

116TH CONGRESS
1ST SESSION

S. 1869

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 Secu-
rity and Governmental Affairs

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
6 Entanglements Act” or the “Secure Federal LEASES
7 Act”.

8 (b) FINDINGS.—Congress finds that—

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

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

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

18 (4) according to a report of the Government
19 Accountability Office, dated January 2017, that ex-
20 amined the risks of foreign ownership of Govern-
21 ment-leased real estate, “leasing space in foreign-
22 owned buildings could present security risks such as
23 espionage and unauthorized cyber and physical ac-
24 cess”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **BENEFICIAL OWNER.**—

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

10 (i) exercises control over the covered
 11 entity; or

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

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

18 (i) a minor child;

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

22 (iii) a person acting solely as an em-
 23 ployee of the covered entity and whose con-
 24 trol over or economic benefits from the
 25 covered entity derives solely from the em-
 26 ployment status of the person;

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

5 (v) a creditor of the covered entity,
 6 unless the creditor also meets the require-
 7 ments of subparagraph (A).

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

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

15 (3) CONTROL.—The term “control” means,
 16 with respect to a covered entity—

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

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

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

1 (5) EXECUTIVE AGENCY.—The term “Executive
2 agency” has the meaning given the term in section
3 105 of title 5, United States Code.

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

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

13 (8) FOREIGN ENTITY.—The term “foreign enti-
14 ty” means an entity that is headquartered or incor-
15 porated in a country that is not the United States.

16 (9) FOREIGN PERSON.—The term “foreign per-
17 son” means an individual who is not a United States
18 person.

19 (10) FEDERAL TENANT.—The term “Federal
20 tenant” means a Federal agency that is occupying
21 or will occupy a high-security leased space for which
22 a lease agreement has been secured on behalf of the
23 Federal agency.

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

4 (A) will be occupied by Federal employees
5 for nonmilitary activities; and

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

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

16 (13) IMMEDIATE OWNER.—The term “immediate owner” means an entity, other than the offeror
17 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.
22 employees.

23 (14) SUBSTANTIAL ECONOMIC BENEFITS.—The
24 term “substantial economic benefits” means, with
25 respect to a natural person described in paragraph

1 (1)(A)(ii), having an entitlement to the funds or as-
 2 sets of a covered entity that, as a practical matter,
 3 enables the person, directly or indirectly, to control,
 4 manage, or direct the covered entity.

5 (15) UNITED STATES PERSON.—The term
 6 “United States person” means an individual who—

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

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

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

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

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

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

8 (c) TIMING.—

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

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

20 (A) the list of immediate or highest-level
 21 owners of the covered entity during the pre-
 22 ceding 1-year period of Federal occupancy; or

23 (B) the information required to be pro-
 24 vided relating to each such immediate or high-
 25 est-level owner.

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

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

9 (b) REQUIREMENTS.—

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

15 (A) Name.

16 (B) Current residential or business street
17 address.

18 (C) An identifying number or document
19 that verifies identity as a United States person
20 or foreign person.

21 (2) DISCLOSURES AND NOTIFICATIONS.—The
22 proposal described in subsection (a) shall—

23 (A) require the disclosure of any imme-
24 diate, highest-level, or beneficial owner that is a
25 foreign person;

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

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

11 (D) include ownership information on
12 closely held pooled-investment vehicles, mutual
13 funds, trusts, or other pooled-investment vehi-
14 cles.

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

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

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

1 **SEC. 5. OTHER SECURITY AGREEMENTS FOR LEASED**
2 **SPACE.**

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

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

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

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

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

22 (3) the Federal lessee shall have written proce-
23 dures in place, signed by the Federal lessee and the
24 covered entity, governing access to the high-security

- 1 space in case of emergencies that may damage the
- 2 leased property.

