

114TH CONGRESS
2D SESSION

H. R. 6488

To amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to remove the exemption from registration for certain private activity bonds, to authorize the Securities and Exchange Commission to require the preparation of periodic reports by issuers of municipal securities, to authorize the Securities and Exchange Commission to establish baseline mandatory disclosure in primary offerings of such securities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 2016

Ms. MOORE introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to remove the exemption from registration for certain private activity bonds, to authorize the Securities and Exchange Commission to require the preparation of periodic reports by issuers of municipal securities, to authorize the Securities and Exchange Commission to establish baseline mandatory disclosure in primary offerings of such securities, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Municipal Securities
3 Disclosure Act of 2016”.

4 **SEC. 2. CERTAIN PRIVATE ACTIVITY BONDS SUBJECT TO**
5 **REGISTRATION.**

6 Section 3(a)(2) of the Securities Act of 1933 (15
7 U.S.C. 77c(a)(2)) is amended by striking “or any security
8 which is an industrial development bond” and all that fol-
9 lows through “section 103(c) does not apply to such secu-
10 rity;”.

11 **SEC. 3. MUNICIPAL SECURITIES DISCLOSURE.**

12 (a) IN GENERAL.—Section 15B of the Securities Ex-
13 change Act of 1934 (15 U.S.C. 78o–4) is amended—

14 (1) in subsection (e)(8), by inserting after “mu-
15 nicipal corporate instrumentality of a State” the fol-
16 lowing: “or of a political subdivision of a State”; and

17 (2) by adding at the end the following:

18 “(f) MUNICIPAL SECURITIES DISCLOSURE.—

19 “(1) PERIODIC REPORTS AND REPORTS OF CER-
20 TAIN ENUMERATED EVENTS.—

21 “(A) IN GENERAL.—Any issuer of, or obli-
22 gated person with respect to, municipal securi-
23 ties which has outstanding during any portion
24 of a fiscal year an aggregate principal amount
25 of municipal securities exceeding such sums as
26 determined by the Commission shall prepare

1 annual periodic reports and, in a timely man-
2 ner, reports of certain enumerated events, as
3 defined by rule or regulation of the Commis-
4 sion, in such form and in such time periods as
5 the Commission may prescribe as being nec-
6 essary or appropriate in the public interest or
7 for the protection of investors.

8 “(B) DEADLINE.—The Commission shall
9 determine the deadline for when a periodic re-
10 port described under subparagraph (A) shall be
11 prepared.

12 “(C) AUTHORITY TO SCALE REQUIRE-
13 MENTS.—In issuing rules to carry out subpara-
14 graphs (A) and (B), the Commission may set
15 different requirements for different classes of
16 issuers or other obligated persons, including for
17 issuers or other obligated persons of different
18 sizes, as appropriate.

19 “(2) OFFICIAL STATEMENTS FOR PRIMARY OF-
20 FERINGS.—

21 “(A) IN GENERAL.—It shall be unlawful
22 for any issuer of, or obligated person with re-
23 spect to, municipal securities that offers or sells
24 an issue of municipal securities in a public of-
25 fering, the aggregate principal amount of which

1 exceeds an amount to be determined by the
2 Commission, to make use of the mails or any
3 means or instrumentality of interstate com-
4 merce to effect any transaction in, or to induce
5 or attempt to induce the purchase or sale of,
6 any municipal security unless such issuer or
7 other obligated person, prior to the offer or
8 sale, prepares and disseminates an official
9 statement in accordance with such rules and
10 regulations as the Commission may prescribe as
11 being necessary or appropriate in the public in-
12 terest or for the protection of investors.

13 “(B) CONTENTS.—The official statement
14 described in subparagraph (A) shall contain
15 such information as the Commission may, in its
16 discretion, by rule or regulation prescribe, in-
17 cluding—

18 “(i) an identification and description
19 of the issuer of, or any other obligated per-
20 son with respect to, the securities being of-
21 fered;

22 “(ii) a description of any legal limita-
23 tion on the incurrence of indebtedness by
24 the issuer, other obligated person, or the
25 taxing authority of the issuer;

1 “(iii) a description of the issuer’s or
2 other obligated person’s debt structure, in-
3 cluding information with respect to
4 amounts of authorized and outstanding
5 debt, estimated amount of short-term debt,
6 character of amortization provisions of
7 debt, sinking fund requirements, security
8 for debt, nature and extent of guaranteed
9 debt, and debt service requirements;

10 “(iv) a description of the nature and
11 extent of other material contingent liabil-
12 ities or commitments of the issuer or other
13 obligated person that could affect timely
14 repayment of the subject debt, including
15 any loans or alternative financings;

16 “(v) if any payment of principal or in-
17 terest on any security of the issuer or any
18 predecessor thereof has been defaulted on,
19 or has been postponed or delayed, during
20 the 10 years preceding the date of the offi-
21 cial statement, a description of the date,
22 amounts, and circumstances of such de-
23 fault, postponement, or delay and of the
24 terms of any succeeding arrangements
25 thereof;

1 “(vi) if the securities are supported by
2 taxes (including special assessments or
3 payments in lieu of taxes)—

4 “(I) a description of the issuer’s
5 or other obligated person’s tax author-
6 ity and structure relating to the spe-
7 cific tax or taxes that serve as secu-
8 rity for the debt over the 5 years pre-
9 ceding the date of the official state-
10 ment, including the nature of taxes
11 levied, tax rates, real and personal
12 property valuation and assessment
13 procedures, amounts of property valu-
14 ations and assessments, amounts of
15 tax levies, amounts of tax collections,
16 and delinquent tax procedures and ex-
17 perience;

18 “(II) if the applicable taxes have
19 not been levied as of the date of the
20 official statement, an estimate of the
21 future tax revenues during the term
22 of the securities, including the basis
23 for such estimate; and

24 “(III) a description of the
25 issuer’s or other obligated person’s

1 major taxpayers relating to the spe-
2 cific tax or taxes that serve as secu-
3 rity for the debt;

4 “(vii) if material to the type of debt
5 being offered, the financial statements of
6 the issuer or other obligated person—

7 “(I) in such detail and form, and
8 for such periods beginning not earlier
9 than the 5th fiscal year of the issuer
10 or other obligated person ending be-
11 fore the date of the official statement,
12 as the Commission may prescribe; and

13 “(II) for any fiscal year begin-
14 ning on or after December 31, 2015,
15 that are audited and reported on by
16 an independent public, or certified ac-
17 countant or examiner from an inde-
18 pendent State agency authorized by
19 law to perform such functions, in such
20 manner as the Commission may pre-
21 scribe;

22 “(viii) a description of the offering,
23 including amount to be offered, price, plan
24 of distribution, and underwriting arrange-
25 ments and compensation;

1 “(ix) a description of the securities to
2 be offered, including whether the securities
3 are secured by collateral or property, or
4 other credit enhancements, events of de-
5 fault, payment of principal and interest,
6 sinking fund, redemption, debt reserve
7 funds, priority, and rights of security hold-
8 ers to bring suit against the issuer or other
9 obligated person;

10 “(x) a description of any project or
11 enterprise of the issuer or other obligated
12 person to be financed from the proceeds of
13 the securities being offered, a description
14 of the competitive environment for such
15 project or enterprise, including any major
16 changes in such competitive environment
17 in the last 10 years, any engineering or fi-
18 nancial feasibility reports or studies on the
19 construction and operation of the project
20 or enterprise, and a description of any ad-
21 ditional financing required to complete the
22 project or enterprise, including whether
23 and when such additional financing has
24 been, or will be, procured;

1 “(xi) a description of the intended use
2 of the proceeds of the offering;

3 “(xii) a statement of counsel’s opinion
4 as to the legality, validity, and enforce-
5 ability of the issuance of the securities to
6 be offered;

7 “(xiii) a description of any material
8 conflicts of interest of the issuer or other
9 obligated person, and any other party in-
10 volved in the offering; and

11 “(xiv) such other similar and specific
12 information as the Commission may by
13 rule or regulation require as necessary or
14 appropriate in the public interest or for the
15 protection of investors.

16 “(C) PRELIMINARY FORM OF CERTAIN IN-
17 FORMATION.—In the case of an official state-
18 ment prepared for an issue of municipal securi-
19 ties before any sale of such issue, the informa-
20 tion specified in clauses (viii) and (ix) of sub-
21 paragraph (B) may be set forth in preliminary
22 form.

23 “(3) FORM OF INFORMATION AND ACCOUNTING
24 METHODS.—The Commission may—

1 “(A) prescribe, for reports and official
2 statements prepared pursuant to this sub-
3 section, the form in which the required informa-
4 tion, including financial statements, shall be set
5 forth, and the accounting methods to be fol-
6 lowed in the preparation of financial state-
7 ments; or

8 “(B) recognize forms for such information
9 and accounting methods for such financial
10 statements that are established by a standard
11 setting body recognized by the Commission.

12 “(4) INTERNAL CONTROLS AND SYSTEMS FOR
13 LARGE ISSUERS.—

14 “(A) IN GENERAL.—Any issuer of, or
15 other obligated person with respect to, munic-
16 ipal securities with outstanding municipal secu-
17 rities the aggregate principal amount of which
18 exceeds \$10,000,000 shall adopt internal con-
19 trols and systems, including written policies and
20 procedures that, at a minimum—

21 “(i) clearly identify the officials re-
22 sponsible for each aspect of disclosure de-
23 scribed in paragraph (2)(B);

1 “(ii) clearly state the process by which
2 official statements described by paragraph
3 (2)(A) are drafted and reviewed; and

4 “(iii) provide checks and balances to
5 ensure adequate supervision and reason-
6 able disbursement of responsibilities.

7 “(B) STATEWIDE SYSTEMS.—The Commis-
8 sion may provide by rule that the provisions of
9 this paragraph may be satisfied with respect to
10 an issuer or other obligated person within a
11 State by a statewide system of disclosure con-
12 trols and disclosure education for such State.”.

13 (b) SAFE HARBOR FOR FORWARD-LOOKING STATE-
14 MENTS.—Section 21E(a) of the Securities Exchange Act
15 of 1934 (15 U.S.C. 78u–5(a)) is amended—

16 (1) by redesignating paragraphs (2), (3), and
17 (4) as paragraphs (3), (4), and (5), respectively;

18 (2) by inserting after paragraph (1) the fol-
19 lowing:

20 “(2) an issuer or other obligated person that is
21 subject to and in compliance with the requirements
22 of section 15B(f);”;

23 (3) in paragraph (3), as so redesignated, by
24 striking “such issuer” and inserting “an issuer or

1 other obligated person described in paragraph (1) or
2 (2)”;

3 (4) in paragraph (4), as so redesignated, by
4 striking “such issuer making a statement on behalf
5 of such issuer” and inserting “an issuer or other ob-
6 ligated person described in paragraph (1) or (2)
7 making a statement on behalf of such issuer or other
8 obligated person”; and

9 (5) in paragraph (5), as so redesignated, by
10 striking “such issuer or information derived from in-
11 formation provided by such issuer” and inserting
12 “an issuer or other obligated person described in
13 paragraph (1) or (2) or information derived from in-
14 formation provided by such issuer or other obligated
15 person”.

16 (c) CONFORMING AMENDMENTS.—

17 (1) DEFINITION OF EXEMPTED SECURITY.—
18 Section 3(a)(12)(B)(ii) of the Securities Exchange
19 Act of 1934 (15 U.S.C. 78c(a)(12)(B)(ii)) is amend-
20 ed by striking “sections 15 and 17A” and inserting
21 “sections 15, 15B(f) and 17A”.

22 (2) AUTHORITY TO EXEMPT ISSUERS.—Section
23 12(h) of the Securities Exchange Act of 1934 (15
24 U.S.C. 78l(h)) is amended by striking “or 15(d)”
25 and inserting “15(d), or 15B(f)”.

1 **SEC. 4. EFFECTIVE DATE.**

2 Each amendment made by this Act shall take effect
3 on the date that the Securities and Exchange Commis-
4 sion—

5 (1) determines is appropriate in the public in-
6 terest and for the protection of investors; and

7 (2) notifies the Congress of such determination.

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