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## EXERCISE OF RULEMAKING POWERS

§ 904(a) **SEC. 904. (a) The provisions of this title (except section 905<sup>944</sup>) and of titles I,<sup>945</sup> III,<sup>946</sup> IV,<sup>947</sup> V,<sup>948</sup> and VI<sup>949</sup> (except section 601(a)<sup>950</sup>) and the provisions of sections<sup>951</sup> 701,<sup>952</sup> 703,<sup>953</sup> and 1017<sup>954</sup> are enacted by the Congress —**

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<sup>944</sup> Section 905 deals with effective dates. *See infra* pp. 369-370.

<sup>945</sup> *See supra* pp. 21-28.

<sup>946</sup> *See supra* pp. 43-194.

<sup>947</sup> *See supra* pp. 247-272.

<sup>948</sup> *See supra* pp. 273-298. Section 13112(a)(11) of the Budget Enforcement Act added this reference to title V (*see infra* p. 710), as section 13201(a) of that Act (*see infra* p. 713) amended title V to address credit reform.

<sup>949</sup> *See supra* pp. 299-339. Section 13112(a)(11) of the Budget Enforcement Act added this reference to title VI (*see infra* p. 710), as section 13111 of that Act (*see infra* p. 707) amended title VI to contain provisions to enforce the budget agreement between Congress and the President.

<sup>950</sup> *See supra* pp. 299-303. Section 601(a) defines the maximum deficit amounts and discretionary spending limits, and since they bind the executive branch as well as Congress, they are not enacted solely as an exercise of the rule-making power.

<sup>951</sup> Section 13112(a)(11) of the Budget Enforcement Act (*see infra* p. 710) deleted a reference here to section 606 (which used to deal with studies by Congressional committees of off-budget agencies (*see supra* note 908)), as section 13111 of the Budget Enforcement Act (*see infra* p. 707) repealed what used to be section 606 and amended title VI to contain provisions to enforce the budget agreement between Congress and the President.

<sup>952</sup> *See supra* p. 344.

<sup>953</sup> *See supra* p. 346.

<sup>954</sup> *See infra* pp. 393-402.

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**(1) as an exercise of the rulemaking power<sup>955</sup> of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and**

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**(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.<sup>956</sup>**

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<sup>955</sup> The Constitution provides: "Each House may determine the Rules of its Proceedings . . ." U.S. CONST. art. I, § 5, cl. 2. The provisions of section 904(a) are thus a specific statement of a more general proposition. In his *Senate Procedure*, the Parliamentarian Emeritus explains:

Regardless of laws passed and signed by the President involving the rulemaking power of the House and Senate, as stipulated in each Act, the two Houses of Congress in their rulemaking power, under the Constitution, may ignore provisions of such laws of positive action by a majority vote of either or both Houses, as the case might be, as long as it is within the scope of the granted rulemaking power of the two bodies. This is the case with the Budget Act embodying provisions of rulemaking powers of the two bodies.

FLOYD M. RIDDICK, SENATE PROCEDURE 464 (1981). *See generally* JOHNNY H. KILLIAN, THE CONSTITUTION OF THE UNITED STATES OF AMERICA: ANALYSIS AND INTERPRETATION 120-21 (1987) (on "Rules of Proceedings").

<sup>956</sup> Either the Senate or the House may thus adopt a simple resolution that would waive or suspend any section of the Congressional Budget Act insofar as that section governs only the House adopting the resolution. *See supra* note 308.

The conference report on the Budget Act expounded:

#### SECTION 904. RULEMAKING POWERS

The House and Senate versions provided that the rules established for the congressional budget process and certain other provisions are an exercise of the rulemaking powers of the House and Senate and may be changed by either as it desires. . . .

The conference substitute retains, with conforming changes, the  
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