

118TH 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.

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IN THE SENATE OF THE UNITED STATES

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

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**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 which is outside of the United States and is  
17 described in paragraphs (1) or (2) directly or indi-  
18 rectly owns or controls or otherwise holds direct or  
19 indirect beneficial ownership of 50 percent or more  
20 of the voting shares, total equity, membership units,  
21 or other applicable ownership interests of the entity;  
22 or

23 “(4) any business entity which is not a foreign  
24 national described in paragraph (1), and—

25 “(A) in which a foreign national which is  
26 outside of the United States and is described in

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

7 “(B) in which two or more foreign nation-  
8 als which are outside of the United States and  
9 are described in paragraph (1), (2), or (3), in  
10 the aggregate, directly or indirectly own or con-  
11 trol or otherwise hold direct or indirect bene-  
12 ficial ownership of 5 percent or more of the vot-  
13 ing shares, total equity, membership units, or  
14 other applicable ownership interests of the enti-  
15 ty;

16 “(C) over which one or more foreign na-  
17 tionals which are outside of the United States  
18 and are described in paragraph (1), (2), or (3)  
19 have the power to direct, dictate, or control the  
20 decisionmaking process of the entity with re-  
21 spect to its interests in the United States; or

22 “(D) over which one or more foreign na-  
23 tionals which are outside of the United States  
24 and are described in paragraph (1), (2), or (3)  
25 have the power to direct, dictate, or control the

1 decisionmaking process of the entity with re-  
2 spect to activities in connection with a Federal,  
3 State, or local election, including—

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

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

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

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

18 “(1) CERTIFICATION REQUIRED.—Not later  
19 than 7 days after a business entity makes any con-  
20 tribution, donation, expenditure, independent ex-  
21 penditure, disbursement for an electioneering com-  
22 munication, or any disbursement in connection with  
23 an election for Federal, State, or local office or with  
24 any State or local ballot measure, the chief executive  
25 officer of the entity (or, if the entity does not have

1 a chief executive officer, the highest ranking official  
2 of the entity), shall file a certification with the Com-  
3 mission, under penalty of perjury, avowing that after  
4 due inquiry, the entity was not a foreign national on  
5 the date the entity made the contribution, donation,  
6 expenditure, independent expenditure, or disburse-  
7 ment.

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

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

1           (c) PREVENTION OF CIRCUMVENTION.—Section 319  
2 of such Act (52 U.S.C. 30121), as amended by subsection  
3 (b), is amended by adding at the end the following new  
4 subsection:

5           “(d) PROHIBITING USE OF FUNDS FROM BUSINESS  
6 ENTITIES WITHOUT CERTIFICATION.—

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

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

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

1           “(2) EXCEPTION FOR FUNDS ACCOMPANIED BY  
2           CERTIFICATION.—Paragraph (1) does not apply to a  
3           person that receives from a business entity a con-  
4           tribution, donation, expenditure, independent ex-  
5           penditure, or disbursement described in such para-  
6           graph if—

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

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

16                  “(C) the person separately designates,  
17                  records, and accounts for the contribution, dona-  
18                  tion, expenditure, independent expenditure,  
19                  or disbursement, and ensures that disburse-  
20                  ments by the person for a contribution, dona-  
21                  tion, expenditure, independent expenditure, dis-  
22                  bursement for an electioneering communication,  
23                  or any disbursement in connection with an elec-  
24                  tion for Federal, State, or local office are only

1           made from funds that comply with the require-  
2           ments of this section.

3           “(3) GOOD FAITH RELIANCE ON CERTIFICATION  
4           OF COMPLIANCE.—For purposes of this subsection,  
5           a person may rely in good faith on a certification of  
6           compliance provided to the person under subsection  
7           (c)(3).”.

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

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

17          (e) EFFECTIVE DATE.—The amendments made by  
18          this section shall take effect upon the expiration of the  
19          180-day period which begins on the date of the enactment  
20          of this Act, and shall take effect without regard to whether  
21          or not the Federal Election Commission has promulgated  
22          regulations to carry out such amendments.



1 **SEC. 3. CLARIFICATION OF APPLICATION OF FOREIGN**  
2 **MONEY BAN TO CERTAIN DISBURSEMENTS**  
3 **AND ACTIVITIES.**

4 (a) APPLICATION TO DISBURSEMENTS IN CONNEC-  
5 TION WITH STATE AND LOCAL BALLOT INITIATIVES AND  
6 DISBURSEMENTS TO SUPER PACS.—Section  
7 319(a)(1)(A) of the Federal Election Campaign Act of  
8 1971 (52 U.S.C. 30121(a)(1)(A)) is amended by striking  
9 “election;” inserting the following: “election (including a  
10 State or local ballot initiative or referendum), including  
11 any disbursement to a political committee which accepts  
12 donations or contributions that do not comply with the  
13 limitations, prohibitions, or reporting requirements of this  
14 Act (or any disbursement to or on behalf of any account  
15 of a political committee which is established for the pur-  
16 pose of accepting such donations or contributions);”.

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

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

25 “(A) Each individual who manages the fund,  
26 and who is responsible for exercising decisionmaking

1 authority for the fund, is a citizen of the United  
2 States or is lawfully admitted for permanent resi-  
3 dence in the United States.

4 “(B) No foreign national under section 319  
5 participates in any way in the decisionmaking proc-  
6 esses of the fund with regard to contributions or ex-  
7 penditures under this Act.

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

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