

117TH CONGRESS
1ST SESSION

H. R. 3045

To provide limitations for Federal agencies entering into settlement agreements and consent decrees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2021

Mr. GOOD of Virginia (for himself, Mr. BUDD, Mr. PERRY, and Mr. BIGGS) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide limitations for Federal agencies entering into settlement agreements and consent decrees, 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 “No Regulation
5 Through Litigation Act of 2021”.

6 **SEC. 2. SETTLEMENT AGREEMENTS AND CONSENT DE-**
7 **CREES.**

8 (a) **LIMITATION ON CONSENT DECREES.**—The head
9 of a Federal agency may not enter into a consent decree

1 that exceeds the authority of the court that enters the
2 order related to such decree.

3 (b) LIMITATION ON ATTORNEYS' FEES AND LITIGA-
4 TION COSTS.—A settlement agreement or consent decree
5 resulting in a regulation or guidance document with re-
6 spect to which a Federal agency is a party may not include
7 the payment of attorneys' fees or litigation costs.

8 (c) DEFINITIONS.—In this Act:

9 (1) GUIDANCE DOCUMENT.—The term “guid-
10 ance document”—

11 (A) means an agency statement of general
12 applicability (other than a regulation that has
13 the force and effect of law promulgated in ac-
14 cordance with the notice and public procedure
15 under section 553 of title 5, United States
16 Code) that—

17 (i) does not have the force and effect
18 of law; and

19 (ii) sets forth—

20 (I) an agency decision or a policy
21 on a statutory, regulatory, or tech-
22 nical issue; or

23 (II) an interpretation of a statu-
24 tory or regulatory issue; and

25 (B) may include—

- 1 (i) a memorandum;
- 2 (ii) a notice;
- 3 (iii) a bulletin;
- 4 (iv) a directive;
- 5 (v) a news release;
- 6 (vi) a letter;
- 7 (vii) a blog post;
- 8 (viii) a no-action letter;
- 9 (ix) a speech by an agency official;
- 10 (x) an advisory;
- 11 (xi) a manual;
- 12 (xii) a circular; or
- 13 (xiii) any combination of the items de-
- 14 scribed in clauses (i) through (xii).

15 (2) REGULATION.—The term “regulation”—

16 (A) means an agency statement of general
17 applicability and future effect, which the agency
18 intends to have the force and effect of law, that
19 is designed to implement, interpret, or prescribe
20 law or policy or to describe the procedure or
21 practice requirements of an agency;

22 (B) includes regulations issued pursuant
23 to—

- 24 (i) an informal rulemaking under sec-
- 25 tion 553 of title 5, United States Code;

1 (ii) a formal rulemaking under sec-
2 tions 556 and 557 of title 5, United States
3 Code; and

4 (iii) any combination of the informal
5 rulemaking described in clause (i) and the
6 formal rulemaking described in clause (ii);
7 and

8 (C) does not include—

9 (i) regulations that pertain to a mili-
10 tary or foreign affairs function of the
11 United States, other than procurement
12 regulations and regulations involving the
13 import or export of non-defense articles
14 and services;

15 (ii) regulations or regulations that are
16 limited to agency organization, manage-
17 ment, or personnel matters; or

18 (iii) any other category of regulations
19 exempted by the Administrator of Office of
20 Information and Regulatory Affairs.

21 (d) SEVERABILITY.—If any provision of this Act or
22 the application of any provision of this Act to any person
23 or circumstance, is held invalid, the application of such

1 provision to other persons or circumstances, and the re-
2 mainder of this Act, shall not be affected thereby.

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