

Suspend the Rules and Pass the Bill, S. 1869, With an Amendment
(The amendment strikes all after the enacting clause and inserts a new text)

116TH CONGRESS
2^D SESSION

S. 1869

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 Security 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 for Award Management, but it
7 is not currently required to collect beneficial owner-
8 ship information and lacks an adequate system for
9 doing 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) CONTROL.—The term “control” means,
13 with respect to a covered entity—

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

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

18 (3) COVERED ENTITY.—The term “covered en-
19 tity” means—

20 (A) a person, corporation, company, busi-
21 ness association, partnership, society, trust, or
22 any other nongovernmental entity, organization,
23 or group; or

24 (B) any governmental entity or instrumen-
25 tality of a government.

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

4 (5) 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 (6) FEDERAL LESSEE.—The term “Federal les-
9 see”—

10 (A) means the Administrator of General
11 Services, the Architect of the Capitol, or the
12 head of any Federal agency, other than the De-
13 partment of Defense, that has independent stat-
14 utory leasing authority; and

15 (B) does not include the head of an ele-
16 ment of the intelligence community.

17 (7) FEDERAL TENANT.—The term “Federal
18 tenant”—

19 (A) means a Federal agency that is occu-
20 pying or will occupy a high-security leased
21 space for which a lease agreement has been se-
22 cured on behalf of the Federal agency; and

23 (B) does not include an element of the in-
24 telligence community.

1 (8) FOREIGN ENTITY.—The term “foreign enti-
2 ty” means a covered entity that is headquartered or
3 incorporated in a country that is not the United
4 States.

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

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

11 (A) will be occupied by Federal employees
12 for nonmilitary activities; and

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

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

23 (12) IMMEDIATE OWNER.—The term “imme-
24 diate owner” means an entity, other than the offeror
25 of a lease, that has direct control of the offeror, in-

1 including ownership or interlocking management, iden-
2 tity of interests among family members, shared fa-
3 cilities and equipment, and the common use of em-
4 ployees.

5 (13) INTELLIGENCE COMMUNITY.—The term
6 “intelligence community” has the meaning given the
7 term in section 3 of the National Security Act of
8 1947 (50 U.S.C. 3003).

9 (14) SUBSTANTIAL ECONOMIC BENEFITS.—The
10 term “substantial economic benefits” means, with
11 respect to a natural person described in paragraph
12 (1)(A)(ii), having an entitlement to the funds or as-
13 sets of a covered entity that, as a practical matter,
14 enables the person, directly or indirectly, to control,
15 manage, or direct the covered entity.

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

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

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

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

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

3 (a) **REQUIRED DISCLOSURES.**—Before entering into
4 a lease agreement with a covered entity or approving a
5 novation agreement with a covered entity involving a
6 change of ownership under a lease that will be used for
7 high-security leased space, a Federal lessee shall require
8 the covered entity to identify and disclose whether the im-
9 mediate or highest-level owner of the leased space, includ-
10 ing an entity involved in the financing thereof, is a foreign
11 person or a foreign entity, including the country associated
12 with the ownership entity.

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

20 (c) **TIMING.**—

21 (1) **IN GENERAL.**—A Federal lessee shall re-
22 quire a covered entity to provide the information de-
23 scribed in subsection (a) when first submitting a
24 proposal in response to a solicitation for offers
25 issued by the Federal lessee.

1 (2) UPDATES.—A Federal lessee shall require a
2 covered entity to submit an update of the informa-
3 tion described in subsection (a) annually, beginning
4 on the date that is 1 year after the date on which
5 the Federal tenant began occupancy, with informa-
6 tion including—

7 (A) the list of immediate or highest-level
8 owners of the covered entity during the pre-
9 ceeding 1-year period of Federal occupancy; or

10 (B) the information required to be pro-
11 vided relating to each such immediate or high-
12 est-level owner.

13 **SEC. 4. IMMEDIATE, HIGHEST-LEVEL, AND BENEFICIAL**
14 **OWNERS.**

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

24 (b) REQUIREMENTS.—

1 (1) CONTENTS.—The plan described in sub-
2 section (a) shall include a process for collecting and
3 utilizing the following information on each imme-
4 diate, highest-level, or beneficial owner of a high-se-
5 curity leased space:

6 (A) Name.

7 (B) Current residential or business street
8 address.

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

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

14 (A) require the disclosure of any imme-
15 diate, highest-level, or beneficial owner that is a
16 foreign person;

17 (B) require that, if the Federal lessee is
18 assigning the building or other improvement
19 that will be used for high-security space to a
20 Federal tenant, the Federal tenant shall be no-
21 tified of the disclosure described in subpara-
22 graph (A); and

23 (C) exclude collecting ownership informa-
24 tion on widely held pooled-investment vehicles,

1 mutual funds, trusts, or other pooled-invest-
2 ment vehicles.

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

5 (1) not later than 1 year after the date of en-
6 actment of this Act, submit the plan described in
7 subsection (a) to the Committee on Homeland Secu-
8 rity and Governmental Affairs of the Senate and the
9 Committee on Transportation and Infrastructure of
10 the House of Representatives;

11 (2) not later than 2 years after the date of en-
12 actment of this Act, implement the plan described in
13 subsection (a); and

14 (3) not later than 1 year after the implementa-
15 tion of the plan described in subsection (a), and each
16 year thereafter for years, submit a report to the
17 Committee on Homeland Security and Governmental
18 Affairs of the Senate and the Committee on Trans-
19 portation and Infrastructure of the House of Rep-
20 resentatives on the status of the implementation of
21 the plan, including the number of disclosures made
22 under subsection (b)(2).

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 leased space shall include language that pro-
7 vides 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 leased space shall not—

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

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

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

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

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

3 **SEC. 6. AGENCY NOTIFICATIONS.**

4 Not later than 60 days after the date of enactment
5 of this Act, the Administrator of General Services, in con-
6 sultation with the Office of Management and Budget, shall
7 provide notification to relevant Executive branch agencies
8 with independent leasing authorities of the requirements
9 of this Act.

10 **SEC. 7. APPLICABILITY.**

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