

# Union Calendar No. 361

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4607

**[Report No. 112-513, Part I]**

To ensure economy 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.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2012

Mr. RIBBLE (for himself, Mr. ISSA, Mr. JORDAN, Mr. CARTER, Mr. CONAWAY, Mr. PAUL, and Mr. JONES) 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

JUNE 1, 2012

Additional sponsors: Ms. JENKINS, Mr. CANSECO, Mr. LANKFORD, Mr. TERRY, and Mr. GRIFFIN of Arkansas

JUNE 1, 2012

Reported from the Committee on Oversight and Government Reform

JUNE 1, 2012

The Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

# **A BILL**

To ensure economy 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 2012”.

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

7        Except as provided under sections 3 and 4, during  
8 the moratorium period, an agency may not propose or fi-  
9 nalize any midnight rule that the Administrator of the Of-  
10 fice of Information and Regulatory Affairs of the Office  
11 of Management and Budget finds is likely to result in—

12            (1) an annual effect on the economy of  
13            \$100,000,000 or more;

14            (2) a major increase in costs or prices for con-  
15            sumers, individual industries, Federal, State, or local  
16            government agencies, or geographic regions; or

17            (3) significant adverse effects on competition,  
18            employment, investment, productivity, innovation, or  
19            on the ability of United States-based enterprises to  
20            compete with foreign-based enterprises in domestic  
21            and export markets.

22 **SEC. 3. SPECIAL RULE ON STATUTORY, REGULATORY, AND**  
23 **JUDICIAL DEADLINES.**

24            (a) IN GENERAL.—Section 2 shall not apply with re-  
25 spect to any deadline—

1 (1) for, relating to, or involving any midnight  
2 rule;

3 (2) that was established before the beginning of  
4 the moratorium period; and

5 (3) that is required to be taken during the mor-  
6 atorium period.

7 (b) PUBLICATION OF DEADLINES.—Not later than  
8 30 days after the beginning of a moratorium period, the  
9 Administrator of the Office of Information and Regulatory  
10 Affairs of the Office of Management and Budget shall  
11 identify and publish in the Federal Register a list of dead-  
12 lines covered by subsection (a).

13 **SEC. 4. EXCEPTION.**

14 (a) EMERGENCY EXCEPTION.—Section 2 shall not  
15 apply to a midnight rule if the President determines that  
16 the midnight rule is—

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

19 (2) necessary for the enforcement of criminal  
20 laws;

21 (3) necessary for the national security of the  
22 United States; or

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

1 (b) DEREGULATORY EXCEPTION.—Section 2 shall  
2 not apply to a midnight rule that the Administrator of  
3 the Office of Information and Regulatory Affairs within  
4 the Office of Management and Budget certifies in writing  
5 is limited to repealing an existing rule.

6 (c) NOTICE OF EXCEPTIONS.—Not later than 30  
7 days after a determination under subsection (a) or a cer-  
8 tification is made under subsection (b), the head of the  
9 relevant agency shall publish in the Federal Register any  
10 midnight rule excluded from the moratorium period due  
11 to an exception under this section.

12 **SEC. 5. DEFINITIONS.**

13 In this Act:

14 (1) AGENCY.—The term “agency” has the  
15 meaning given that term under section 551 of title  
16 5, United States Code, except that such term does  
17 not include—

18 (A) the Federal Election Commission;

19 (B) the Board of Governors of the Federal  
20 Reserve System;

21 (C) the Federal Deposit Insurance Cor-  
22 poration; or

23 (D) the United States Postal Service.

24 (2) DEADLINE.—The term “deadline” means  
25 any date certain for fulfilling any obligation or exer-

1 cising any authority established by or under any  
2 Federal statute or rule, or by or under any court  
3 order implementing any Federal statute, regulation,  
4 or rule.

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

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

15 (A) to implement, interpret, or prescribe  
16 law or policy; or

17 (B) to describe the procedure or practice  
18 requirements of an agency.

19 (5) RULE.—The term “rule” has the meaning  
20 given that term under section 551 of title 5, United  
21 States Code.



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