SENATE BILL 87

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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

AN ACT concerning

Campaign Finance – Contributions, Expenditures, or Donations by
Foreign–Influenced Corporations or Foreign Principals

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

BY repealing and reenacting, with amendments,
Article – Election Law
Section 13–236.1
Annotated Code of Maryland
(2017 Replacement Volume and 2019 Supplement)
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) 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 
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...
THE LAWS OF OR HAVING ITS PRINCIPAL PLACE OF BUSINESS IN A FOREIGN COUNTRY.

(II) “FOREIGN PRINCIPAL” DOES NOT INCLUDE ANY INDIVIDUAL WHO IS A CITIZEN OF THE UNITED STATES.

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

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

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

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

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

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

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

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

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

(2) SHALL RETURN THE CONTRIBUTION TO THE CONTRIBUTOR.

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

(1) HAS ACTUAL KNOWLEDGE THAT THE CONTRIBUTION HAS COME FROM A FOREIGN–INFLUENCED CORPORATION OR FOREIGN PRINCIPAL;
(II) IS AWARE OF FACTS THAT WOULD LEAD A REASONABLE PERSON TO BELIEVE THAT THERE IS A SUBSTANTIAL PROBABILITY THAT THE CONTRIBUTION IS FROM A FOREIGN-INFLUENCED CORPORATION OR FOREIGN PRINCIPAL; OR

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

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