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MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: March 21, 2023
Subject: Bill Brief for SB 283

Senate Bill 283 prohibits conveyance of certain real property in this state to foreign adversaries.

Section 1 provides definitions to be used for the three new sections of law created by the bill. “Foreign adversary” means any government or nongovernment person determined to be a foreign adversary pursuant to 15 C.F.R. § 7.4, as in effect on July 1, 2023. The current list in the Code of Federal Regulations is: “(1) The People’s Republic of China, including the Hong Kong Special Administrative Region (China); (2) Republic of Cuba (Cuba); (3) Islamic Republic of Iran (Iran); (4) Democratic People’s Republic of Korea (North Korea); (5) Russian Federation (Russia); and (6) Venezuelan politician Nicolás Maduro (Maduro Regime).” If the federal list is amended after July 1, 2023, the secretary of agriculture is granted sole discretion to adopt rules and regulations to add or remove a government or nongovernment person from the definition of “foreign adversary” but only after giving due consideration to the risks to state and national security and the economic costs and benefits of such action.

“Person” means an individual or entity, and “entity” means a partnership, association, trust, joint venture, corporation, group, subgroup or other non-United States governmental organization. “Person owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary” means: (1) Any person who acts at the order, request or under the direction or control, of a foreign adversary or of a person whose activities are directly or indirectly supervised, directed, controlled, financed or subsidized in whole or in majority part by a foreign adversary; (2) any person who is a citizen or resident of a nation-state controlled by a foreign adversary, unless such person is a dual citizen of the United States and a foreign adversary; (3) any organization organized under the laws

of a nation-state controlled by a foreign adversary; and (4) any organization that is owned or controlled by a foreign adversary.

Section 2 provides that 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 parcels of 10 or more acres located in this state. This provision shall not apply to land acquired by: (1) A process of law in the collection of debts; (2) a deed in lieu of foreclosure pursuant to a forfeiture of a contract for deed; or (3) any procedure for the enforcement of a lien or claim on the land, whether created by mortgage or otherwise. Such land shall be sold or otherwise disposed of within two years after title is transferred.

A person owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary may sell or convey all or any portion of an ownership interest in real property located in this state that was acquired prior to July 1, 2023, but shall not sell or otherwise convey such ownership interest to any person owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary in violation of subsection (a). A person owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary who inherits real property on or after July 1, 2023, in violation of this act shall have 12 months to divest such property once the violation is known. Such divestiture shall be an affirmative defense to any violation of this subsection.

The attorney general shall investigate any sale, transfer or other conveyance of title to real property located in this state if the attorney general has reason to believe that such transaction violates subsection (a). 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., the civil forfeiture act.

Section 3 provides for severability of the act. If any provision of sections 1 through 3 or the application thereof is held invalid, such invalidity shall not affect any other provision of sections 1 through 3 that can be given effect without the invalid provision.