

111TH CONGRESS
2D SESSION

H. R. 6532

To amend the International Emergency Economic Powers Act to establish certain procedures with respect to blocking property of charities.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2010

Mr. ELLISON introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To amend the International Emergency Economic Powers Act to establish certain procedures with respect to blocking property of charities.

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 “Procedures for Sanc-
5 tions Against Charities Act”.

6 **SEC. 2. PROCEDURES REGARDING BLOCKING PROPERTY**
7 **OF CHARITIES.**

8 (a) IN GENERAL.—The International Emergency
9 Economic Powers Act (50 U.S.C. 1701 et seq.) is amend-
10 ed—

1 (1) by redesignating section 208 as section 209;

2 and

3 (2) by inserting after section 207 the following

4 new section:

5 **“SEC. 208. PROCEDURES REGARDING BLOCKING PROP-**
6 **ERTY OF CHARITIES.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) CHARITY.—The term ‘charity’ means an
9 organization described in section 501(c)(3) of the
10 Internal Revenue Code of 1986 and exempt from tax
11 under section 501(a) of such Code.

12 “(2) SANCTION.—The term ‘sanction’ means
13 the blocking of property under section 203(a).

14 “(b) WARRANT REQUIREMENT.—

15 “(1) WARRANT REQUIREMENT.—A sanction
16 may be imposed that blocks property of a charity
17 only pursuant to a warrant obtained in the same
18 manner as provided for a search warrant under the
19 Federal Rules of Criminal Procedure. The court may
20 issue such warrant if the United States dem-
21 onstrates that there is probable cause to believe
22 that—

23 “(A) the property with respect to which
24 the warrant is sought is subject to the sanction;

25 and

1 “(B) the property may be moved outside
2 the jurisdiction of the United States.

3 “(2) EXCEPTION.—

4 “(A) IN GENERAL.—The United States
5 may impose a sanction that blocks property of
6 a charity before applying to the court for a war-
7 rant under paragraph (1) if the United States
8 has reason to believe that delay in seizure from
9 such ex parte application may have an adverse
10 result, including—

11 “(i) endangering the life or physical
12 safety of an individual;

13 “(ii) flight from prosecution;

14 “(iii) destruction of or tampering with
15 evidence;

16 “(iv) intimidation of potential wit-
17 nesses; or

18 “(v) otherwise seriously jeopardizing
19 an investigation.

20 “(B) PROBABLE CAUSE SHOWING.—In a
21 case in which property is subject to a sanction
22 under subparagraph (A), the property shall be
23 released from the order blocking it unless the
24 United States makes the probable cause show-

1 ing required by paragraph (1) within 48 hours
2 after the property is blocked.

3 “(3) SUBSEQUENT COURT ACTIONS.—Upon a
4 finding of probable cause, the court may issue the
5 warrant. Upon the motion of the United States, the
6 court may require the execution of satisfactory per-
7 formance bonds, create receiverships, appoint con-
8 servators, custodians, appraisers, accountants, or
9 trustees, or take any other action to secure, main-
10 tain, or preserve the availability of the property that
11 is the subject of the warrant.

12 “(c) PROCEDURES REGARDING CHARITIES.—The
13 President shall establish procedures with respect to the
14 imposition of a sanction that blocks property of a charity
15 in order to implement the following:

16 “(1) PRIOR NOTICE; OPPORTUNITY FOR COM-
17 PLIANCE.—In any case in which the President an-
18 ticipates imposing such a sanction on a charity, the
19 President shall, before imposing the sanction, notify
20 the charity in writing, by delivery to the chief execu-
21 tive officer or chair of the governing body of the
22 charity, of the facts, events, persons, and other rel-
23 evant information serving as the basis for imposing
24 the sanction, and setting forth the steps the charity
25 may take to avoid imposition of the sanction.

1 “(2) NOTICE.—If the sanction is imposed on
2 the charity because the charity has failed to take the
3 steps described in paragraph (1), or if paragraph (3)
4 applies, the President shall notify the charity, in the
5 manner described in paragraph (1), of the imposi-
6 tion of the sanction.

7 “(3) EXIGENT CIRCUMSTANCES.—The notice
8 under paragraph (1) need not be provided if the
9 President determines that there is probable cause to
10 believe that the property of the charity is subject to
11 the sanction and that providing such notice and op-
12 portunity—

13 “(A) will jeopardize the availability of the
14 property; or

15 “(B) may have an adverse result, includ-
16 ing—

17 “(i) endangering the life or physical
18 safety of an individual;

19 “(ii) flight from prosecution;

20 “(iii) destruction of or tampering with
21 evidence;

22 “(iv) intimidation of potential wit-
23 nesses; or

24 “(v) otherwise seriously jeopardizing
25 an investigation.

1 “(4) OPPORTUNITY TO PRESENT RESPONSE.—
2 The President shall provide a charity notified under
3 paragraph (1) or (2) of the imposition of a sanction
4 an opportunity to provide a response to imposing the
5 sanction, including a hearing on the record if so re-
6 quested by the charity. Such hearing or other pro-
7 ceeding agreed to by the parties shall be held not
8 later than 60 days after the notice is provided.

9 “(5) SUBSEQUENT ALLEGATIONS.—If, after no-
10 tice is provided under paragraph (1) or (2), addi-
11 tional allegations arise involving the charity that are
12 or may provide additional bases for imposing the
13 sanction involving blocking property of the charity,
14 the procedures under this subsection shall apply with
15 respect to such additional allegations.

16 “(d) PERIODIC REVIEW OF BLOCKING ORDERS.—

17 “(1) PERIODIC REVIEW.—The President shall—

18 “(A) at least once in every 2-year period,
19 review each sanction imposed that involves
20 blocking the property of a charity in order to
21 ensure that the basis for imposing the sanction
22 remains valid; and

23 “(B) provide the charity an opportunity for
24 a hearing on the record with respect to such re-
25 view.

1 “(e) APPEALS.—

2 “(1) ADMINISTRATIVE APPEAL.—The President
3 shall provide to any charity on which a sanction is
4 imposed that blocks the property of the charity, or
5 is continued pursuant to a periodic review under
6 subsection (d), an opportunity to appeal the sanction
7 in accordance with the procedures set forth in sec-
8 tions 556 and 557 of title 5, United States Code,
9 without regard to any exclusion set forth in section
10 554(a) of such title.

11 “(2) JUDICIAL APPEAL.—In any appeal under
12 chapter 7 of title 5, United States Code, of a deter-
13 mination in a hearing under paragraph (1)—

14 “(A) the court shall review the case de
15 novo; and

16 “(B) the burden is on the United States
17 Government to establish, by a preponderance of
18 the evidence, that the property is subject to the
19 sanction.

20 “(f) ACCESS TO CLASSIFIED INFORMATION.—At any
21 hearing or other proceeding held at the request of a char-
22 ity under this section, the charity shall be entitled to be
23 represented by counsel and shall be provided the oppor-
24 tunity to review the evidence of the Government with re-
25 spect to the sanction involved, consistent with procedures

1 analogous to those set forth in the Classified Information
2 Procedures Act (18 U.S.C. App. 3), as determined by the
3 court.

4 “(g) CONFIDENTIALITY AND PRIVACY.—Property of
5 a charity that is blocked pursuant to the imposition of a
6 sanction may not be made available to a Government
7 agency other than the Government agency responsible for
8 blocking the property, except to the appropriate law en-
9 forcement agency pursuant to the Federal Rules of Crimi-
10 nal Procedure.”.

11 **SEC. 3. APPLICABILITY.**

12 (a) IN GENERAL.—Subject to subsection (b), the
13 amendments made by section 2 shall apply to any order
14 that imposes a sanction blocking the property of a charity
15 and that is issued under the International Emergency
16 Economic Powers Act—

17 (1) on or after the date of the enactment of this
18 Act; or

19 (2) before the date of the enactment of this
20 Act, if the order is in effect on such date of enact-
21 ment.

22 (b) PROCEDURES WITH RESPECT TO EXISTING OR-
23 DERS.—In the case of an order that imposes a sanction
24 blocking the property of a charity and to which subsection
25 (a)(2) applies—

1 (1) in lieu of the requirements under para-
2 graphs (1) and (2) of section 208(c) of the Inter-
3 national Emergency Economic Powers Act, as added
4 by section 2 of this Act, the President shall provide,
5 within 45 days after the date of the enactment of
6 this Act, notice to the charity that is the subject of
7 the order, by delivery to the chief executive officer
8 or chair of the governing body of the charity, of the
9 facts, events, persons, and other relevant informa-
10 tion that served as the basis for imposing the sanc-
11 tion; and

12 (2) in applying paragraph (4) of such section
13 208(c), the notice under paragraph (1) of this sub-
14 section shall be deemed be notice provided under
15 paragraph (2) of such section 203(c).

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