

105TH CONGRESS
2D SESSION

H. R. 2592

IN THE SENATE OF THE UNITED STATES

AUGUST 31, 1998

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To amend title 28 of the United States Code to provide trustees the right to seek administrative and judicial review of the refusal of a United States trustee to assign, and of certain actions of a United States trustee relating to expenses claimed relating to, cases under title 11 of the United States Code.

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 “Private Trustee Re-
5 form Act of 1998”.

6 **SEC. 2. SUSPENSION AND TERMINATION OF PANEL TRUST-**
7 **EES AND STANDING TRUSTEES.**

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

10 (1) by inserting “(1)” after “(d)”; and

11 (2) by adding at the end the following:

12 “(2) A trustee whose appointment to the panel or as
13 a standing trustee is terminated or who ceases to be as-
14 signed to cases filed under title 11, United States Code,
15 may obtain judicial review of the final agency decision by
16 commencing an action in the United States district court
17 for the district in which the panel member or standing
18 trustee resides, after first exhausting all available adminis-
19 trative remedies, which if the trustee so elects, shall also
20 include an administrative hearing on the record. Unless
21 the trustee elects to have an administrative hearing on the
22 record, the trustee shall be deemed to have exhausted all
23 administrative remedies for purposes of this section if the
24 agency fails to make a final agency decision within 90 days
25 after the trustee requests administrative remedies. The

1 Attorney General shall prescribe procedures to implement
2 this paragraph.”.

3 **SEC. 3. EXPENSES OF STANDING TRUSTEES.**

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

6 “(3) After first exhausting all available administra-
7 tive remedies, an individual appointed under subsection
8 (b) of this section may obtain judicial review of final agen-
9 cy action to deny a claim of actual, necessary expenses
10 under this paragraph by commencing an action in the
11 United States district court in the district where the indi-
12 vidual resides.

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

15 **SEC. 4. PROCEDURES FOR AND STANDARD OF REVIEW.**

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

18 (1) by redesignating subsections (d) and (e) as
19 subsections (e) and (f), respectively; and

20 (2) by inserting after subsection (c) the follow-
21 ing:

22 “(d)(1) In conducting judicial review under section
23 586(d)(2) or section 586(e)(3) of this title, the district
24 court shall determine whether to retain the case or to refer
25 the case to a bankruptcy judge in the district. Any bank-

1 ruptcy judge to whom a case is referred shall submit a
2 recommendation for disposition to the district court based
3 solely on a review of the administrative record before the
4 agency, and a final order or judgment shall be entered
5 by the district court after considering the bankruptcy
6 judge's recommendation, and after reviewing those mat-
7 ters to which any party has timely and specifically ob-
8 jected. The decision of the agency shall be affirmed unless
9 it is unreasonable and without cause based upon the ad-
10 ministrative record before the agency.

11 “(2)(A) The district courts of the United States shall
12 have jurisdiction to review final agency decisions under
13 subsection 586(d)(2) and final agency actions under sub-
14 section 586(e)(3).

15 “(B) Bankruptcy judges are authorized to submit to
16 such courts recommendations in accordance with para-
17 graph (1).”.

Passed the House of Representatives August 3,
1998.

Attest:

ROBIN H. CARLE,
Clerk.