

108TH CONGRESS  
1ST SESSION

# H. R. 3392

To amend title 38, United States Code, to make certain improvements in the procedures for adjudication of claims for benefits under laws administered by the Secretary of Veterans Affairs.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 29, 2003

Mr. EVANS (for himself and Mr. MICHAUD) introduced the following bill;  
which was referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to make certain improvements in the procedures for adjudication of claims for benefits under laws administered by the Secretary of Veterans Affairs.

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 Claims Pro-  
5 cedures Improvement Act of 2003”.

1 **SEC. 2. TIME LIMITATION ON INFORMATION TO COMPLETE**  
2 **CLAIM.**

3 Section 5102 of title 38, United States Code, is  
4 amended by adding at the end the following new sub-  
5 section:

6 “(c)(1) If the Secretary notifies a claimant and the  
7 claimant’s representative, if any, under subsection (b) that  
8 certain information is necessary to complete the claimant’s  
9 application and that information is not received by the  
10 Secretary within one year from the date of such notifica-  
11 tion, no benefit may be paid or furnished by reason of  
12 the claimant’s application.

13 “(2) This subsection shall not apply to any applica-  
14 tion or claim for Government life insurance benefits.”.

15 **SEC. 3. EFFECT OF NOTICE TO CLAIMANTS OF REQUIRED**  
16 **INFORMATION AND EVIDENCE.**

17 (a) NOTICE REQUIRED TO BE IN WRITING.—Sub-  
18 section (a) of section 5103 of title 38, United States Code,  
19 is amended by inserting “in writing” in the first sentence  
20 after “shall notify”.

21 (b) TIME LIMITATION.—Subsection (b) of that sec-  
22 tion is amended—

23 (1) in paragraph (1), by striking “if such” and  
24 all that follows through “application” and inserting  
25 “such information or evidence must be submitted  
26 within the time period specified by the Secretary,

1       which period shall end not less than 60 days after  
2       the date of such notification or one year from the  
3       date of application, whichever is later”;

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

6               (3) by inserting after paragraph (1) the fol-  
7       lowing new paragraphs:

8       “(2) The Secretary may in any case extend for good  
9       cause the time period under paragraph (1) for submitting  
10      information or evidence.

11      “(3) The limitation in paragraph (1) shall not be con-  
12      strued to prohibit the Secretary from making a decision  
13      on a claim before the end of the period specified under  
14      that paragraph. If the Secretary issues a decision before  
15      the end of the period specified in paragraph (1) and infor-  
16      mation or evidence pertinent to the claim is received with-  
17      in that period, the prior decision shall be readjudicated,  
18      the information or evidence shall be considered, and a new  
19      decision shall be issued.”.

20      (c) EFFECT ON PRIOR CASES.—In the case of a  
21      claimant for benefits under laws administered by the Sec-  
22      retary of Veterans Affairs who asserts that after Novem-  
23      ber 9, 2000, the claimant was misled by a notification  
24      from the Secretary that information and evidence needed  
25      to substantiate the claim was required to be submitted be-

1 fore the end of the one-year period provided in section  
2 5103 of title 38, United States Code, the claimant may  
3 request to have the prior decision vacated and a new deci-  
4 sion issued. Upon receiving such a request, the Secretary  
5 shall vacate the decision and issue a new decision if the  
6 request, information, and evidence are submitted not later  
7 than one year after the date of the enactment of this Act.  
8 Unless there is a timely request from the claimant or the  
9 claimant's legal representative, nothing in this Act shall  
10 be construed as establishing a duty on the part of the Sec-  
11 retary of Veterans Affairs to locate and readjudicate a  
12 claim described in this subsection.

13 **SEC. 4. CLARIFICATION OF PROCEDURES APPLICABLE TO**  
14 **FILING A NOTICE OF DISAGREEMENT WITH**  
15 **THE BOARD OF VETERANS APPEALS.**

16 (a) NOTICE OF DISAGREEMENT.—Section 7105 of  
17 title 38, United States Code, is amended—

- 18 (1) by redesignating subsections (b), (c), and  
19 (d) as subsections (d), (e), and (f), respectively; and  
20 (2) by striking subsection (a) and inserting the  
21 following:

22 “(a) Appellate review shall be initiated by a written  
23 notice submitted to the Secretary expressing disagreement  
24 with an initial determination of the Secretary. Such a no-  
25 tice may be referred to as a ‘notice of disagreement’. Un-

1 less the claimant or the claimant's representative clearly  
2 indicates that the claimant does not want appellate review  
3 of the determination in whole or in part, any such notice  
4 shall be sufficient to initiate appellate review of the deter-  
5 mination.

6       “(b)(1) If it is not clear from the claimant's notice  
7 whether or not appellate review is desired or what issue  
8 or issues are being appealed, the claimant shall be notified  
9 in writing and requested to provide clarification. Any such  
10 notification shall indicate that the adjudicative determina-  
11 tion will be final if no valid notice of disagreement is re-  
12 ceived before the end of the 60-day period beginning on  
13 the date on which the request for clarification is sent or  
14 the one-year period beginning on the date of the adjudica-  
15 tive determination, whichever is later.

16       “(2) Unless clarification requested under paragraph  
17 (1) is received within the time period prescribed in that  
18 paragraph or within any extension of time granted by the  
19 Secretary for good cause, the document shall not be treat-  
20 ed as a notice of disagreement.

21       “(c) In order to proceed on the appeal, the claimant  
22 must submit a written substantive appeal after a state-  
23 ment of the case is furnished as prescribed in this section.  
24 The appellant shall be accorded hearing and representa-

1 tion rights in accordance with this chapter and regulations  
2 of the Secretary.”.

3 (b) MANNER OF FILING NOTICE OF DISAGREE-  
4 MENT.—Paragraph (1) of subsection (d) of such section,  
5 as redesignated by subsection (a)(1), is amended—

6 (1) in the first sentence—

7 (A) by inserting “or as otherwise provided  
8 in subsection (b),” after “contested claims,”;  
9 and

10 (B) by striking “initial review or deter-  
11 mination” and inserting “the initial determina-  
12 tion”; and

13 (2) in the second sentence, by striking “notice,  
14 and” and all that follows and inserting “notice and  
15 appeal must be filed with the Secretary.”.

16 (c) CONFORMING AMENDMENTS.—(1) Paragraph (1)  
17 of subsection (f) of such section, as redesignated by sub-  
18 section (a)(1), is amended—

19 (A) in the first sentence, by striking “the deci-  
20 sion of” and all that follows through “deems proper”  
21 and inserting “the Secretary, the Secretary shall  
22 take such development or review action as the Sec-  
23 retary considers proper”; and

24 (B) in the second sentence, by striking “such  
25 agency” and inserting “the Secretary”.

1       (2) Paragraph (3) of such subsection is amended by  
2 striking “The agency of original jurisdiction” at the begin-  
3 ning of the last sentence and inserting “The Secretary”.

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