

Campaign Finance Law and Foreign Money

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Issue

Summarize Connecticut campaign finance law with respect to foreign money.

Summary

State campaign finance law does not currently regulate foreign money. However, federal campaign finance law prohibits foreign nationals from spending money in connection with all U.S. elections, including state and local elections. (Generally, “foreign national” means a foreign government, corporation, or political party, or an individual who is not a U.S. citizen or permanent resident.)

More specifically, with respect to state and local law, the Federal Election Campaign Act (FECA) (P.L. 92–225) prohibits foreign nationals from making contributions, donations, or independent expenditures (IEs) to political campaigns, political parties, or political committees. Under certain circumstances, it restricts spending by domestic subsidiaries of foreign corporations in connection with U.S. elections, but it does not entirely prohibit this spending.

The [Federal Election Commission](#) (FEC) is responsible for enforcing FECA and has the authority to levy civil penalties for violations. In addition, it may refer cases of suspected knowing and willful violations, including about foreign money, to the U.S. Attorney General for criminal investigation ([52 U.S.C. § 30109\(a\)\(5\)\(C\)](#)).

In recent years, the Connecticut General Assembly has considered, but not passed, legislation to expand on FECA’s foreign money prohibitions. Broadly speaking, these proposals defined “foreign-influenced entity” and sought to prohibit them from spending money in connection with state and local elections (e.g., [sHB 5589](#) (2017), [SB 582](#) (2017), [sHB 5526](#) (2018), [sHB 7329](#) (2019)).

Foreign National

Federal law defines “foreign national” as any of the following:

1. a foreign government;
2. a foreign political party;
3. a partnership, association, corporation, or organization organized under the laws of, or having its principal place of business in, a foreign country;
4. an individual who is not a U.S. citizen or a U.S. national and who is not lawfully admitted for permanent residence; or
5. a person outside of the United States.

A “person outside of the United States” is not considered a foreign national if it is established that the person is an (1) individual who is a U.S. citizen domiciled within the United States or (2) entity that has its principal place of business in the United States, and is organized under, or created by, the United States, a state, or other place subject to U.S. jurisdiction ([52 U.S.C. § 30121\(b\)](#) and [22 U.S.C. § 611\(b\)](#)). Further, according to the FEC, individuals with permanent resident status (commonly referred to as “green card holders”) are not considered foreign nationals.

Prohibited Activities

As discussed below, FECA and its regulations prohibit a foreign national from spending money in connection with federal, state, or local elections. They also prohibit a person from (1) providing assistance with foreign national election activity or (2) soliciting, accepting, or receiving contributions or donations from foreign nationals. Generally, under both federal and state campaign finance law, “person” means an individual, committee, labor union, business, or other legal entity, other than the government ([52 U.S.C. § 30101\(11\)](#) and [CGS § 9-601\(10\)](#)).

Activities by Foreign Nationals

FECA prohibits foreign nationals from, among other things, directly or indirectly making:

1. a contribution or donation of money or anything of value, or an express or implied promise to make a contribution or donation, in connection with a federal, state, or local election;
2. an expenditure, IE, or disbursement in connection with a federal, state, or local election;
3. a contribution or donation to a federal, state, or local political party's committee or organization ([52 U.S.C. § 30121](#)).

FEC regulations further prohibit foreign nationals from (1) involvement in managing a political committee or (2) directly or indirectly participating in any person's decision about federal, state, or local election-related activities. "Election-related activities" include making contributions, donations, expenditures, or disbursements in connection with any federal, state, or local election ([11 C.F.R. § 110.20](#)).

Activities by Persons Connected with Foreign Nationals

FEC regulations prohibit a person from knowingly providing substantial assistance to a foreign national soliciting, accepting, or receiving a contribution or donation in connection with a federal, state, or local election. Similarly, they prohibit a person from knowingly providing substantial assistance to a foreign national making any expenditure, IE, or disbursement ([11 C.F.R. § 110.20](#)). According to the [FEC](#), "substantial assistance" means active involvement in the solicitation, making, receipt, or acceptance of a foreign national contribution or donation with the intent to facilitate the transactions' successful completion. The prohibition includes individuals who act as conduits or intermediaries.

FECA further prohibits a person from knowingly soliciting, accepting or receiving a contribution or donation from a foreign national. "Knowingly" means that a person:

1. has actual knowledge that the funds solicited, accepted, or received are from a foreign national;
2. is aware of facts that would lead a reasonable person to believe that the funds solicited, accepted, or received are likely to be from a foreign national; or
3. is aware of facts that would lead a reasonable person to inquire whether the source of the funds solicited, accepted or received is a foreign national.

Permitted Activities

Despite FECA's broad prohibition on spending in connection with U.S. elections, foreign nationals may engage in certain political activity that is not connected with an election to political office at the federal, state, or local level. The courts and the FEC have defined the permitted scope of this activity through various opinions.

For example, in 2011 the U.S. District Court for the District of Columbia held that the foreign national ban "does not restrain foreign nationals from speaking out about issues or spending money to advocate their views about issues. It restrains them only from a certain form of expressive activity closely tied to the voting process—providing money for a candidate or political party or spending money in order to expressly advocate for or against the election of a candidate." The

Supreme Court affirmed this decision in 2012 (*Bluman v. FEC*, 800 F. Supp. 2d 281, 290 (D.D.C. 2011), *aff'd* 132 S. Ct. 1087 (2012)).

In an advisory opinion, the FEC allowed a foreign national to fund apolitical advertisements addressing the media's alleged political bias. In its opinion, the FEC found that the ads were permissible because they "mention no candidate for political office, no political party, no incumbent Federal officeholder, no past or future Federal election; nor do they otherwise include statements that reflect an election-connected or election-influencing purpose" ([AO 1984-41](#)).

Domestic Subsidiaries

Under FECA and its regulations, a domestic subsidiary of a foreign corporation (or a domestic corporation owned by foreign nationals) may make donations or disbursements in connection with state or local elections, if permissible under state and local law and under certain circumstances. Specifically, these subsidiaries may do so only if (1) they are not financed in any part by the foreign parent or owner and (2) individual foreign nationals are not involved in any way in making the donations or disbursements to state or local candidates and committees ([AO 2006-15](#) and [AO 1992-16](#)).

Similarly, under certain circumstances, domestic subsidiaries may make contributions and expenditures in connection with federal elections. For purposes of this report, we limit our discussion here to state and local elections. (For more information see [AO 2000-17](#).)

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