

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5542

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## AN ACT

To consolidate all black lung benefit responsibility under  
a single official, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Black Lung Consolida-  
3 tion of Administrative Responsibility Act”.

4 **SEC. 2. TRANSFER OF PART B BLACK LUNG BENEFIT RE-**  
5 **SPONSIBILITIES FROM COMMISSIONER OF**  
6 **SOCIAL SECURITY TO SECRETARY OF LABOR.**

7 (a) IN GENERAL.—Part B of the Black Lung Bene-  
8 fits Act (30 U.S.C. 921 et seq.) other than section 415(b)  
9 (30 U.S.C. 925(b)) is amended by striking “Commissioner  
10 of Social Security” each place such term appears and in-  
11 serting “Secretary”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 402 of such Act (30 U.S.C. 902) is  
14 amended—

15 (A) in subsection (c), by striking “where  
16 used in part C” and inserting “, except where  
17 expressly otherwise provided,”;

18 (B) in subsection (f)(1), by inserting after  
19 “Secretary of Health, Education, and Welfare”  
20 the following: “, which were in effect on the  
21 date of enactment of the Black Lung Consolida-  
22 tion of Administrative Responsibilities Act,”;

23 (C) in subsection (f)(2)—

24 (i) by striking “which is subject to re-  
25 view by the Secretary of Health, Edu-

1 cation, and Welfare,” and inserting “aris-  
2 ing under part B”; and

3 (ii) by striking the comma after “Sec-  
4 retary of Labor”; and

5 (D) in subsection (i), by amending para-  
6 graph (1) to read as follows:

7 “(1) for benefits under part B that was denied  
8 by the official responsible for administration of such  
9 part; or”.

10 (2) Section 413(b) of such Act (30 U.S.C.  
11 923(b)) is amended by striking “In carrying out the  
12 provisions of this part” and all that follows through  
13 “Social Security Act, but no” and inserting “No”.

14 (3) Section 415 of such Act (30 U.S.C. 925) is  
15 amended—

16 (A) in subsection (a)—

17 (i) by striking paragraph (2):

18 (ii) by redesignating paragraphs (3)  
19 through (5) as paragraphs (2) through (4),  
20 respectively; and

21 (iii) in paragraph (4) (as so redesign-  
22 ated), by striking “paragraph 4” and in-  
23 serting “paragraph (2)”; and

1 (B) in subsection (b), by striking “, after  
2 consultation with the Commissioner of Social  
3 Security,”.

4 (4) Section 426 of such Act (30 U.S.C. 936) is  
5 amended—

6 (A) in subsection (a), by striking “, the  
7 Commissioner of Social Security,”; and

8 (B) in subsection (b), by amending the  
9 first sentence to read as follows: “At the end of  
10 fiscal year 2003 and each succeeding fiscal  
11 year, the Secretary of Labor shall submit to the  
12 Congress an annual report on the subject mat-  
13 ter of parts B and C of this title.”.

14 (5) Public Law 94–504 (30 U.S.C. 932a) is  
15 amended by striking “under part C” and inserting  
16 “under part B or part C”.

17 (c) REPEAL OF OBSOLETE PROVISIONS.—The fol-  
18 lowing provisions of law are repealed:

19 (1) Section 435 of the Black Lung Benefits Act  
20 (30 U.S.C. 945).

21 (2) Sections 11 and 19 of the Black Lung Ben-  
22 efits Reform Act of 1977 (30 U.S.C. 924a, 904).

23 **SEC. 3. TRANSITIONAL PROVISIONS.**

24 (a) APPLICABILITY.—This section shall apply to the  
25 transfer of all functions relating to the administration of

1 part B of subchapter IV (30 U.S.C. 901 et seq.) from the  
2 Commissioner of Social Security (hereinafter in this sec-  
3 tion referred to as the “Commissioner”) to the Secretary  
4 of Labor, as provided by this Act.

5 (b) TRANSFER OF ASSETS, LIABILITIES, ETC.—

6 (1) The Commissioner shall transfer to the Sec-  
7 retary of Labor all property and records that the Di-  
8 rector of the Office of Management and Budget de-  
9 termines relate to the functions transferred to the  
10 Secretary of Labor by this Act or amendments made  
11 by this Act.

12 (2) Section 1531 of title 31, United States  
13 Code, shall apply in carrying out this Act and  
14 amendments made by this Act, except that, for pur-  
15 poses of carrying out this Act and amendments  
16 made by this Act, the functions of the President  
17 under section 1531(b) shall be performed by the Di-  
18 rector of the Office of Management and Budget un-  
19 less otherwise directed by the President.

20 (c) CONTINUATION OF ORDERS, DETERMINATIONS,  
21 ETC.—

22 (1) This Act shall not affect the validity of any  
23 order, determination, rule, regulation, operating pro-  
24 cedure (to the extent applicable to the Secretary of  
25 Labor), or contract that—

1 (A) relates to a function transferred by  
2 this Act; and

3 (B) is in effect on the date this Act takes  
4 effect.

5 (2) Any order, determination, rule, regulation,  
6 operating procedure, or contract described in para-  
7 graph (1) shall—

8 (A) apply on and after the effective date of  
9 this Act to the Secretary of Labor; and

10 (B) continue in effect, according to its  
11 terms, until it is modified, superseded, termi-  
12 nated, or otherwise deprived of legal effect by  
13 the Secretary of Labor, a court of competent  
14 jurisdiction, or operation of law.

15 (d) CONTINUATION OF ADMINISTRATIVE PRO-  
16 CEEDINGS.—

17 (1) Any proceeding before the Commissioner in-  
18 volving the functions transferred by this Act that is  
19 pending on the date this Act takes effect shall con-  
20 tinue before the Secretary of Labor, except as pro-  
21 vided in paragraph (2).

22 (2) Any proceeding pending before an Adminis-  
23 trative Law Judge or the Appeals Council pursuant  
24 to part B and the applicable regulations of the Sec-  
25 retary of Health and Human Services shall continue

1 before the Commissioner consistent with the fol-  
2 lowing provisions:

3 (A) Any proceeding described in this para-  
4 graph shall continue as if this Act had not been  
5 enacted, and shall include all rights to hearing,  
6 administrative review, and judicial review avail-  
7 able under part B and the applicable regula-  
8 tions of the Secretary of Health and Human  
9 Services.

10 (B) Any decision, order, or other deter-  
11 mination issued in any proceeding described in  
12 this subsection shall apply to the Secretary of  
13 Labor and continue in effect, according to its  
14 terms, until it is modified, superseded, termi-  
15 nated, or otherwise deprived of legal effect by  
16 the Secretary of Labor, a court of competent  
17 jurisdiction, or operation of law.

18 (C) Nothing in this paragraph shall be  
19 deemed to prohibit the discontinuance or modi-  
20 fication of any such proceeding under the same  
21 terms and conditions and to the same extent  
22 that such proceeding could have been discon-  
23 tinued or modified if this Act had not been en-  
24 acted.

1           (3) Any proceeding before the Secretary of  
2 Labor involving the functions transferred by this Act  
3 shall be subject to the statutory requirements for no-  
4 tice, hearing, action upon the record, administrative  
5 review, and judicial review that apply to similar pro-  
6 ceedings before the Commissioner conducted prior to  
7 the enactment of this Act.

8           (e) CONTINUATION OF ACTIONS AND CAUSES OF AC-  
9 TION.—

10           (1) Except as provided in paragraphs (2) and  
11 (3), this Act shall not abrogate, terminate, or other-  
12 wise affect any action or cause of action, that—

13                   (A) relates to a function transferred by  
14 this Act; and

15                   (B) is pending or otherwise in existence on  
16 the date this Act takes effect.

17           (2) Any action pending before the Commis-  
18 sioner or any court on the date this Act takes effect  
19 that involves a function transferred by this Act shall  
20 continue before the Commissioner or court con-  
21 sistent with the following provisions:

22                   (A) Any proceeding described in this para-  
23 graph shall continue as if this Act had not been  
24 enacted.



1           (B) Any decision, order, or other deter-  
2           mination issued in any proceeding subject to  
3           this paragraph shall apply to the Secretary of  
4           Labor and continue in effect, according to its  
5           terms, until it is modified, superseded, termi-  
6           nated, or otherwise deprived of legal effect by  
7           the Secretary of Labor, a court of competent  
8           jurisdiction, or operation of law.

9           (3) Any cause of action by or against the Com-  
10          missioner that exists on the date this Act takes ef-  
11          fect and involves any function transferred by this  
12          Act may be asserted by or against the Secretary of  
13          Labor or the United States.

14          (f) CONTINUATION OF ACTIONS AGAINST OFFI-  
15          CERS.—No suit, action, or other proceeding commenced  
16          by or against any officer in his official capacity as an offi-  
17          cer of the Social Security Administration, and relating to  
18          a function transferred by this Act, shall abate by reason  
19          of the enactment of this Act. No cause of action by or  
20          against the Social Security Administration, or by or  
21          against any officer thereof in his official capacity, relating  
22          to a function transferred by this Act, shall abate by reason  
23          of enactment of this Act.

24          (g) PRESERVATION OF PENALTIES, ETC.—The trans-  
25          fer of functions under this Act shall not release or extin-

1 guish any penalty, forfeiture, liability, prosecution, inves-  
2 tigation, or right to initiate a future investigation or pros-  
3 ecution involving any function transferred by this Act.

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

5       This Act, and the amendments made by this Act,  
6 shall take effect 90 days after the date of enactment of  
7 this Act.

      Passed the House of Representatives October 9,  
2002.

Attest:

*Clerk.*

107TH CONGRESS  
2D SESSION

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**AN ACT**

To consolidate all black lung benefit responsibility  
under a single official, and for other purposes.