



**KANSAS BAR
ASSOCIATION**

TO: **The Honorable Kellie Warren, Chair**
 And Members of the Senate Judiciary Committee

FROM: **Joseph Molina**
 On behalf of the Kansas Bar Association

RE: **SB 283 – Prohibiting conveyances of certain real property in this state to foreign
adversaries.**

DATE: **March 21, 2023**

Chairman Warren and members of the Senate Judiciary Committee, my name is Joseph Molina and I provide this testimony on behalf of the Kansas Bar Association for **SB 283 – Prohibiting conveyances of certain real property in this state to foreign adversaries.**

The KBA has thousands of members that routinely engage in real estate transactions, both commercial and residential. Our members assist with title insurance, contract drafting, easement litigation, wind/water leases and the bifurcation of mineral rights from real property. Our members draft wills that convey real property and create trusts for the same. The KBA Real Property, Probate and Trust section as well as the KBA Title Standards Committee reviewed SB 283 and request clarity on the following questions:

- 1) Does “. . . *real property parcels of 10 or more acres* . . .” mean an aggregate limit on all the acres the person can own, or does it mean that the person can acquire an unlimited number of parcels provided that each described parcel is not more than 10 acres? Stated another way, does it mean that all parcels combined cannot exceed 10 acres, or does it mean that each parcel cannot exceed 10 acres?
- 2) Sec. 1(b)(2) grants the “secretary of agriculture” discretion to modify the definition of foreign adversary? If the bill were limited to agricultural use property, then the reference to the secretary of agriculture would be appropriate. However, the bill also applies to commercial and industrial use properties of 10 or more acres which goes beyond the scope of the secretary of agriculture.
- 3) “. . . *ownership of any interest in real property* . . .” is not expressly limited to the ownership of “fee” interests in real property. Under Kansas law, the definition of real property includes mineral rights (e.g., quarries, mines, oil and gas, etc.) and certain leasehold interests (e.g., farm

leases, wind energy leases, solar leases or easements, etc.). Is SB 283 intended to be limited to “fee” ownership interests in real property.

- 4) Does SB 283 prohibit legal residents with permanent visa status or green card holders from acquiring property?
- 5) Section 2(e) provides that “real property that is the subject matter of a transaction that violates this section shall be subject to forfeiture under KSA 60-4101 et seq”. Under KSA 60-4106(a)(1) “No property or conveyance, or an interest therein, may be forfeited under this act unless the offense or conduct giving rise to the forfeiture constitutes a felony”. As such, does violating SB 283 constitute a felony?

The Kansas Bar Association is sensitive to the intent of SB 283 and fully understand and appreciate the policymaking authority of the Legislature in this regard. The KBA has no position on SB 283 other than to request clarify on the few issues listed above. Clarity in these areas would be appreciated to ensure lawyers are properly advising clients in real estate transactions in Kansas.

Thank you for your time and attention.

About the Kansas Bar Association:

The Kansas Bar Association (KBA) was founded in 1882 as a voluntary association for dedicated legal professionals. Its more than 5,200 members include lawyers, judges, law students, and paralegals. www.ksbar.org