

115TH CONGRESS  
1ST SESSION

# H. R. 796

To amend title 18, United States Code, to establish a uniform 5-year post-employment ban on the lobbying of any officer or employee of the executive branch or any Member, officer, or employee of Congress by former executive branch officials and former Members, officers, and employees of Congress, to establish a lifetime post-employment ban on lobbying on behalf of foreign governments by former senior executive branch officials, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2017

Mr. DESANTIS introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on House Administration, 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

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## A BILL

To amend title 18, United States Code, to establish a uniform 5-year post-employment ban on the lobbying of any officer or employee of the executive branch or any Member, officer, or employee of Congress by former executive branch officials and former Members, officers, and employees of Congress, to establish a lifetime post-employment ban on lobbying on behalf of foreign governments by former senior executive branch officials, 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. SHORT TITLE.**

4       This Act may be cited as the “Drain the Swamp Act  
 5       of 2017”.

6       **SEC. 2. 5-YEAR POST-EMPLOYMENT BAN ON LOBBYING OF**  
 7                       **EXECUTIVE AND LEGISLATIVE BRANCH BY**  
 8                       **ALL FORMER GOVERNMENT OFFICIALS.**

9       (a) 5-YEAR POST-EMPLOYMENT BAN ON LOBBYING  
 10      OF EXECUTIVE AND LEGISLATIVE BRANCH.—

11               (1) LOBBYING BY FORMER EXECUTIVE BRANCH  
 12      OFFICIALS.—

13               (A) IN GENERAL.—Paragraph (1) of sec-  
 14      tion 207(c) of title 18, United States Code, is  
 15      amended to read as follows:

16               “(1) RESTRICTIONS.—

17               “(A) IN GENERAL.—In addition to the re-  
 18      strictions set forth in subsections (a) and (b),  
 19      any person who is an officer or employee (in-  
 20      cluding any special Government employee) of  
 21      the executive branch of the United States (in-  
 22      cluding an independent agency), who is referred  
 23      to in paragraph (2), and who, within 5 years  
 24      after the termination of his or her service or  
 25      employment as such officer or employee, know-

1           ingly makes, with the intent to influence, any  
2           communication to or appearance before any in-  
3           dividual described in subparagraph (B) on be-  
4           half of any other person (except the United  
5           States) in connection with any matter on which  
6           such other person seeks official action by such  
7           individual, shall be punished as provided in sec-  
8           tion 216 of this title.

9           “(B) INDIVIDUALS DESCRIBED.—An indi-  
10          vidual described in this subparagraph is any of  
11          the following:

12               “(i) An officer or employee of the ex-  
13               ecutive branch of the United States (in-  
14               cluding an independent agency).

15               “(ii) A Member of Congress.

16               “(iii) An elected officer of the Senate  
17               or an employee of the Senate.

18               “(iv) An elected officer of the House  
19               of Representatives or an employee of the  
20               House of Representatives.

21               “(v) An employee of any other legisla-  
22               tive office of the Congress.”.

23           (B) DESCRIPTION OF FORMER EXECUTIVE  
24          BRANCH OFFICIALS SUBJECT TO BAN.—Sub-

1 paragraph (A) of section 207(c)(2) of such title  
2 is amended—

3 (i) by striking “or” at the end of  
4 clause (iv);

5 (ii) by striking the period at the end  
6 of clause (v) and inserting “; or”; and

7 (iii) by adding at the end the fol-  
8 lowing new clauses:

9 “(vi) serves in the position of Vice Presi-  
10 dent of the United States;

11 “(vii) is employed in a position in the exec-  
12 utive branch of the United States (including  
13 any independent agency) at a rate of pay pay-  
14 able for level I of the Executive Schedule or em-  
15 ployed in a position in the Executive Office of  
16 the President at a rate of pay payable for level  
17 II of the Executive Schedule; or

18 “(viii) is appointed by the President to a  
19 position under section 105(a)(2)(A) of title 3 or  
20 by the Vice President to a position under sec-  
21 tion 106(a)(1)(A) of title 3.”.

22 (C) ELIMINATION OF SEPARATE 2-YEAR  
23 BAN FOR SENIOR EXECUTIVE BRANCH OFFI-  
24 CIALS.—Section 207 of such title is amended by  
25 striking subsection (d).

1 (D) CONFORMING AMENDMENTS.—Section  
2 207 of such title is amended—

3 (i) in subparagraph (A) of subsection  
4 (c)(2), by striking “(other than a person  
5 subject to the restrictions of subsection  
6 (d))”;

7 (ii) by amending paragraph (3) of  
8 subsection (c) to read as follows:

9 “(3) MEMBERS OF THE INDEPENDENT PAY-  
10 MENT ADVISORY BOARD.—Paragraph (1) shall apply  
11 to a member of the Independent Payment Advisory  
12 Board under section 1899A of the Social Security  
13 Act.”;

14 (iii) in paragraph (9) of subsection  
15 (e), by striking “As used in this sub-  
16 section” and inserting “As used in this  
17 section”;

18 (iv) in paragraph (1) of subsection (f),  
19 by striking “subsection (c), (d), or (e)”  
20 and inserting “subsection (c) or (e)”;

21 (v) in subparagraph (A) of subsection  
22 (i)(1), by striking “subsections (a), (c),  
23 and (d),” and inserting “subsections (a)  
24 and (c),”;

1 (vi) in subsection (j), by striking  
 2 “subsections (c), (d), and (e)” each place  
 3 it appears in paragraph (2), subparagraph  
 4 (A) of paragraph (7), and subparagraph  
 5 (B)(ii) of paragraph (7); and  
 6 (vii) in paragraph (5) of subsection  
 7 (j), by striking “subsections (a), (c), and  
 8 (d)” and inserting “subsections (a) and  
 9 (c)”.

10 (2) LOBBYING BY FORMER MEMBERS AND EM-  
 11 PLOYEES OF CONGRESS AND OTHER LEGISLATIVE  
 12 BRANCH OFFICIALS.—

13 (A) IN GENERAL.—Section 207(e) of such  
 14 title is amended by striking paragraphs (1)  
 15 through (6) and inserting the following:

16 “(1) RESTRICTIONS DESCRIBED.—

17 “(A) IN GENERAL.—Any person who is a  
 18 covered legislative branch official and who,  
 19 within 5 years after leaving office or the termi-  
 20 nation of his or her service or employment as  
 21 such an official, knowingly makes, with the in-  
 22 tent to influence, any communication to or ap-  
 23 pearance before any individual described in sub-  
 24 paragraph (C) on behalf of any other person  
 25 (except the United States) in connection with

1 any matter on which such other person seeks  
2 official action by such individual, shall be pun-  
3 ished as provided in section 216 of this title.

4 “(B) COVERED LEGISLATIVE BRANCH OF-  
5 FICIAL DESCRIBED.—In this paragraph, a ‘cov-  
6 ered legislative branch official’ is any of the fol-  
7 lowing individuals:

8 “(i) A Member of Congress.

9 “(ii) An elected officer of the Senate  
10 or an elected officer of the House of Rep-  
11 resentatives.

12 “(iii) An employee of the Senate or an  
13 employee of the House of Representatives  
14 to whom paragraph (2)(A) applies.

15 “(iv) An employee of any other legis-  
16 lative office of the Congress to whom para-  
17 graph (2)(B) applies.

18 “(C) INDIVIDUALS DESCRIBED.—An indi-  
19 vidual described in this subparagraph is any of  
20 the following:

21 “(i) An officer or employee of the ex-  
22 ecutive branch of the United States (in-  
23 cluding an independent agency).

24 “(ii) A Member of Congress.

1 “(iii) An elected officer of the Senate  
2 or an employee of the Senate.

3 “(iv) An elected officer of the House  
4 of Representatives or an employee of the  
5 House of Representatives.

6 “(v) An employee of any other legisla-  
7 tive office of the Congress.”.

8 (B) CONFORMING AMENDMENTS.—Section  
9 207(e) of such title is amended—

10 (i) by redesignating paragraphs (7),  
11 (8), and (9) as paragraphs (2), (3), and  
12 (4);

13 (ii) in subparagraph (A) of paragraph  
14 (2) (as so redesignated), by striking “The  
15 restrictions contained in paragraphs (2),  
16 (3), (4), and (5) apply only to acts by a  
17 former employee” and inserting the fol-  
18 lowing: “The restrictions contained in  
19 paragraph (1) apply only to acts by a  
20 former employee of the Senate or a former  
21 employee of the House of Representa-  
22 tives”;

23 (iii) in subparagraph (B) of para-  
24 graph (2) (as so redesignated), by striking  
25 “The restrictions contained in paragraph



(6) apply only to acts by a former employee” and inserting the following: “The restrictions contained in paragraph (1) apply only to acts by a former employee of any other legislative office of the Congress”; and

(iv) in subparagraph (G) of paragraph (4) (as so redesignated), by striking “any other agency, entity, or office in the legislative branch not covered by paragraph (1), (2), (3), (4), or (5) of this subsection” and inserting the following: “and any other officer or employee of the legislative branch who is not an employee of the House of Representatives or an employee of the Senate”.

(b) CONFORMING AMENDMENTS TO OTHER POST-EMPLOYMENT RESTRICTIONS.—

(1) SWITCHING SIDES ON MATTERS UNDER OFFICIAL RESPONSIBILITY.—Paragraph (2) of section 207(a) of such title is amended—

(A) in the heading, by striking “TWO-YEAR” and inserting “5-YEAR”; and

(B) by striking “within 2 years” and inserting “within 5 years”.

1           (2) REPRESENTATIONS IN TREATY OR TRADE  
 2       NEGOTIATIONS.—Paragraph (1) of section 207(b) of  
 3       such title is amended by striking “for a period of 1  
 4       year” and inserting “for a period of 5 years”.

5           (3) REPRESENTATION OF FOREIGN ENTITIES.—  
 6       Paragraph (1) of section 207(f) of such title is  
 7       amended by striking “within 1 year” and inserting  
 8       “within 5 years”.

9       (c) EFFECTIVE DATE.—The amendments made by  
 10      this section shall apply with respect to any individual who,  
 11      on or after the date of the enactment of this Act, leaves  
 12      a position to which subsection (a), (b), (c), or (e) of section  
 13      207 of title 18, United States Code, as amended by this  
 14      section, applies.

15   **SEC. 3. LIFETIME BAN ON LOBBYING ON BEHALF OF FOR-**  
 16                           **EIGN GOVERNMENTS FOR SENIOR EXECU-**  
 17                           **TIVE BRANCH OFFICIALS.**

18       (a) LIFETIME BAN.—Section 207(f) of title 18,  
 19      United States Code, is amended—

20           (1) by redesignating paragraph (3) as para-  
 21      graph (4); and

22           (2) by inserting after paragraph (2) the fol-  
 23      lowing new paragraph:

1           “(3) SPECIAL RULE FOR VERY SENIOR PER-  
2       SONNEL OF THE EXECUTIVE BRANCH AND INDE-  
3       PENDENT AGENCIES.—

4           “(A) LIFETIME BAN.—With respect to an  
5       individual described in subparagraph (B), the  
6       restrictions described in paragraph (1) shall  
7       apply to representing, aiding, or advising for-  
8       eign entities at any time after the termination  
9       of that individual’s service in a position de-  
10      scribed in such subparagraph.

11          “(B) PERSONNEL DESCRIBED.—An indi-  
12      vidual described in this subparagraph is any in-  
13      dividual who—

14           “(i) serves in the position of Vice  
15      President of the United States;

16           “(ii) is employed in a position in the  
17      executive branch of the United States (in-  
18      cluding any independent agency) at a rate  
19      of pay payable for level I of the Executive  
20      Schedule or employed in a position in the  
21      Executive Office of the President at a rate  
22      of pay payable for level II of the Executive  
23      Schedule; or

24           “(iii) is appointed by the President to  
25      a position under section 105(a)(2)(A) of

1 title 3 or by the Vice President to a posi-  
 2 tion under section 106(a)(1)(A) of title  
 3 3.”.

4 (b) EFFECTIVE DATE.—The amendments made by  
 5 subsection (a) shall apply with respect to any individual  
 6 who, on or after the date of the enactment of this Act,  
 7 leaves a position to which section 207(f)(3) of title 18,  
 8 United States Code, as added by subsection (a), applies.

9 **SEC. 4. REVISIONS TO TYPES OF LOBBYING SUBJECT TO**  
 10 **LOBBYING DISCLOSURE ACT OF 1995.**

11 (a) TREATMENT OF CONSULTING AND ADVISING AS  
 12 LOBBYING ACTIVITY.—Section 3(7) of the Lobbying Dis-  
 13 closure Act of 1995 (2 U.S.C. 1602(7)) is amended by  
 14 striking “preparation and planning” and inserting “con-  
 15 sulting and advising, preparation and planning”.

16 (b) INCREASE IN THRESHOLD FOR QUALIFICATION  
 17 FOR EXEMPTION FROM LOBBYING REGISTRATION AND  
 18 DISCLOSURE REQUIREMENTS FOR INDIVIDUALS PRO-  
 19 VIDING LIMITED LOBBYING SERVICES FOR CLIENTS.—  
 20 Section 3(10) of the Lobbying Disclosure Act of 1995 (2  
 21 U.S.C. 1602(10)) is amended by striking “less than 20  
 22 percent of the time” and inserting “less than 10 percent  
 23 of the time”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply with respect to lobbying contacts  
3 made on or after the date of the enactment of this Act.

4 **SEC. 5. PROHIBITING SOLICITATION BY FOREIGN NATION-**  
5 **ALS OF CAMPAIGN CONTRIBUTIONS, EXPEND-**  
6 **ITURES, DISBURSEMENTS.**

7 (a) PROHIBITION.—Section 319(a)(1) of the Federal  
8 Election Campaign Act of 1971 (52 U.S.C. 30121(a)(1))  
9 is amended by striking “to make” each place it appears  
10 and inserting “to make or solicit”.

11 (b) EFFECTIVE DATE.—The amendments made by  
12 subsection (a) shall apply with respect to solicitations  
13 made on or after the date of the enactment of this Act.

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