

112TH CONGRESS  
1ST SESSION

# S. 1637

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## AN ACT

To clarify appeal time limits in civil actions to which United States officers or employees are parties.

1       *Be it enacted by the Senate and House of Representa-*  
2   *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Appeal Time Clarifica-  
3 tion Act of 2011”.

4 **SEC. 2. FINDINGS.**

5       Congress finds that—

6           (1) section 2107 of title 28, United States  
7 Code, and rule 4 of the Federal Rules of Appellate  
8 Procedure provide that the time to appeal for most  
9 civil actions is 30 days, but that the appeal time for  
10 all parties is 60 days when the parties in the civil  
11 action include the United States, a United States of-  
12 ficer, or a United States agency;

13           (2) the 60-day period should apply if one of the  
14 parties is—

15                   (A) the United States;

16                   (B) a United States agency;

17                   (C) a United States officer or employee  
18 sued in an official capacity; or

19                   (D) a current or former United States offi-  
20 cer or employee sued in an individual capacity  
21 for an act or omission occurring in connection  
22 with duties performed on behalf of the United  
23 States;

24           (3) section 2107 of title 28, United States  
25 Code, and rule 4 of the Federal Rules of Appellate  
26 Procedure (as amended to take effect on December

1 1, 2011, in accordance with section 2074 of that  
 2 title) should uniformly apply the 60-day period to  
 3 those civil actions relating to a Federal officer or  
 4 employee sued in an individual capacity for an act  
 5 or omission occurring in connection with Federal du-  
 6 ties;

7 (4) the civil actions to which the 60-day periods  
 8 should apply include all civil actions in which a legal  
 9 officer of the United States represents the relevant  
 10 officer or employee when the judgment or order is  
 11 entered or in which the United States files the ap-  
 12 peal for that officer or employee; and

13 (5) the application of the 60-day period in sec-  
 14 tion 2107 of title 28, United States Code, and rule  
 15 4 of the Federal Rules of Appellate Procedure—

16 (A) is not limited to civil actions in which  
 17 representation of the United States is provided  
 18 by the Department of Justice; and

19 (B) includes all civil actions in which the  
 20 representation of the United States is provided  
 21 by a Federal legal officer acting in an official  
 22 capacity, such as civil actions in which a Mem-  
 23 ber, officer, or employee of the Senate or the  
 24 House of Representatives is represented by the  
 25 Office of Senate Legal Counsel or the Office of

1           General Counsel of the House of Representa-  
2           tives.

3 **SEC. 3. TIME FOR APPEALS TO COURT OF APPEALS.**

4           Section 2107 of title 28, United States Code, is  
5 amended by striking subsection (b) and inserting the fol-  
6 lowing:

7           “(b) In any such action, suit, or proceeding, the time  
8 as to all parties shall be 60 days from such entry if one  
9 of the parties is—

10           “(1) the United States;

11           “(2) a United States agency;

12           “(3) a United States officer or employee sued  
13 in an official capacity; or

14           “(4) a current or former United States officer  
15 or employee sued in an individual capacity for an act  
16 or omission occurring in connection with duties per-  
17 formed on behalf of the United States, including all  
18 instances in which the United States represents that  
19 officer or employee when the judgment, order, or de-  
20 cree is entered or files the appeal for that officer or  
21 employee.”.

1 **SEC. 4. EFFECTIVE DATE.**

2       The amendment made by this Act shall take effect  
3 on December 1, 2011.

Passed the Senate October 31, 2011.

Attest:

*Secretary.*

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