

HR 712

Sunshine for Regulations and Regulatory Decrees and Settlements Act of 2016

Congress: 114 (2015–2017, Ended)

Chamber: House

Policy Area: Government Operations and Politics

Introduced: Feb 4, 2015

Current Status: Received in the Senate and Read twice and referred to the Committee on the Judiciary.

Latest Action: Received in the Senate and Read twice and referred to the Committee on the Judiciary. (Jan 11, 2016)

Official Text: <https://www.congress.gov/bill/114th-congress/house-bill/712>

Sponsor

Name: Rep. Collins, Doug [R-GA-9]

Party: Republican • **State:** GA • **Chamber:** House

Cosponsors (22 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Chabot, Steve [R-OH-1]	R · OH		Feb 4, 2015
Rep. Ellmers, Renee L. [R-NC-2]	R · NC		Feb 4, 2015
Rep. Farenthold, Blake [R-TX-27]	R · TX		Feb 4, 2015
Rep. Goodlatte, Bob [R-VA-6]	R · VA		Feb 4, 2015
Rep. Latta, Robert E. [R-OH-5]	R · OH		Feb 4, 2015
Rep. Marino, Tom [R-PA-10]	R · PA		Feb 4, 2015
Rep. Smith, Lamar [R-TX-21]	R · TX		Feb 4, 2015
Rep. Trott, David A. [R-MI-11]	R · MI		Feb 4, 2015
Rep. Yoho, Ted S. [R-FL-3]	R · FL		Feb 4, 2015
Rep. Huelskamp, Tim [R-KS-1]	R · KS		Feb 24, 2015
Rep. Barr, Andy [R-KY-6]	R · KY		Feb 25, 2015
Rep. Carter, Earl L. "Buddy" [R-GA-1]	R · GA		Feb 27, 2015
Rep. Cramer, Kevin [R-ND-At Large]	R · ND		Mar 10, 2015
Rep. Hartzler, Vicky [R-MO-4]	R · MO		Mar 24, 2015
Rep. Gohmert, Louie [R-TX-1]	R · TX		Mar 26, 2015
Rep. Gosar, Paul A. [R-AZ-4]	R · AZ		Apr 22, 2015
Rep. Tipton, Scott R. [R-CO-3]	R · CO		Apr 22, 2015
Rep. Pearce, Stevan [R-NM-2]	R · NM		Apr 28, 2015
Rep. Stewart, Chris [R-UT-2]	R · UT		Apr 29, 2015
Rep. Crawford, Eric A. "Rick" [R-AR-1]	R · AR		Jun 1, 2015
Rep. Rouzer, David [R-NC-7]	R · NC		Jun 17, 2015
Rep. Babin, Brian [R-TX-36]	R · TX		Jun 19, 2015

Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	House	Discharged from	Mar 23, 2015
Judiciary Committee	Senate	Referred To	Jan 11, 2016

Subjects & Policy Tags

Policy Area:

Government Operations and Politics

Related Bills

Bill	Relationship	Last Action
114 S 3547	Related bill	Dec 9, 2016: Read twice and referred to the Committee on Homeland Security and Governmental Affairs.
114 HRES 580	Related bill	Jan 6, 2016: Motion to reconsider laid on the table Agreed to without objection.
114 S 378	Identical bill	Feb 4, 2015: Read twice and referred to the Committee on the Judiciary. (Sponsor introductory remarks on measure: CR S777-778; text of measure as introduced: CR S778-779)

Sunshine for Regulations and Regulatory Decrees and Settlements Act of 2016

TITLE I--SUNSHINE FOR REGULATORY DECREES AND SETTLEMENTS

Sunshine for Regulations and Regulatory Decrees and Settlements Act of 2016

(Sec. 102) This Act defines: (1) "covered civil action" as a civil action seeking to compel agency action and alleging that an agency is unlawfully withholding or unreasonably delaying an agency action relating to a regulatory action that would affect the rights of private persons other than the person bringing the action or a state, local, or tribal government; and (2) "covered consent decree" or "covered settlement agreement" as a consent decree or settlement agreement entered into in a covered civil action and any other consent decree or settlement agreement that requires agency action relating to a regulatory action that affects the rights of private persons other than the person bringing the action or a state, local, or tribal government.

(Sec. 103) An agency against which a covered civil action is brought must publish the notice of intent to sue and the complaint in a readily accessible manner, including by making such notice and complaint available online not later than 15 days after receiving service of such notice or complaint.

The opportunity for affected parties to intervene in a covered civil action must conclude before a covered consent decree or settlement agreement may be entered by a court.

The Act sets forth factors that a court must consider in granting a motion to intervene in a covered civil action or a civil action in which a covered consent decree or settlement agreement has been proposed. If the court grants intervention, it must conduct mediation or arbitration to settle a covered civil action and include any party that intervenes in the action.

The agency seeking to enter a covered consent decree or settlement agreement shall publish online and in the Federal Register, not later than 60 days before it is filed with the court, the proposed covered consent decree or settlement agreement and a statement providing the statutory basis for the decree or agreement and a description of its terms. The agency shall accept public comments during that period and may hold public hearings on whether to enter into a proposed covered consent decree or settlement agreement.

The Department of Justice (DOJ) or an agency head, if an agency is litigating a matter independently, must certify to the court that DOJ or the agency head approves of: (1) any proposed covered consent decree that includes terms that convert into a nondiscretionary duty a discretionary authority of an agency to propose, promulgate, revise, or amend regulations, that commit an agency to expend funds that have not been appropriated and budgeted or to seek a particular appropriation or budget authorization, that divest an agency of discretion committed to it by statute or the Constitution, or that otherwise afford any relief that the court could not enter under its own authority; or (2) any proposed covered settlement agreement that includes terms that provide a remedy for a failure by the agency to comply with the terms of the agreement other than the revival of the civil action resolved by the agreement, that interfere with the authority of an agency to revise, amend, or issue rules, or that commit the agency to expend funds that have not been appropriated and budgeted or to exercise in a particular way discretion which was committed to the agency by statute or the Constitution.

A court considering a covered consent decree or settlement agreement must adopt a rebuttable presumption favoring participation of parties as amicus curiae and must ensure that a decree or agreement allows sufficient time and incorporates adequate procedures for agencies to comply with requirements of the Administrative Procedure Act and

other applicable statutes that govern rulemaking and, unless contrary to the public interest, any executive order that governs rulemaking.

Each agency must submit to Congress an annual report that includes: (1) the number, identity, and content of covered civil actions brought against, and covered consent decrees or settlement agreements entered against or into by, the agency; and (2) any award of attorneys fees or costs in a civil action resolved by a covered consent decree or settlement agreement entered against or into by the agency.

(Sec. 104) A court must grant de novo review of a covered consent decree or settlement agreement if an agency files a motion to modify such decree or agreement on the basis that its terms are no longer fully in the public interest due to the agency's obligations to fulfill other duties or due to changed facts and circumstances.

(Sec. 105) This Act is applicable to: (1) any covered civil action filed on or after its enactment date, and (2) any covered consent decree or settlement agreement proposed to a court on or after such date.

TITLE II--ALL ECONOMIC REGULATIONS ARE TRANSPARENT

All Economic Regulations are Transparent Act of 2016 or the ALERT Act of 2016

(Sec. 202) This Act requires each federal agency to submit a monthly report to the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) for each rule such agency expects to propose or finalize during the following year. Such reports shall include: (1) a summary of the nature of the rule, including the regulation identifier and docket number for the rule; (2) the objectives of and legal basis for issuance of the rule; (3) the stage of the rulemaking as of the date of submission; and (4) whether the rule is subject to periodic review as a rule with a significant economic impact.

Each agency must submit a monthly report for any rule expected to be finalized during the following year for which the agency has issued a general notice of proposed rulemaking. Such reports must include an approximate schedule for completing action on the rule and an estimate of its cost and economic effects, including the imposition of unfunded mandates and impact on job creation. OIRA must make such monthly reports publicly available on the Internet.

OIRA must publish in the Federal Register, not later than October 1 of each year: (1) information that OIRA receives from each agency; (2) the number of rules and a list of each such rule that was proposed by each agency and each rule that was finalized by each agency; (3) the number of agency actions that repealed a rule, reduced the scope or cost of a rule, or accelerated the expiration date of a rule; (4) the total cost of all rules proposed or finalized; (5) the total costs of any unfunded mandates imposed by such rules; and (6) the number of rules for which an estimate of the cost of the rule was not available.

OIRA must make publicly available on the Internet, not later than October 1 of each year: (1) the analysis of the costs or benefits of each proposed or final rule issued by an agency for the previous year, (2) the docket number and regulation identifier number for each such rule, (3) the number of rules reviewed by OMB for the previous year, (4) the number of rules for which a review by the head of an agency was completed, (5) the number of rules submitted to the Government Accountability Office, and (6) the number of rules for which a resolution of disapproval was introduced in Congress.

A rule may not take effect until the information required by this Act is posted on the Internet for not less than six months, unless the agency proposing the rule seeks an exemption under the Freedom of Information Act or the President determines by executive order that such rule is necessary: (1) because of an imminent threat to health or safety or other

emergency, (2) for the enforcement of criminal laws, (3) for national security, or (4) to implement an international trade agreement. This requirement is effective eight months after the enactment date of this Act.

TITLE III--PROVIDING ACCOUNTABILITY THROUGH TRANSPARENCY

Providing Accountability Through Transparency Act of 2016

(Sec. 302) This Act requires the general notice of proposed rule making by a federal agency to include the Internet address of a plain-language summary, not exceeding 100 words, of the proposed rule, which shall be posted on the regulations.gov website.

Actions Timeline

- **Jan 11, 2016:** Received in the Senate and Read twice and referred to the Committee on the Judiciary.
- **Jan 7, 2016:** Considered under the provisions of rule H. Res. 580. (consideration: CR H123-145)
- **Jan 7, 2016:** Resolution provides for consideration of H.R. 712 and H.R. 1155.
- **Jan 7, 2016:** House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 580 and Rule XVIII.
- **Jan 7, 2016:** The Speaker designated the Honorable Mike Bost to act as Chairman of the Committee.
- **Jan 7, 2016:** GENERAL DEBATE - The Committee of the Whole proceeded with one hour of general debate on H.R. 712.
- **Jan 7, 2016:** DEBATE - Pursuant to the provisions of H. Res. 580, the Committee of the Whole proceeded with 10 minutes of debate on the Marino Part A amendment No. 1.
- **Jan 7, 2016:** DEBATE - Pursuant to the provisions of H. Res. 580, the Committee of the Whole proceeded with 10 minutes of debate on the Johnson (GA) Part A amendment No. 2.
- **Jan 7, 2016:** DEBATE - Pursuant to the provisions of H. Res. 580, the Committee of the Whole proceeded with 10 minutes of debate on the Cummings Part A amendment No. 3.
- **Jan 7, 2016:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Cummings amendment, the Chair put the question on adoption of the amendment and by voice vote announced that the noes had prevailed. Mr. Cummings demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Jan 7, 2016:** DEBATE - Pursuant to the provisions of H. Res. 580, the Committee of the Whole proceeded with 10 minutes of debate on the Lynch Part A amendment No. 4.
- **Jan 7, 2016:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Lynch amendment, the Chair put the question on adoption of the amendment and by voice vote announced that the noes had prevailed. Mr. Lynch demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Jan 7, 2016:** DEBATE - Pursuant to the provisions of H. Res. 580, the Committee of the Whole proceeded with 10 minutes of debate on the Foxx Part A amendment No. 5.
- **Jan 7, 2016:** DEBATE - Pursuant to the provisions of H. Res. 580, the Committee of the Whole proceeded with 10 minutes of debate on the Johnson (GA) Part A amendment No. 6.
- **Jan 7, 2016:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Johnson (GA) amendment, the Chair put the question on adoption of the amendment and by voice vote announced that the noes had prevailed. Mr. Johnson (GA) demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Jan 7, 2016:** DEBATE - Pursuant to the provisions of H. Res. 580, the Committee of the Whole proceeded with 10 minutes of debate on the Cummings Part A amendment No. 7.
- **Jan 7, 2016:** UNFINISHED BUSINESS - The Chair announced that the unfinished business was the question on adoption of amendments which had been debated earlier and on which further proceedings had been postponed.
- **Jan 7, 2016:** The House rose from the Committee of the Whole House on the state of the Union to report H.R. 712.
- **Jan 7, 2016:** The previous question was ordered pursuant to the rule. (consideration: CR H143)
- **Jan 7, 2016:** The House adopted the amendment in the nature of a substitute as agreed to by the Committee of the Whole House on the state of the Union. (text of amendment in the nature of a substitute: CR H133-135)
- **Jan 7, 2016:** Ms. Kelly (IL) moved to recommit with instructions to the Committee on the Judiciary. (consideration: CR H143-145; text of the motion: CR H143)
- **Jan 7, 2016:** DEBATE - The House proceeded with 10 minutes of debate on the Kelly (IL) of motion to recommit with instructions. The instructions contained in the motion seek to report the same back to the House forthwith with an amendment to ensure that the underlying bill would not apply to any rule that pertains to protecting Americans from gun violence, particularly in school zones or other vulnerable areas.
- **Jan 7, 2016:** The previous question on the motion to recommit with instructions was ordered without objection. (consideration: CR H144)
- **Jan 7, 2016:** On motion to recommit with instructions Failed by recorded vote: 171 - 244 (Roll no. 11).
- **Jan 7, 2016:** Passed/agreed to in House: On passage Passed by recorded vote: 244 - 173 (Roll no. 12).
- **Jan 7, 2016:** On passage Passed by recorded vote: 244 - 173 (Roll no. 12).
- **Jan 7, 2016:** Motion to reconsider laid on the table Agreed to without objection.

Jan 5, 2016: Rules Committee Resolution H. Res. 580 Reported to House. Resolution provides for consideration of H.R. 712 and H.R. 1155.

- **Jun 25, 2015:** Reported by the Committee on Judiciary. H. Rept. 114-184.
- **Jun 25, 2015:** Placed on the Union Calendar, Calendar No. 136.
- **Mar 24, 2015:** Committee Consideration and Mark-up Session Held.
- **Mar 24, 2015:** Ordered to be Reported by the Yeas and Nays: 20 - 11.
- **Mar 23, 2015:** Subcommittee on Regulatory Reform, Commercial And Antitrust Law Discharged.
- **Mar 2, 2015:** Subcommittee Hearings Held.
- **Feb 27, 2015:** Referred to the Subcommittee on Regulatory Reform, Commercial And Antitrust Law.
- **Feb 4, 2015:** Introduced in House
- **Feb 4, 2015:** Referred to the House Committee on the Judiciary.