

Legislative Testimony

In Opposition of SB446

Senate Committee on Federal and State Affairs

February 7th, 2024

[WRITTEN ONLY]

Dear Chairman Thompson and Members of the Committee:

My name is Rashane Hamby and I am the Director of Policy and Research at the American Civil Liberties Union of Kansas. The ACLU of Kansas is a nonpartisan, non-profit organization with more than 35,000 supporters across Kansas that works to preserve and strengthen the civil rights and liberties of every person in our state. I am writing to express my strong opposition to Senate Bill No. 446, which seeks to regulate real property ownership by foreign nationals, businesses, and governments. While safeguarding our national and state interests is crucial, this bill, in its current form, poses serious concerns related to civil liberties and the fundamental rights that the United States Constitution guarantees to every individual within our borders, including the equal protection under our laws for citizens of other countries.

Equal Protection Under the Law: A core tenet of the United States Constitution, as well as the Kansas Bill of Rights, is the guarantee of equal protection under the laws. This fundamental principle, enshrined in the Fourteenth Amendment of the U.S. Constitution and echoed in the spirit of our state's commitment to individual rights, extends to everyone within our jurisdiction, including citizens of other countries. The Kansas Bill of Rights¹², in its very first section, affirms that "All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness." This foundational belief in equality under the law is directly challenged by Senate Bill No. 446, which proposes restrictions on property ownership based solely on nationality. Such measures not only undermine the spirit of §1 but also risk setting a precedent that contradicts the commitment to equal protection and benefit, as emphasized in §2, stating, "all free governments are founded on their authority, and are instituted for their equal protection and benefit."

Property Rights of Citizens and Aliens: Importantly, §17 of the Kansas Bill of Rights expressly addresses property rights, affirming, "No distinction shall ever be made between citizens of the state of Kansas and the citizens of other states and territories of the United States in reference to the purchase, enjoyment or descent of property." While this section allows the legislature to regulate the property rights of aliens, any such regulation must align with the overarching principles of equality and justice that permeate our state constitution. The proposed Senate Bill No. 446, by imposing prohibitive measures on property ownership by foreign nationals, could be seen as at odds with the spirit of inclusivity and fairness intended by §17.

Historical Precedent and Its Lessons: It's imperative to remember our past to avoid repeating its mistakes. In the early 1900s, politicians across the country enacted "alien land laws" with similar justifications to those proposed in Senate Bill No. 446. These laws prohibited Chinese and Japanese immigrants from owning land, rooted in racism rather than legitimate public policy concerns. The impact was devastating—financial harm to immigrants and a significant escalation in violence and discrimination

¹ Kansas. (n.d.). Bill of Rights. In Constitution of the State of Kansas.

² United States of America. (1868). Amendment XIV. In Constitution of the United States.

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against Asian communities in the United States. These laws were eventually recognized for violating the Constitution's equal protection guarantees and were struck down by the courts or repealed by state legislatures. We must learn from this history and not enact laws that echo such discriminatory practices.

Advocating for Inclusive, Non-Discriminatory Policies: Instead of restrictive and potentially discriminatory legislation, I urge the adoption of policies that respect constitutional values while addressing legitimate concerns. Enhanced vetting or regulatory measures that apply uniformly can protect national and state interests without compromising civil liberties and rights.

Reflecting on both our constitutional principles and the lessons from our past, it is clear that Senate Bill No. 446 poses significant challenges to the ideals we strive to uphold. By opposing this bill, we affirm our commitment to equality, justice, and the economic well-being of our state and nation. Let us choose a path forward that respects the rights of all individuals and avoids the errors of our past. For the reasons listed above, I urge you, please vote no on Senate Bill No. 446.

Rashane Hamby
Director of Policy and Research