

114TH CONGRESS
2D SESSION

H. R. 4612

To ensure economic stability, accountability, and efficiency of Federal Government operations by establishing a moratorium on midnight rules during a President's final days in office, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2016

Mr. WALBERG (for himself, Mrs. LUMMIS, Mr. SMITH of Texas, Mr. FARENTHOLD, Mr. JODY B. HICE of Georgia, Ms. JENKINS of Kansas, Mr. MULVANEY, Mr. DESANTIS, Mr. GOSAR, Mr. RIBBLE, Mrs. MILLER of Michigan, and Mr. BLUM) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure economic stability, accountability, and efficiency of Federal Government operations by establishing a moratorium on midnight rules during a President's final days in office, and for other purposes.

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 “Midnight Rule Relief
5 Act of 2016”.

1 **SEC. 2. MORATORIUM ON MIDNIGHT RULES.**

2 Except as provided under sections 3 and 4, during
3 the moratorium period, an agency may not propose or fi-
4 nalize any midnight rule unless the Administrator finds
5 the midnight rule will not result in any of the following:

6 (1) An annual effect on the economy of
7 \$100,000,000 or more.

8 (2) A major increase in costs or prices for con-
9 sumers, individual industries, Federal, State, or local
10 government agencies, or geographic regions.

11 (3) Significant adverse effects on competition,
12 employment, investment, productivity, innovation, or
13 on the ability of United States-based enterprises to
14 compete with foreign-based enterprises in domestic
15 and export markets.

16 (4) A significant economic impact on a substan-
17 tial number of small businesses.

18 **SEC. 3. SPECIAL RULE ON STATUTORY, REGULATORY, AND**
19 **JUDICIAL DEADLINES.**

20 (a) IN GENERAL.—Section 2 shall not apply with re-
21 spect to any deadline for, relating to, or involving any mid-
22 night rule that—

23 (1) was established before the beginning of the
24 moratorium period; and

25 (2) is required to occur during the moratorium
26 period.

1 (b) PUBLICATION OF DEADLINES.—Not later than
2 30 days after the beginning of a moratorium period, the
3 Administrator shall identify and publish in the Federal
4 Register a list of deadlines covered by subsection (a).

5 **SEC. 4. EXCEPTION.**

6 (a) EMERGENCY EXCEPTION.—Section 2 shall not
7 apply to a midnight rule if the President determines by
8 Executive order that the midnight rule is—

9 (1) necessary because of an imminent threat to
10 health or safety or other emergency;

11 (2) necessary for the enforcement of criminal
12 laws;

13 (3) necessary for the national security of the
14 United States; or

15 (4) issued pursuant to any statute imple-
16 menting an international trade agreement.

17 (b) DEREGULATORY EXCEPTION.—Section 2 shall
18 not apply to a midnight rule that the Administrator finds
19 is limited to repealing an existing rule and certifies such
20 finding in writing. The certification shall be published in
21 the Federal Register.

22 **SEC. 5. DEFINITIONS.**

23 In this Act:

24 (1) ADMINISTRATOR.—The term “Adminis-
25 trator” means the Administrator of the Office of In-

1 formation and Regulatory Affairs within the Office
2 of Management and Budget.

3 (2) AGENCY.—The term “agency” has the
4 meaning given that term under section 551 of title
5 5, United States Code, except such term does not in-
6 clude—

7 (A) the Federal Election Commission;

8 (B) the Board of Governors of the Federal
9 Reserve System;

10 (C) the Federal Deposit Insurance Cor-
11 poration; or

12 (D) the United States Postal Service.

13 (3) DEADLINE.—The term “deadline” means
14 any date certain for fulfilling any obligation or exer-
15 cising any authority established by or under any
16 Federal statute or rule, or by or under any court
17 order implementing any Federal statute, regulation,
18 or rule.

19 (4) MIDNIGHT RULE.—The term “midnight
20 rule” means an agency statement of general applica-
21 bility and future effect, issued during the morato-
22 rium period, that is intended to have the force and
23 effect of law and is designed—

24 (A) to implement, interpret, or prescribe
25 law or policy; or

1 (B) to describe the procedure or practice
2 requirements of an agency.

3 (5) MORATORIUM PERIOD.—The term “morato-
4 rium period” means the day after the day referred
5 to in section 1 of title 3, United States Code,
6 through January 20 of the following year, in which
7 a President is not serving a consecutive term.

8 (6) RULE.—The term “rule” has the meaning
9 given that term under section 551 of title 5, United
10 States Code.

11 (7) SMALL BUSINESS.—The term “small busi-
12 ness” has the meaning given that term under section
13 601 of title 5, United States Code.

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