

115TH CONGRESS
2D SESSION

H. R. 7365

To require the Federal Communications Commission to approve or deny a license transfer application within 180 days of submission, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 2018

Mr. FLORES (for himself, Mr. LONG, and Mr. GUTHRIE) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require the Federal Communications Commission to approve or deny a license transfer application within 180 days of submission, 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. TIME LIMITS FOR COMMISSION ACTION ON**
4 **TRANSFERS AND ASSIGNMENTS.**

5 Title IV of the Communications Act of 1934 (47
6 U.S.C. 401 et seq.) is amended by adding at the end the
7 following:

1 **“SEC. 417. TIME LIMITS FOR COMMISSION ACTION ON**
2 **TRANSFERS AND ASSIGNMENTS.**

3 “(a) DEFINITION.—In this section, the term ‘covered
4 application’ means an application for the transfer of con-
5 trol or assignment of any license or authorization subject
6 to the jurisdiction of the Commission.

7 “(b) REQUIREMENTS.—

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision of law, including section 309(e), the Com-
10 mission—

11 “(A) shall approve or deny a covered appli-
12 cation; and

13 “(B) may not designate a covered applica-
14 tion for hearing, unless the Commission first
15 determines by a majority vote that a material
16 factual question exists about misrepresentation
17 or lack of candor by the applicant.

18 “(2) DETERMINATION.—Except as provided in
19 paragraph (3), the Commission shall make a deter-
20 mination to approve or deny a covered application
21 during the period that begins on the date on which
22 the applicants provide to the Commission the last
23 submission relating to the application before the
24 Commission issues the initial public notice seeking
25 comment on the application and ends 180 days
26 thereafter.

1 “(3) EXTENSIONS.—

2 “(A) IN GENERAL.—

3 “(i) REQUEST.—During the 180-day
4 review period described under paragraph
5 (2)(A), the Commission may apply to the
6 United States District Court for the Dis-
7 trict of Columbia for an extension of that
8 period for an additional 30 days by filing
9 a motion to extend that references this sec-
10 tion.

11 “(ii) COURT DETERMINATION.—The
12 court may grant an extension of the 180-
13 day review period requested under clause
14 (i) if—

15 “(I) the court finds that the ap-
16 plicants for the transfer of control or
17 assignment have not substantially
18 complied in a timely manner with a
19 reasonable request by the Commission
20 for information;

21 “(II) the Commission shows, by
22 clear and convincing evidence, that
23 the Commission is unable to complete
24 review within the 180-day review pe-
25 riod; or

1 “(III) an Executive agency (as
2 defined in section 105 of title 5,
3 United States Code) has requested in
4 writing that the Commission delay a
5 determination pending the Executive
6 agency’s national security review of
7 the transfer of control or assignment.

8 “(B) ADDITIONAL EXTENSIONS.—The
9 Commission may request, and the court may
10 grant, additional 30-day extensions in the same
11 manner as an initial extension under subpara-
12 graph (A).

13 “(c) APPROVAL ABSENT COMMISSION ACTION.—

14 “(1) IN GENERAL.—A covered application shall
15 be deemed approved without conditions if the Com-
16 mission does not approve or deny the application or
17 apply for an extension during the applicable period
18 under subsection (b).

19 “(2) PENDING LITIGATION.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B), if the 180-day review period
22 under subsection (b)(2) has expired, the Com-
23 mission may not deny a covered application or
24 approve a covered application with conditions,
25 during the pendency of any litigation relating to

1 a request by the Commission for an extension
2 under subsection (b)(3) with respect to the cov-
3 ered application, including any time during
4 which a court has entered a stay pending ap-
5 peal or administrative stay of such litigation.

6 “(B) EXTENSION REQUEST DENIED AFTER
7 180-DAY REVIEW PERIOD.—If a request for an
8 extension under subsection (b)(3) is denied
9 after the expiration of the 180-day review pe-
10 riod under subsection (b)(2)—

11 “(i) the Commission shall make a de-
12 termination to approve or deny the covered
13 application not later than 10 days after the
14 date on which the extension request is de-
15 nied; and

16 “(ii) the covered application shall be
17 deemed approved without conditions if the
18 Commission does not approve or deny the
19 application during the 10-day period de-
20 scribed in clause (i).

21 “(d) BURDEN OF PERSUASION SHIFTED.—Notwith-
22 standing any other provision of law, including section 706
23 of title 5, United States Code, in a judicial appeal of a
24 Commission decision to deny a covered application, the

1 Commission shall bear the burden of persuasion to dem-
2 onstrate that the decision is—

3 “(1) permitted under applicable statutes and
4 regulations; and

5 “(2) supported by the required amount of fac-
6 tual evidence.”.

7 **SEC. 2. TECHNICAL AND CONFORMING AMENDMENT.**

8 Section 310(d) of the Communications Act of 1934
9 (47 U.S.C. 310(d)) is amended, in the second sentence,
10 by inserting before the semicolon the following: “, except
11 as otherwise provided in section 417”.

12 **SEC. 3. EFFECTIVE DATE.**

13 The amendment made by section 1 shall apply with
14 respect to any covered application that is submitted to the
15 Federal Communications Commission on or after the date
16 of the enactment of this Act.

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