

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

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WASHINGTON, D.C. 20062-2000
202/463-5310

March 23, 2015

The Honorable Bob Goodlatte
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Goodlatte and Ranking Member Conyers:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, urges you to support H.R. 712, the "Sunshine for Regulatory Decrees and Settlements Act of 2015," which would take important steps to stop the abusive practice known as "sue and settle."

Organizations sue federal agencies seeking to compel agencies to take specific actions, such as issuing new regulations. Behind closed doors, these organizations and agencies then enter into consent decrees or settlement agreements compelling the agencies to issue rules on an expedited timeframe. The states and the public are not given notice of the lawsuits, nor do they have a meaningful voice in the process, despite the adverse impact that rushed, sloppy regulations have on them.

The federal rulemaking process is governed by principles of open government and public participation. Through the practice of "sue and settle," good government principles are being circumvented to achieve the policy objectives of special interests. H.R. 712 would bring transparency and accountability to the "sue and settle" process in several important ways:

- Provide for greater transparency by requiring agencies to publicly post and report to Congress information on sue-and-settle complaints, consent decrees, and settlement agreements;
- Require that consent decrees and settlement agreements be filed only after interested parties have had the opportunity to intervene in the litigation and join settlement negotiations, and only after any proposed decree or settlement has been published for at least 60 days to provide for notice and comment; and
- Require courts considering approval of consent decrees and settlement agreements to account for public comments and compliance with regulatory process statutes and executive orders.

H.R. 712 recognizes that the public and regulated parties should not be excluded from participating in our regulatory system because of this "sue and settle" tactic.

The Chamber appreciates your consideration of H.R. 712, and requests a timely markup of this bill so that it may be placed before the full House for consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten". The signature is fluid and cursive, with the first name "R." being small and the last name "Josten" being larger and more prominent.

R. Bruce Josten

cc: Members of the Committee on the Judiciary