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Public Law 116–276
116th Congress

An Act

Dec. 31, 2020
[S. 1869]

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Secure Federal Leases from Espionage And Suspicious Entanglements Act.
40 USC 585 note.

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Secure Federal Leases from Espionage And Suspicious Entanglements Act" or the "Secure Federal LEASEs Act".

(b) FINDINGS.—Congress finds that—

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

(2) the General Services Administration collects highest-level and immediate ownership information through the System for Award Management, but it is not currently required to collect beneficial ownership information and lacks an adequate system for doing 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

(ii) has a substantial interest in or receives substantial economic benefits from the assets of the covered entity.

(B) EXCEPTIONS.—The term "beneficial owner" does not include, with respect to a covered entity—

(i) a minor child;

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

(iii) a person acting solely as an employee of the covered entity and whose control over or economic benefits from the covered entity derives solely from the employment status of the person;

(iv) a person whose only interest in the covered entity is through a right of inheritance, unless the person also meets the requirements of subparagraph (A); or

(v) a creditor of the covered entity, unless the creditor also meets the requirements of subparagraph (A).

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

(2) CONTROL.—The term "control" means, with respect to a covered entity—

(A) having the authority or ability to determine how a covered entity is utilized; or

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

(3) COVERED ENTITY.—The term "covered entity" means—

(A) a person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group; or

(B) any governmental entity or instrumentality of a government.

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

(5) FEDERAL AGENCY.—The term "Federal agency" means any Executive agency or any establishment in the legislative or judicial branch of the Government.

(6) FEDERAL LESSEE.—The term "Federal lessee"—

(A) means the Administrator of General Services, the Architect of the Capitol, or the head of any Federal agency, other than the Department of Defense, that has independent statutory leasing authority; and

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

(7) FEDERAL TENANT.—The term "Federal tenant"—

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

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

(8) FOREIGN ENTITY.—The term "foreign entity" means a covered entity that is headquartered or incorporated in a country that is not the United States.

(9) FOREIGN PERSON.—The term "foreign person" means an individual who is not a United States person.

(10) HIGH-SECURITY LEASED SPACE.—The term "high-security leased space" means a space leased by a Federal lessee that—

(A) will be occupied by Federal employees for non-military activities; and

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

(11) HIGHEST-LEVEL OWNER.—The term "highest-level owner" means the entity that owns or controls an immediate owner of the offeror of a lease, or that owns or controls 1 or more entities that control an immediate owner of the offeror.

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

(13) INTELLIGENCE COMMUNITY.—The term "intelligence community" has the meaning given the term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

(14) SUBSTANTIAL ECONOMIC BENEFITS.—The term "substantial economic benefits" means, with respect to a natural person described in paragraph (1)(A)(ii), having an entitlement to the funds or assets of a covered entity that, as a practical matter, enables the person, directly or indirectly, to control, manage, or direct the covered entity.

(15) UNITED STATES PERSON.—The term "United States person" means an individual who—

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

(B) is an alien lawfully admitted for permanent residence in the United States.

(16) WIDELY HELD.—The term "widely held" means a fund that has not less than 100 natural persons as direct or indirect investors.

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

(a) REQUIRED DISCLOSURES.—Before entering into a lease agreement with a covered entity or approving a novation agreement with a covered entity involving a change of ownership under a lease that will be used for high-security leased space, a Federal lessee shall require the covered entity to identify and disclose whether the immediate or highest-level owner of the leased space, including an entity involved in the financing thereof, is a foreign person or a foreign entity, including the country associated with the ownership entity.

Consultation.

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

(c) TIMING.—

(1) IN GENERAL.—A Federal lessee shall require a covered entity to provide the information described in subsection (a) when first submitting a proposal in response to a solicitation for offers issued by the Federal lessee.

(2) UPDATES.—A Federal lessee shall require a covered entity to submit an update of the information described in subsection (a) annually, beginning on the date that is 1 year after the date on which the Federal tenant began occupancy, with information including— Deadline. Effective date.

(A) the list of immediate or highest-level owners of the covered entity during the preceding 1-year period of Federal occupancy; or List. Time period.

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

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

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

(b) REQUIREMENTS.—

(1) CONTENTS.—The plan described in subsection (a) shall include a process for collecting and utilizing the following information on each immediate, highest-level, or beneficial owner of a high-security leased space:

(A) Name.

(B) Current residential or business street address.

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

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

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

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

(C) exclude collecting ownership information on widely held pooled-investment vehicles, mutual funds, trusts, or other pooled-investment vehicles.

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

(1) not later than 1 year after the date of enactment of this Act, submit the plan described in subsection (a) to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives;

(2) not later than 2 years after the date of enactment of this Act, implement the plan described in subsection (a); and

Time period.

(3) not later than 1 year after the implementation of the plan described in subsection (a), and each year thereafter for 9 years, submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the status of the implementation of the plan, including the number of disclosures made under subsection (b)(2).

SEC. 5. OTHER SECURITY AGREEMENTS FOR LEASED SPACE.

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

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

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

Determination.

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

Procedures.

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

Deadline.
Consultation.

SEC. 6. AGENCY NOTIFICATIONS.

Not later than 60 days after the date of enactment of this Act, the Administrator of General Services, in consultation with the Office of Management and Budget, shall provide notification to relevant Executive branch agencies with independent leasing authorities of the requirements of this Act.

SEC. 7. APPLICABILITY.

Time period.

Except where otherwise provided, this Act shall apply with respect to any lease or novation agreement entered into on or after the date that is 6 months after the date of enactment of this Act.

Approved December 31, 2020.

LEGISLATIVE HISTORY—S. 1869:

SENATE REPORTS: No. 116–92 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 166 (2020):

Mar. 3, considered and passed Senate.

Nov. 17, considered and passed House, amended.

Dec. 8, Senate concurred in House amendment.