

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5402

To amend the Clayton Act and the Federal Trade Commission Act to provide that the Federal Trade Commission shall exercise authority with respect to mergers only under the Clayton Act and only in the same procedural manner as the Attorney General exercises such authority.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2014

Mr. FARENTHOLD introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Clayton Act and the Federal Trade Commission Act to provide that the Federal Trade Commission shall exercise authority with respect to mergers only under the Clayton Act and only in the same procedural manner as the Attorney General exercises such authority.

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 “Standard Merger and  
5        Acquisition Reviews Through Equal Rules Act of 2014”.

6        **SEC. 2. AMENDMENTS TO THE CLAYTON ACT.**

7        The Clayton Act (15 U.S.C. 12 et seq.) is amended—

1 (1) in section 4F—

2 (A) in the heading by inserting “OR THE  
3 FEDERAL TRADE COMMISSION” after “UNITED  
4 STATES”,

5 (B) in subsection (a)—

6 (i) by inserting “(or the Federal  
7 Trade Commission with respect to a viola-  
8 tion of section 7)” after “United States”,  
9 and

10 (ii) by inserting “(or it)” after “he”  
11 each place it appears, and

12 (C) in subsection (b) by inserting “(or the  
13 Federal Trade Commission with respect to a  
14 violation of section 7)” after “United States”,

15 (2) in section 5—

16 (A) in subsection (a) by inserting “(includ-  
17 ing a proceeding brought by the Federal Trade  
18 Commission with respect to a violation of sec-  
19 tion 7)” after “United States”,

20 (B) in subsection (b) by inserting “(includ-  
21 ing the Federal Trade Commission with respect  
22 to a violation of section 7)” after “United  
23 States” each place it appears,

24 (C) in subsection (c) by inserting “(includ-  
25 ing the Federal Trade Commission with respect

1 to a violation of section 7)” after “United  
2 States” each place it appears,

3 (D) in subsection (d) by inserting “(includ-  
4 ing the Federal Trade Commission with respect  
5 to a violation of section 7)” after “United  
6 States” each place it appears,

7 (E) in subsection (e)(1) by inserting “(in-  
8 cluding the Federal Trade Commission with re-  
9 spect to a violation of section 7)” after “United  
10 States”,

11 (F) in subsection (f)(4) by inserting “(in-  
12 cluding the Federal Trade Commission with re-  
13 spect to a violation of section 7)” after “United  
14 States”,

15 (G) in subsection (g)—

16 (i) by inserting “(including the Fed-  
17 eral Trade Commission with respect to a  
18 violation of section 7)” after “United  
19 States”,

20 (ii) by inserting “(or the Federal  
21 Trade Commission)” after “General”, and

22 (iii) by inserting “(or any officer or  
23 employee of the Federal Trade Commis-  
24 sion)” after “Justice”, and

1 (H) in subsection (i) by inserting “(includ-  
2 ing the Federal Trade Commission with respect  
3 to a violation of section 7)” after “United  
4 States”,

5 (3) in section 11(a) by inserting “(excluding en-  
6 forcing compliance with section 7)” after “com-  
7 merce”,

8 (4) in section 13 by inserting “(including the  
9 Federal Trade Commission with respect to a viola-  
10 tion of section 7)” after “United States” the 1st  
11 place it appears, and

12 (5) in section 15 by inserting “and the duty of  
13 the Federal Trade Commission with respect to a vio-  
14 lation of section 7,” after “General,”.

15 **SEC. 3. AMENDMENTS TO THE FEDERAL TRADE COMMIS-**  
16 **SION ACT.**

17 The Federal Trade Commission Act (15 U.S.C. 41)  
18 is amended—

19 (1) in section 5(b)—

20 (A) by inserting “(excluding the con-  
21 summation of a proposed merger, acquisition,  
22 joint venture, or similar transaction subject to  
23 section 7 of the Clayton Act)” after “unfair  
24 method of competition”, and

1 (B) by inserting “(excluding the con-  
2 summation of a proposed merger, acquisition,  
3 joint venture, or similar transaction subject to  
4 section 7 of the Clayton Act)” after “method of  
5 competition” the 2d and 3d places it appears,  
6 (2) in section 9 by inserting after the 4th un-  
7 designated paragraph the following:

8 “Upon the application of the commission with respect  
9 to any activity related to the consummation of a proposed  
10 merger, acquisition, joint venture, or similar transaction  
11 subject to section 7 of the Clayton Act that may result  
12 in any unfair method of competition, the district courts  
13 of the United States shall have jurisdiction to issue writs  
14 of mandamus commanding any person or corporation to  
15 comply with the provisions of this Act or any order of the  
16 commission made in pursuance thereof.”, and

17 (3) in section 13(b)(1) by inserting “(excluding  
18 section 7 of the Clayton Act and section 5(a)(1) with  
19 respect to the consummation of a proposed merger,  
20 acquisition, joint venture, or similar transaction sub-  
21 ject to section 7 of the Clayton Act)” after “Com-  
22 mission”.

23 **SEC. 4. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

24 (a) EFFECTIVE DATE.—Except as provided in sub-  
25 section (b), this Act and the amendments made by this

1 Act shall take effect on the date of the enactment of this  
2 Act.

3 (b) APPLICATION OF AMENDMENTS.—The amend-  
4 ments made by this Act shall not apply to any of the fol-  
5 lowing that occurs before the date of enactment of this  
6 Act:

7 (1) A violation of section 7 of the Clayton Act  
8 (15 U.S.C. 18).

9 (2) A transaction with respect to which there is  
10 compliance with section 7A of the Clayton Act (15  
11 U.S.C. 18a).

12 (3) A merger, acquisition, joint venture, or  
13 similar transaction that is consummated.

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