

SENATE BILL 87

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(PRE-FILED)

0lr0906
CF HB 34

By: **Senator Lam**

Requested: October 15, 2019

Introduced and read first time: January 8, 2020

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Campaign Finance – Contributions, Expenditures, or Donations by**
3 **Foreign-Influenced Corporations or Foreign Principals**

4 FOR the purpose of prohibiting a foreign-influenced corporation from making a
5 contribution to a campaign finance entity or making a donation to a person that
6 makes independent expenditures or electioneering communications; prohibiting a
7 foreign principal from making a contribution to any campaign finance entity, rather
8 than only ballot issue committees, or from making a donation to a person that makes
9 independent expenditures or electioneering communications relating to any issue,
10 rather than only those that relate to ballot issues; prohibiting a foreign-influenced
11 corporation or a foreign principal from making an independent expenditure or
12 electioneering communication; requiring a corporation that makes a contribution,
13 independent expenditure, electioneering communication, or donation to a person
14 that makes independent expenditures or electioneering communications to file a
15 certain statement with the State Board of Elections within a certain time period;
16 prohibiting a campaign finance entity from using a contribution that was knowingly
17 received by the treasurer in violation of certain provisions of this Act; requiring the
18 campaign finance entity to return to the contributors contributions knowingly
19 received by the treasurer in violation of certain provisions of this Act; specifying
20 when a treasurer has acted knowingly for purposes of a certain provision of this Act;
21 defining certain terms; altering a certain definition; providing for a delayed effective
22 date; and generally relating to contributions, expenditures, and donations by
23 foreign-influenced corporations or foreign principals.

24 BY repealing and reenacting, with amendments,
25 Article – Election Law
26 Section 13-236.1
27 Annotated Code of Maryland
28 (2017 Replacement Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Election Law

13–236.1.

[(a) In this section, “foreign principal” has the meaning stated in 22 U.S.C. § 611(b).]

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CHIEF EXECUTIVE OFFICER” MEANS THE HIGHEST-RANKING OFFICER OR DECISION-MAKING INDIVIDUAL WITH AUTHORITY OVER THE CORPORATION’S AFFAIRS.

(3) “CORPORATION” INCLUDES A CORPORATION, A SOLE PROPRIETORSHIP, A GENERAL PARTNERSHIP, A LIMITED PARTNERSHIP, A LIMITED LIABILITY COMPANY, A REAL ESTATE INVESTMENT TRUST, OR ANY OTHER ENTITY.

(4) “FOREIGN-INFLUENCED CORPORATION” MEANS A CORPORATION OF WHICH:

(I) A SINGLE FOREIGN OWNER HOLDS, OWNS, CONTROLS, OR OTHERWISE HAS DIRECT OR INDIRECT BENEFICIAL OWNERSHIP OF 1% OR MORE OF THE TOTAL EQUITY, OUTSTANDING VOTING SHARES, MEMBERSHIP UNITS, OR OTHER APPLICABLE OWNERSHIP INTERESTS OF THE CORPORATION;

(II) TWO OR MORE FOREIGN OWNERS, IN AGGREGATE, HOLD, OWN, CONTROL, OR OTHERWISE HAVE DIRECT OR INDIRECT BENEFICIAL OWNERSHIP OF 5% OR MORE OF THE TOTAL EQUITY, OUTSTANDING VOTING SHARES, MEMBERSHIP UNITS, OR OTHER APPLICABLE OWNERSHIP INTERESTS OF THE CORPORATION; OR

(III) A SINGLE FOREIGN OWNER PARTICIPATES DIRECTLY OR INDIRECTLY IN THE CORPORATION’S DECISION-MAKING PROCESS WITH RESPECT TO THE CORPORATION’S POLITICAL ACTIVITIES IN THE UNITED STATES.

(5) “FOREIGN INVESTOR” MEANS A PERSON THAT:

(I) HOLDS, OWNS, CONTROLS, OR OTHERWISE HAS DIRECT OR INDIRECT BENEFICIAL OWNERSHIP OF EQUITY, OUTSTANDING VOTING SHARES, MEMBERSHIP UNITS, OR OTHER APPLICABLE OWNERSHIP INTERESTS OF A

CORPORATION; AND

(II) 1. IS A GOVERNMENT OF A FOREIGN COUNTRY;

2. IS A FOREIGN POLITICAL PARTY;

3. IS A PARTNERSHIP, AN ASSOCIATION, A CORPORATION, AN ORGANIZATION, OR ANY OTHER COMBINATION OF PERSONS ORGANIZED UNDER THE LAWS OF OR HAVING ITS PRINCIPAL PLACE OF BUSINESS IN A FOREIGN COUNTRY; OR

4. IS AN INDIVIDUAL WHO IS NOT A CITIZEN OF THE UNITED STATES OR A NATIONAL OF THE UNITED STATES AND WHO IS NOT LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.

(6) "FOREIGN OWNER" MEANS:

(I) A FOREIGN INVESTOR; OR

(II) A CORPORATION WHEREIN A FOREIGN INVESTOR HOLDS, OWNS, CONTROLS, OR OTHERWISE HAS DIRECTLY OR INDIRECTLY ACQUIRED A BENEFICIAL OWNERSHIP OF EQUITY OR VOTING SHARES IN AN AMOUNT THAT IS EQUAL TO OR GREATER THAN 50% OF THE TOTAL EQUITY OR OUTSTANDING VOTING SHARES.

(7) (I) "FOREIGN PRINCIPAL" INCLUDES:

1. A GOVERNMENT OF A FOREIGN COUNTRY;

2. A FOREIGN POLITICAL PARTY;

3. A PERSON OUTSIDE THE UNITED STATES, UNLESS:

A. THE PERSON IS AN INDIVIDUAL, IS A CITIZEN OF THE UNITED STATES, AND IS DOMICILED WITHIN THE UNITED STATES; OR

B. THE PERSON IS NOT AN INDIVIDUAL AND IS ORGANIZED UNDER OR CREATED BY THE LAWS OF THE UNITED STATES OR ANY STATE OR OTHER PLACE SUBJECT TO THE JURISDICTION OF THE UNITED STATES AND HAS ITS PRINCIPAL PLACE OF BUSINESS WITHIN THE UNITED STATES; AND

4. A PARTNERSHIP, AN ASSOCIATION, A CORPORATION, AN ORGANIZATION, OR ANY OTHER COMBINATION OF PERSONS ORGANIZED UNDER

1 THE LAWS OF OR HAVING ITS PRINCIPAL PLACE OF BUSINESS IN A FOREIGN
2 COUNTRY.

3 (II) "FOREIGN PRINCIPAL" DOES NOT INCLUDE ANY
4 INDIVIDUAL WHO IS A CITIZEN OF THE UNITED STATES.

5 (b) A FOREIGN-INFLUENCED CORPORATION OR foreign principal may not:

6 (1) make a contribution to a [ballot issue committee] CAMPAIGN FINANCE
7 ENTITY; [or]

8 (2) MAKE AN INDEPENDENT EXPENDITURE OR ELECTIONEERING
9 COMMUNICATION; OR

10 (3) make a donation to a person that makes independent expenditures or
11 electioneering communications [relating to a ballot issue].

12 (C) WITHIN 7 DAYS AFTER MAKING A CONTRIBUTION, AN INDEPENDENT
13 EXPENDITURE, AN ELECTIONEERING COMMUNICATION, OR A DONATION TO A
14 PERSON THAT MAKES INDEPENDENT EXPENDITURES OR ELECTIONEERING
15 COMMUNICATIONS, A CORPORATION SHALL FILE A STATEMENT WITH THE STATE
16 BOARD:

17 (1) SIGNED BY THE CHIEF EXECUTIVE OFFICER OF THE
18 CORPORATION UNDER OATH; AND

19 (2) CERTIFYING THAT, AFTER DUE INQUIRY, THE CORPORATION WAS
20 NOT A FOREIGN-INFLUENCED CORPORATION ON THE DATE THE CONTRIBUTION,
21 INDEPENDENT EXPENDITURE, ELECTIONEERING COMMUNICATION, OR DONATION
22 WAS MADE.

23 (D) (1) IF THE TREASURER OF A CAMPAIGN FINANCE ENTITY KNOWINGLY
24 RECEIVES A CONTRIBUTION AS A RESULT OF A VIOLATION OF SUBSECTION (B) OF
25 THIS SECTION, THE CAMPAIGN FINANCE ENTITY:

26 (I) MAY NOT USE THE CONTRIBUTION FOR ANY PURPOSE; AND

27 (II) SHALL RETURN THE CONTRIBUTION TO THE CONTRIBUTOR.

28 (2) THE TREASURER OF A CAMPAIGN FINANCE ENTITY ACTS
29 KNOWINGLY FOR THE PURPOSES OF THIS SUBSECTION WHEN THE TREASURER:

30 (I) HAS ACTUAL KNOWLEDGE THAT THE CONTRIBUTION HAS
31 COME FROM A FOREIGN-INFLUENCED CORPORATION OR FOREIGN PRINCIPAL;

1 (II) IS AWARE OF FACTS THAT WOULD LEAD A REASONABLE
2 PERSON TO BELIEVE THAT THERE IS A SUBSTANTIAL PROBABILITY THAT THE
3 CONTRIBUTION IS FROM A FOREIGN-INFLUENCED CORPORATION OR FOREIGN
4 PRINCIPAL; OR

5 (III) WAS AWARE OF FACTS THAT SHOULD HAVE PROMPTED A
6 REASONABLE INQUIRY INTO WHETHER THE SOURCE OF THE CONTRIBUTION IS A
7 FOREIGN-INFLUENCED CORPORATION OR FOREIGN PRINCIPAL.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 January 1, 2021.