

107TH CONGRESS
1ST SESSION

H. R. 3332

To amend the Social Security Act to provide greater equity and efficiency to the Social Security Administration's payment system for representation of claimants, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 2001

Mr. SHAW (for himself and Mr. MATSUI) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Social Security Act to provide greater equity and efficiency to the Social Security Administration's payment system for representation of claimants, and for other purposes.

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 “Attorney Fee Payment
5 System Improvement Act of 2001”.

1 **SEC. 2. INCREASE IN MAXIMUM ALLOWABLE ATTORNEY**
2 **FEE AND CAP ON ATTORNEY ASSESSMENTS.**

3 (a) MAXIMUM ALLOWABLE ATTORNEY FEE.—Sec-
4 tion 206(a)(2)(A) of the Social Security Act (42 U.S.C.
5 406(a)(2)(A)) is amended—

6 (1) in clause (ii)(II), by striking “\$4,000” and
7 inserting “\$5,200”; and

8 (2) in the matter following clause (iii), by strik-
9 ing “January 1, 1991” and inserting “January 1,
10 2001”.

11 (b) CAP ON ATTORNEY ASSESSMENTS.—Section
12 206(d)(2)(A) of such Act (42 U.S.C. 406(d)(2)(A)) is
13 amended by inserting “, except that the maximum
14 amount of the assessment may not exceed \$100” after
15 “subparagraph (B)”.

16 **SEC. 3. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM**
17 **TO TITLE XVI CLAIMS.**

18 Section 1631(d)(2) of the Social Security Act (42
19 U.S.C. 1383(d)(2)) is amended—

20 (1) in the matter in subparagraph (A) pre-
21 ceding clause (i)—

22 (A) by striking “section 206(a)” and in-
23 serting “section 206”;

24 (B) by striking “(other than paragraph (4)
25 thereof)” and inserting “(other than sub-
26 sections (a)(4) and (d) thereof); and

1 (C) by striking “paragraph (2) thereof”
2 and inserting “such section”;

3 (2) in subparagraph (A)(i), by striking “in sub-
4 paragraphs (A)(ii)(I) and (C)(i),” and inserting “in
5 subparagraphs (A)(ii)(I) and (D)(i) of subsection
6 (a)(2) and in subsection (a)(4)”, and by striking
7 “and” at the end; and

8 (3) by striking subparagraph (A)(ii) and insert-
9 ing the following:

10 “(ii) by substituting, in subsections (a)(2)(B)
11 and (b)(1)(B)(i), the phrase ‘section 1631(a)(7)(A)
12 or the requirements of due process of law’ for the
13 phrase ‘subsection (g) or (h) of section 223’;

14 “(iii) by substituting, in subsection (a)(2)(C)(i),
15 the phrase ‘under title II’ for the phrase ‘under title
16 XVI’;

17 “(iv) by substituting, in subsection (a)(4), the
18 phrase ‘shall pay’ for the phrase ‘shall, notwith-
19 standing section 205(i), certify for payment’; and

20 “(v) by substituting, in subsection (b)(1)(A),
21 the phrase ‘pay the amount of such fee’ for the
22 phrase ‘certify the amount of such fee for payment’
23 and by striking, in subsection (b)(1)(A), the phrase
24 ‘or certified for payment’; and

1 “(vi) by substituting, in subsection
2 (b)(1)(B)(ii), the phrase ‘deemed to be such
3 amounts as determined before any applicable reduc-
4 tion under section 1631(g), and reduced by the
5 amount of any reduction in benefits under this title
6 or title II made pursuant to section 1127(a)’ for the
7 phrase ‘determined before any applicable reduction
8 under section 1127(a))’.”;

9 (4) by redesignating subparagraph (B) as sub-
10 paragraph (D); and

11 (5) by inserting after subparagraph (A) the fol-
12 lowing new subparagraphs:

13 “(B) Subject to subparagraph (C), if the claimant is
14 determined to be entitled to past-due benefits under this
15 title and the person representing the claimant is an attor-
16 ney, the Commissioner of Social Security shall pay out of
17 such past-due benefits (as determined before any applica-
18 ble reduction under section 1631(g), and reduced by the
19 amount of any reduction in benefits under this title or title
20 II made pursuant to section 1127(a)) to such attorney an
21 amount equal to so much of the maximum fee as does
22 not exceed 25 percent of such past-due benefits (as so de-
23 termined and so reduced).

24 “(C)(i) Whenever a fee for services is required to be
25 certified for payment to an attorney from a claimant’s

1 past-due benefits pursuant to subparagraph (B), the Com-
2 missioner shall impose on the attorney an assessment cal-
3 culated in accordance with clause (ii).

4 “(ii)(I) The amount of an assessment under clause
5 (i) shall be equal to the product obtained by multiplying
6 the amount of the representative’s fee that would be re-
7 quired to be so certified by subparagraph (B) before the
8 application of this subparagraph, by the percentage speci-
9 fied in subclause (II), except that the maximum amount
10 of the assessment may not exceed \$100.

11 “(II) The percentage specified in this subclause is
12 such percentage rate as the Commissioner determines is
13 necessary in order to achieve full recovery of the costs of
14 determining and approving fees to attorneys from the
15 past-due benefits of claimants, but not in excess of 6.3
16 percent.

17 “(iii) The Commissioner may collect the assessment
18 imposed on an attorney under clause (i) by offset from
19 the amount of the fee otherwise required by subparagraph
20 (B) to be paid to the attorney from a claimant’s past-due
21 benefits.

22 “(iv) An attorney subject to an assessment under
23 clause (i) may not, directly or indirectly, request or other-
24 wise obtain reimbursement for such assessment from the
25 claimant whose claim gave rise to the assessment.

1 “(v) Assessments on attorneys collected under this
2 subparagraph shall be deposited in the Treasury in a sepa-
3 rate fund created for this purpose.

4 “(vi) The assessments authorized under this subpara-
5 graph shall be collected and available for obligation only
6 to the extent and in the amount provided in advance in
7 appropriations Acts. Amounts so appropriated are author-
8 ized to remain available until expended, for administrative
9 expenses in carrying out this title and related laws.”.

10 **SEC. 4. EFFECTIVE DATE.**

11 The amendments made by this Act shall apply with
12 respect to fees for representation of claimants which are
13 first required to be certified or approved under section 206
14 or 1631(d)(2) of the Social Security Act after 180 days
15 after the date of the enactment of this Act.

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