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National Veterans Affairs and Rehabilitation Commission

1608 K Street, N.W. • Washington, D.C. 20006

K. Robert Lewis, Chairman - Connecticut

Peter S. Gaytan, Director - Maryland

32-08

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## PL 110-389, the Veterans' Benefits Improvement Act of 2008

The President signed this Act on October 10, 2008. It makes several important changes to Title 38, United States Code.

Highlights of major provisions are as follows:

Issue	Provision
Notification Letters	This legislation requires VA to prescribe regulations governing the content of such notices and requires different content depending on whether the claim is an original claim, a request to re-open a denied claim, or a claim to increase benefits.
Schedule for Rating Disabilities	The legislation subjects the Rating Schedule for Disabilities to review by the US Court of Appeals for the Federal Circuit.
Temporary Disability Ratings	Establishes and codifies existing procedures for the assignment of temporary ratings for veterans in special circumstances such as transitioning veterans recently separated from service with severe disabilities and/or mental disorders stemming from an in service highly stressful event, as well as other temporary situations such as hospitalization.
Substitution Upon Death of Claimant	The legislation permits a person who would be eligible to receive accrued benefits under 38 USC § 5121(a) to be substituted for the deceased upon death of the claimant to complete the prosecution of the claim. It requires VA to

	prescribe regulations to implement this provision.
Advisory Committee on Disability Compensation	The legislation establishes within VA an Advisory Committee on Disability Compensation. VA is required to consult with this committee regarding maintaining and periodically readjusting the Schedule for Rating Disabilities. The committee must report to VA at least every two years and VA must transmit those reports, along with comments and recommendations, to the Senate and House Committees on Veterans Affairs.
Osteoporosis	Osteoporosis is added to the presumptive list of disabilities for former Prisoners of War (POW) diagnosed with post-traumatic stress disorder.
Pilot Program on Fully Developed Expedited Claims	Requires VA to carry out a one-year pilot program at 10 VA Regional Offices to assess the feasibility and advisability of expeditiously treating “fully developed” claims to ensure that VA decides them within 90 days of being submitted as fully developed. The legislation also requires VA to carry out a pilot program to assess the feasibility and advisability of providing, along with notice of the information and evidence necessary to substantiate a claim, a “checklist” of the information and evidence the claimant is required to submit.
Office of Survivor Assistance	Requires VA establish an Office of Survivors Assistance to serve as a resource regarding all benefits and services furnished by VA to the survivors and dependants of deceased veterans and service-members. This office is also to serve as the primary advisor to VA on all matters related to the policies, programs and legislative issues affecting survivors and dependents.
Independent Assessment of Quality Assurance	The legislation requires VA to contract with an “independent third party entity” to assess the quality assurance program carried out in the VBA under 38 USC § 7731(a). The assessment would evaluate among other things, the quality and accuracy of VBA employees’ work, as well as the accuracy of disability ratings assigned under the Schedule for Rating Disabilities.
Certification and Training of VBA Employees	The legislation requires VA to provide for an examination of VBA employees and managers responsible for processing compensation and pension claims and require those persons to take the examination.
Study of Performance Measures for Claims Adjudication	Requires VA to study the effectiveness of the present “work credit” system and work management system. The legislation prescribes various considerations to be considered in the study, requires that a report be made to Congress, and requires VA to establish an updated system for evaluating VBA

	employees' performance and accountability based upon the findings of the new study.
Review and Enhancement of IT and Technology	Requires that VA review VBA use of IT (Information Technology) to process compensation and pension claims, and to develop a comprehensive plan for the use of IT in claims processing to reduce subjectivity, reduce avoidable remands, and reduce regional office variances in disability ratings.
Report on Inclusion of Severe and Acute PTSD Among Conditions Covered by Traumatic Injury Protection Coverage under SGLI	Requires VA to, in consultation with Department of Defense (DoD), to report to the Senate and House Armed Services and Veterans' Affairs Committees on the feasibility and advisability of including severe and acute post-traumatic stress disorder (PTSD) among conditions covered by traumatic injury protection under the Service-members' Group Life Insurance (SGLI) program.




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PETER S. GAYTAN, Director  
National Veterans Affairs and  
Rehabilitation Division