

109TH CONGRESS
2^D SESSION

S. 2694

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 SENATE OF THE UNITED STATES

MAY 2, 2006

Mr. CRAIG (for himself and Mr. GRAHAM) introduced the following bill; which was read twice and 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 “(4)(A) The Secretary may, on a periodic basis, col-
10 lect from individuals recognized as agents or attorneys
11 under this section a registration fee.

12 “(B) The Secretary shall prescribe the amount and
13 frequency of collection of such fees. The amount of such
14 fees may include an amount, as specified by the Secretary,
15 necessary to defray the costs of the Department in recog-
16 nizing individuals under this section, in administering the
17 collection of such fees, in administering the payment of
18 fees under subsection (d), and in conducting oversight of
19 agents or attorneys.

20 “(C) Amounts so collected shall be deposited in the
21 account from which amounts for such costs were derived,
22 merged with amounts in such account, and available for
23 the same purpose, and subject to the same conditions and
24 limitations, as amounts in such account.”.

1 (2) APPLICABILITY TO REPRESENTATIVES OF
2 VETERANS SERVICE ORGANIZATIONS.—Section
3 5902(b) of such title is amended—

4 (A) by redesignating paragraphs (1) and
5 (2) as subparagraphs (A) and (B), respectively;

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

7 (C) by adding at the end the following new
8 paragraph:

9 “(2) An individual recognized under this section shall
10 be subject to suspension under section 5904(b) of this title
11 on the same basis as an individual recognized under sec-
12 tion 5904(a) of this title.”.

13 (3) APPLICABILITY TO INDIVIDUALS RECOG-
14 NIZED FOR PARTICULAR CLAIMS.—Section 5903 of
15 such title is amended—

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

18 (B) by adding at the end the following new
19 subsection:

20 “(b) SUSPENSION.—An individual recognized under
21 this section shall be subject to suspension under section
22 5904(b) of this title on the same basis as an individual
23 recognized under section 5904(a) of this title.”.

1 (b) ADDITIONAL BASES FOR SUSPENSION OF INDI-
2 VIDUALS.—Subsection (b) of section 5904 of such title is
3 amended—

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

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

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

10 (4) by adding at the end the following new
11 paragraphs:

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

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

17 “(8) has failed to comply with any other condi-
18 tion specified by the Secretary in regulations pre-
19 scribed by the Secretary for purposes of this sub-
20 section.”.

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

1 (d) MODIFICATION OF REQUIREMENTS TO FILE AT-
2 TORNEY FEE AGREEMENTS.—Such subsection is further
3 amended—

4 (1) by redesignating paragraph (2) as para-
5 graph (1); and

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

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

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

11 (C) by striking “with the Board at such
12 time as may be specified by the Board” and in-
13 serting “with the Secretary pursuant to regula-
14 tions prescribed by the Secretary”; and

15 (D) by striking the second and third sen-
16 tences.

17 (e) ATTORNEY FEES.—Such subsection is further
18 amended by inserting after paragraph (1), as redesignated
19 by subsection (d)(1) of this section, the following new
20 paragraph (2):

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

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

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

7 (g) EFFECTIVE DATE.—

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

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

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

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