

112TH CONGRESS
2D SESSION

H. R. 4268

To abolish the Export-Import Bank of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 2012

Mr. AMASH (for himself and Mr. FLAKE) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To abolish the Export-Import Bank of the United States,
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 “Export-Import Bank
5 Termination Act of 2012”.

6 **SEC. 2. REDUCTIONS OF AUTHORITIES BEFORE ABOLISH-**
7 **MENT.**

8 Notwithstanding any other provision of law:

9 (1) **TERMINATION OF AUTHORITY TO ACCEPT**
10 **APPLICATIONS FOR ASSISTANCE.**—The Export-Im-

1 port Bank of the United States (in this Act referred
2 to as the “Bank”) may not accept an application for
3 a loan, insurance, or a guarantee, or to participate
4 in an extension of credit by another entity, after the
5 30-day period that begins with the date of the enact-
6 ment of this Act.

7 (2) TERMINATION OF AUTHORITY TO RENEW
8 OR ENTER INTO A CONTRACT FOR THE PROVISION
9 OF ASSISTANCE BY THE BANK.—The Bank may not
10 renew or enter into a contract which would obligate
11 the Bank to provide a loan, insurance, or a guar-
12 antee, or participate in an extension of credit by an-
13 other entity, after the 12-month period that begins
14 with such date of enactment.

15 **SEC. 3. ABOLISHMENT OF EXPORT-IMPORT BANK OF THE**
16 **UNITED STATES.**

17 (a) IN GENERAL.—Effective on the abolishment date:

18 (1) ABOLISHMENT.—The Bank is abolished.

19 (2) TRANSFER OF FUNCTIONS.—All functions
20 that, immediately before the abolishment date are
21 authorized to be performed by the Bank, the Board
22 of Directors of the Bank, any officer or employee of
23 the Bank acting in that capacity, or any agency or
24 office of the Bank, are transferred to the Secretary

1 of the Treasury (in this Act referred to as the “Sec-
2 retary”).

3 (b) ABOLISHMENT DATE DEFINED.—In this Act, the
4 term “abolishment date” means the date that is 3 years
5 after the date of the enactment of this Act.

6 **SEC. 4. RESOLUTION AND TERMINATION OF BANK FUNC-**
7 **TIONS.**

8 (a) RESOLUTION OF FUNCTIONS.—The Secretary
9 shall—

10 (1) complete the disposition and resolution of
11 functions of the Bank in accordance with this Act;
12 and

13 (2) resolve all functions that are transferred to
14 the Secretary under section 3(a)(2).

15 (b) TERMINATION OF FUNCTIONS.—All functions
16 that are transferred to the Secretary under section 3(a)(2)
17 shall terminate on the date all obligations of the Bank,
18 and all obligations of others to the Bank, in effect imme-
19 diately before the abolishment date have been satisfied, as
20 determined by the Secretary.

21 (c) REPORT TO THE CONGRESS.—When the Sec-
22 retary makes the determination described in subsection
23 (b), the Secretary shall report the determination to the
24 Committee on Financial Services of the House of Rep-
25 resentatives and the Committee on Finance of the Senate.

1 **SEC. 5. DUTIES OF THE SECRETARY OF THE TREASURY.**

2 (a) IN GENERAL.—The Secretary shall be responsible
3 for the implementation of this Act, including—

4 (1) the administration and wind-up of all func-
5 tions transferred to the Secretary under section
6 3(a)(2);

7 (2) the administration and wind-up of any out-
8 standing obligations of the Federal Government
9 under any programs terminated by this Act; and

10 (3) taking such other actions as may be nec-
11 essary to wind-up any outstanding affairs of the
12 Bank.

13 (b) DELEGATION OF FUNCTIONS.—The Secretary
14 may delegate to any other Federal department or agency
15 head the performance of the functions of the Secretary
16 under this Act, to the extent that the Secretary determines
17 that the delegation would further the purposes of this Act.

18 (c) TRANSFER OF ASSETS AND PERSONNEL.—In
19 connection with any delegation of functions under sub-
20 section (b), the Secretary may transfer to the department
21 or agency concerned such assets, funds, personnel,
22 records, and other property relating to the delegated func-
23 tion as the Secretary determines to be appropriate.

24 (d) AUTHORITIES OF THE SECRETARY.—For pur-
25 poses of performing the functions of the Secretary under

1 this Act and subject to the availability of appropriations,
2 the Secretary may—

3 (1) enter into contracts;

4 (2) employ experts and consultants in accord-
5 ance with section 3109 of title 5, United States
6 Code, at rates for individuals not to exceed the per
7 diem rate equivalent to the rate for level IV of the
8 Executive Schedule; and

9 (3) utilize, on a reimbursable basis, the services,
10 facilities, and personnel of other Federal agencies.

11 **SEC. 6. PERSONNEL.**

12 Effective on the abolishment date, there are trans-
13 ferred to the Department of the Treasury all individuals,
14 other than members of the Board of Directors of the
15 Bank, who—

16 (1) immediately before the abolishment date,
17 were officers or employees of the Bank; and

18 (2) in their capacity as such an officer or em-
19 ployee, performed functions that are transferred to
20 the Secretary under section 3(a)(2).

21 **SEC. 7. TRANSFER OF INSPECTOR GENERAL DUTIES.**

22 (a) TERMINATION OF THE OFFICE OF INSPECTOR
23 GENERAL FOR THE EXPORT-IMPORT BANK OF THE
24 UNITED STATES.—Notwithstanding any other provision
25 of law, the Office of Inspector General for the Bank shall

1 terminate on the abolishment date, and the assets and ob-
2 ligations of the Office shall be transferred to the Office
3 of the Inspector General for the Department of the Treas-
4 ury or otherwise disposed of.

5 (b) AUTHORITY AND RESPONSIBILITY FOR TRANS-
6 FER OR DISPOSAL.—The Secretary shall have the author-
7 ity and responsibility for transfer or disposal under sub-
8 section (a).

9 (c) SAVINGS PROVISION.—The provisions of this sec-
10 tion shall not affect the performance of any pending audit,
11 investigation, inspection, or report by the Office of the In-
12 spector General for the Bank as of the abolishment date,
13 with respect to functions transferred by this section. Noth-
14 ing in this subsection shall be deemed to prohibit the dis-
15 continuance or modification of any performance under the
16 same terms and conditions and to the same extent that
17 such performance could have been discontinued or modi-
18 fied if this section had not been enacted.

19 **SEC. 8. EXERCISE OF AUTHORITIES.**

20 Except as otherwise provided by law, a Federal offi-
21 cial to whom a function is transferred by this Act may,
22 for purposes of performing the function, exercise all au-
23 thorities under any other provision of law that were avail-
24 able with respect to the performance of that function to
25 the official responsible for the performance of the function

1 immediately before the effective date of the transfer of the
2 function under this Act.

3 **SEC. 9. TRANSFER OF ASSETS.**

4 Except as otherwise provided in this Act, so much
5 of the personnel, property, records, and unexpended bal-
6 ances of appropriations, allocations, and other funds em-
7 ployed, used, held, available, or to be made available in
8 connection with a function transferred to an official or
9 agency by this Act shall be available to the official or the
10 head of that agency, respectively, at such time or times
11 as the Director of the Office of Management and Budget
12 directs for use in connection with the functions trans-
13 ferred.

14 **SEC. 10. DELEGATION AND ASSIGNMENT.**

15 Except as otherwise expressly prohibited by law, an
16 official to whom functions are transferred under this Act
17 (including the head of any office to which functions are
18 transferred under this Act) may delegate any of the func-
19 tions so transferred to such officers and employees of the
20 office of the official as the official may designate, and may
21 authorize successive redelegations of such functions as
22 may be necessary or appropriate. No delegation of func-
23 tions under this section or under any other provision of
24 this Act shall relieve the official to whom a function is

1 transferred under this Act of responsibility for the admin-
2 istration of the function.

3 **SEC. 11. AUTHORITY OF THE SECRETARY OF THE TREAS-**
4 **URY WITH RESPECT TO FUNCTIONS TRANS-**
5 **FERRED.**

6 (a) DETERMINATIONS.—If necessary, the Secretary
7 shall make any determination of the functions that are
8 transferred under this Act.

9 (b) INCIDENTAL TRANSFERS.—The Secretary, at
10 such time or times as the Secretary shall provide, may
11 make such determinations as may be necessary with re-
12 gard to the functions transferred by this Act, and to make
13 such additional incidental dispositions of personnel, assets,
14 liabilities, grants, contracts, property, records, and unex-
15 pended balances of appropriations, authorizations, alloca-
16 tions, and other funds held, used, arising from, available
17 to, or to be made available in connection with such func-
18 tions, as may be necessary to carry out the provisions of
19 this Act.

20 **SEC. 12. SAVINGS PROVISIONS.**

21 (a) LEGAL DOCUMENTS.—All orders, determinations,
22 rules, regulations, permits, grants, loans, contracts, agree-
23 ments, certificates, licenses, and privileges—

24 (1) that have been issued, made, granted, or al-
25 lowed to become effective by the President, the

1 Bank, any officer or employee of any office trans-
2 ferred by this Act, or any other Government official,
3 or by a court of competent jurisdiction, in the per-
4 formance of any function that is transferred by this
5 Act, and

6 (2) that are in effect on the effective date of the
7 transfer (or become effective after such date pursu-
8 ant to their terms as in effect on such effective
9 date),

10 shall continue in effect according to their terms until
11 modified, terminated, superseded, set aside, or revoked in
12 accordance with law by the President, any other author-
13 ized official, a court of competent jurisdiction, or operation
14 of law.

15 (b) PROCEEDINGS.—This Act shall not affect any
16 proceedings or any application for any benefits, service,
17 license, permit, certificate, or financial assistance pending
18 on the date of the enactment of this Act before an office
19 transferred by this Act, but such proceedings and applica-
20 tions shall be continued. Orders shall be issued in such
21 proceedings, appeals shall be taken therefrom, and pay-
22 ments shall be made pursuant to such orders, as if this
23 Act had not been enacted, and orders issued in any such
24 proceeding shall continue in effect until modified, termi-
25 nated, superseded, or revoked by a duly authorized official,

1 by a court of competent jurisdiction, or by operation of
2 law. Nothing in this subsection shall be considered to pro-
3 hibit the discontinuance or modification of any such pro-
4 ceeding under the same terms and conditions and to the
5 same extent that such proceeding could have been discon-
6 tinued or modified if this Act had not been enacted.

7 (c) SUITS.—This Act shall not affect suits com-
8 menced before the date of the enactment of this Act, and
9 in all such suits, proceeding shall be had, appeals taken,
10 and judgments rendered in the same manner and with the
11 same effect as if this Act had not been enacted.

12 (d) NONABATEMENT OF ACTIONS.—No suit, action,
13 or other proceeding commenced by or against an office
14 transferred by this Act, or by or against any individual
15 in the official capacity of such individual as an officer or
16 employee of such an office, shall abate by reason of the
17 enactment of this Act.

18 (e) CONTINUANCE OF SUITS.—If any Government of-
19 ficer in the official capacity of such officer is party to a
20 suit with respect to a function of the officer, and under
21 this Act such function is transferred to any other officer
22 or office, then such suit shall be continued with the other
23 officer or the head of such other office, as applicable, sub-
24 stituted or added as a party.

1 (f) ADMINISTRATIVE PROCEDURE AND JUDICIAL RE-
2 VIEW.—Except as otherwise provided by this Act, any
3 statutory requirements relating to notice, hearings, action
4 upon the record, or administrative or judicial review that
5 apply to any function transferred by this Act shall apply
6 to the exercise of such function by the head of the Federal
7 agency, and other officers of the agency, to which such
8 function is transferred by this Act.

9 **SEC. 13. AVAILABILITY OF EXISTING FUNDS.**

10 Existing appropriations and funds available for the
11 performance of functions, programs, and activities termi-
12 nated pursuant to this Act shall remain available, for the
13 duration of their period of availability, for necessary ex-
14 penses in connection with the termination and resolution
15 of such functions, programs, and activities.

16 **SEC. 14. CONFORMING AMENDMENTS AND REPEALS.**

17 (a) REPEAL OF PRIMARY AUTHORIZING STATUTE.—
18 The Export-Import Bank Act of 1945 (12 U.S.C. 635—
19 635i–9) is hereby repealed.

20 (b) ELIMINATION OF RELATED AUTHORIZING PROVI-
21 SIONS.—

22 (1) Section 103 of the International Develop-
23 ment and Finance Act of 1989 (12 U.S.C. 635 note;
24 Public Law 101–240) is hereby repealed.

1 (2) Section 303 of the Support for East Euro-
2 pean Democracy (SEED) Act of 1989 (12 U.S.C.
3 635 note; Public Law 101–179) is hereby repealed.

4 (3) Section 1908 of the Export-Import Bank
5 Act Amendments of 1978 (12 U.S.C. 635a–1) is
6 amended—

7 (A) by striking “(a)”; and

8 (B) by striking subsection (b).

9 (4) Sections 1911 and 1912 of the Export-Im-
10 port Bank Act Amendments of 1978 (12 U.S.C.
11 635a–2 and 635a–3) are hereby repealed.

12 (5) Section 206 of the Bank Export Services
13 Act (12 U.S.C. 635a–4) is hereby repealed.

14 (6) Sections 1 through 5 of Public Law 90–390
15 (12 U.S.C. 635j through 635n) are hereby repealed.

16 (7) Sections 641 through 647 of the Trade and
17 Development Enhancement Act of 1983 (12 U.S.C.
18 635o–635t) are hereby repealed.

19 (8) Section 534 of the Foreign Operations, Ex-
20 port Financing, and Related Programs Appropria-
21 tions Act, 1990 (12 U.S.C. 635g note; Public Law
22 101–167) is amended by striking subsection (d).

23 (9) Section 3302 of the Omnibus Trade and
24 Competitiveness Act of 1988 (12 U.S.C. 635i–3

1 note; Public Law 100–418) is amended by striking
2 subsection (a).

3 (10) Section 1105(a) of title 31, United States
4 Code, is amended by striking paragraph (34) and re-
5 designating the succeeding paragraphs of such sec-
6 tion as paragraphs (34) through (38), respectively.

7 (11) Section 9101(3) of title 31, United States
8 Code, is amended by striking subparagraph (C).

9 (c) ELIMINATION OF RELATED COMPENSATION PRO-
10 VISIONS.—

11 (1) POSITION AT LEVEL III.—Section 5314 of
12 title 5, United States Code, is amended by striking
13 the following item:

14 “President of the Export-Import Bank of Wash-
15 ington.”.

16 (2) POSITIONS AT LEVEL IV.—Section 5315 of
17 title 5, United States Code, is amended—

18 (A) by striking the following item:

19 “First Vice President of the Export-Import Bank of
20 Washington.”; and

21 (B) by striking the following item:

22 “Members, Board of Directors of the Export-Import
23 Bank of Washington.”.

1 (d) ELIMINATION OF OFFICE OF INSPECTOR GEN-
2 ERAL FOR THE BANK.—Section 12 of the Inspector Gen-
3 eral Act of 1978 (5 U.S.C. App.) is amended—

4 (1) in paragraph (1), by striking “the President
5 of the Export-Import Bank;”; and

6 (2) in paragraph (2), by striking “the Export-
7 Import Bank,”.

8 (e) EFFECTIVE DATE.—The repeals and amend-
9 ments made by this section shall take effect on the abolish-
10 ment date.

11 (f) REPORT TO THE CONGRESS ON OTHER AMEND-
12 MENTS TO FEDERAL STATUTE.—The Secretary shall sub-
13 mit to the Committee on Financial Services of the House
14 of Representatives and the Committee on Banking, Hous-
15 ing, and Urban Affairs of the Senate a written report that
16 contains suggestions for such other amendments to Fed-
17 eral statutes as may be necessary or appropriate as a re-
18 sult of this Act.

19 **SEC. 15. REFERENCES.**

20 Any reference in any other Federal law, Executive
21 order, rule, regulation, or delegation of authority, or any
22 document of or pertaining to a department or office from
23 which a function is transferred by this Act—

1 (1) to the head of such department or office is
2 deemed to refer to the head of the department or of-
3 fice to which the function is transferred; or

4 (2) to such department or office is deemed to
5 refer to the department or office to which the func-
6 tion is transferred.

7 **SEC. 16. DEFINITIONS.**

8 In this Act:

9 (1) **FUNCTION.**—The term “function” includes
10 any duty, obligation, power, authority, responsibility,
11 right, privilege, activity, or program.

12 (2) **OFFICE.**—The term “office” includes any
13 office, administration, agency, bureau, institute,
14 council, unit, organizational entity, or component
15 thereof.

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