

116TH CONGRESS
2D SESSION

H. R. 8459

To amend the Federal Election Campaign Act of 1971 to require organizations that spend more than \$50,000 on Federal judicial nomination communications to file statements disclosing donors and certain other information with the Federal Election Commission.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 30, 2020

Ms. LOFGREN (for herself and Mr. JOHNSON of Georgia) introduced the following bill; which was referred to the Committee on House Administration

A BILL

To amend the Federal Election Campaign Act of 1971 to require organizations that spend more than \$50,000 on Federal judicial nomination communications to file statements disclosing donors and certain other information with the Federal Election Commission.

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 “Judicial Ads Act”.

1 **SEC. 2. STATEMENTS OF SPENDING ON FEDERAL JUDICIAL**
2 **NOMINATION COMMUNICATIONS.**

3 (a) IN GENERAL.—Title III of the Federal Election
4 Campaign Act of 1971 (52 U.S.C. 30101) is amended by
5 adding at the end the following new subtitle:

6 **“Subtitle B—Federal Judicial**
7 **Nomination Communications**

8 **“SEC. 351. STATEMENTS OF SPENDING ON FEDERAL JUDI-**
9 **CIAL NOMINATION COMMUNICATIONS.**

10 “(a) IN GENERAL.—

11 “(1) STATEMENT REQUIRED.—Any covered or-
12 ganization that spends or contracts to spend a total
13 of more than \$50,000 on Federal judicial nomina-
14 tion communications during any calendar year shall
15 file a statement with the Commission at the times
16 described in paragraph (2) and containing the infor-
17 mation described in paragraph (3).

18 “(2) TIME FOR FILING STATEMENT.—A state-
19 ment shall be required to be filed under this sub-
20 section not later than 48 hours after each of the fol-
21 lowing:

22 “(A) The first date during any calendar
23 year by which the covered organization has
24 spent or contracted to spend a total of more
25 than \$50,000 on Federal judicial nomination
26 communications.

1 “(B) Any date during such calendar year
2 after the date described in subparagraph (A) by
3 which the covered organization has spent or
4 contracted to spend a total of more than
5 \$50,000 on Federal judicial nomination commu-
6 nications since the most recent date on which a
7 statement was required to be filed under this
8 subsection for such calendar year.

9 “(C) The last day of any calendar year in
10 which a covered organization has filed a state-
11 ment under subparagraph (A).

12 “(3) CONTENTS OF STATEMENT.—Each state-
13 ment required to be filed under this subsection shall
14 be made under penalty of perjury and shall contain
15 the following information:

16 “(A) The name of the covered organiza-
17 tion.

18 “(B) The principal place of business of the
19 covered organization.

20 “(C) If the covered organization is a cor-
21 poration (other than a business concern that is
22 an issuer of a class of securities registered
23 under section 12 of the Securities Exchange
24 Act of 1934 (15 U.S.C. 78l) or that is required
25 to file reports under section 15(d) of that Act

(15 U.S.C. 78o(d))) or an entity described in subsection (d)(2)(B), a list of the beneficial owners of the covered organization that includes, for each beneficial owner—

“(i) the name;

“(ii) the current residential or business street address; and

“(iii) if the beneficial owner exercises control over the covered organization through another legal entity, such as a corporation, partnership, limited liability company, or trust, for the other legal entity—

“(I) the name;

“(II) the current residential or business street address; and

“(III) each beneficial owner who is authorized to use that other legal entity to exercise control over the covered organization.

“(D)(i) If the covered organization makes disbursements for Federal judicial nomination communications using exclusively funds in a segregated bank account consisting of funds paid directly to such account by persons other

1 than the covered organization that controls the
2 account—

3 “(I) the names and addresses of all
4 persons who donated an aggregate amount
5 of \$5,000 or more to that account during
6 the period beginning on the first day of the
7 preceding calendar year and ending on the
8 date described in paragraph (2) with re-
9 spect to such statement; and

10 “(II) the information described in
11 subparagraph (C) with respect to each
12 beneficial owner of any donor described in
13 subclause (I) that is not an individual.

14 Nothing in this clause is to be construed as a
15 prohibition on the use of funds in such a seg-
16 regated account for a purpose other than Fed-
17 eral judicial nomination communications.

18 “(ii) If the covered organization makes dis-
19 bursements for Federal judicial nomination
20 communications using funds other than funds
21 in a segregated bank account described in
22 clause (i)—

23 “(I) the names and addresses of all
24 persons who donated an aggregate amount
25 of \$5,000 or more to the covered organiza-

1 tion making the disbursement during the
2 period beginning on the first day of the
3 preceding calendar year and ending on the
4 date described in paragraph (2) with re-
5 spect to such statement; and

6 “(II) the information described in
7 subparagraph (C) with respect to each
8 beneficial owner of any donor described in
9 subclause (I) that is not an individual.

10 “(E) For each Federal judicial nomination
11 communication during the reporting period—

12 “(i) the name of the nominee;

13 “(ii) the date of the communication;

14 “(iii) the amount spent or contracted
15 to be spent;

16 “(iv) the name and address of the
17 person receiving payment for the commu-
18 nication; and

19 “(v) the platform through which the
20 Federal judicial nomination communication
21 was made.

22 “(F) A certification signed by the covered
23 organization’s chief executive officer under pen-
24 alty of perjury, avowing that—

1 “(i) the covered organization is not a
2 foreign national or foreign-influenced cor-
3 poration; and

4 “(ii) after due inquiry, no amounts
5 spent on a Federal judicial nomination
6 communication were from an account that
7 includes funds received from a foreign na-
8 tional or a foreign-influenced corporation.

9 “(b) FILING.—Statements required to be filed under
10 subsection (a) shall be subject to the requirements of sec-
11 tion 304(d) to the same extent and in the same manner
12 as if such statements had been required under subsection
13 (c) or (g) of section 304.

14 “(c) ANTI-EVASION RULE.—For purposes of section
15 309, it shall be a violation of this section to structure or
16 attempt to structure any solicitation, donation, contribu-
17 tion, expenditure, disbursement, transfer, or other trans-
18 action in a manner intended to evade the reporting re-
19 quirements of this section.

20 **“SEC. 352. DISCLAIMERS RELATING TO FEDERAL JUDICIAL**
21 **NOMINATION COMMUNICATIONS.**

22 “(a) IN GENERAL.—Whenever any person makes a
23 disbursement for the purpose of financing a Federal judi-
24 cial nomination communication, such communication shall

1 clearly state the name and permanent street address, tele-
2 phone number, or World Wide Web address of the person.

3 “(b) SPECIFICATIONS.—Except as provided in regu-
4 lations, any Federal judicial nomination communication
5 described in subsection (a) shall be subject to the same
6 specifications and additional requirements that apply to
7 communications described in section 318(a)(3).

8 **“SEC. 353. PROHIBITIONS WITH RESPECT TO FOREIGN NA-**
9 **TIONALS AND FOREIGN-INFLUENCED COR-**
10 **PORATIONS.**

11 “It shall be unlawful for—

12 “(1) a foreign national or foreign-influenced
13 corporation, directly or indirectly, to spend or make
14 an express or implied promise to spend money or
15 other thing of value in connection with a Federal ju-
16 dicial nomination communication; or

17 “(2) a person to solicit, accept, or receive
18 money or any other thing of value from a foreign na-
19 tional or a foreign-influenced corporation in connec-
20 tion with a Federal judicial nomination communica-
21 tion.

22 **“SEC. 354. DEFINITIONS.**

23 “When used in this subtitle:

24 “(1) FEDERAL JUDICIAL NOMINATION COMMU-
25 NICATION.—

1 “(A) IN GENERAL.—The term ‘Federal ju-
2 dicial nomination communication’ means any
3 communication—

4 “(i) that is by means of any broad-
5 cast, cable, or satellite, paid internet, or
6 paid digital communication, paid pro-
7 motion, newspaper, magazine, outdoor ad-
8 vertising facility, mass mailing, telephone
9 bank, telephone messaging effort of more
10 than 500 substantially similar calls or elec-
11 tronic messages within a 30-day period, or
12 any other form of general public political
13 advertising; and

14 “(ii) that is susceptible to no reason-
15 able interpretation other than promoting,
16 supporting, attacking, or opposing the
17 nomination or Senate confirmation of an
18 individual as a Federal judge or justice.

19 “(B) EXCEPTION.—Such term shall not in-
20 clude any news story, commentary, or editorial
21 distributed through the facilities of any broad-
22 casting station or any print, online, or digital
23 newspaper, magazine, publication, or periodical,
24 unless such facilities are owned or controlled by

1 any political party, political committee, or can-
2 didate.

3 “(2) COVERED ORGANIZATION.—The term ‘cov-
4 ered organization’ means any of the following:

5 “(A) A corporation.

6 “(B) A partnership.

7 “(C) An organization described in section
8 501(c) of such Code and exempt from taxation
9 under section 501(a) of such Code.

10 “(D) A labor organization (as defined in
11 section 316(b)).

12 “(E) A political organization (as defined in
13 section 527(e)(1) of the Internal Revenue Code
14 of 1986).

15 “(F) A political committee under this Act.

16 “(3) BENEFICIAL OWNER.—The term ‘bene-
17 ficial owner’ means, with respect to any entity, a
18 natural person who, directly or indirectly through
19 any contract, arrangement, understanding, relation-
20 ship, or otherwise—

21 “(A) exercises substantial control over an
22 entity;

23 “(B) owns 25 percent or more of an entity;
24 or

1 “(C) receives substantial economic benefits
2 from the assets of an entity.

3 “(4) FOREIGN NATIONAL.—The term ‘foreign
4 national’ has the meaning given such term under
5 section 319(b).

6 “(5) FOREIGN-INFLUENCED CORPORATION.—

7 “(A) IN GENERAL.—The term ‘foreign-in-
8 fluenced corporation’ means a corporation for
9 which at least one of the following conditions is
10 met:

11 “(i) Any single foreign owner holds,
12 owns, controls, or otherwise has direct or
13 indirect beneficial ownership of 5 percent
14 or more of the total equity, outstanding
15 voting shares, membership units, or other
16 applicable ownership interests of the cor-
17 poration.

18 “(ii) Foreign owners, in aggregate,
19 hold, own, control, or otherwise have direct
20 or indirect beneficial ownership of 20 per-
21 cent or more of the total equity, out-
22 standing voting shares, membership units,
23 or other applicable ownership interests of
24 the corporation.

1 “(iii) A foreign owner participates di-
2 rectly or indirectly in the corporation’s de-
3 cision-making process with respect to the
4 corporation’s activities related to Federal
5 judicial nomination communications.

6 “(B) FOREIGN OWNER.—

7 “(i) IN GENERAL.—The term ‘foreign
8 owner’ means—

9 “(I) a foreign investor; or

10 “(II) a corporation wherein a for-
11 eign investor holds, owns, controls, or
12 otherwise has directly or indirectly ac-
13 quired beneficial ownership of equity
14 or voting shares in an amount that is
15 equal to or greater than 50 percent of
16 the total equity or outstanding voting
17 shares.

18 “(ii) FOREIGN INVESTOR.—The term
19 ‘foreign investor’ means a person that—

20 “(I) holds, owns, controls, or oth-
21 erwise has direct or indirect beneficial
22 ownership of equity, outstanding vot-
23 ing shares, membership units, or
24 other applicable ownership interests of
25 a corporation; and

1 “(II) is—

2 “(aa) a government of a for-
3 eign country;

4 “(bb) a foreign political
5 party;

6 “(cc) a partnership, associa-
7 tion, corporation, organization, or
8 other combination of persons or-
9 ganized under the laws of or hav-
10 ing its principal place of business
11 in a foreign country; or

12 “(dd) an individual who is
13 not a citizen of the United States
14 or a national of the United
15 States and who is not lawfully
16 admitted for permanent resi-
17 dence.”.

18 (b) CONFORMING AMENDMENT.—Such title is fur-
19 ther amended by inserting before section 301 the fol-
20 lowing:

21 **“Subtitle A—Federal Campaign**
22 **Funds”.**

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