

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

House Bill 1087  
Ways and Means

(Delegates Ali and Shewell)

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Foreign Corporation Campaign Disclaimer Act

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This bill specifies that if a business entity that is a subsidiary of a foreign-owned business entity publishes or distributes campaign material, it must state prominently in one-inch font in the authority line the statement: “Paid for by a (the national origin of the foreign-owned business) company.” If the campaign material is printed, the authority line, including the above statement, must be placed on the front of the campaign material.

The bill takes effect June 1, 2010.

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Fiscal Summary

**State Effect:** Enforcement of the bill’s provisions can be handled with existing resources assuming the number of complaints of violations is minimal. To the extent a more significant number of complaints are received, additional resources in the Office of the State Prosecutor may be needed. General fund revenues may increase minimally due to criminal/civil penalties from any cases heard in District Court.

**Local Effect:** Local government revenues may increase minimally due to criminal penalties from any cases heard in circuit courts.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** “Business entity” is defined as a corporation, general or limited partnership, limited liability company, or a real estate investment trust.

**Current Law:** “Campaign material” is defined as any material that (1) contains text, graphics, or other images; (2) relates to a candidate, a prospective candidate, or the approval or rejection of a question; and (3) is published or distributed. Campaign material includes material transmitted by or appearing on the Internet or other electronic medium and an oral commercial campaign advertisement.

Campaign material published or distributed by persons other than a campaign finance entity generally must contain an authority line that states the name and address of the person responsible for the campaign material. In addition, campaign material that is published or distributed in support of or in opposition to a candidate, but is not authorized by the candidate, must include the statement: “This message has been authorized and paid for by (name of payor or any organization affiliated with the payor), (name and title of treasurer or president). This message has not been authorized or approved by any candidate.” A 1995 Attorney General opinion indicated that this provision is not enforceable against an individual acting independently.

Except as otherwise provided for specific offenses, a person who knowingly and willfully violates a provision of Title 13 (“Campaign Finance”) of the Election Law Article (within which the bill’s provisions are included) is guilty of a misdemeanor and on conviction is subject to a fine of up to \$25,000 and/or imprisonment for up to one year. An unknowing violation is subject to a civil penalty of up to \$5,000. The Secretary of State may also seek an immediate injunction against a violation of Title 13.

**Background:** The U.S. Supreme Court, in *Citizens United v. Federal Election Commission*, recently invalidated federal restrictions on corporate independent expenditures in connection with certain qualified federal elections. The National Conference of State Legislatures indicates the decision will have a significant effect on laws governing corporate political activity in nearly half the states, likely causing laws in those states to not be enforced and/or repealed or modified. The court, in the same case, however, affirmed the validity of federal disclaimer requirements applicable to broadcast electioneering communications funded by persons other than a candidate. Under the requirements, a broadcast communication must include a statement identifying the person or entity responsible for the content of the advertising.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Board of Elections, State Ethics Commission, State Prosecutor's Office, National Conference of State Legislatures, Department of Legislative Services

**Fiscal Note History:** First Reader - March 8, 2010  
mpc/mwc

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