

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 469) TO IMPOSE CERTAIN LIMITATIONS ON CONSENT DECREES AND SETTLEMENT AGREEMENTS BY AGENCIES THAT REQUIRE THE AGENCIES TO TAKE REGULATORY ACTION IN ACCORDANCE WITH THE TERMS THEREOF, AND FOR OTHER PURPOSES, AND PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 732) TO LIMIT DONATIONS MADE PURSUANT TO SETTLEMENT AGREEMENTS TO WHICH THE UNITED STATES IS A PARTY, AND FOR OTHER PURPOSES

OCTOBER 23, 2017.—Referred to the House Calendar and ordered to be printed

Mr. COLLINS of Georgia, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 577]

The Committee on Rules, having had under consideration House Resolution 577, by a record vote of 8 to 4, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 469, the Sunshine for Regulations and Regulatory Decrees and Settlements Act of 2017, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for the purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules Committee Print 115-34 and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in part A of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments print-

ed in part A of this report. The resolution provides one motion to recommit with or without instructions.

Section 2 of the resolution provides for consideration of H.R. 732, the Stop Settlement Slush Funds Act of 2017, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary. The resolution waives all points of order against consideration of the bill. The resolution provides that the amendments recommended by the Committee on the Judiciary now printed in the bill shall be considered as adopted, and provides that the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution makes in order only those further amendments printed in part B of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part B of this report. The resolution provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of H.R. 469 includes waivers of the following:

- Section 302(f) of the Congressional Budget Act, which prohibits consideration of legislation providing new budget authority in excess of a 302(a) allocation of such authority.
- Clause 10 of rule XXI, which prohibits the consideration of a bill if it has the net effect of increasing mandatory spending over a ten-year period. CBO estimates that under the bill, direct spending will increase by about \$1 million over the next 10 years.

The waiver of all points of order against the amendment in the nature of a substitute to H.R. 469 made in order as original text includes a waiver of clause 7 of rule XVI, which requires that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment. It is important to note that while the waiver is necessary, Rules Committee Print 115–34 contains the text of H.R. 469 and H.R. 1096 as reported by the Committee on the Judiciary; and H.R. 4070, as introduced.

Although the resolution waives all points of order against the amendments printed in part A of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of H.R. 732, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in H.R. 732, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments printed in part B of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 123

Motion by Ms. Slaughter to strike the waiver of all points of order for H.R. 469, which includes waivers of clause 10 of rule XXI (CutGo), section 302(f) of the Congressional Budget Act; and clause 7 of rule XVI (germaneness); and strike the waiver of all points of order for H.R. 732. Defeated: 4–7

Majority Members	Vote	Minority Members	Vote
Mr. Cole	Nay	Ms. Slaughter	Yea
Mr. Woodall		Mr. McGovern	Yea
Mr. Burgess	Nay	Mr. Hastings of Florida	Yea
Mr. Collins		Mr. Polis	Yea
Mr. Byrne	Nay		
Mr. Newhouse	Nay		
Mr. Buck	Nay		
Ms. Cheney	Nay		
Mr. Sessions, Chairman	Nay		

Rules Committee record vote No. 124

Motion by Mr. McGovern to make in order and provide the appropriate waivers to amendment #9 to H.R. 469, offered by Rep. Lieu (CA), which prohibits money from being paid by the U.S. Judgment Fund to any entity that is owned by the President, the Vice President, an officer or employee of the executive branch of the U.S. Government, or any immediate family member of the President or Vice President. Defeated: 4–8

Majority Members	Vote	Minority Members	Vote
Mr. Cole	Nay	Ms. Slaughter	Yea
Mr. Woodall	Nay	Mr. McGovern	Yea
Mr. Burgess	Nay	Mr. Hastings of Florida	Yea
Mr. Collins		Mr. Polis	Yea
Mr. Byrne	Nay		
Mr. Newhouse	Nay		
Mr. Buck	Nay		
Ms. Cheney	Nay		
Mr. Sessions, Chairman	Nay		

Rules Committee record vote No. 125

Motion by Mr. Hastings to make in order and provide the appropriate waivers to amendment #5 to H.R. 732, offered by Rep. Jayapal (WA), which exempts settlements that direct funds to faith-based and other community organizations that have been approved by the U.S. Department of Housing and Urban Development to provide assistance to current or potential homeowners, particularly for the purpose of providing foreclosure prevention assistance or instruction on avoiding predatory lending. Defeated: 4–8

Majority Members	Vote	Minority Members	Vote
Mr. Cole	Nay	Ms. Slaughter	Yea
Mr. Woodall	Nay	Mr. McGovern	Yea
Mr. Burgess	Nay	Mr. Hastings of Florida	Yea
Mr. Collins	Mr. Polis	Yea
Mr. Byrne	Nay		
Mr. Newhouse	Nay		
Mr. Buck	Nay		
Ms. Cheney	Nay		
Mr. Sessions, Chairman	Nay		

Rules Committee record vote No. 126

Motion by Mr. Cole to report the rule. Adopted: 8–4

Majority Members	Vote	Minority Members	Vote
Mr. Cole	Yea	Ms. Slaughter	Nay
Mr. Woodall	Yea	Mr. McGovern	Nay
Mr. Burgess	Yea	Mr. Hastings of Florida	Nay
Mr. Collins	Mr. Polis	Nay
Mr. Byrne	Yea		
Mr. Newhouse	Yea		
Mr. Buck	Yea		
Ms. Cheney	Yea		
Mr. Sessions, Chairman	Yea		

SUMMARY OF THE AMENDMENTS IN PART A TO H.R. 469 MADE IN ORDER

1. Goodlatte (VA): Clarifies the application of 5 USC 552a (The Privacy Act) to the bill. (10 minutes)

2. Conyers (MI): Calls for exception for consent decrees or settlement agreements relating to the enforcement of civil rights laws. (10 minutes)

3. Johnson, Hank (GA): Exempts any consent decree or covered settlement agreement pertaining to a deadline established by Congress to significantly improve access to high-speed broadband in under-served markets, such as low-income and rural communities; and to facilitate economic development in locations without sufficient access to such service. (10 minutes)

4. McEachin (VA): Exempts any consent decree or settlement agreement pertaining to the improvement or maintenance of air or water quality. (10 minutes)

5. Loebsack (IA): Creates an exception for consent decrees or settlement agreements relating to standards that apply under the Renewable Fuel Standard program. (10 minutes)

6. Cartwright (PA): Creates additional exception for consent decrees or settlement agreements entered into pursuant to Meese Policy (28 C.F.R. §§ 0.160–0.163 (2017)). (10 minutes)

SUMMARY OF THE AMENDMENTS IN PART B TO H.R. 732 MADE IN ORDER

1. Goodlatte (VA): Prohibits Cy Pres distributions in cases where money is simply left over and the settlement contains no specific provision on its disposition and clarifies that payments made must not only be remedial but must actually go to the victims who suffered the injury. (10 minutes)

2. Cohen (TN): Exempts settlement agreements based on race, religion, national origin, or any other protected category. (10 minutes)

3. Johnson, Hank (GA): Exempts a settlement agreement that directs funds to remediate the indirect harms caused by the manipulation of ignition standards on automobiles. (10 minutes)

4. Jackson Lee (TX): Exempts settlement agreements that pertain to providing restitution for a State. (10 minutes)

5. Cicilline (RI): Exempts settlements in relation to the predatory or fraudulent conduct involving residential mortgage-backed securities. (10 minutes)

6. Conyers (MI): Exempts settlements that direct funds to remedy the indirect harms of unlawful conduct resulting in an increase in the amount of lead in public drinking water. (10 minutes)

PART A—TEXT OF AMENDMENTS TO H.R. 469 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GOODLATTE OF VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 16, line 2, insert after “otherwise prohibited by law” the following: “(other than section 552a of title 5, United States Code)”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CONYERS JR. OF MICHIGAN OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 11, insert after “settlement agreement” the following: “(except as provided in subsection (g))”.

Add at the end of the bill the following:

(g) EXCEPTION.—The provisions of this Act do not apply in the case of a settlement agreement that directs funds to remediate the indirect harms caused by unlawful conduct resulting in an increase in the amount of lead in public drinking water.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JOHNSON OF GEORGIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 17, strike “; and” and insert “; other than an excepted consent decree or settlement agreement;”.

Page 4, line 4, strike the period and insert “; and”.

Page 4, insert after line 4 the following:

(6) the term “excepted consent decree or settlement agreement” means a covered consent decree or covered settlement agreement pertaining to a deadline established by Congress through the enactment of a Federal statute to—

(A) significantly improve access to affordable, high-speed broadband internet in under-served markets, such as low-income and rural communities; and

(B) facilitate economic development in locations without sufficient access to such service.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MCEACHIN OF VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 17, strike “; and” and insert “; other than an excepted consent decree or settlement agreement;”.

Page 4, line 4, strike the period and insert “; and”.

Page 4, insert after line 4 the following:

(6) the term “excepted consent decree or settlement agreement” means a covered consent decree or covered settlement agreement pertaining to the improvement or maintenance of air or water quality.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LOEBSACK OF IOWA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 17, strike “; and” and insert “; other than an excepted consent decree or settlement agreement;”.

Page 4, line 4, strike the period and insert “; and”.

Page 4, insert after line 4 the following:

(6) the term “excepted consent decree or settlement agreement” means a covered consent decree or covered settlement agreement pertaining the enforcement of standards under the Renewable Fuel Standard program operated by the Environmental Protection Agency pursuant to section 211 of the Clean Air Act (42 U.S.C. 7545).

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CARTWRIGHT OF PENNSYLVANIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 17, strike “; and” and insert “; other than an excepted consent decree or settlement agreement;”.

Page 4, line 4, strike the period and insert “; and”.

Page 4, insert after line 4 the following:

(6) the term “excepted consent decree or settlement agreement” means a covered consent decree or covered settlement agreement entered into pursuant to sections 0.160 through 0.163 of title 28, Code of Federal Regulations (commonly referred to as the “Meese Policy”).

PART B—TEXT OF AMENDMENTS TO H.R. 732 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GOODLATTE OF VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 17, insert “and, to the extent any victim thereof was an identifiable person, suffered by the payee or lendee,” before “or constitutes”.

Page 3, insert after line 19 the following (and redesignate succeeding subsections accordingly):

(b) LIMITATION ON *CY-PRÈS*.—*Amounts remaining* after all claims have been satisfied shall be repaid proportionally to each party who contributed to the original payment.

Page 3, line 21, insert after “subsection (a)” the following: “or (b)”.

Page 4, line 1, strike “and (b)” and insert “, (b), and (c)”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE COHEN OF TENNESSEE OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 11, insert after “settlement agreement” the following: “(except as provided in subsection (g))”.

Add at the end of the bill the following:

(g) EXCEPTION.—The provisions of this Act do not apply in the case of a settlement agreement in relation to discrimination based on race, religion, national origin, or any other protected category.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JOHNSON OF GEORGIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 11, insert after “settlement agreement” the following: “(except as provided in subsection (g))”.

Add at the end of the bill the following:

(g) EXCEPTION.—The provisions of this Act do not apply in the case of a settlement agreement that directs funds to remediate the indirect harms caused by unlawful conduct, including the intentional bypassing, defeating, or rendering inoperative a required element of a vehicle’s emissions control system in violation of section 203 of the Clean Air Act (42 U.S.C. 7522).

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 11, insert after “settlement agreement” the following: “(other than an excepted settlement agreement)”.

Page 4, strike line 4, and insert the following:

(d) DEFINITIONS.—In this Act:

(1) The term “excepted settlement agreement” means a settlement agreement that pertains to providing restitution for a State.

(2) The term “settlement agreement”

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CICILLINE OF RHODE ISLAND OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 11, insert after “settlement agreement” the following: “(except as provided in subsection (g))”.

Add at the end of the bill the following:

(g) EXCEPTION.—The provisions of this Act do not apply in the case of a settlement agreement that resolves the criminal or civil liability of a financial institution for the predatory or fraudulent packaging, securitization, marketing, sale and issuance of residential mortgage-backed securities.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CONYERS JR. OF MICHIGAN OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 11, insert after “settlement agreement” the following: “(except as provided in subsection (g))”.

Add at the end of the bill the following:

(g) EXCEPTION.—The provisions of this Act do not apply in the case of a settlement agreement that directs funds to remediate the indirect harms caused by unlawful conduct resulting in an increase in the amount of lead in public drinking water.