

111TH CONGRESS  
1ST SESSION

# H. R. 3859

To amend the Federal Election Campaign Act of 1971 to prohibit contributions and expenditures by multicandidate political committees controlled by foreign-owned corporations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2009

Ms. KAPTUR introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Federal Election Campaign Act of 1971 to prohibit contributions and expenditures by multicandidate political committees controlled by foreign-owned corporations, 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 “Ethics in Foreign Lob-  
5 bying Act of 2009”.

1 **SEC. 2. PROHIBITION OF CONTRIBUTIONS AND EXPENDI-**  
2 **TURES BY MULTICANDIDATE POLITICAL**  
3 **COMMITTEES OR SEPARATE SEGREGATED**  
4 **FUNDS SPONSORED BY FOREIGN-CON-**  
5 **TROLLED CORPORATIONS AND ASSOCIA-**  
6 **TIONS.**

7 Title III of the Federal Election Campaign Act of  
8 1971 (2 U.S.C. 441 et seq.) is amended by adding at the  
9 end the following new section:

10 “PROHIBITION OF CONTRIBUTIONS AND EXPENDITURES  
11 BY MULTICANDIDATE POLITICAL COMMITTEES SPON-  
12 SORED BY FOREIGN-CONTROLLED CORPORATIONS  
13 AND ASSOCIATIONS

14 “SEC. 325. (a) Notwithstanding any other provision  
15 of law—

16 “(1) no multicandidate political committee or  
17 separate segregated fund of a foreign-controlled cor-  
18 poration may make any contribution or expenditure  
19 with respect to an election for Federal office; and

20 “(2) no multicandidate political committee or  
21 separate segregated fund of a trade organization,  
22 membership organization, cooperative, or corporation  
23 without capital stock may make any contribution or  
24 expenditure with respect to an election for Federal  
25 office if 50 percent or more of the operating fund of  
26 the trade organization, membership organization, co-

1       operative, or corporation without capital stock is  
2       supplied by foreign-controlled corporations or foreign  
3       nationals.

4       “(b) The Commission shall—

5               “(1) require each multicandidate political com-  
6       mittee or separate segregated fund of a corporation  
7       to include in the statement of organization of the  
8       multicandidate political committee or separate seg-  
9       regated fund a statement (to be updated annually  
10      and at any time when the percentage goes above or  
11      below 50 percent) of the percentage of ownership in-  
12      terest in the corporation that is controlled by per-  
13      sons other than citizens or nationals of the United  
14      States;

15              “(2) require each trade association, membership  
16      organization, cooperative, or corporation without  
17      capital stock to include in its statement of organiza-  
18      tion of the multicandidate political committee or sep-  
19      arate segregated fund (and update annually) the  
20      percentage of its operating fund that is derived from  
21      foreign-owned corporations and foreign nationals;  
22      and

23              “(3) take such action as may be necessary to  
24      enforce subsection (a).

1 “(c) The Commission shall maintain a list of the  
2 identity of the multicandidate political committees or sepa-  
3 rate segregated funds that file reports under subsection  
4 (b), including a statement of the amounts and percentage  
5 reported by such multicandidate political committees or  
6 separate segregated funds.

7 “(d) As used in this section—

8 “(1) the term ‘foreign-owned corporation’  
9 means a corporation at least 50 percent of the own-  
10 ership interest of which is controlled by persons  
11 other than citizens or nationals of the United States;

12 “(2) the term ‘multicandidate political com-  
13 mittee’ has the meaning given that term in section  
14 315(a)(4);

15 “(3) the term ‘separate segregated fund’ means  
16 a separate segregated fund referred to in section  
17 316(b)(2)(C); and

18 “(4) the term ‘foreign national’ has the mean-  
19 ing given that term in section 319.”.

20 **SEC. 3. PROHIBITION OF CERTAIN ELECTION-RELATED AC-**  
21 **TIVITIES OF FOREIGN NATIONALS.**

22 Section 319 of the Federal Election Campaign Act  
23 of 1971 (2 U.S.C. 441e) is amended by adding at the end  
24 the following new subsection:

1           “(c) A foreign national shall not direct, dictate, con-  
2 trol, or directly or indirectly participate in the decision-  
3 making process of any person, such as a corporation, labor  
4 organization, or political committee, with regard to such  
5 person’s Federal or non-Federal election-related activities,  
6 such as decisions concerning the making of contributions  
7 or expenditures in connection with elections for any local,  
8 State, or Federal office or decisions concerning the admin-  
9 istration of a political committee.”.

10 **SEC. 4. ESTABLISHMENT OF A CLEARINGHOUSE OF POLIT-**  
11 **ICAL ACTIVITIES INFORMATION WITHIN THE**  
12 **FEDERAL ELECTION COMMISSION.**

13           (a) ESTABLISHMENT.—There shall be established  
14 within the Federal Election Commission a clearinghouse  
15 of public information regarding the political activities of  
16 foreign principals and agents of foreign principals. The in-  
17 formation comprising this clearinghouse shall include only  
18 the following:

19           (1) All registrations and reports filed pursuant  
20 to the Lobbying Disclosure Act of 1995 (2 U.S.C.  
21 1601 et seq.) during the preceding 5-year period.

22           (2) All registrations and reports filed pursuant  
23 to the Foreign Agents Registration Act, as amended  
24 (22 U.S.C. 611 et seq.), during the preceding 5-year  
25 period.

1           (3) The listings of public hearings, hearing wit-  
2           nesses, and witness affiliations printed in the Con-  
3           gressional Record during the preceding 5-year pe-  
4           riod.

5           (4) Public information disclosed pursuant to the  
6           rules of the Senate or the House of Representatives  
7           regarding honoraria, the receipt of gifts, travel, and  
8           earned and unearned income.

9           (5) All reports filed pursuant to title I of the  
10          Ethics in Government Act of 1978 (5 U.S.C. App.)  
11          during the preceding 5-year period.

12          (6) All public information filed with the Federal  
13          Election Commission pursuant to the Federal Elec-  
14          tion Campaign Act of 1971 (2 U.S.C. 431 et seq.)  
15          during the preceding 5-year period.

16          (b) DISCLOSURE OF OTHER INFORMATION PROHIB-  
17          ITED.—The disclosure by the clearinghouse, or any officer  
18          or employee thereof, of any information other than that  
19          set forth in subsection (a) is prohibited, except as other-  
20          wise provided by law.

21          (c) DIRECTOR OF CLEARINGHOUSE.—(1) The clear-  
22          inghouse shall have a Director, who shall administer and  
23          manage the responsibilities and all activities of the clear-  
24          inghouse.

1           (2) The Director shall be appointed by the Federal  
2 Election Commission.

3           (3) The period of the Director's term of service shall  
4 be determined by the Commission, but may not exceed 5  
5 years.

6           (4) No individual appointed to serve a term as the  
7 Director may serve for an additional term.

8           (d) ENSURING SUFFICIENT STAFF AND OTHER RE-  
9 SOURCES.—The Commission shall ensure that the Direc-  
10 tor has sufficient resources, including staff, to carry out  
11 the Director's duties and responsibilities under this Act.

12           (e) AUTHORIZATION OF APPROPRIATIONS.—There  
13 are authorized to be appropriated such sums as may be  
14 necessary to conduct the activities of the clearinghouse.

15 **SEC. 5. DUTIES AND RESPONSIBILITIES OF THE DIRECTOR**  
16 **OF THE CLEARINGHOUSE.**

17           (a) IN GENERAL.—It shall be the duty of the Direc-  
18 tor of the clearinghouse established under section 4—

19                   (1) to develop a filing, coding, and cross-index-  
20 ing system to carry out the purposes of this Act  
21 (which shall include an index of all persons identi-  
22 fied in the reports, registrations, and other informa-  
23 tion comprising the clearinghouse);

24                   (2) notwithstanding any other provision of law,  
25 to make copies of registrations, reports, and other

1 information comprising the clearinghouse available  
2 for public inspection and copying, beginning not  
3 later than 30 days after the information is first  
4 available to the public, and to permit copying of any  
5 such registration, report, or other information by  
6 hand or by copying machine or, at the request of  
7 any person, to furnish a copy of any such registra-  
8 tion, report, or other information upon payment of  
9 the cost of making and furnishing such copy, except  
10 that no information contained in such registration or  
11 report and no such other information shall be sold  
12 or used by any person for the purpose of soliciting  
13 contributions or for any profit-making purpose;

14 (3) to compile and summarize, for each cal-  
15 endar quarter, the information contained in such  
16 registrations, reports, and other information com-  
17 prising the clearinghouse in a manner which facili-  
18 tates the disclosure of political activities, including,  
19 but not limited to, information on—

20 (A) political activities pertaining to issues  
21 before the Congress and issues before the exec-  
22 utive branch; and

23 (B) the political activities of individuals,  
24 organizations, foreign principals, and agents of



1 foreign principals who share an economic, busi-  
2 ness, or other common interest;

3 (4) to make the information compiled and sum-  
4 marized under paragraph (3) available to the public  
5 within 30 days after the close of each calendar quar-  
6 ter, and to publish such information in the Federal  
7 Register at the earliest practicable opportunity;

8 (5) not later than 150 days after the date of  
9 the enactment of this Act and at any time there-  
10 after, to prescribe, in consultation with the Comp-  
11 troller General, such rules, regulations, and forms,  
12 in conformity with the provisions of chapter 5 of  
13 title 5, United States Code, as are necessary to  
14 carry out the provisions of section 4 and this section  
15 in the most effective and efficient manner; and

16 (6) at the request of any Member of the Senate  
17 or Member of the House of Representatives, to pre-  
18 pare and submit to such Member a study or report  
19 relating to the political activities of any person and  
20 consisting only of the information in the registra-  
21 tions, reports, and other information comprising the  
22 clearinghouse.

23 (b) DEFINITIONS.—As used in this section—

24 (1) the terms “foreign principal” and “agent of  
25 a foreign principal” have the meanings given those

1 terms in section 1 of the Foreign Agents Registra-  
2 tion Act of 1938 (22 U.S.C. 611);

3 (2) the term “issue before the Congress” means  
4 the total of all matters, both substantive and proce-  
5 dural, relating to—

6 (A) any pending or proposed bill, resolu-  
7 tion, report, nomination, treaty, hearing, inves-  
8 tigation, or other similar matter in either the  
9 Senate or the House of Representatives or any  
10 committee or office of the Congress; or

11 (B) any pending action by a Member, offi-  
12 cer, or employee of the Congress to affect, or  
13 attempt to affect, any action or proposed action  
14 by any officer or employee of the executive  
15 branch;

16 (3) the term “issue before the executive  
17 branch” means the total of all matters, both sub-  
18 stantive and procedural, relating to any pending ac-  
19 tion by any executive agency, or by any officer or  
20 employee of the executive branch, concerning—

21 (A) any pending or proposed rule, rule of  
22 practice, adjudication, regulation, determina-  
23 tion, hearing, investigation, contract, grant, li-  
24 cense, negotiation, or the appointment of offi-

1           cers and employees, other than appointments in  
2           the competitive service; or

3                   (B) any issue before the Congress; and

4           (4) the term “Member of the House of Rep-  
5           resentatives” includes a Delegate or Resident Com-  
6           missioner to the Congress.

7   **SEC. 6. PENALTIES FOR DISCLOSURE.**

8           Any person who discloses information in violation of  
9           section 4(b), and any person who sells or uses information  
10          for the purpose of soliciting contributions or for any prof-  
11          it-making purpose in violation of section 5(a)(2), shall be  
12          imprisoned for a period of not more than 1 year, or fined  
13          under title 18, United States Code, or both.

14   **SEC. 7. AMENDMENTS TO THE FOREIGN AGENTS REG-**  
15                   **ISTRATION ACT OF 1938.**

16          (a) QUARTERLY REPORTS.—Section 2(b) of the For-  
17          eign Agents Registration Act of 1938 (22 U.S.C. 612(b)),  
18          is amended in the first sentence by striking “, within thir-  
19          ty days” and all that follows through “preceding six  
20          months’ period” and inserting the following: “on January  
21          31, April 30, July 31, and October 31 of each year, file  
22          with the Attorney General a supplement thereto on a form  
23          prescribed by the Attorney General, which shall set forth  
24          regarding the three-month periods ending the previous De-  
25          cember 31, March 31, June 30, and September 30, respec-

1 tively, or if a lesser period, the period since the initial fil-  
2 ing.”.

3 (b) EXEMPTION FOR LEGAL REPRESENTATION.—

4 Section 3(g) of the Foreign Agents Registration Act of  
5 1938 (22 U.S.C. 613(g)) is amended by adding at the end  
6 the following: “A person may be exempt under this sub-  
7 section only upon filing with the Attorney General a re-  
8 quest for such exemption.”.

9 (c) CIVIL PENALTIES.—Section 8 of the Foreign  
10 Agents Registration Act of 1938 (22 U.S.C. 618) is  
11 amended by adding at the end the following:

12 “(i)(1) Any person who is determined, after notice  
13 and opportunity for an administrative hearing—

14 “(A) to have failed to file a registration state-  
15 ment under section 2(a) or a supplement thereto  
16 under section 2(b),

17 “(B) to have omitted a material fact required to  
18 be stated therein, or

19 “(C) to have made a false statement with re-  
20 spect to such a material fact,

21 shall be required to pay a civil penalty in an amount not  
22 less than \$2,000 or more than \$5,000 for each violation  
23 committed. In determining the amount of the penalty, the  
24 Attorney General shall give due consideration to the na-  
25 ture and duration of the violation.

1       “(2)(A) In conducting investigations and hearings  
2 under paragraph (1), administrative law judges may, if  
3 necessary, compel by subpoena the attendance of witnesses  
4 and the production of evidence at any designated place  
5 or hearing.

6       “(B) In the case of contumacy or refusal to obey a  
7 subpoena lawfully issued under this paragraph and, upon  
8 application by the Attorney General, an appropriate dis-  
9 trict court of the United States may issue an order requir-  
10 ing compliance with such subpoena and any failure to obey  
11 such order may be punished by such court as contempt  
12 thereof.”.

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