

109TH CONGRESS
2^D SESSION

H. R. 5549

To amend title 38, United States Code, to remove certain limitations on attorney representation of claimants for veterans benefits in administrative proceedings before the Department of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 7, 2006

Mr. MILLER of Florida introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to remove certain limitations on attorney representation of claimants for veterans benefits in administrative proceedings before the Department of Veterans Affairs, 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 “Veterans’ Choice of
5 Representation Act of 2006”.

1 **SEC. 2. ATTORNEY REPRESENTATION IN VETERANS BENE-**
2 **FITS CLAIMS CASES BEFORE THE DEPART-**
3 **MENT OF VETERANS AFFAIRS.**

4 (a) QUALIFICATIONS AND STANDARDS OF CONDUCT
5 FOR INDIVIDUALS RECOGNIZED AS AGENTS OR ATTOR-
6 NEYS.—

7 (1) ADDITIONAL QUALIFICATIONS AND STAND-
8 ARDS FOR AGENTS AND ATTORNEYS GENERALLY.—

9 Subsection (a) of section 5904 of title 38, United
10 States Code, is amended—

11 (A) by inserting “(1)” after “(a)”;

12 (B) by striking the second sentence; and

13 (C) by adding at the end the following new
14 paragraphs:

15 “(2) The Secretary may prescribe in regulations
16 qualifications and standards of conduct for individuals rec-
17 ognized under this section, including the following:

18 “(A) A requirement that, before being recog-
19 nized, an individual—

20 “(i) show that such individual is of good
21 moral character and in good repute, is qualified
22 to render claimants valuable service, and is oth-
23 erwise competent to assist claimants in pre-
24 senting claims; and

25 “(ii) has such level of experience and spe-
26 cialized training as the Secretary shall specify.

1 “(B) A requirement that the individual follow
2 such standards of conduct as the Secretary shall
3 specify.

4 “(3) The Secretary may prescribe in regulations re-
5 strictions on the amount of fees that an agent or attorney
6 may charge a claimant for services rendered in the prepa-
7 ration, presentation, and prosecution of a claim before the
8 Department.”.

9 (2) APPLICABILITY TO REPRESENTATIVES OF
10 VETERANS SERVICE ORGANIZATIONS.—Section
11 5902(b) of such title is amended—

12 (A) by redesignating paragraphs (1) and
13 (2) as subparagraphs (A) and (B), respectively;

14 (B) by inserting “(1)” after “(b)”; and

15 (C) by adding at the end the following new
16 paragraph:

17 “(2) An individual recognized under this section shall
18 be subject to suspension under section 5904(b) of this title
19 on the same basis as an individual recognized under sec-
20 tion 5904(a) of this title.”.

21 (3) APPLICABILITY TO INDIVIDUALS RECOG-
22 NIZED FOR PARTICULAR CLAIMS.—Section 5903 of
23 such title is amended—

24 (A) by inserting “(a) IN GENERAL.—” be-
25 fore “The Secretary”; and

1 (B) by adding at the end the following new
2 subsection:

3 “(b) SUSPENSION.—An individual recognized under
4 this section shall be subject to suspension under section
5 5904(b) of this title on the same basis as an individual
6 recognized under section 5904(a) of this title.”.

7 (b) ADDITIONAL BASES FOR SUSPENSION OF INDI-
8 VIDUALS.—Subsection (b) of section 5904 of such title is
9 amended—

10 (1) by inserting “and sections 5902 and 5903
11 of this title” after “under this section”;

12 (2) in paragraph (4), by striking “or” at the
13 end;

14 (3) in paragraph (5), by striking the period and
15 inserting a semicolon; and

16 (4) by adding at the end the following new
17 paragraphs:

18 “(6) has failed to conduct himself or herself
19 with due regard for the non-adversarial nature of
20 any proceeding before the Department;

21 “(7) has presented frivolous claims, issues, or
22 arguments to the Department; or

23 “(8) has failed to comply with any other condi-
24 tion specified by the Secretary in regulations pre-

1 scribed by the Secretary for purposes of this sub-
2 section.”.

3 (c) REPEAL OF LIMITATION ON HIRING AGENTS OR
4 ATTORNEYS.—Subsection (c) of section 5904 of such title
5 is amended by striking paragraph (1).

6 (d) MODIFICATION OF REQUIREMENTS TO FILE AT-
7 TORNEY FEE AGREEMENTS.—Such subsection is further
8 amended—

9 (1) by redesignating paragraph (2) as para-
10 graph (1); and

11 (2) in that paragraph, as so redesignated—

12 (A) by striking “in a case referred to in
13 paragraph (1) of this subsection”;

14 (B) by striking “after the Board first
15 makes a final decision in the case”;

16 (C) by striking “with the Board at such
17 time as may be specified by the Board” and in-
18 serting “with the Secretary pursuant to regula-
19 tions prescribed by the Secretary”; and

20 (D) by striking the second and third sen-
21 tences.

22 (e) ATTORNEY FEES.—Such subsection is further
23 amended by inserting after paragraph (1), as redesignated
24 by subsection (d)(1) of this section, the following new
25 paragraph (2):

1 “(2)(A) The Secretary, upon the Secretary’s own mo-
2 tion or at the request of the claimant, may review a fee
3 agreement filed pursuant to paragraph (1) and may order
4 a reduction in the fee called for in the agreement if the
5 Secretary finds that the fee is excessive or unreasonable.

6 “(B) A finding or order of the Secretary under sub-
7 paragraph (A) may be reviewed by the Board of Veterans’
8 Appeals under section 7104 of this title.”.

9 (f) REPEAL OF PENALTY FOR CERTAIN ACTS.—Sec-
10 tion 5905 of such title is amended by striking “(1)” and
11 all that follows through “(2)”.

12 (g) EFFECTIVE DATE.—

13 (1) IN GENERAL.—The amendments made by
14 this section shall take effect six months after the
15 date of the enactment of this Act.

16 (2) REGULATIONS.—The Secretary shall pre-
17 scribe the regulations, if any, to be prescribed under
18 the amendments made by subsection (a) not later
19 than the date specified in paragraph (1).

20 (3) CLAIMS.—The amendments made by sub-
21 sections (b), (c), (d), and (e) shall apply to claims
22 submitted on or after the date specified in para-
23 graph (1).

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