Mr. RODRIGUEZ. Mr. Speaker, I rise today in support of granting a federal charter to the American GI Forum (AGIF), the nation’s oldest and largest Hispanic veterans organization. As the original sponsor of the House bill, HR 3843, I am especially gratified by the meaningful recognition this bill provides. For too long, the American GI Forum has waited for this recognition. Now, on the eve of its 50th Annual Convention, to be held in its home state of Texas, we are in a position to present the AGIF membership what it rightfully deserves.

The American GI Forum was founded fifty years ago, in Corpus Christi, Texas, by the late Dr. Hector P. Garcia, a medical doctor and Army veteran of World War II. This year, the AGIF celebrates its 50th year of service to our nation’s veterans and their families. Today, the AGIF has over 100,000 members in 500 chapters across 32 states and Puerto Rico. It is not the first time the AGIF has sought a federal charter. At least as early as the 1960’s, in an era when Hispanic veterans were facing exclusion and discrimination, AGIF approached Congress for a federal charter and was granted most routinely given charters, but the American GI Forum was left out. As the American GI Forum enters its 50th Year, it is fitting to secure passage of this important legislation.

Within the veteran community, a federal charter is deemed to be recognition of a national veteran organization’s commitment and service to our nation’s veterans. The Hispanic community is among the most patriotic in America, historically ready to answer the call to service. Having earned the highest number of medals of honor per capita, Hispanic Americans have a distinguished record of valor and patriotism. There are more than 1,000,000 Hispanic veterans alive today. I urge you to join us in passing this legislation to grant a federal charter to this worthy organization. I would like to take this opportunity to thank the Chairman of the Judiciary Subcommittee on Immigration and Claims, Mr. Smith of San Antonio, for his help and his staff’s help in passing this bill. I would also like to thank the distinguished Chairman of the Senate Judiciary Committee and his staff for their work in expediting passage of this historic legislation.

Ms. LOFGREN. Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The question is on the motion offered by the gentleman from Texas (Mr. Smith) that the House suspend the rules and pass the Senate bill, S. 1759.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

PRIVATE TRUSTEE REFORM ACT OF 1998

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2592) to amend title II of the United States Code to provide private trustees the right to seek judicial review of United States trustee actions related to trustee expenses and trustee removal, as amended.

The Clerk read as follows:

H.R. 2592

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “Private Trustee Reform Act of 1998.

SEC. 2. SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.

Section 586(d) of title 28, United States Code, is amended—

(1) by inserting “(1)” after “(d)”, and

(2) by adding at the end the following:

(A) A trustee whose appointment to the panel or as a standing trustee is terminated or who ceases to be assigned to cases filed under title 11 may obtain judicial review of the final agency decision by commencing an action in the United States district court for the district in which the panel member or standing trustee resides, after first exhausting all available administrative remedies, which the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this section if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph.

SEC. 3. EXPENSES OF STANDING TRUSTEES.

Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

“(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) of this section may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this paragraph by commencing an action in the United States district court in the district where the individual resides.

“(4) The Attorney General shall prescribe procedures to implement this subsection.”

SEC. 4. PROCEDURES FOR AND STANDARD OF REVIEW.

Section 157 of title 28, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (f) and (g), respectively, and

(2) by inserting after subsection (c) the following:

“(1) In conducting judicial review under section 586(d)(2) or section 586(e)(3) of this title, the district court shall determine whether to retain the case or to refer the case to a bankruptcy judge in the district. Any bankruptcy judge to whom a case is referred shall submit a recommendation for disposition to the district court based solely on a review of the administrative record before the agency, and a final order or judgment shall be entered by the district court after considering the bankruptcy judge’s recommendation and after reviewing those matters to which any party has timely and specifically objected. The decision of the agency shall be affirmed only if it is unreasonably and without cause based upon the administrative record before the agency.

“(2) The district courts of the United States shall have jurisdiction of the final agency actions under subsection 586(d)(2) and final agency actions under subsection 586(e)(3).

“(3) Bankruptcy judges are authorized to submit to such courts recommendations in accordance with paragraph (1).”
The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. Gekas) and the gentlewoman from California (Ms. Lofgren) each will control 20 minutes. The Chair recognizes the gentleman from Pennsylvania (Mr. Gekas).

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2592, as amended.

The Chair recognizes the gentleman to whom the bill was referred. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Today we consider a truly significant piece of legislation within the world of the courts, and particularly the bankruptcy courts. This bill, the one before us now, has been jointly cosponsored by the gentleman from Virginia (Mr. Goodlatte), the gentleman from Texas (Mr. Smith), and the gentleman from Georgia (Mr. Barr).

It attempts, and does succeed, or else we would not be here at this moment, in striking a well-deserved balance between the respective rights of the private trustees, which play a gigantic role in the world of bankruptcy, and those of the U.S. Trustees' Office, which is charged with the responsibility of guiding, as it were, the work and cases of the private trustees.

Where before we had conflict as to the assignment of cases and whether or not a private trustee could be removed from a case, or whether or not future cases would be withheld from a private trustee, all these issues were points of tremendous conflict. This bill goes a long way in resolving all of those particular problems that may have arisen and could arise in the future.

In addition to that, this bill seeks to provide common methodologies of judicial review when a decision by a U.S. Trustee or otherwise is inimical in the minds of the private trustees to their interests.

This bill, after negotiation on a wide range of issues, also resolved that particular one, so now the question of who should review a decision made, those kinds of decisions that adversely, in their minds, affect the private trustees, that has been settled by the language of this bill.

Then this bill, with amendments, makes one additional substantive and three technical revisions to the version of the bill as we reported to the House out of the full committee.

In response to concerns raised by representatives of the Federal judiciary, the bill, as amended, deletes the provision that would have permitted a magistrate judge to make proposed recommendations to the district court for final disposition. As a result, the district court is also the now amended version of H.R. 2592, may dispose of the matters that are the subject of this bill, or allow, when appropriate, bankruptcy judges to make proposed recommendations. The other amendment, are strictly technical.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Ms. LOFGREN asked and was given permission to revise and extend her remarks.

Ms. LOFGREN. Mr. Speaker, this legislation attempts to balance two very important public interests, giving the Department of Justice the ability to oversee the administration of bankruptcy estates, and to ensure that private trustees perform their job honestly and efficiently.

For the most part, the private trustees do an outstanding job, and they deserve our respect. This legislation would provide due process rights for private trustees in those instances in which they disagree with the decision by the U.S. Trustee to stop assigning cases, and resolve over expense reimbursements.

It is a product of the hearings by the Subcommittee on Commercial and Administrative Law, as well as lengthy and careful negotiations between the Department of Justice, the sponsors, and interested parties, including the trustees and the bankruptcy judges.

I would note that this is of interest, as well, to bankruptcy lawyers on all sides who value and strive for a system that is fair, and equitable.

It is my understanding that the Department of Justice still has some concerns about this legislation, but it is my hope that in the spirit of cooperation which has moved this legislation to this point, that the sponsors and the Department of Justice will be able to resolve any remaining issues, and get this legislation to the President before the end of this Congress.

I am sure that whatever minor issues need to be resolved, and I would urge that my colleagues vote for this bill, that we move forward with this reform.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, many times in the full Committee on the Judiciary we come to an impasse, borne out of questions raised right at the time we are in markup consideration of a particular bill. Many times members on other side will request that the bill be put off until negotiations can occur on parcels of that bill could be negotiated, and a final bill reflect the views of all of the members of the Committee on the bill.

This bill was a perfect example of the willingness on the part of many to continue negotiations and talks on contentious issues until full resolution could be made of the problems.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

I would note that, in agreement with the chairman, this is certainly one where we are not suggesting delay or defeat. Everyone has worked in good faith, and I think this deserves our support.

Mr. GOODLATTE. Mr. Speaker, I rise today in strong support of H.R. 2592, the Private Trustee Reform Act of 1998. This bill reflects several months of negotiations between the private trustees and the Executive Office of the U.S. Trustee, and while it was modified slightly from the compromise approved by the Judiciary Committee, the principles agreed upon by both sides remain in the bill. The bill has recently gained the support of the National Association of Bankruptcy Judges as well.

Mr. Speaker, I introduced this legislation last year to restore fairness and equity to the relationship between the United States Trustee and private standing trustees. Specifically, this legislation amends title 28 of the U.S. Code to provide private trustees the right to seek judicial review in court, in certain cases following an administrative hearing, of U.S. Trustee actions related to trustee expenses and trustee removal.

The bill provides for judicial review of decisions by the U.S. Trustee to terminate, suspend, or cease assigning cases to a panel or standing trustee, including a decision not to reappoint the trustee to a panel. This section includes language giving the panel or standing trustees the option of an administrative hearing on the record and includes a maximum of a 90 day time frame for agency review should the panel or standing trustee not elect to have an administrative hearing on the record.

The bill also provides for judicial review of a decision by the U.S. Trustee to deny a claim of actual, necessary expenses by a standing trustee. It does not allow for an administrative hearing on the record, but would require the standing trustee to exhaust all available administrative remedies before seeking judicial review.

Finally, the bill provides (1) procedures for and (2) the standard of review for conducting judicial review. It allows the district court to retain the case or refer it to a bankruptcy judge in the same district for a recommendation. I strongly support the inclusion of this provision because I believe that bankruptcy courts are best situated to make informed judgments about these issues. Bankruptcy judges understand which expenses are justified and which are not, as well as the nature and purpose of those expenses. Additionally, bankruptcy judges understand the full ramifications of a decision to cease assigning cases to a private trustee.

If the case is referred, the district judge shall enter a final order or judgement after considering that recommendation and after reviewing those matters to which any party has timely and specifically objected.

The decision of the agency shall be affirmed unless it is an unreasonable or without cause based upon the administrative record before the agency.

As I mentioned at the outset, H.R. 2592 is simply about fairness—fairness to those who dedicate themselves to their duties as private trustees. It is also about fairness in the review process, as the U.S. Trustee should be subject to the same checks and balances as other government agencies are required to bear.
Ms. JACKSON-LEE of Texas, Mr. Speaker, although this measure is still being negotiated by the parties involved, I believe that this legislation is an excellent initial effort to streamline the Federal bankruptcy system.

By establishing a procedure for private bankruptcy contest their removal from cases, this bill provides the foundation for a more efficient Federal bankruptcy system.

Under this measure, if the U.S. Trustee (part of the Justice Department) declines to appoint a trustee or assign future cases to a trustee, the affected trustee may seek administrative review, judicial review, or both. Thus, this measure would create “on the record” administrative hearings for affected trustees.

This bill also provides jurisdiction to the U.S. District Court over trustee challenges of administrative rulings from the Office of the U.S. Trustee.

I am pleased that we are working hard to protect the due process interests of the trustees. By providing adequate hearing and judicial review processes, we can fashion both an efficient and fair Federal bankruptcy structure.

Although the Justice Department and Bankruptcy judges still have some concerns that need addressing, I find our progress very heartening. I hope that the involved parties will continue to negotiate until a workable solution becomes reality.

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