

118TH CONGRESS
1ST SESSION

H. R. 5559

To amend title 38, United States Code, to establish certain rules of evidence in certain claims under laws administered by the Secretary of Veterans Affairs.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 2023

Mr. BOST introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to establish certain rules of evidence in certain claims 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 “Protecting Veterans
5 Claim Options Act”.

6 **SEC. 2. CERTAIN RULES OF EVIDENCE IN CERTAIN CLAIMS**

7 **UNDER LAWS ADMINISTERED BY THE SEC-**
8 **RETARY OF VETERANS AFFAIRS.**

9 (a) EVIDENCE IN SUPPLEMENTAL CLAIMS.—

1 (1) IN GENERAL.—Subsection (a) of section
2 5108 of title 38, United States Code, is amended to
3 read as follows:

4 “(a) IN GENERAL.—(1)(A) The Secretary shall re-
5 adjudicate a claim if the claimant files a supplemental
6 claim before the date that is one year after the date on
7 which the agency of original jurisdiction issues a decision
8 with respect to such claim.

9 “(B) In readjudicating a claim under subparagraph
10 (A), the Secretary shall consider all of the evidence of
11 record.

12 “(2)(A) The Secretary shall readjudicate a claim if
13 the claimant presents new and relevant evidence with re-
14 spect to a supplemental claim—

15 “(i) more than one year after the date of the
16 decision of the agency of original jurisdiction with
17 respect to such claim;

18 “(ii) after the Board of Veterans’ Appeals
19 issues a decision with respect to such claim; or

20 “(iii) after the Court of Appeals for Veterans
21 Claims issues a decision with respect to such claim.

22 “(B) In readjudicating a claim under subparagraph
23 (A), the Secretary shall consider all of the evidence of
24 record and the new and relevant evidence described in
25 such subparagraph.”.

1 (2) CONFORMING AMENDMENTS.—

2 (A) OPTIONS FOLLOWING DECISION BY
3 AGENCY OF ORIGINAL JURISDICTION.—Section
4 5104C of such title is amended—

5 (i) in subsection (a)(1)(B), by striking
6 “section 5108” and inserting “section
7 5108(a)(1)”; and

8 (ii) in subsection (b), by striking “sec-
9 tion 5108” and inserting “section
10 5108(a)(2)”.

11 (B) EFFECTIVE DATES OF AWARDS.—Sec-
12 tion 5110(a)(2) of such title is amended—

13 (i) in subparagraph (B), by striking
14 “section 5108” and inserting “section
15 5108(a)(1)”; and

16 (ii) in subparagraphs (D) and (E), by
17 striking “section 5108” both places it ap-
18 pears and inserting “section 5108(a)(2)”.

19 (C) JURISDICTION OF THE BOARD OF VET-
20 ERANS’ APPEALS.—Section 7104(b) of such
21 title is amended by striking “section 5108” and
22 inserting “section 5108(a)(2)”.

23 (3) RETROACTIVITY.—The amendments made
24 by this subsection shall apply to supplemental claims
25 filed on or after August 23, 2017.

1 (4) REGULATIONS.—The Secretary of Veterans
2 Affairs shall prescribe regulations to carry out the
3 amendments made by this subsection not later than
4 180 days after the date of the enactment of this Act.

5 (b) EVIDENCE IN CASES REMANDED BY THE COURT
6 OF APPEALS FOR VETERANS CLAIMS.—Section 7113 of
7 title 38, United States Code, is amended by adding at the
8 end the following new subsection:

9 “(d) CASES REMANDED BY THE COURT OF APPEALS
10 FOR VETERANS CLAIMS.—(1) Except as provided in para-
11 graph (2), for cases remanded to the Board by the Court
12 of Appeals for Veterans Claims, the evidentiary record be-
13 fore the Board shall be limited to the evidence previously
14 considered by the Board in such case.

15 “(2) The evidentiary record before the Board for
16 cases described in paragraph (1) shall include evidence
17 submitted by the appellant and his or her representative,
18 if any, within 90 days following such remand, which the
19 Board shall consider in the first instance.”.

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