

107TH CONGRESS
2D SESSION

H. R. 3827

To amend the Department of Agriculture Reorganization Act of 1994 relating to the National Appeals Division to ensure that agricultural producers and other persons appealing adverse agency decisions of the Department of Agriculture receive fair and equitable treatment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2002

Mr. MORAN of Kansas (for himself and Mr. BERRY) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Department of Agriculture Reorganization Act of 1994 relating to the National Appeals Division to ensure that agricultural producers and other persons appealing adverse agency decisions of the Department of Agriculture receive fair and equitable treatment, 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 “National Appeals Divi-
5 sion Reform Act of 2001”.

1 **SEC. 2. NATIONAL APPEALS DIVISION REFORM.**

2 (a) ANNUAL REPORT REGARDING DIRECTOR DETER-
3 MINATIONS AND REQUESTS FOR EQUITABLE RELIEF.—
4 Section 278 of the Department of Agriculture Reorganiza-
5 tion Act of 1994 (7 U.S.C. 6998) is amended by adding
6 at the end the following new subsection:

7 “(f) ANNUAL REPORT.—The Director shall submit to
8 Congress an annual report describing all final determina-
9 tion notices issued by the Director at the national level
10 during the preceding year, including whether the deter-
11 mination was in favor of the appellant or the agency. The
12 report shall indicate whether the request of an appellant
13 for Director review included a request for equitable relief,
14 as authorized by subsection (d), the type of equitable relief
15 requested, and whether the Secretary granted or declined
16 to grant such relief as part of the final determination no-
17 tice.”.

18 (b) DE MINIMUS EXEMPTION.—Section 275 of the
19 Department of Agriculture Reorganization Act of 1994 (7
20 U.S.C. 6995) is amended—

21 (1) by inserting “(a) AVAILABILITY.—” before
22 “If an officer”; and

23 (2) by adding at the end the following new sub-
24 section:

25 “(b) NONAPPEALABILITY OF CERTAIN INFORMAL
26 HEARING DECISIONS AGAINST AGENCY.—If an adverse

1 decision for which a request for an agency informal hear-
 2 ing is made involves a claim of less than \$5,000 by the
 3 participant, and the final decision upon the agency review
 4 is in favor of the participant, the head of the agency may
 5 not request review of the decision by the Division.”.

6 (c) FINALITY OF HEARING OFFICER DETERMINA-
 7 TIONS AGAINST AGENCY.—Section 278(a) of the Depart-
 8 ment of Agriculture Reorganization Act of 1994 (7 U.S.C.
 9 6998(a)) is amended by striking paragraph (2) and insert-
 10 ing the following new paragraph:

11 “(2) PROHIBITION ON AGENCY REQUESTS FOR
 12 DIRECTOR REVIEW.—If the appellant prevails in the
 13 determination issued by a hearing officer under sec-
 14 tion 277(d), the head of the agency may not request
 15 Director review of the determination under this sec-
 16 tion.”.

17 (d) DEPARTMENT ASSISTANCE FOR APPELLANTS.—
 18 Section 274 of the Department of Agriculture Reorganiza-
 19 tion Act of 1994 (7 U.S.C. 6994) is amended—

20 (1) by inserting “(a) NOTICE; CONTENTS.—”
 21 before “Not later than”; and

22 (2) by adding at the end the following new sub-
 23 section:

24 “(b) AVAILABILITY OF AGENCY ASSISTANCE.—Not-
 25 withstanding that an appeal involves an adverse decision

1 of an agency, employees of the agency or another agency
2 may, at the request of the appellant, provide technical as-
3 sistance to the appellant or the authorized representative
4 of the appellant to prepare the request for review of the
5 adverse decision, understand the facts and issues involved
6 in the adverse decision, and prepare for any hearing on
7 the adverse decision. The provision of such assistance at
8 the request of the appellant shall not be considered as evi-
9 dence of unacceptable performance by the employee.”.

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