

111TH CONGRESS  
2D SESSION

# H. R. 4862

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 2010

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

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## AN ACT

To permit Members of Congress to administer the oath of  
allegiance to applicants for naturalization.

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. CONGRESSIONAL ADMINISTRATION OF THE**  
2 **OATH OF ALLEGIANCE.**

3 (a) NATURALIZATION AUTHORITY.—Section 310(b)  
4 of the Immigration and Nationality Act (8 U.S.C.  
5 1421(b)) is amended—

6 (1) in the subsection heading, by striking  
7 “COURT AUTHORITY” and inserting “AUTHORITY”;

8 (2) in paragraph (1)(A)—

9 (A) by inserting “, by a Member of, or  
10 Delegate or Resident Commissioner to, the Con-  
11 gress,” before “or by an eligible court”; and

12 (B) by adding at the end the following: “A  
13 Senator shall have the authority to administer  
14 such oath of allegiance only to individuals who  
15 reside in the State the Senator represents. In  
16 the case of a Member of the House of Rep-  
17 resentatives, including a Delegate or Resident  
18 Commissioner to the Congress, the Member  
19 shall have the authority to administer such oath  
20 of allegiance only to individuals who reside in  
21 the congressional district the Member rep-  
22 resents.”;

23 (3) in paragraph (1), by adding at the end the  
24 following:

25 “(C) LIMITATIONS ON CONGRESSIONAL AU-  
26 THORITY.—

1           “(i) EXTENT OF AUTHORITY.—The  
2           authority under this section of a Member  
3           of, or Delegate or Resident Commissioner  
4           to, the Congress is limited solely to the ad-  
5           ministration of the oath of allegiance under  
6           section 337(a).

7           “(ii) PERIOD BEFORE ELECTIONS.—A  
8           Member of, or Delegate or Resident Com-  
9           missioner to, the Congress may not admin-  
10          ister the oath of allegiance under section  
11          337(a) during the 90-day period which  
12          ends on the date of any election for Fed-  
13          eral, State, or local office in which the  
14          Member, Delegate, or Resident Commis-  
15          sioner is a candidate.

16          “(iii) TIME AND PLACE OF CERE-  
17          MONY.—A Member of, or Delegate or Resi-  
18          dent Commissioner to, the Congress shall  
19          administer the oath of allegiance under  
20          section 337(a) only at such times and  
21          places as the Secretary of Homeland Secu-  
22          rity may designate.”;

23          (4) in paragraph (2)(A), in the matter pre-  
24          ceding clause (i), by inserting “or a Member of, or

1 Delegate or Resident Commissioner to, the Con-  
2 gress” after “a court”;

3 (5) in paragraph (2)(A)(i), by inserting “or  
4 subject to paragraph (1)(C)(ii), the Member of, or  
5 Delegate or Resident Commissioner to, the Con-  
6 gress” after “the court”;

7 (6) in paragraph (2)(A)(ii)(I), by inserting “or  
8 the Member of, or Delegate or Resident Commis-  
9 sioner to, the Congress” before “such information”;

10 (7) in paragraph (2)(A)(ii)(II), by inserting “or  
11 the Member of, or Delegate or Resident Commis-  
12 sioner to, the Congress” after “the court”; and

13 (8) in paragraph (3)(B)—

14 (A) in the subparagraph heading, by strik-  
15 ing “AUTHORITY OF ATTORNEY GENERAL” and  
16 inserting “TIMING OF EXCLUSIVE AUTHORITY”;

17 (B) by inserting “neither” after “Subject  
18 to subparagraph (C),”;

19 (C) by inserting “nor a Member of, or Del-  
20 egate or Resident Commissioner to, the Con-  
21 gress” after “the Attorney General”; and

22 (D) by striking “shall not administer” and  
23 inserting “shall administer”.

1 (b) OATH OF RENUNCIATION AND ALLEGIANCE.—  
2 Section 337 of the Immigration and Nationality Act (8  
3 U.S.C. 1448) is amended—

4 (1) in the first sentence of subsection (a), by in-  
5 serting “, the Member of the House of Representa-  
6 tives, including a Delegate or Resident Commis-  
7 sioner to the Congress, who represents the congres-  
8 sional district in which the individual resides, a Sen-  
9 ator who represents the State in which the indi-  
10 vidual resides,” before “or a court with jurisdiction”;

11 (2) in the first sentence of subsection (c)—

12 (A) by inserting “(except to the extent that  
13 such section limits the authority of a Member  
14 of, or Delegate or Resident Commissioner to,  
15 the Congress)” after “Notwithstanding section  
16 310(b)”; and

17 (B) by inserting “, oath administration by  
18 the Member of the House of Representatives,  
19 including a Delegate or Resident Commissioner  
20 to the Congress, who represents the congres-  
21 sional district in which the individual resides or  
22 a Senator who represents the State in which  
23 the individual resides,” after “expedited judicial  
24 oath administration ceremony”;

1           (3) in the third sentence of subsection (c), by  
2       inserting “or oath administration by the Member of,  
3       or Delegate or Resident Commissioner to, the Con-  
4       gress” before the period; and

5           (4) in subsection (c), by adding at the end the  
6       following: “The authority under this section of a  
7       Member of, or Delegate or Resident Commissioner  
8       to, the Congress shall be subject to section 310(b).”.

9       (c) CERTIFICATE OF NATURALIZATION; CON-  
10   TENTS.—Section 338 of the Immigration and Nationality  
11   Act (8 U.S.C. 1449) is amended by inserting “, Member  
12   of, or Delegate or Resident Commissioner to, the Con-  
13   gress,” after “location of the official”.

14       (d) FUNCTIONS AND DUTIES OF CLERKS AND  
15   RECORDS OF DECLARATIONS OF INTENTION AND APPLI-  
16   CATIONS FOR NATURALIZATION.—Section 339 of the Im-  
17   migration and Nationality Act (8 U.S.C. 1450) is amend-  
18   ed by adding at the end the following:

19       “(c) In the case of an oath administration by a Mem-  
20   ber of, or Delegate or Resident Commissioner to, the Con-  
21   gress, the functions and duties of clerks of courts de-  
22   scribed in this section shall be undertaken by the Sec-  
23   retary of Homeland Security.”.

1 **SEC. 2. REGULATORY AUTHORITY.**

2 Not later than the date that is 120 days after the  
3 date of enactment of this Act, the Secretary of Homeland  
4 Security shall issue regulations implementing the amend-  
5 ments made by this Act.

6 **SEC. 3. CLERICAL AMENDMENT.**

7 (a) IN GENERAL.—Each of sections 310, 337, 338,  
8 and 339 of the Immigration and Nationality Act (8 U.S.C.  
9 1421, 1448, 1449, and 1450) is amended by striking “At-  
10 torney General” each place it appears and inserting “Sec-  
11 retary of Homeland Security”.

12 (b) EXCEPTION.—The amendment made by this sec-  
13 tion shall not affect the authority of any officer or em-  
14 ployee of the Executive Office of Immigration Review (in-  
15 cluding immigration judges (as defined in section  
16 101(b)(4) of the Immigration and Nationality Act)) to ad-  
17 minister the oath of allegiance under section 337(a).

Passed the House of Representatives September 15,  
2010.

Attest: LORRAINE C. MILLER,  
*Clerk.*