

STATE OF NEW YORK

1126

2021-2022 Regular Sessions

IN SENATE

January 7, 2021

Introduced by Sens. GIANARIS, HARCKHAM, KRUEGER, MAYER, MYRIE, RAMOS, SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to enacting the "democracy preservation act"; and in relation to prohibiting contributions by foreign-influenced business entities and requiring certification

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "democracy
2 preservation act".

3 § 2. The election law is amended by adding a new section 14-116-a to
4 read as follows:

5 § 14-116-a. Prohibited contributions by foreign-influenced business
6 entities. 1. Notwithstanding any provision of law to the contrary, it
7 shall be unlawful for a foreign-influenced business entity, directly or
8 indirectly, to make a contribution or donation of money or other thing
9 of value, or to make an express or implied promise to make a contrib-
10 ution or donation, in connection with a state or local election.

11 2. It shall be unlawful for a business entity prohibited under subdivi-
12 vision one of this section, directly or indirectly, to make a contrib-
13 ution or donation to a constituted committee, independent expenditure
14 committee, political committee, or party committee.

15 3. It shall be unlawful for a business entity prohibited under subdivi-
16 vision one of this section, directly or indirectly, to make an expendi-
17 ture, independent expenditure, or disbursement for a political communi-
18 cation.

19 4. It shall be unlawful for a person to knowingly solicit, accept, or
20 receive a contribution or donation described in subdivision one, two or
21 three of this section from a foreign-influenced business entity.

22 5. Any person found in violation of this section shall be guilty of a
23 class E felony and shall be subject to a civil penalty equal to the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD03229-02-1

1 contribution or donation amount plus a fine of up to ten thousand
2 dollars, to be recoverable in a special proceeding or civil action to be
3 brought by the state board of elections chief enforcement counsel.

4 6. This section shall not apply to an independent expenditure made by
5 a foreign-influenced business entity in connection with a ballot
6 proposal election.

7 § 3. Section 14-100 of the election law is amended by adding three new
8 subdivisions 18, 19 and 20 to read as follows:

9 18. "foreign-influenced" shall mean a business entity for which at
10 least one of the following conditions is met:

11 i. a single foreign owner holds, owns, controls, or otherwise has
12 direct or indirect beneficial ownership of one percent or more of the
13 total equity, outstanding voting shares, membership units, or other
14 applicable ownership interests of the business entity; or

15 ii. two or more foreign owners, in aggregate, hold, own, control, or
16 otherwise have direct or indirect beneficial ownership of five percent
17 or more of the total equity, outstanding voting shares, membership
18 units, or other applicable ownership interests of the business entity;
19 or

20 iii. a foreign owner participates directly or indirectly in the busi-
21 ness entity's decision-making process with respect to the business enti-
22 ty's political activities in the United States.

23 19. "business entity" shall mean a corporation, company, limited
24 liability company, limited partnership, business trust, business associ-
25 ation, joint-stock association or other corporate entity doing business
26 in the state.

27 20. "foreign owner" shall mean:

28 i. a foreign national; or

29 ii. a business entity wherein a foreign national holds, owns,
30 controls, or otherwise has directly or indirectly acquired beneficial
31 ownership of equity or voting shares in an amount that is equal to or
32 greater than fifty percent of the total equity or outstanding voting
33 shares.

34 § 4. Section 14-116 of the election law is amended by adding a new
35 subdivision 4 to read as follows:

36 4. Every business entity that makes an expenditure, or contribution,
37 for political purposes for a state or local election shall file with the
38 state board of elections, within seven business days after making such
39 expenditure or contribution, on the form prescribed by the state board
40 of elections, a statement of certification signed by the chief executive
41 officer, president or owner under penalty of perjury, avowing that after
42 due inquiry, such business entity was not a foreign-influenced business
43 entity on the date such expenditure or contribution was made. Business
44 entities shall provide a copy of the statement of certification required
45 by this subdivision to any campaign or committee to which they contrib-
46 ute.

47 § 5. This act shall take effect on the one hundred eightieth day after
48 it shall have become a law. Effective immediately, the addition, amend-
49 ment and/or repeal of any rule or regulation necessary for the implemen-
50 tation of this act on its effective date are authorized to be made on or
51 before such effective date.