

## Calendar No. 199

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**H. R. 2633**

---

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2011

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

OCTOBER 17, 2011

Reported by Mr. LEAHY, without amendment

---

**AN ACT**

To amend title 28, United States Code, to clarify the time limits for appeals in civil cases to which United States officers or employees are parties.

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 “Appeal Time Clarifica-  
5        tion Act of 2011”.

6        **SEC. 2. FINDINGS.**

7        Congress finds that—

8                (1) section 2107 of title 28, United States  
9        Code, and rule 4 of the Federal Rules of Appellate

1 Procedure provide that the time to appeal for most  
2 civil actions is 30 days, but that the appeal time for  
3 all parties is 60 days when the parties in the civil  
4 action include the United States, a United States of-  
5 ficer, or a United States agency;

6 (2) the 60-day period should apply if 1 of the  
7 parties is—

8 (A) the United States;

9 (B) a United States agency;

10 (C) a United States officer or employee  
11 sued in an official capacity; or

12 (D) a current or former United States offi-  
13 cer or employee sued in an individual capacity  
14 for an act or omission occurring in connection  
15 with duties performed on behalf of the United  
16 States;

17 (3) section 2107 of title 28, United States  
18 Code, and rule 4 of the Federal Rules of Appellate  
19 Procedure (as amended to take effect on December  
20 1, 2011, in accordance with section 2074 of that  
21 title) should uniformly apply the 60-day period to  
22 those civil actions relating to a Federal officer or  
23 employee sued in an individual capacity for an act  
24 or omission occurring in connection with Federal du-  
25 ties;

1           (4) the civil actions to which the 60-day periods  
2           should apply include all civil actions in which a legal  
3           officer of the United States represents the relevant  
4           officer or employee when the judgment or order is  
5           entered or in which the United States files the ap-  
6           peal for that officer or employee; and

7           (5) the application of the 60-day period in sec-  
8           tion 2107 of title 28, United States Code, and rule  
9           4 of the Federal Rules of Appellate Procedure—

10                   (A) is not limited to civil actions in which  
11                   representation of the United States is provided  
12                   by the Department of Justice; and

13                   (B) includes all civil actions in which the  
14                   representation of the United States is provided  
15                   by a Federal legal officer acting in an official  
16                   capacity, such as civil actions in which a Mem-  
17                   ber, officer, or employee of the Senate or the  
18                   House of Representatives is represented by the  
19                   Office of Senate Legal Counsel or the Office of  
20                   General Counsel of the House of Representa-  
21                   tives.

22 **SEC. 3. TIME FOR APPEALS IN CERTAIN CASES.**

23           Section 2107 of title 28, United States Code, is  
24           amended—

25                   (1) in subsection (a)—

1 (A) by striking “order or decree” each  
2 place it appears and inserting “order, or de-  
3 cree”;

4 (B) by striking “suit or proceeding” and  
5 inserting “suit, or proceeding”; and

6 (C) by striking “filed, within thirty” and  
7 inserting “filed within 30”; and

8 (2) by amending subsection (b) to read as fol-  
9 lows:

10 “(b) In any such action, suit, or proceeding, the time  
11 as to all parties shall be 60 days from such entry if one  
12 of the parties is—

13 “(1) the United States;

14 “(2) an agency of the United States;

15 “(3) an officer or employee of the United States  
16 who is sued in an official capacity; or

17 “(4) a current or former officer or employee of  
18 the United States who is sued in an individual ca-  
19 pacity for an act or omission occurring in connection  
20 with duties performed on behalf of the United  
21 States, including any instance in which the United  
22 States represents that person when the judgment,  
23 order, or decree is entered or files the appeal for  
24 that person.”.

1 **SEC. 4. EFFECTIVE DATE.**

2       The amendments made by this Act shall take effect  
3 on December 1, 2011.

Calendar No. 199

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session  
**H. R. 2633**

---

**AN ACT**

To amend title 28, United States Code, to clarify the time limits for appeals in civil cases to which United States officers or employees are parties.

---

OCTOBER 17, 2011

Reported without amendment