
A BILL FOR AN ACT

RELATING TO CAMPAIGN FINANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the State has a
2 compelling interest in securing its democratic self-governance
3 from foreign influence. The State welcomes immigrants,
4 visitors, and investors from around the world; however, its
5 elections should be decided by the people of Hawaii and not by
6 foreign entities.

7 The legislature further finds that the United States
8 government has concluded that Russia, China, Iran, and other
9 foreign actors are engaged in ongoing campaigns to undermine
10 democratic institutions, as set forth in the joint statement
11 "Combating Foreign Influence in United States Elections", issued
12 by the Office of the Director of National Intelligence, United
13 States Department of Justice, Federal Bureau of Investigation
14 (FBI), and United States Department of Homeland Security on
15 October 19, 2018. The FBI has concluded that foreign-influenced
16 activities include "criminal efforts to suppress voting and
17 provide illegal campaign financing", as set forth in FBI



1 Director Christopher Wray's press briefing on election security
2 on August 2, 2018.

3 The legislature also finds that the United States Congress
4 and the United States Supreme Court recognize the need to
5 protect American elections from foreign influence through the
6 ban on contributions and expenditures by foreign nationals
7 imposed by title 52 United States Code section 30121, upheld by
8 the Supreme Court in *Bluman v. Federal Election Commission*,
9 800 F.Supp.2d 281 (D.D.C. 2011), affirmed, 565 U.S. 1104 (2012).
10 Several states, including Hawaii, have enacted similar laws that
11 ban foreign nationals from making contributions or expenditures
12 in connection with state or local elections.

13 The legislature further finds that former President Barack
14 Obama warned of foreign corporate spending in state elections.
15 Political spending by foreign entities can weaken, interfere
16 with, or disrupt a state's democratic self-government and the
17 trust that the electorate has in its elected representatives.
18 In Hawaii, both foreign nationals and foreign corporations are
19 prohibited from making contributions or expenditures to or on
20 behalf of a candidate, candidate committee, or noncandidate
21 committee. However, more can be done to protect the integrity



1 of Hawaii's democratic self-government from foreign entities
2 that seek to influence Hawaii's elections through political
3 spending.

4 The purpose of this Act is to protect the State's
5 democratic self-governance by:

- 6 (1) Prohibiting foreign entities and foreign-influenced
7 business entities from making contributions,
8 expenditures, electioneering communications, or
9 donations for election purposes;
- 10 (2) Allowing every business entity that contributes or
11 expends funds in a state election to certify that the
12 entity is not and will not be a foreign corporation or
13 foreign-influenced business entity if the entity
14 intends to make contributions or expenditures within
15 an election cycle;
- 16 (3) Specifying that if the conditions that determine
17 whether a business entity qualifies as a
18 foreign-influenced business entity are held
19 unconstitutional by a final judgment, including all
20 appeals, the campaign spending commission is required



1 to establish revised conditions that are
2 constitutional; and

3 (4) Requiring noncandidate committees making only
4 independent expenditures to obtain a statement of
5 certification from each top contributor required to be
6 listed in an advertisement.

7 SECTION 2. Section 11-302, Hawaii Revised Statutes, is
8 amended by adding three new definitions to be appropriately
9 inserted and to read as follows:

10 "Business entity" means a for-profit corporation, company,
11 limited liability company, limited partnership, business trust,
12 business association, or other similar for-profit business
13 entity.

14 "Foreign-influenced business entity" means a business
15 entity that meets at least one of the following conditions:

16 (1) A single foreign investor holds, owns, controls, or
17 otherwise has direct or indirect beneficial ownership
18 of one per cent or more of the total equity,
19 outstanding voting shares, membership units, or other
20 applicable ownership interests of the business entity;



1 (2) Two or more foreign investors, in aggregate, hold,
2 own, control, or otherwise have direct or indirect
3 beneficial ownership of five per cent or more of the
4 total equity, outstanding voting shares, membership
5 units, or other applicable ownership interests of the
6 business entity; or

7 (3) A foreign investor participates directly or indirectly
8 in the business entity's decision-making process with
9 respect to the business entity's political activities
10 in the United States.

11 "Foreign investor" means a person or entity that:

12 (1) Holds, owns, controls, or otherwise has direct or
13 indirect beneficial ownership of equity, outstanding
14 voting shares, membership units, or other applicable
15 ownership interests of a business entity; and

16 (2) Is:

17 (A) A government of a foreign country;

18 (B) A foreign political party;

19 (C) An individual outside the United States who is
20 not a citizen of the United States or a national



1 of the United States and who is not lawfully
2 admitted for permanent residence; or

3 (D) A business entity:

4 (i) That is organized under the laws of or
5 having its principal place of business in a
6 foreign country; or

7 (ii) In which a person or entity described in
8 subparagraph (A), (B), or (C) holds, owns,
9 controls, or otherwise has directly or
10 indirectly acquired a beneficial ownership
11 of equity, voting shares, membership units,
12 or other applicable ownership interests of
13 the business entity in an amount that is
14 equal to or greater than fifty per cent of
15 the total equity, outstanding voting shares,
16 membership units, or other applicable
17 ownership interests of the business entity."

18 SECTION 3. Section 11-356, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[~~f~~]\$11-356[~~t~~] **Contributions and expenditures by a foreign**
21 **national [~~e~~], foreign corporation, or foreign-influenced**



1 business entity; prohibited. (a) [~~Except as provided in~~
2 ~~subsection (b), no~~] No contributions or expenditures shall be
3 made to or on behalf of a candidate, candidate committee, or
4 noncandidate committee[~~7~~] by a foreign national [~~or~~], foreign
5 corporation, or foreign-influenced business entity, including a
6 domestic subsidiary of a foreign corporation, [a] domestic
7 corporation that is owned by a foreign national, or [a] local
8 subsidiary where administrative control is retained by the
9 foreign corporation[~~, and in the same manner prohibited under 2~~
10 ~~United States Code section 441c and 11 Code of Federal~~
11 ~~Regulations section 110.20, as amended.~~

12 ~~(b) A foreign owned domestic corporation may make~~
13 ~~contributions if:~~

14 ~~(1) Foreign national individuals do not participate in~~
15 ~~election related activities, including decisions~~
16 ~~concerning contributions or the administration of a~~
17 ~~candidate committee or noncandidate committee; or~~
18 ~~(2) The contributions are domestically derived].~~

19 (b) No independent expenditures or electioneering
20 communications shall be made by a foreign national, foreign
21 corporation, or foreign-influenced business entity.



1 (c) No contribution or donation shall be made to any
2 person by a foreign national, foreign corporation, or
3 foreign-influenced business entity if the contribution or
4 donation is earmarked for the recipient to make a campaign
5 finance contribution or expenditure, including independent
6 expenditure or electioneering communication.

7 (d) If a business entity intends to make contributions to
8 or expenditures on behalf of a candidate, candidate committee,
9 or noncandidate committee, including independent expenditures or
10 electioneering communications within an election cycle, that
11 business entity may, within seven days after making its first
12 contribution or expenditure of an election cycle, file with the
13 commission a statement of certification signed by the business
14 entity's chief executive officer avowing under penalty of
15 perjury that:

16 (1) After due inquiry, the business entity was not a
17 foreign corporation or foreign-influenced business
18 entity on the date the contribution or expenditure was
19 made;

20 (2) The business entity will conduct due inquiry before
21 any future contribution or expenditure to determine if



1 the business entity has become a foreign corporate or
2 foreign-influenced business entity; and

3 (3) Any future contribution or expenditure shall only be
4 made if the commission determines, after due inquiry,
5 that the entity is not a foreign corporate or
6 foreign-influenced business entity.

7 (e) For the purposes of certification under subsection
8 (d), the business entity shall ascertain beneficial ownership in
9 a manner:

10 (1) Consistent with the Hawaii Business Corporation Act;
11 or

12 (2) If it is registered on a national securities exchange,
13 as set forth in title 17 Code of Federal Regulations
14 sections 240.13d-3 and 240.13d-5.

15 The business entity shall provide a copy of the statement
16 of certification required pursuant to subsection (d) to any
17 candidate or committee to which it contributes and, upon request
18 of the recipient, to any other person to which it contributes.

19 (f) If the conditions that determine whether a business
20 entity qualify as a foreign-influenced business entity pursuant
21 to section 11-302 are held to be unconstitutional by a binding



1 final judgment of court, inclusive of all appeals, the
2 commission shall establish revised conditions that are
3 constitutional and further the State's interest as set forth in
4 Act , Session Laws of Hawaii 2025; provided that the revised
5 conditions shall be relied upon by business entities in
6 determining whether they are foreign-influenced business
7 entities pursuant to section 11-356.

8 (g) For the purposes of this section:

9 "Chief executive officer" means the highest-ranking officer
10 or individual having authority to make decisions regarding a
11 business entity's affairs.

12 "Earmarked" means a designation or instruction, whether
13 direct or indirect, express or implied, oral or written, that
14 results in all or any part of the contribution or donation being
15 expended in a manner that would be prohibited by this section if
16 made by a foreign national, foreign corporation, or
17 foreign-influenced business entity."

18 SECTION 4. Section 11-393, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§11-393 Identification of certain top contributors to**
21 **noncandidate committees making only independent expenditures.**



1 (a) An advertisement shall contain an additional notice in a
 2 prominent location immediately after or below the notices
 3 required by section 11-391, if the advertisement is broadcast,
 4 televised, circulated, or published, including by electronic
 5 means, and is paid for by a noncandidate committee that
 6 certifies to the commission that it makes only independent
 7 expenditures. This additional notice shall start with the
 8 words, "The three top contributors for this advertisement are",
 9 followed by the names of the three top contributors [~~as defined~~
 10 ~~in subsection (e),~~] who made the highest aggregate contributions
 11 to the noncandidate committee for the purpose of funding the
 12 advertisement; provided that:

13 (1) If a noncandidate committee is only able to identify
 14 two top contributors who made contributions for the
 15 purpose of funding the advertisement, the additional
 16 notice shall start with the words, "The two top
 17 contributors for this advertisement are", followed by
 18 the names of the two top contributors;

19 (2) If a noncandidate committee is able to identify only
 20 one top contributor who made contributions for the
 21 purpose of funding the advertisement, the additional



1 notice shall start with the words, "The top
2 contributor for this advertisement is", followed by
3 the name of the top contributor;

4 (3) If a noncandidate committee is unable to identify any
5 top contributors who made contributions for the
6 purpose of funding the advertisement, the additional
7 notice shall start with the words, "The three top
8 contributors for this noncandidate committee are",
9 followed by the names of the three top contributors
10 who made the highest aggregate contributions to the
11 noncandidate committee; and

12 (4) If there are no top contributors to the noncandidate
13 committee, the noncandidate committee shall not be
14 subject to this section.

15 In no case shall a noncandidate committee be required to
16 identify more than three top contributors pursuant to this
17 section.

18 (b) If a noncandidate committee has more than three top
19 contributors who contributed in equal amounts, the noncandidate
20 committee may select which of the top contributors to identify
21 in the advertisement; provided that the top contributors not



1 identified in the advertisement did not make a higher aggregate
2 contribution than those top contributors who are identified in
3 the advertisement. The additional notice required for
4 noncandidate committees described under this subsection shall
5 start with the words "Three of the top contributors for this
6 advertisement are" or "Three of the top contributors to this
7 noncandidate committee are", as appropriate, followed by the
8 names of the three top contributors.

9 (c) This section shall not apply to advertisements
10 broadcast by radio or television of [~~such~~] short duration that
11 including a list of top contributors in the advertisement would
12 constitute a hardship to the noncandidate committee paying for
13 the advertisement. A noncandidate committee shall be subject to
14 all other requirements under this part regardless of whether a
15 hardship exists pursuant to this subsection. The commission
16 shall adopt rules pursuant to chapter 91 to establish criteria
17 to determine when including a list of top contributors in an
18 advertisement of short duration constitutes a hardship to a
19 noncandidate committee under this subsection.

20 (d) A noncandidate committee shall obtain a statement of
21 certification from each top contributor required to be listed in



1 an advertisement pursuant to this section avowing under penalty
2 of perjury that, after due inquiry, none of the funds
3 contributed by the top contributor were derived from a foreign
4 corporation or foreign-influenced business entity. If a
5 noncandidate committee does not receive a statement of
6 certification from a top contributor, the advertisement shall
7 include the following statement: "Some of the funds used to pay
8 for this message may have been provided by foreign corporations
9 or foreign-influenced business entities". A noncandidate
10 committee may rely on a statement of certification provided by a
11 top contributor unless the noncandidate committee has actual
12 knowledge that the statement of certification is false.

13 [~~d~~] (e) Any noncandidate committee that violates this
14 section shall be subject to a minimum fine of \$1,000 per
15 violation.

16 [~~e~~] (f) For purposes of this section, "top contributor"
17 means a contributor who has contributed an aggregate amount of
18 \$10,000 or more to a noncandidate committee within a
19 twelve-month period before the purchase of an advertisement."

20 SECTION 5. Nothing in this Act shall be construed to
21 diminish or infringe upon any right protected under the First



1 Amendment of the Constitution of the United States or conflict
2 with any federal statute or regulation.

3 SECTION 6. If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act that can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 7. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 8. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 9. This Act shall take effect on July 1, 2025.



Report Title:

Campaign Finance; Foreign Corporations; Foreign Nationals

Description:

Prohibits foreign entities and foreign-influenced business entities from making contributions, expenditures, electioneering communications, or donations for election purposes. Allows every business entity that contributes or expends funds in a state election to certify that the entity is not and will not be a foreign corporation or foreign-influenced business entity if the entity intends to make contributions or expenditures within an election cycle. Specifies that if the conditions that determine whether a business entity qualifies as a foreign-influenced business entity are held unconstitutional by a final judgment, including all appeals, the Campaign Spending Commission is required to establish revised conditions that are constitutional. Requires noncandidate committees making only independent expenditures to obtain a statement of certification from each top contributor required to be listed in an advertisement. (SD2)

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