

119TH CONGRESS
2D SESSION

S. _____

To amend the Federal Election Campaign Act of 1971 to apply the ban on contributions and expenditures by foreign nationals under such Act to foreign-controlled, foreign-influenced, and foreign-owned domestic business entities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WHITEHOUSE introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Federal Election Campaign Act of 1971 to apply the ban on contributions and expenditures by foreign nationals under such Act to foreign-controlled, foreign-influenced, and foreign-owned domestic business entities, 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.**

4 This Act may be cited as the “Get Foreign Money
5 Out of U.S. Elections Act”.

1 **SEC. 2. APPLICATION OF BAN ON CONTRIBUTIONS AND EX-**
2 **PENDITURES BY FOREIGN NATIONALS TO DO-**
3 **MESTIC BUSINESS ENTITIES THAT ARE FOR-**
4 **EIGN-CONTROLLED, FOREIGN-INFLUENCED,**
5 **AND FOREIGN-OWNED.**

6 (a) APPLICATION OF BAN.—Section 319(b) of the
7 Federal Election Campaign Act of 1971 (52 U.S.C.
8 30121(b)) is amended—

9 (1) by striking “or” at the end of paragraph
10 (1);

11 (2) by striking the period at the end of para-
12 graph (2) and inserting a semicolon; and

13 (3) by adding at the end the following new
14 paragraphs:

15 “(3) any business entity in which a foreign na-
16 tional located outside of the United States and de-
17 scribed in paragraphs (1) or (2) directly or indirectly
18 owns or controls or otherwise holds direct or indirect
19 beneficial ownership of 50 percent or more of the
20 voting shares, total equity, membership units, or
21 other applicable ownership interests of the entity; or

22 “(4) any business entity which is not described
23 in paragraph (1), and—

24 “(A) in which a foreign national located
25 outside of the United States and described in
26 paragraph (1), (2), or (3) directly or indirectly

1 owns or controls or otherwise holds direct or in-
2 direct beneficial ownership of 1 percent or more
3 of the voting shares, total equity, membership
4 units, or other applicable ownership units of the
5 entity;

6 “(B) in which two or more foreign nation-
7 als located outside of the United States and de-
8 scribed in paragraph (1), (2), or (3), in the ag-
9 gregate, directly or indirectly own or control or
10 otherwise hold direct or indirect beneficial own-
11 ership of 5 percent or more of the voting
12 shares, total equity, membership units, or other
13 applicable ownership interests of the entity;

14 “(C) with respect to which one or more
15 foreign nationals located outside of the United
16 States and described in paragraph (1), (2), or
17 (3) have the power to direct, dictate, or control
18 the decisionmaking process of the entity with
19 respect to its interests in the United States; or

20 “(D) with respect to which one or more
21 foreign nationals located outside of the United
22 States and described in paragraph (1), (2), or
23 (3) have the power to direct, dictate, or control
24 the decisionmaking process of the entity with
25 respect to activities in connection with any elec-

1 tion described in subsection (a)(1)(A), includ-
2 ing—

3 “(i) the making of a contribution, do-
4 nation, expenditure, independent expendi-
5 ture, or disbursement for an electioneering
6 communication (within the meaning of sec-
7 tion 304(f)(3)); or

8 “(ii) the administration of a political
9 committee established or maintained by the
10 entity.”.

11 (b) CERTIFICATION OF COMPLIANCE.—Section 319
12 of such Act (52 U.S.C. 30121) is amended by adding at
13 the end the following new subsection:

14 “(c) CERTIFICATION OF COMPLIANCE REQUIRED
15 FOR CARRYING OUT ELECTION ACTIVITY BY BUSINESS
16 ENTITY.—

17 “(1) CERTIFICATION REQUIRED.—Not later
18 than 7 days after a business entity makes any con-
19 tribution, donation, expenditure, independent ex-
20 penditure, disbursement for an electioneering com-
21 munication, or any disbursement in connection with
22 an election described in subsection (a)(1)(A), the
23 chief executive officer of the entity (or, if the entity
24 does not have a chief executive officer, the highest
25 ranking official of the entity), shall file a certifi-

1 cation with the Commission, under penalty of per-
2 jury, avowing that after due inquiry, the entity was
3 not a foreign national on the date the entity made
4 the contribution, donation, expenditure, independent
5 expenditure, or disbursement.

6 “(2) DETERMINATION OF BENEFICIAL OWNER-
7 SHIP.—A business entity shall determine beneficial
8 ownership for purposes of this section in a manner
9 consistent with applicable State law, except that if
10 the entity is registered pursuant to section 12(g) of
11 the Securities Exchange Act of 1934 (15 U.S.C.
12 78l), the entity shall determine beneficial ownership
13 in accordance with section 13(d) of that Act (15
14 U.S.C. 78m(d)).

15 “(3) PROVISION TO RECIPIENTS.—The business
16 entity shall provide a copy of the certification filed
17 under paragraph (1) to each political committee to
18 which it makes a contribution, and, upon the request
19 of the recipient, to each recipient of a contribution,
20 donation, expenditure, independent expenditure, or
21 disbursement with respect to which the certification
22 under paragraph (1) is filed.”.

23 (c) PREVENTION OF CIRCUMVENTION.—Section 319
24 of such Act (52 U.S.C. 30121), as amended by subsection

1 (b), is amended by adding at the end the following new
2 subsection:

3 “(d) PROHIBITING USE OF FUNDS FROM BUSINESS
4 ENTITIES WITHOUT CERTIFICATION.—

5 “(1) PROHIBITION.—Except as provided in
6 paragraph (2), it shall be unlawful for any person
7 that receives from a business entity a contribution,
8 donation, expenditure, independent expenditure, or
9 disbursement with respect to which the business en-
10 tity is required to file a certification of compliance
11 under subsection (c) to use that contribution, dona-
12 tion, expenditure, independent expenditure, or dis-
13 bursement, directly or indirectly, to—

14 “(A) make such a contribution, donation,
15 expenditure, independent expenditure, or dis-
16 bursement; or

17 “(B) contribute, donate, transfer, or other-
18 wise convey such a contribution, donation, ex-
19 penditure, independent expenditure, or dis-
20 bursement to another person for use as such a
21 contribution, donation, expenditure, inde-
22 pendent expenditure, or disbursement.

23 “(2) EXCEPTION FOR FUNDS ACCOMPANIED BY
24 CERTIFICATION.—Paragraph (1) does not apply to a
25 person that receives from a business entity a con-

1 tribution, donation, expenditure, independent ex-
2 penditure, or disbursement described in such para-
3 graph if—

4 “(A) the person receives from the business
5 entity a copy of the certification of compliance
6 under subsection (c) with respect to such con-
7 tribution, donation, expenditure, independent
8 expenditure, or disbursement;

9 “(B) the use by the person of the contribu-
10 tion, donation, expenditure, independent ex-
11 penditure, or disbursement is otherwise lawful;
12 and

13 “(C) the person separately designates,
14 records, and accounts for the contribution, do-
15 nation, expenditure, independent expenditure,
16 or disbursement, and ensures that disburse-
17 ments by the person for a contribution, dona-
18 tion, expenditure, independent expenditure, dis-
19 bursement for an electioneering communication,
20 or any disbursement in connection with an elec-
21 tion described in subsection (a)(1)(A) are only
22 made from funds that comply with the require-
23 ments of this section.

24 “(3) GOOD FAITH RELIANCE ON CERTIFICATION
25 OF COMPLIANCE.—For purposes of this subsection,

1 a person may rely in good faith on a certification of
2 compliance provided to the person under subsection
3 (c)(3).”.

4 (d) BUSINESS ENTITY DEFINED.—Section 319 of
5 such Act (52 U.S.C. 30121), as amended by subsection
6 (b) and subsection (c), is amended by adding at the end
7 the following new subsection:

8 “(e) BUSINESS ENTITY DEFINED.—For purposes of
9 this section, the term ‘business entity’ means a for-profit
10 corporation, limited liability corporation, partnership,
11 company, limited partnership, business trust, business as-
12 sociation, or other similar for-profit entity.”.

13 (e) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect upon the expiration of the
15 180-day period which begins on the date of the enactment
16 of this Act, and shall take effect without regard to whether
17 or not the Federal Election Commission has promulgated
18 regulations to carry out such amendments.

19 **SEC. 3. CLARIFICATION OF APPLICATION OF FOREIGN**
20 **MONEY BAN TO CERTAIN DISBURSEMENTS**
21 **AND ACTIVITIES.**

22 (a) APPLICATION TO DISBURSEMENTS IN CONNEC-
23 TION WITH STATE AND LOCAL BALLOT INITIATIVES AND
24 DISBURSEMENTS TO SUPER PACS.—Section
25 319(a)(1)(A) of the Federal Election Campaign Act of

1 1971 (52 U.S.C. 30121(a)(1)(A)) is amended by striking
2 “election;” and inserting “election (including a State or
3 local ballot initiative, referendum, or recall election), in-
4 cluding any disbursement to a political committee which
5 accepts donations or contributions that do not comply with
6 the limitations, prohibitions, or reporting requirements of
7 this Act (or any disbursement to or on behalf of any ac-
8 count of a political committee which is established for the
9 purpose of accepting such donations or contributions);”.

10 (b) CONDITIONS UNDER WHICH CORPORATE PACS
11 MAY MAKE CONTRIBUTIONS AND EXPENDITURES.—Sec-
12 tion 316(b) of such Act (52 U.S.C. 30118(b)) is amended
13 by adding at the end the following new paragraph:

14 “(8) A separate segregated fund established by a cor-
15 poration may not make a contribution or expenditure dur-
16 ing a year unless the fund has certified to the Commission
17 each of the following during the year:

18 “(A) Each individual who manages the fund,
19 and who is responsible for exercising decisionmaking
20 authority for the fund, is a citizen of the United
21 States or is lawfully admitted for permanent resi-
22 dence in the United States.

23 “(B) No foreign national under section 319
24 participates in any way in the decisionmaking proc-

1 esses of the fund with regard to contributions or ex-
2 penditures under this Act.

3 “(C) The fund does not solicit or accept rec-
4 ommendations from any foreign national under sec-
5 tion 319 with respect to the contributions or expend-
6 itures made by the fund.

7 “(D) Any member of the board of directors of
8 the corporation who is a foreign national under sec-
9 tion 319 abstains from voting on matters concerning
10 the fund or its activities.”.