

113TH CONGRESS
1ST SESSION

H. R. 405

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 23, 2013

Mr. SERRANO introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

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,*

3 **SECTION 1. CONGRESSIONAL ADMINISTRATION OF THE**
4 **OATH OF ALLEGIANCE.**

5 (a) NATURALIZATION AUTHORITY.—Section 310(b)
6 of the Immigration and Nationality Act (8 U.S.C.
7 1421(b)) is amended—

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

10 (2) in paragraph (1)(A)—

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

4 (B) by adding at the end the following: “A
5 Senator shall have the authority to administer
6 such oath of allegiance only to individuals who
7 reside in the State the Senator represents. In
8 the case of a Member of the House of Rep-
9 resentatives, including a Delegate or Resident
10 Commissioner to the Congress, the Member
11 shall have the authority to administer such oath
12 of allegiance only to individuals who reside in
13 the congressional district the Member rep-
14 resents.”;

15 (3) in paragraph (1), by adding at the end the
16 following:

17 “(C) LIMITATIONS ON CONGRESSIONAL AU-
18 THORITY.—

19 “(i) EXTENT OF AUTHORITY.—The
20 authority under this section of a Member
21 of, or Delegate or Resident Commissioner
22 to, the Congress is limited solely to the ad-
23 ministration of the oath of allegiance under
24 section 337(a).

1 “(ii) PERIOD BEFORE ELECTIONS.—A
2 Member of, or Delegate or Resident Com-
3 missioner to, the Congress may not admin-
4 ister the oath of allegiance under section
5 337(a) during the 90-day period which
6 ends on the date of any election for Fed-
7 eral, State, or local office in which the
8 Member, Delegate, or Resident Commis-
9 sioner is a candidate.

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

17 (4) in paragraph (2)(A), in the matter pre-
18 ceding clause (i), by inserting “or a Member of, or
19 Delegate or Resident Commissioner to, the Con-
20 gress” after “a court”;

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

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

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

7 (8) in paragraph (3)(B)—

8 (A) in the subparagraph heading, by strik-
 9 ing “AUTHORITY OF ATTORNEY GENERAL” and
 10 inserting “TIMING OF EXCLUSIVE AUTHORITY”;

11 (B) by inserting “neither” after “Subject
 12 to subparagraph (C),”;

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

16 (D) by striking “shall not administer” and
 17 inserting “shall administer”.

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

21 (1) in the first sentence of subsection (a), by in-
 22 serting “, the Member of the House of Representa-
 23 tives, including a Delegate or Resident Commis-
 24 sioner to the Congress, who represents the congres-
 25 sional district in which the individual resides, a Sen-

1 ator who represents the State in which the indi-
2 vidual resides,” before “or a court with jurisdiction”;

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

4 (A) by inserting “(except to the extent that
5 such section limits the authority of a Member
6 of, or Delegate or Resident Commissioner to,
7 the Congress)” after “Notwithstanding section
8 310(b)”; and

9 (B) by inserting “, oath administration by
10 the Member of the House of Representatives,
11 including a Delegate or Resident Commissioner
12 to the Congress, who represents the congres-
13 sional district in which the individual resides or
14 a Senator who represents the State in which
15 the individual resides,” after “expedited judicial
16 oath administration ceremony”;

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

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

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

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

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

16 **SEC. 2. REGULATORY AUTHORITY.**

17 Not later than the date that is 120 days after the
 18 date of enactment of this Act, the Secretary of Homeland
 19 Security shall issue regulations implementing the amend-
 20 ments made by this Act.

21 **SEC. 3. CLERICAL AMENDMENT.**

22 (a) IN GENERAL.—Each of sections 310, 337, 338,
 23 and 339 of the Immigration and Nationality Act (8 U.S.C.
 24 1421, 1448, 1449, and 1450) is amended by striking “At-

1 torney General” each place it appears and inserting “Sec-
2 retary of Homeland Security”.

3 (b) EXCEPTION.—The amendment made by this sec-
4 tion shall not affect the authority of any officer or em-
5 ployee of the Executive Office of Immigration Review (in-
6 cluding immigration judges (as defined in section
7 101(b)(4) of the Immigration and Nationality Act)) to ad-
8 minister the oath of allegiance under section 337(a).

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