

ONE STOP SHOP FOR SMALL BUSINESS COMPLIANCE
ACT OF 2021

MARCH 7, 2022.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Ms. VELÁZQUEZ, from the Committee on Small Business,
submitted the following

R E P O R T

[To accompany H.R. 4877]

The Committee on Small Business, to whom was referred the bill (H.R. 4877) to amend the Small Business Act to require the Small Business and Agriculture Regulatory Enforcement Ombudsman to create a centralized website for compliance guides, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND BILL SUMMARY

The purpose of H.R. 4877, the “One Stop Shop for Small Business Compliance Act of 2021,” is to require the Small Business Ad-

ministration’s (SBA) Office of the National Ombudsman (Ombudsman) to maintain a website with hyperlinks to the small business compliance guides of each federal agency, as well as the relevant points of contact for the guides. In addition, the bill would require the Ombudsman to include an assessment of federal agency compliance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)¹ in their annual report.

II. BACKGROUND AND NEED FOR LEGISLATION

H.R. 4877 was introduced by Representatives Antonio Delgado (D-NY) and Beth Van Duyne (R-TX) on July 30, 2021. Section 212 of SBREFA requires federal agencies to publish a “small entity compliance guide” for every rule that requires a regulatory flexibility analysis (RFA). The guide must be posted the day the final rule is published or shortly thereafter, but no later than the day the rule becomes effective. Agencies are also required to publish the guides on their websites, distribute the guides to small entities affected by the rules, and report annually to Congress.

The SBA’s Office of the National Ombudsman was created in 1996 to help small businesses overcome excessive or unfair regulatory enforcement actions by federal agencies, such as repetitive audits, investigations, or excessive fines. The Ombudsman works directly with federal agencies to ensure that actions taken against small businesses are fair and not excessive. In Fiscal Year 2020, the Office of the National Ombudsman advocated on behalf of 485 small businesses, conducted 41 outreach events across the country to raise the visibility of the Office.

Section 212 of the SBREFA requires federal agencies to publish a “small entity compliance guide” for every rule that requires a regulatory flexibility analysis (RFA). The guide must be posted the day the final rule is published or shortly thereafter, but no later than the day the rule becomes effective. Agencies are also required to publish the guides on their websites, distribute the guides to small entities affected by the rules, and report annually to Congress.

Small businesses rarely have the resources to navigate multiple agency websites to understand their responsibilities under new laws. H.R. 4877, would make it easier for small businesses by requiring the SBA’s Office of the National Ombudsman to create a centralized website, which would provide a “one stop shop” for small entities compliance guides. Specifically, the legislation would require the Office of the National Ombudsman to create a centralized website with hyperlinks to small entity compliance guides and the contact person at agencies who could provide small businesses with assistance. The legislation would also require the Ombudsman to report on federal agencies’ compliance with the section 212 requirements in its annual report to Congress.

In addition, the bill would provide transparency and ensure federal agencies are complying with the SBREFA requirements. Federal agencies’ compliance with the requirements has been varied. For example, the Federal Trade Commission (FTC) has a long-standing small business education program and regularly submits reports to the Committee each year. In the 2018 annual report, the

¹ Pub. L. No. 104–121.

FTC reported that the Commission did not issue any rules that were subject to Section 212 of SBREFA for the reporting period. However, it made compliance materials available for several rulemakings even though they were not required to do so by the Act. Conversely, the Surface Transportation Board reported in its 2018 annual report that the Board failed to issue a timely compliance guide for a particular rule, but promptly remedied the omission once it was realized. This bill would require the Ombudsman to report on federal agencies' compliance with the SBREFA requirements in its annual report to Congress.

III. HEARINGS

While multiple hearings have been held by the Committee over the past several years exploring regulatory compliance burdens specific to the small business community, no specific hearings in the 117th Congress have been held to explore reforms to SBA's Office of the National Ombudsman.

IV. COMMITTEE CONSIDERATION

The Committee on Small Business met in open session, with a quorum being present, on February 3, 2022 and ordered H.R. 4877 favorably reported to the House of Representatives. During the markup, no amendments were offered.

V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. The Committee voted by voice vote to favorably report H.R. 4877 to the House at 10:44 a.m.

VI. SECTION-BY-SECTION FOR H.R. 4877

Section 1. Short title

This Act may be cited as the “One Stop Shop for Small Business Compliance Act of 2021”.

Section 2. Centralized Website for Compliance Guides

This section amends Section 30 of the Small Business Act by adding two new subsections:

Subsection (e)—Centralized Website. This subsection requires that, no later than 6 months after the date of enactment, the Ombudsman shall maintain a website that includes hyperlinks to the small business compliance guides as required by the Small Business Regulatory Enforcement Fairness Act of 1996. The website must also include the contact information for employees that can offer small businesses assistance with each compliance guide.

Subsection (f)—Report on Agency Compliance. This subsection requires the Ombudsman to include an assessment of agency compliance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 in their annual reports.

VII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Committee has requested but not received a cost estimate from the Director of the Congressional Budget Office.

VIII. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, the Committee provides the following opinion and estimate with respect to new budget authority, entitlement authority, and tax expenditures. While the Committee has not received an estimate of new budget authority contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974, the Committee does not believe that there will be any additional costs attributable to this legislation. H.R. 4877 does not direct new spending, but instead reallocates funding independently authorized and appropriated.

IX. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In accordance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in the H.R. 4877 are incorporated into the descriptive portions of this report.

X. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirements of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of H.R. 4877 is to make it easier for small businesses to comply with federal regulations.

XI. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of H.R. 4877 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

XII. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the bill does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

XIII. FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Com-

mittee in time for the filing of this report. The Chairwoman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

XIV. FEDERAL ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

XV. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

XVI. CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Art. I, § 8, cl. 1 of the Constitution of the United States.

XVII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, as shown as follows: existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

SMALL BUSINESS ACT

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SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

(a) DEFINITIONS.—For purposes of this section, the term—

(1) “Board” means a Regional Small Business Regulatory Fairness Board established under subsection (c); and

(2) “Ombudsman” means the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under subsection (b).

(b) SBA ENFORCEMENT OMBUDSMAN.—

(1) Not later than 180 days after the date of enactment of this section, the Administrator shall designate a Small Business and Agriculture Regulatory Enforcement Ombudsman, who shall report directly to the Administrator, utilizing personnel of the Small Business Administration to the extent practicable. Other agencies shall assist the Ombudsman and take actions as necessary to ensure compliance with the requirements of this section. Nothing in this section is intended

to replace or diminish the activities of any Ombudsman or similar office in any other agency.

(2) The Ombudsman shall—

(A) work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel;

(B) establish means to receive comments from small business concerns regarding actions by agency employees conducting compliance or enforcement activities with respect to the small business concern, means to refer comments to the Inspector General of the affected agency in the appropriate circumstances, and otherwise seek to maintain the identity of the person and small business concern making such comments on a confidential basis to the same extent as employee identities are protected under section 7 of the Inspector General Act of 1978 (5 U.S.C. App.);

(C) based on substantiated comments received from small business concerns and the Boards, annually report to Congress and affected agencies evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each agency;

(D) coordinate and report annually on the activities, findings and recommendations of the Boards to the Administrator and to the heads of affected agencies; and

(E) provide the affected agency with an opportunity to comment on draft reports prepared under subparagraph (C), and include a section of the final report in which the affected agency may make such comments as are not addressed by the Ombudsman in revisions to the draft.

(c) REGIONAL SMALL BUSINESS REGULATORY FAIRNESS BOARDS.—

(1) Not later than 180 days after the date of enactment of this section, the Administrator shall establish a Small Business Regulatory Fairness Board in each regional office of the Small Business Administration.

(2) Each Board established under paragraph (1) shall—

(A) meet at least annually to advise the Ombudsman on matters of concern to small businesses relating to the enforcement activities of agencies;

(B) report to the Ombudsman on substantiated instances of excessive enforcement actions of agencies against small business concerns including any findings or recommendations of the Board as to agency enforcement policy or practice; and

(C) prior to publication, provide comment on the annual report of the Ombudsman prepared under subsection (b).

(3) Each Board shall consist of five members, who are owners, operators, or officers of small business concerns, appointed by the Administrator, after receiving the recommendations of the chair and ranking minority member of the Committees on

Small Business of the House of Representatives and the Senate. Not more than three of the Board members shall be of the same political party. No member shall be an officer or employee of the Federal Government, in either the executive branch or the Congress.

(4) Members of the Board shall serve at the pleasure of the Administrator for terms of three years or less.

(5) The Administrator shall select a chair from among the members of the Board who shall serve at the pleasure of the Administrator for not more than 1 year as chair.

(6) A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

(d) POWERS OF THE BOARDS.—

(1) The Board may hold such hearings and collect such information as appropriate for carrying out this section.

(2) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(3) The Board may accept donations of services necessary to conduct its business, provided that the donations and their sources are disclosed by the Board.

(4) Members of the Board shall serve without compensation, provided that, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(e) *CENTRALIZED WEBSITE.*—*Not later than 6 months after the date of the enactment of this subsection, the Ombudsman shall maintain a publicly available website that includes—*

(1) *hyperlinks to small entity compliance guides described under section 212(a)(1) of the Small Business Regulatory Enforcement Fairness Act of 1996; and*

(2) *with respect to each such small entity compliance guide, the contact information for an individual who can offer assistance to small entities with respect to the rules that are the subject of such guide.*

(f) *REPORT ON AGENCY COMPLIANCE.*—*The Ombudsman shall include in the annual report required under subsection (b)(2)(C) an assessment of agency compliance with the requirements of section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 for the year covered by such annual report.*

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