

AMENDMENTS TO LB1301
(Amendments to E&R amendments, ER104)

Introduced by DeKay, 40.

1 1. Strike sections 1, 5, 6, 7, 8, 9, 10, and 12 and insert the
2 following new sections:

3 Section 1. Section 4-107, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 4-107 (1) The right of a nonresident ~~an alien not residing within~~
6 ~~the United States or its territories~~ to take either real or personal
7 property or the proceeds thereof in this state by succession or
8 testamentary disposition, upon the same terms and conditions as
9 inhabitants and citizens of the United States, is dependent in each case
10 upon:

11 (a) ~~The Upon~~ the existence of a reciprocal right upon the part of
12 citizens of the United States to take real and personal property and the
13 proceeds thereof upon the same terms and conditions as inhabitants and
14 citizens of the country of which such nonresident alien is an inhabitant;

15 (b) ~~The Upon~~ the rights of citizens of the United States to receive
16 by payment to them within the United States or its territories money
17 originating from the estates of persons dying within such foreign
18 country; ~~and~~

19 (c) Proof ~~Upon~~ ~~proof~~ that such nonresident alien heirs,
20 distributees, devisees, or legatees may receive the benefit, use, or
21 control of property or proceeds from estates of persons dying in this
22 state without confiscation in whole or in part, by the governments of
23 such foreign countries; and -

24 (d) Compliance of the nonresident alien with the Foreign-owned Real
25 Estate National Security Act, except that if the nonresident alien does
26 not comply with the Foreign-owned Real Estate National Security Act, the

1 act shall control the transfer and disposition of any of the property
2 that is agricultural land.

3 (2) The burden is upon such nonresident alien to establish the fact
4 of existence of the reciprocal rights set forth in subsection (1) of this
5 section.

6 (3) If such reciprocal rights are not found to exist, the property
7 shall be delivered to the State Treasurer to be held for a period of five
8 years from date of death during which time such nonresident alien may
9 show that he or she has become eligible to receive such property. If at
10 the end of such period of five years no showing of eligibility is made by
11 such nonresident alien, his or her rights to such property or proceeds
12 shall be barred.

13 (4) At any time within the one year following the date the rights of
14 such nonresident alien have been barred, any other person other than an
15 ineligible nonresident alien who, in the case of succession or
16 testamentary disposition, would have been entitled to the property or
17 proceeds by virtue of the laws of Nebraska governing intestate descent
18 and distribution had the nonresident alien predeceased the decedent, may
19 petition the district court of Lancaster County for payment or delivery
20 of such property or proceeds to those entitled thereto.

21 (5) If no person has petitioned the district court of Lancaster
22 County for payment or delivery of such property or proceeds within six
23 years from the date of death of decedent, such property or proceeds shall
24 be disposed of as escheated property.

25 (6) All property other than money delivered to the State Treasurer
26 under this section may within one year after delivery be sold by the
27 State Treasurer ~~him~~ to the highest bidder at public sale in whatever city
28 in the state ~~affords~~ in the State Treasurer's ~~his~~ judgment would be the
29 most favorable market for the property involved. The State Treasurer may
30 decline the highest bid and reoffer the property for sale if the State
31 Treasurer ~~he~~ considers the price bid insufficient. The State Treasurer ~~He~~

1 need not offer any property for sale if, in the State Treasurer's his
2 opinion, the probable cost of sale exceeds the value of the property. Any
3 sale held under this section shall be preceded by a single publication of
4 notice of such sale thereof at least three weeks in advance of sale in a
5 ~~an English language~~ newspaper of general circulation in the county where
6 the property is to be sold and the cost of such publication and other
7 expenses of sale paid out of the proceeds of such sale. The purchaser at
8 any sale conducted by the State Treasurer pursuant to this section shall
9 receive title to the property purchased, free from all claims of the
10 owner or prior holder of such property thereof and of all persons
11 claiming through or under such owner or prior holder them. The State
12 Treasurer shall execute all documents necessary to complete the transfer
13 of title.

14 (7) For purposes of this section, nonresident alien has the same
15 meaning as in section 5 of this act.

16 Sec. 5. For purposes of the Foreign-owned Real Estate National
17 Security Act:

18 (1) Nonresident alien means any person who:

19 (a) Is not a citizen of the United States;

20 (b) Is not a national of the United States;

21 (c) Is not a lawful permanent resident of the United States; and

22 (d) Has not been physically present in the United States for at
23 least one hundred eighty-three days during a three-year period that
24 includes the current year and the two years immediately preceding the
25 current year; and

26 (2) Restricted entity means:

27 (a) Any person or entity identified on the sanctions lists
28 maintained by the Office of Foreign Assets Control of the United States
29 Department of the Treasury as such sanctions lists existed on the
30 operative date of this act; or

31 (b) Any person or foreign government or entity determined by the

1 United States Secretary of Commerce to have engaged in a long-term
2 pattern or serious instances of conduct significantly adverse to the
3 national security of the United States pursuant to 15 C.F.R. 7.4, as such
4 regulation existed on the operative date of this act.

5 Sec. 6. Section 76-402, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 ~~76-402~~ (1) Except as provided in the Foreign-owned Real Estate
8 National Security Act, a nonresident alien, a foreign corporation, a
9 government other than the United States Government or a government of its
10 states, political subdivisions, territories, or possessions, or an agent,
11 a trustee, or a fiduciary thereof:

12 (a) Shall not purchase, acquire title to, or take Aliens and
13 corporations not incorporated under the laws of the State of Nebraska are
14 prohibited from acquiring title to or taking or holding any land, or real
15 estate, or any leasehold interest extending for a period for more than
16 five years or any other greater interest less than fee in any land, or
17 real estate in this state by descent, devise, purchase or otherwise on or
18 after the operative date of this act, except as provided in the Foreign-
19 owned Real Estate National Security Act; and sections 76-403 to 76-405.

20 (b) Shall be in compliance with the federal Agricultural Foreign
21 Investment Disclosure Act of 1978, 7 U.S.C. 3501 et seq., with respect to
22 any real estate in Nebraska.

23 (2) Except as provided in the Foreign-owned Real Estate National
24 Security Act, a restricted entity, a nonresident alien, a foreign
25 corporation, a government other than the United States Government or a
26 government of its states, political subdivisions, territories, or
27 possessions, or an agent, a trustee, or a fiduciary thereof, that on or
28 after the operative date of this act purchases, acquires title to, or
29 takes any real estate or any leasehold interest in violation of the
30 Foreign-owned Real Estate National Security Act shall be subject to
31 divestment as prescribed under section 15 of this act.

1 Sec. 7. Section 76-404, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 ~~76-404~~ (1) Except as provided in subsection (2) of this section,
4 corporations ~~Corporations~~ incorporated under the laws of the United
5 States of America, or under the laws of any state of the United States of
6 America, or any foreign corporation or any nonresident alien, doing
7 business in this state, may acquire, own, hold, or operate leases for
8 oil, gas, or other hydrocarbon substances, for a period as long as ten
9 years and as long thereafter as oil, gas, or other hydrocarbon substances
10 shall or can be produced in commercial quantities.

11 (2) Subsection (1) of this section shall not apply to a restricted
12 entity or an agent, trustee, or fiduciary thereof. A restricted entity
13 that violates subsection (1) of this section shall be in violation of the
14 Foreign-owned Real Estate National Security Act and subject to divestment
15 as prescribed under section 15 of this act.

16 Sec. 8. Section 76-405, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 ~~76-405~~ Any nonresident ~~resident~~ alien may acquire title to lands in
19 this state by devise or descent only, except that ~~provided~~ such
20 nonresident alien shall be required to sell and convey such ~~said~~ real
21 estate ~~property~~ within five years after ~~from~~ the date of acquiring it,
22 and if the nonresident alien fails ~~he shall fail~~ to dispose of it to a
23 bona fide purchaser for value within such ~~that~~ time, the nonresident
24 alien ~~it~~ shall be in violation of the Foreign-owned Real Estate National
25 Security Act and the real estate shall be subject to divestment as
26 prescribed in section 15 of this act ~~revert and escheat to the State of~~
27 ~~Nebraska.~~ If a person no longer meets the definition of nonresident alien
28 within five years of acquiring title to real estate by devise or descent,
29 such person shall not be required to dispose or divest of the property.

30 Sec. 9. Section 76-406, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 ~~76-406~~ No corporation organized under the laws of this state and no
2 corporation organized under the laws of any other state or country, doing
3 business in this state, which was organized to hold or is holding real
4 estate, except as provided in the Foreign-owned Real Estate National
5 Security Act sections ~~76-404~~ and ~~76-412~~ to ~~76-414~~, shall elect
6 nonresident aliens as members of its board of directors or board of
7 trustees in a number sufficient to constitute a majority of such board,
8 nor elect nonresident aliens as executive officers or managers nor have a
9 majority of its capital stock owned by nonresident aliens.

10 Sec. 10. Section 76-407, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 ~~76-407~~ Any ~~such~~ corporation described in section 9 of this act
13 violating such ~~the provisions of~~ section ~~76-406~~ shall be construed and
14 held to be a nonresident ~~an~~ alien and within the provisions of the
15 Foreign-owned Real Estate National Security Act sections ~~76-401~~ to ~~76-415~~
16 applicable to nonresident ~~alien~~ ~~persons~~. Any such domestic
17 corporation violating ~~the provisions of~~ section 9 of this act ~~76-406~~
18 shall forfeit its charter and be dissolved. Any such foreign corporation
19 violating ~~the provisions of said~~ section 9 of this act shall forfeit its
20 right to do business in the State of Nebraska.

21 Sec. 12. Section 76-413, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 ~~76-413~~ (1) Except as provided in subsection (2) of this section,
24 any nonresident Any alien, ~~or~~ foreign corporation, government other than
25 the United States Government or a government of its states, political
26 subdivisions, territories, or possessions, or agent, trustee, or
27 fiduciary thereof:

28 (a) May ~~may~~ purchase, acquire, ~~and~~ hold title to, or be a lessor or
29 lessee of as much real estate as shall be necessary for the purpose of
30 (i) ~~(1)~~ erecting on such real estate ~~thereon~~ manufacturing or industrial
31 establishments, and in addition thereto such real estate as may be

1 required for facilities incidental to such establishments, or ~~(ii) (2)~~
2 erecting and maintaining establishments primarily operated for the
3 storage, sale, and distribution of petroleum products or hydrocarbon
4 substances, commonly known as filling stations or bulk stations; and -

5 (b) Shall not expand establishments or facilities purchased,
6 acquired, held, or leased pursuant to subdivision (1)(a) of this section
7 or build new such establishments or facilities if a restricted entity or
8 an agent, trustee, or fiduciary thereof.

9 (2) A restricted entity, or an agent, trustee, or fiduciary thereof,
10 shall not purchase, acquire, hold title to, or be a lessor or lessee of
11 real estate pursuant to subdivision (1)(a) of this section unless such
12 restricted entity has a national security agreement with the Committee on
13 Foreign Investment in the United States as of the operative date of this
14 act, maintains such national security agreement, and certifies the
15 validity of such national security agreement annually to the Department
16 of Agriculture within thirty days after the operative date of this act
17 and on or before January 15 of each year thereafter.

18 (3) A restricted entity that violates this section shall be in
19 violation of the Foreign-owned Real Estate National Security Act and
20 subject to divestment as prescribed under section 15 of this act.