

109TH CONGRESS
2^D SESSION

H. R. 4814

To amend section 721 of the Defense Production Act of 1950 to suspend all proposed mergers, acquisitions, or takeovers by foreign persons until certain determinations are made.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2006

Mr. GARRETT of New Jersey introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Energy and Commerce and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend section 721 of the Defense Production Act of 1950 to suspend all proposed mergers, acquisitions, or takeovers by foreign persons until certain determinations are made.

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 “Safe and Accountable
5 Foreign Enterprises Proving Other Requirements To Se-
6 cure (SAFE PORTS) Act”.

1 **SEC. 2. MODIFICATION OF PROCEDURES FOR PROPOSED**
2 **MERGERS, ACQUISITIONS, OR TAKEOVERS BY**
3 **FOREIGN PERSONS.**

4 (a) SUSPENSION OF MERGERS, ACQUISITIONS, AND
5 TAKEOVERS.—Section 721(a) of the Defense Production
6 Act of 1950 (50 U.S.C. App. 2170(a) is amended—

7 (1) by striking—

8 “(a) INVESTIGATIONS.—The President” and insert-
9 ing

10 “(a) INVESTIGATIONS.—

11 “(1) IN GENERAL.—The President”; and

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

13 “(2) REQUIRED DETERMINATIONS.—No pro-
14 posed or pending merger, acquisition, or takeover to
15 which paragraph (1) applies may become effective
16 unless approved by the President or the President’s
17 designee, and no such merger, acquisition, or take-
18 over may be so approved unless the President has
19 determined that—

20 “(A) there is no credible evidence that
21 leads the President to believe that the foreign
22 interest that would exercise control of persons
23 engaged in interstate commerce in the United
24 States might take action that would threaten to
25 impair the national security of the United
26 States; and

1 “(B) provisions of law other than this sec-
2 tion and the International Emergency Economic
3 Powers Act (50 U.S.C. 1701–1706) provide
4 adequate and appropriate authority for the
5 President to protect the national security with
6 respect to the proposed merger, acquisition, or
7 takeover.

8 “(3) REQUIRED INVESTIGATION.—If the Presi-
9 dent is unable to make the determination required
10 under paragraph (2) with respect to a merger, ac-
11 quisition, or takeover, then an investigation shall be
12 made under subsection (b) with respect to that
13 merger, acquisition, or takeover.

14 “(4) JUDICIAL REVIEW.—Any determination of
15 the President under paragraph (2) is not subject to
16 judicial review.”.

17 (b) CONFORMING AMENDMENTS.—Section 721 of the
18 Defense Production Act of 1950 is amended—

19 (1) in subsection (d), by striking “Subject to
20 subsection (d), the” and inserting “The”;

21 (2) by striking subsection (e) and redesignating
22 subsections (f) through (k) as subsections (e)
23 through (j), respectively; and

24 (3) in subsection (f), as redesignated—

1 (A) in the heading, by striking “REPORT”
2 and inserting “REPORTS”;

3 (B) by striking “The President” and in-
4 sserting—

5 “(1) REPORTS OF ACTIONS TAKEN.—The Presi-
6 dent”;

7 (C) by striking “findings made under sub-
8 section (e) and the factors considered under
9 subsection (f)” and inserting “the factors con-
10 sidered under subsection (e)”; and

11 (D) by adding at the end the following:

12 “(2) QUARTERLY REPORTS.—

13 “(A) REPORTS.—Not later than the 30
14 days after the end of each calendar quarter, the
15 President shall transmit to the Congress a re-
16 port on the actions taken under subsection (a)
17 during that calendar quarter on all proposed
18 mergers, acquisitions, and takeovers.

19 “(B) DEFINITION.—In this paragraph, the
20 term ‘calendar quarter’ means the 3-month pe-
21 riod beginning on January 1, April 1, July 1,
22 and October 1 of each year.”.

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