termine how a covered entity is utilized; or

22 (B) having some decision-making power for
23 the use of a covered entity.

1 (4) COVERED ENTITY.—The term “covered en-
2 tity” means a person, copartnership, corporation, or
3 other public or private entity.

4 (5) EXECUTIVE AGENCY.—The term “Executive
5 agency” has the meaning given the term in section
6 105 of title 5, United States Code.

7 (6) FEDERAL AGENCY.—The term “Federal
8 agency” means any Executive agency or any estab-
9 lishment in the legislative or judicial branch of the
10 Government.

11 (7) FEDERAL LESSEE.—The term “Federal les-
12 see” means the Administrator of General Services,
13 the Architect of the Capitol, or the head of any Fed-
14 eral agency, other than the Department of Defense,
15 that has independent statutory leasing authority.

16 (8) FOREIGN ENTITY.—The term “foreign enti-
17 ty” means an entity that is headquartered or incor-
18 porated 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) FEDERAL TENANT.—The term “Federal
23 tenant” means a Federal agency that is occupying
24 or will occupy a high-security leased space for which

1 a lease agreement has been secured on behalf of the
2 Federal agency.

3 ~~(11) HIGH-SECURITY LEASED SPACE.~~—The
4 term “high-security leased space” means a space
5 leased by a Federal lessee that—

6 (A) will be occupied by Federal employees
7 for nonmilitary activities; and

8 (B) has a facility security level of III, IV,
9 or V, as determined by the Federal tenant in
10 consultation with the Interagency Security
11 Committee, the Department of Homeland Secu-
12 rity, and the General Services Administration.

13 ~~(12) HIGHEST-LEVEL OWNER.~~—The term
14 “highest-level owner” means the entity that owns or
15 controls an immediate owner of the offeror of a
16 lease, or that owns or controls 1 or more entities
17 that control an immediate owner of the offeror.

18 ~~(13) IMMEDIATE OWNER.~~—The term “imme-
19 diate owner” means an entity, other than the offeror
20 of a lease, that has direct control of the offeror, in-
21 cluding ownership or interlocking management, iden-
22 tity of interests among family members, shared fa-
23 cilities and equipment, and the common use of em-
24 ployees.

1 (14) **SUBSTANTIAL ECONOMIC BENEFITS.**—The
 2 term “substantial economic benefits” means, with
 3 respect to a natural person described in paragraph
 4 (1)(A)(ii), having an entitlement to the funds or as-
 5 sets of a covered entity that, as a practical matter,
 6 enables the person, directly or indirectly, to control,
 7 manage, or direct the covered entity.

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

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

11 (B) is an alien lawfully admitted for per-
 12 manent residence in the United States.

13 (16) **WIDELY HELD.**—The term “widely held”
 14 means a fund that has not less than 100 natural
 15 persons as direct or indirect investors.

16 **SEC. 3. DISCLOSURE OF OWNERSHIP OF HIGH-SECURITY**
 17 **SPACE LEASED FOR FEDERAL AGENCIES.**

18 (a) **REQUIRED DISCLOSURES.**—Before entering into
 19 a lease agreement with a covered entity or approving a
 20 novation agreement with a covered entity involving a
 21 change of ownership under a lease that will be used for
 22 high-security leased space, a Federal lessee shall require
 23 the covered entity to identify and disclose whether the im-
 24 mediate or highest-level owner of the leased space, includ-
 25 ing an entity involved in the financing thereof, is a foreign

1 person or a foreign entity, including the country associated
2 with the ownership entity.

3 (b) NOTIFICATION.—If a disclosure is made under
4 subsection (a), the Federal lessee shall notify the Federal
5 tenant of the building or other improvement that will be
6 used for high-security space in writing, and consult with
7 the Federal tenant, regarding security concerns and nec-
8 essary mitigation measures, if any, prior to award of the
9 lease or approval of the novation agreement.

10 (c) TIMING.—

11 (1) IN GENERAL.—A Federal lessee shall re-
12 quire a covered entity to provide the information de-
13 scribed in subsection (a) to a covered entity when
14 first submitting a proposal in response to a sollicita-
15 tion for offers issued by the Federal lessee.

16 (2) UPDATES.—A Federal lessee shall require a
17 covered entity to update a submission of the infor-
18 mation described in subsection (a) annually, begin-
19 ning on the date that is 1 year after the date on
20 which the Federal tenant began occupancy, with in-
21 formation including—

22 (A) the list of immediate or highest-level
23 owners of the covered entity during the pre-
24 ceeding 1-year period of Federal occupancy; or

1 ~~(B)~~ the information required to be pro-
2 vided relating to each such immediate or high-
3 est-level owner.

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

6 ~~(a) PROPOSAL.~~—The General Services Administra-
7 tion shall develop a Government-wide proposal for identi-
8 fying all immediate, highest-level, or beneficial owners of
9 high-security leased spaces before entering into a lease
10 agreement with a covered entity for the accommodation
11 of a Federal tenant in a high-security leased space.

12 ~~(b) REQUIREMENTS.~~—

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

18 ~~(A) Name.~~

19 ~~(B) Current residential or business street~~
20 ~~address.~~

21 ~~(C) An identifying number or document~~
22 ~~that verifies identity as a United States person~~
23 ~~or foreign person.~~

24 ~~(2) DISCLOSURES AND NOTIFICATIONS.~~—The
25 proposal described in subsection ~~(a)~~ shall—

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

4 (B) require that, if the Federal lessee is
5 assigning the building or other improvement
6 that will be used for high-security space to a
7 Federal tenant, the Federal tenant shall be no-
8 tified of the disclosure described in subpara-
9 graph (A); and

10 (C) exclude collecting ownership informa-
11 tion on widely held pooled-investment vehicles,
12 mutual funds, trusts, or other pooled-invest-
13 ment vehicles; and

14 (D) include ownership information on
15 closely held pooled-investment vehicles, mutual
16 funds, trusts, or other pooled-investment vehi-
17 cles.

18 (c) ~~REPORT AND IMPLEMENTATION.~~—The General
19 Services Administration shall—

20 (1) not later than 1 year after the date of en-
21 actment of this Act, submit the proposal described
22 in subsection (a) to the Committee on Homeland Se-
23 curity and Governmental Affairs of the Senate and
24 the Committee on Oversight and Reform of the
25 House of Representatives; and

1 (2) not later than 6 years after the date of en-
2 actment of this Act, implement the proposal de-
3 scribed in subsection (a).

4 **SEC. 5. OTHER SECURITY AGREEMENTS FOR LEASED**
5 **SPACE.**

6 A lease agreement between a Federal lessee and a
7 covered entity for the accommodation of a Federal agency
8 in a building or other improvement that will be used for
9 high-security space shall include language that provides
10 that—

11 (1) the covered entity and any member of the
12 property management company who may be respon-
13 sible for oversight or maintenance of the high-secu-
14 rity space shall not—

15 (A) maintain access to the high-security
16 space; or

17 (B) have access to the high-security space
18 without prior approval from the Federal tenant;

19 (2) access to the high-security space or any
20 property or information located within that space
21 will only be granted by the Federal tenant if the
22 Federal tenant determines that the access is clearly
23 consistent with the mission and responsibilities of
24 the Federal tenant; and

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

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

7 (a) *SHORT TITLE.*—*This Act may be cited as the “Se-*
8 *cure Federal Leases from Espionage and Suspicious Entan-*
9 *gements Act” or the “Secure Federal LEASEs Act”.*

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

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

14 (2) *the General Services Administration collects*
15 *highest-level and immediate ownership information*
16 *through the System of Award Management, but it is*
17 *not currently required to collect beneficial ownership*
18 *information and lacks an adequate system for doing*
19 *so;*

20 (3) *the General Services Administration and*
21 *Federal agencies with leasing authority may not*
22 *know if foreign owners have a stake in the buildings*
23 *leased by the agencies, either through foreign-incor-*
24 *porated legal entities or through ownership in United*
25 *States-incorporated legal entities, even when the*

1 *leased space is used for classified operations or to*
2 *store sensitive data; and*

3 *(4) according to a report of the Government Ac-*
4 *countability Office, dated January 2017, that exam-*
5 *ined the risks of foreign ownership of Government-*
6 *leased real estate, “leasing space in foreign-owned*
7 *buildings could present security risks such as espio-*
8 *nage and unauthorized cyber and physical access”.*

9 **SEC. 2. DEFINITIONS.**

10 *In this Act:*

11 *(1) BENEFICIAL OWNER.—*

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

18 *(i) exercises control over the covered*
19 *entity; or*

20 *(ii) has a substantial interest in or re-*
21 *ceives substantial economic benefits from the*
22 *assets of the covered entity.*

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

1 (i) a minor child;

2 (ii) a person acting as a nominee,
3 intermediary, custodian, or agent on behalf
4 of another person;

5 (iii) a person acting solely as an em-
6 ployee of the covered entity and whose con-
7 trol over or economic benefits from the cov-
8 ered entity derives solely from the employ-
9 ment status of the person;

10 (iv) a person whose only interest in the
11 covered entity is through a right of inherit-
12 ance, unless the person also meets the re-
13 quirements of subparagraph (A); or

14 (v) a creditor of the covered entity, un-
15 less the creditor also meets the requirements
16 of subparagraph (A).

17 (C) *ANTI-ABUSE RULE.*—The exceptions
18 under subparagraph (B) shall not apply if used
19 for the purpose of evading, circumventing, or
20 abusing the requirements of this Act.

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

23 (A) having the authority or ability to deter-
24 mine how a covered entity is utilized; or

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

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

5 (A) *a person, corporation, company, busi-*
6 *ness association, partnership, society, trust, or*
7 *any other nongovernmental entity, organization,*
8 *or group; or*

9 (B) *any governmental entity or instrumen-*
10 *tality of a government.*

11 (4) *EXECUTIVE AGENCY.*—*The term “Executive*
12 *agency” has the meaning given the term in section*
13 *105 of title 5, United States Code.*

14 (5) *FEDERAL AGENCY.*—*The term “Federal agen-*
15 *cy” means any Executive agency or any establish-*
16 *ment in the legislative or judicial branch of the Gov-*
17 *ernment.*

18 (6) *FEDERAL LESSEE.*—*The term “Federal les-*
19 *see” means the Administrator of General Services, the*
20 *Architect of the Capitol, or the head of any Federal*
21 *agency, other than the Department of Defense, that*
22 *has independent statutory leasing authority.*

23 (7) *FEDERAL TENANT.*—*The term “Federal ten-*
24 *ant” means a Federal agency that is occupying or*
25 *will occupy a high-security leased space for which a*

1 *lease agreement has been secured on behalf of the Fed-*
2 *eral agency.*

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

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

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

12 (A) *will be occupied by Federal employees*
13 *for nonmilitary activities; and*

14 (B) *has a facility security level of III, IV,*
15 *or V, as determined by the Federal tenant in*
16 *consultation with the Interagency Security Com-*
17 *mittee, the Department of Homeland Security,*
18 *and the General Services Administration.*

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

24 (12) *IMMEDIATE OWNER.*—*The term “immediate*
25 *owner” means an entity, other than the offeror of a*

1 rity leased space, a Federal lessee shall require the covered
2 entity to identify and disclose whether the immediate or
3 highest-level owner of the leased space, including an entity
4 involved in the financing thereof, is a foreign person or a
5 foreign entity, including the country associated with the
6 ownership entity.

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

14 (c) TIMING.—

15 (1) IN GENERAL.—A Federal lessee shall require
16 a covered entity to provide the information described
17 in subsection (a) to a covered entity when first sub-
18 mitting a proposal in response to a solicitation for of-
19 fers issued by the Federal lessee.

20 (2) UPDATES.—A Federal lessee shall require a
21 covered entity to submit an update of the information
22 described in subsection (a) annually, beginning on the
23 date that is 1 year after the date on which the Fed-
24 eral tenant began occupancy, with information in-
25 cluding—

1 (A) *the list of immediate or highest-level*
2 *owners of the covered entity during the preceding*
3 *1-year period of Federal occupancy; or*

4 (B) *the information required to be provided*
5 *relating to each such immediate or highest-level*
6 *owner.*

7 **SEC. 4. IMMEDIATE, HIGHEST-LEVEL, AND BENEFICIAL**
8 **OWNERS.**

9 (a) *PLAN.—The General Services Administration shall*
10 *develop a Government-wide plan for identifying all imme-*
11 *diately, highest-level, or beneficial owners of high-security*
12 *leased spaces before entering into a lease agreement with*
13 *a covered entity for the accommodation of a Federal tenant*
14 *in a high-security leased space.*

15 (b) *REQUIREMENTS.—*

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

21 (A) *Name.*

22 (B) *Current residential or business street*
23 *address.*

1 (C) *An identifying number or document*
2 *that verifies identity as a United States person,*
3 *foreign person, or foreign entity.*

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

6 (A) *require the disclosure of any immediate,*
7 *highest-level, or beneficial owner that is a foreign*
8 *person;*

9 (B) *require that, if the Federal lessee is as-*
10 *signing the building or other improvement that*
11 *will be used for high-security space to a Federal*
12 *tenant, the Federal tenant shall be notified of the*
13 *disclosure described in subparagraph (A); and*

14 (C) *exclude collecting ownership informa-*
15 *tion on widely-held pooled investment vehicles,*
16 *mutual funds, trusts, or other pooled-investment*
17 *vehicles.*

18 (c) *REPORT AND IMPLEMENTATION.—The General*
19 *Services Administration shall—*

20 (1) *not later than 1 year after the date of enact-*
21 *ment of this Act, submit the plan described in sub-*
22 *section (a) to the Committee on Homeland Security*
23 *and Governmental Affairs of the Senate and the Com-*
24 *mittee on Oversight and Reform of the House of Rep-*
25 *resentatives;*

1 (B) have access to the high-security leased
2 space without prior approval from the Federal
3 tenant;

4 (2) access to the high-security leased space or
5 any property or information located within that
6 space will only be granted by the Federal tenant if the
7 Federal tenant determines that the access is clearly
8 consistent with the mission and responsibilities of the
9 Federal tenant; and

10 (3) the Federal lessee shall have written proce-
11 dures in place, signed by the Federal lessee and the
12 covered entity, governing access to the high-security
13 leased space in case of emergencies that may damage
14 the leased property.

15 **SEC. 6. APPLICABILITY.**

16 *Except where otherwise provided, this Act shall apply*
17 *with respect to any lease or novation agreement entered into*
18 *on or after the date of the enactment of this Act.*

Calendar No. 196

116TH CONGRESS
1ST Session

S. 1869

[Report No. 116-92]

A BILL

To require the disclosure of ownership of high-security space leased to accommodate a Federal agency, and for other purposes.

SEPTEMBER 10, 2019

Reported with an amendment