

SECURITIES AND EXCHANGE COMMISSION REAL ESTATE  
 LEASING AUTHORITY REVOCATION ACT

SEPTEMBER 13, 2022.—Committed to the Committee of the Whole House on the  
 State of the Union and ordered to be printed

Mr. DEFAZIO, from the Committee on Transportation and  
 Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 1468]

The Committee on Transportation and Infrastructure, to whom  
 was referred the bill (H.R. 1468) to amend title 40, United States  
 Code, to eliminate the leasing authority of the Securities and Ex-  
 change Commission, and for other purposes, having considered the  
 same, reports favorably thereon with an amendment and rec-  
 ommends that the bill as amended do pass.

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The amendment is as follows:  
 Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Securities and Exchange Commission Real Estate Leasing Authority Revocation Act”.

**SEC. 2. LEASING OF SPACE FOR SECURITIES AND EXCHANGE COMMISSION.**

(a) IN GENERAL.—Section 3304 of title 40, United States Code, is amended by adding at the end the following:

“(e) LEASING OF SPACE FOR SECURITIES AND EXCHANGE COMMISSION.—Notwithstanding any other provision of law, on and after the date of enactment of this subsection, the Securities and Exchange Commission may not lease general purpose office space. The Administrator may lease such space for the Securities and Exchange Commission under section 585 and this chapter.”.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—The amendment made by subsection (a) may not be construed to invalidate or otherwise affect a lease entered into by the Securities and Exchange Commission before the date of enactment of this Act.

**SEC. 3. INDEPENDENT LEASING AUTHORITIES.**

(a) IN GENERAL.—The Comptroller General of the United States shall submit to the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the review described in subsection (b).

(b) REVIEW.—The Comptroller General shall complete a review under which the Comptroller General shall update the 2016 report of the Comptroller General (GAO-16-648) with a specific focus on the following:

(1) Updating the information included in Appendix II: Federal Entities That Reported Having Independent Leasing Authority for Domestic Offices and Warehouses of such report.

(2) Determining to what extent Federal entities with independent leasing authorities have had such authorities rescinded or amended and the number and amount of office and warehouse space such entities lease.

(3) Determining to what extent have agencies with independent leasing authority utilized the General Services Administration for leasing, including utilization of delegation of authority.

(4) Identifying progress made on implementing the recommendations in such report.

**PURPOSE OF LEGISLATION**

The purpose of H.R. 1468 as amended is to revoke the real estate leasing authority of the Securities and Exchange Commission (SEC) and to clarify the authority of the General Services Administration (GSA) to lease space for the SEC.

**BACKGROUND AND NEED FOR LEGISLATION**

Section 103 of the Securities Acts Amendments of 1990 (P.L. 101-550) authorized the SEC to lease real property for office purposes and exempted such leasing activity from GSA space management regulations or directives.<sup>1</sup>

In 2010 the SEC, anticipating the need for additional staff to perform new obligations it was likely to be assigned under the *Dodd-Frank Wall Street Reform and Consumer Protection Act*, leased approximately 900,000 square feet of space in Constitution Center, a building located at 400 Seventh Street, SW, in Washington, DC.<sup>2</sup> The 10-year lease included a right of first refusal for the remaining 500,000 square feet at Constitution Center.<sup>3</sup>

Three months after signing the lease the SEC notified the landlord that it did not need approximately 600,000 of the 900,000 square feet it had leased, nor the 500,000 square feet that had

<sup>1</sup> <https://www.congress.gov/bill/101st-congress/house-bill/1396/text>.

<sup>2</sup> <https://www.sec.gov/foia/docs/oig-553.pdf>.

<sup>3</sup> *Id.*

been subject to the right of first refusal.<sup>4</sup> After the SEC indicated that the space was not needed, the Federal Housing Finance Agency (FHFA) and the Office of the Comptroller of the Currency (OCC) agreed to take on approximately two-thirds of the space.<sup>5</sup> In 2011, GSA reached an agreement with SEC to assume control of and backfill the remaining square feet under SEC's lease.<sup>6</sup>

In October and November 2010, the SEC Office of Inspector General (OIG) received several written complaints regarding the SEC's actions related to the SEC's Constitution Center space procurement.<sup>7</sup> These complaints alleged that the decision to lease Constitution Center had been ill-conceived, was the result of poor management practices, and was made without Congressional funding for the significant projected growth necessary to support the decision.<sup>8</sup> On November 16, 2010, the OIG opened an investigation into those allegations.<sup>9</sup>

The OIG investigation (Case No. OIG 553 *Improper Actions Relating to the Leasing of Office Space*) found that the circumstances surrounding the SEC's lease at Constitution Center "represents another in a long history of missteps and misguided leasing decisions made by the SEC since it was granted independent leasing authority by Congress in 1990."<sup>10</sup>

In 2011, the Committee on Transportation and Infrastructure's Subcommittee on Economic Development, Public Buildings, and Emergency Management held two hearings on the SEC's leasing activities. During the second hearing, then-SEC Chairwoman Mary Schapiro said, "[i]n light of the problems identified, and questions raised by the OIG and this Subcommittee, the SEC recognizes the benefits of having GSA manage the Commission's future lease acquisitions. Leasing is not part of the Commission's core mission, and we cannot allow it to impede that mission. GSA, by contrast, has long experience and expertise in leasing."<sup>11</sup> In addition, the hearings highlighted that the SEC exceeded legal limitations on the use of its leasing authority potentially resulting in Anti-Deficiency Act violations.<sup>12</sup> Indeed, the Committee also focused on significant evidence that agencies with independent leasing authorities outside of GSA generally failed to understand and follow relevant laws in accounting for the costs to the taxpayer.<sup>13</sup>

Congresswoman Eleanor Holmes Norton first introduced legislation (H.R. 2390) to revoke the SEC's independent leasing authority during the 112th Congress.<sup>14</sup> H.R. 1468 as amended in the 117th Congress is similar to H.R. 2390 and is intended to ensure the SEC continues to conform with the law and proper oversight to avoid

<sup>4</sup> <https://www.sec.gov/foia/docs/oig-553.pdf>.

<sup>5</sup> <https://www.gsa.gov/about-us/newsroom/congressional-testimony/gsas-plan-to-fully-utilize-constitution-center>.

<sup>6</sup> *Id.*

<sup>7</sup> <https://www.sec.gov/foia/docs/oig-553.pdf>.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> <https://www.sec.gov/news/testimony/2011/ts070611mls.htm>.

<sup>12</sup> See Hearing on "The Securities and Exchange Commission's \$500 Million Fleecing of America: Part Two," Subcommittee on Economic Development, Public Buildings, and Emergency Management, July 6, 2011.

<sup>13</sup> See Hearing on "Independent Leasing Authorities: Increasing Oversight and Reducing Costs of Space Leased by Federal Agencies," Subcommittee on Economic Development, Public Buildings, and Emergency Management, July 6, 2016.

<sup>14</sup> <https://www.congress.gov/bill/112th-congress/house-bill/2390>.

the wasteful spending exemplified by the SEC prior to working with GSA for its leasing.

#### HEARINGS

For the purposes of Rule XIII, clause 3(c)(6)(A) of the 117th Congress, the following hearing was used to develop or consider H.R. 1468:

On November 2, 2021, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing titled, “The General Services Administration’s Priorities for 2021 and Beyond.” The Subcommittee received testimony from the Hon. Robin Carnahan, Administrator, General Services Administration; and Ms. Nina Albert, Commissioner, Public Buildings Services, General Services Administration.

This hearing examined the current and future priorities of the GSA.

#### LEGISLATIVE HISTORY AND CONSIDERATION

H.R. 1468, the “*Securities and Exchange Commission Real Estate Leasing Authority Revocation Act*,” was introduced on March 1, 2021, by Ms. Norton and referred to the Committee on Transportation and Infrastructure. Within the Committee, H.R. 1468 was referred to the Subcommittee on Economic Development, Public Buildings, and Emergency Management.

The Subcommittee on Economic Development, Public Buildings, and Emergency Management was discharged from further consideration of H.R. 1468 on June 15, 2022.

The Committee considered H.R. 1468 on June 15, 2022, and ordered the measure to be favorably reported to the House, as amended, by voice vote.

The following amendments were offered:

An Amendment in the Nature of a Substitute to H.R. 1468 offered by Mr. DeFazio was AGREED TO by voice vote.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against.

No record votes were requested during consideration of H.R. 1468.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in this report.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

With respect to the requirements of 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 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Rep-

representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Chairman of the Committee shall cause such estimate and statement to be printed in the *Congressional Record* upon its receipt by the Committee.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

#### PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to rescind the leasing authority of the SEC.

#### DUPPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 1468 as amended establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

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

## PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that H.R. 1468 as amended does not preempt any state, local, or tribal law.

## ADVISORY COMMITTEE STATEMENT

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

## 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 (Public Law 104–1).

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Title*

This section provides that this bill may be cited as the “Securities and Exchange Commission Real Estate Leasing Authority Revocation Act”.

*Sec. 2. Leasing of space for Securities and Exchange Commission*

This section prohibits the SEC from leasing general purpose office space and authorizes the GSA to lease such space for the SEC.

*Sec 3. Independent leasing authorities*

This section directs the Comptroller General of the United States to submit an update to its 2016 report on independent leasing authorities of agencies outside of GSA.

## 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 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, 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):

**TITLE 40, UNITED STATES CODE**

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## SUBTITLE II—PUBLIC BUILDINGS AND WORKS

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### PART A—GENERAL

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#### CHAPTER 33—ACQUISITION, CONSTRUCTION, AND ALTERATION

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##### § 3304. Acquisition of buildings and sites

(a) **IN GENERAL.**—The Administrator of General Services may acquire, by purchase, condemnation, donation, exchange, or otherwise, any building and its site which the Administrator decides is necessary to carry out the duties of the Administrator under this chapter.

(b) **ACQUISITION OF LAND OR INTEREST IN LAND FOR USE AS SITES.**—The Administrator may acquire, by purchase, condemnation, donation, exchange, or otherwise, land or an interest in land the Administrator considers necessary for use as sites, or additions to sites, for public buildings authorized to be constructed or altered under this chapter.

(c) **PUBLIC BUILDINGS USED FOR POST OFFICE PURPOSES.**—When any part of a public building is to be used for post office purposes, the Administrator shall act jointly with the United States Postal Service in selecting the town or city where the building is to be constructed, and in selecting the site in the town or city for the building.

(d) **SOLICITATION OF PROPOSALS FOR SALE, DONATION, OR EXCHANGE OF REAL PROPERTY.**—When the Administrator is to acquire a site under subsection (b), the Administrator, if the Administrator considers it necessary, by public advertisement may solicit proposals for the sale, donation, or exchange of real property to the Federal Government to be used as the site. In selecting a site under subsection (b) the Administrator (with the concurrence of the United States Postal Service if any part of the public building to be constructed on the site is to be used for post office purposes) may—

(1) select the site that the Administrator believes is the most advantageous to the Government, all factors considered; and

(2) acquire the site without regard to division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(e) **LEASING OF SPACE FOR SECURITIES AND EXCHANGE COMMISSION.**—Notwithstanding any other provision of law, on and after the date of enactment of this subsection, the Securities and Exchange Commission may not lease general purpose office space. The Admin-

*istrator may lease such space for the Securities and Exchange Commission under section 585 and this chapter.*

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