

112TH CONGRESS  
2D SESSION

# S. 2387

To amend the Food, Conservation, and Energy Act of 2008 to require the Secretary of Agriculture to acknowledge that the Department is considering or rejecting a civil rights claim not later than 45 days after receipt of the claim and, once considering a claim, to process all civil rights complaints within 270 days.

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## IN THE SENATE OF THE UNITED STATES

APRIL 26, 2012

Mr. PRYOR introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To amend the Food, Conservation, and Energy Act of 2008 to require the Secretary of Agriculture to acknowledge that the Department is considering or rejecting a civil rights claim not later than 45 days after receipt of the claim and, once considering a claim, to process all civil rights complaints within 270 days.

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 “Fair Claims Act”.

1 **SEC. 2. CIVIL RIGHTS COMPLAINTS AGAINST THE DEPART-**  
 2 **MENT OF AGRICULTURE.**

3 Section 14010 of the Food, Conservation, and En-  
 4 ergy Act of 2008 (7 U.S.C. 2279–2) is amended—

5 (1) by striking the section enumerator and  
 6 heading and all that follows through “Each year”  
 7 and inserting the following:

8 **“SEC. 14010. CIVIL RIGHTS COMPLAINTS AGAINST THE DE-**  
 9 **PARTMENT OF AGRICULTURE.**

10 “(a) REQUIRED REPORTS AND SUBMISSIONS.—Each  
 11 year”;

12 (2) in paragraph (1)—

13 (A) in subparagraph (C), by striking  
 14 “and” at the end;

15 (B) in subparagraph (D), by adding “and”  
 16 at the end; and

17 (C) by adding at the end the following:

18 “(E) the number of claims that have not  
 19 been resolved during the 270-day period begin-  
 20 ning on the date of acknowledgment of receipt  
 21 of the claim by the agency;”;

22 (3) in paragraph (2), by striking “and” at the  
 23 end;

24 (4) in paragraph (3), by striking the period at  
 25 the end and inserting “; and”; and

26 (5) by adding at the end the following:

1           “(3) submit to each Senator and Member of  
2 Congress a list that—

3           “(A) identifies the number of constituents  
4 in the State or district of the Senator or Mem-  
5 ber that have outstanding civil rights claims  
6 that have been pending for more than 270 days  
7 since the date of acknowledgment of receipt of  
8 a formal complaint by the Department of Agri-  
9 culture; and

10           “(B) includes the number of claims that  
11 are outstanding for each 60-day interval beyond  
12 the 270-day period.

13           “(c) REQUIRED SUBMISSIONS TO CLAIMANT.—As  
14 soon as practicable after the expiration of the 270-day pe-  
15 riod beginning on the date of acknowledgment of receipt  
16 of a civil rights claim by the Department of Agriculture,  
17 if the claim remains outstanding, the Secretary shall sub-  
18 mit to the claimant of the outstanding civil rights claim  
19 the estimated time of resolution for the claim.

20           “(d) TIMELINE FOR RESPONSE AND RESOLUTION.—

21           “(1) IN GENERAL.—Not later than 180 days  
22 after the date of enactment of this subsection, the  
23 Secretary shall accept or deny all formal civil rights  
24 complaints sent by registered mail or delivered in

1 person for processing during the 45-day period be-  
2 ginning on the date of receipt of the complaint.

3 “(2) FAILURE TO ACCEPT COMPLAINT.—

4 “(A) IN GENERAL.—If the Secretary re-  
5 fuses to accept a complaint as a formal civil  
6 rights complaint, the complainant may appeal  
7 the intake decision during the 15-day period be-  
8 ginning on the date of the disputed intake  
9 through the office of the Assistant Secretary for  
10 Administration of the Department of Agri-  
11 culture.

12 “(B) REQUIRED RESPONSE.—The Assist-  
13 ant Secretary for Administration shall respond  
14 not later than 45 days after the date on which  
15 an appeal is filed under subparagraph (A) on  
16 acceptance or denial of the formal complaint  
17 process.

18 “(3) RESOLUTION OF CLAIMS.—

19 “(A) IN GENERAL.—Except as provided in  
20 subparagraph (B), the Secretary shall resolve  
21 all civil rights claims during the 270-day period  
22 beginning on the date of acknowledgment of de-  
23 livery of the complaint by registered mail or in  
24 person.

25 “(B) EXCEPTIONS.—

1 “(i) ALTERNATIVE DISPUTE RESOLU-  
2 TION.—Notwithstanding subparagraph  
3 (A), in a case in which the claimant has  
4 pursued the option of alternative dispute  
5 resolution with the Secretary, the 270-day  
6 period shall not begin until—

7 “(I) the claimant terminates the  
8 alternative dispute resolution process  
9 in writing to the Department of Agri-  
10 culture; and

11 “(II)(aa) the Department has ac-  
12 knowledged receipt of the claim; or

13 “(bb) the Postal Service verifies  
14 that the complaint has been delivered  
15 by registered mail.

16 “(ii) PENDING CRIMINAL INVESTIGA-  
17 TION.—Notwithstanding subparagraph  
18 (A), in a case in which a criminal inves-  
19 tigation is pending with respect to the  
20 claims, the 270-day period shall not begin  
21 until the pending criminal investigation  
22 has been concluded.

23 “(C) FAILURE TO RESOLVE.—

24 “(i) IN GENERAL.—If a civil rights  
25 claim is not resolved during the 270-day

period, the Secretary shall provide to the claimant, in accordance with subsections (a)(3) and (b)—

“(I) an explanation of the reason for delay;

“(II) an explanation of the remaining process that is required for the resolution of the claim;

“(III) a description of any items necessary for review; and

“(IV) an estimated time for resolution of the claim.

“(ii) PROTECTION OF CONFIDENTIAL INFORMATION.—An explanation of the reason for delay under clause (i) shall not include confidential information relating to the claim that would interfere with potential or ongoing court proceedings.

“(4) APPEAL OF FINDING OF DISCRIMINATION.—

“(A) IN GENERAL.—For any civil rights claim in which discrimination is found under this section, the claimant may file an appeal of the finding with the Assistant Secretary for Administration.

1           “(B) ACTION BY ASSISTANT SECRETARY  
2           FOR ADMINISTRATION.—Not later than 180  
3           days after the date on which an appeal is filed  
4           under subparagraph (A), the Assistant Sec-  
5           retary for Administration shall respond to the  
6           appeal by issuing an acceptance or denial of the  
7           finding.

8           “(e) PERIODIC AUDITS CONDUCTED BY INSPECTOR  
9           GENERAL OF THE DEPARTMENT OF AGRICULTURE.—Not  
10          later than 2 years after the date of enactment of this sub-  
11          section and not less frequently than every 3 years there-  
12          after, the Inspector General of the Department of Agri-  
13          culture shall conduct an audit of each activity taken by  
14          the Secretary under this section for the period covered by  
15          the audit to determine compliance with this section.”.

