

**AMENDMENT TO THE RULES COMMITTEE PRINT
FOR H.R. 1735
OFFERED BY MR. BOST OF ILLINOIS AND MR.
CONNOLLY OF VIRGINIA**

At the end of subtitle D of title VIII, add the following new section:

1 **SEC. 8___ . ESTABLISHMENT OF AN OFFICE OF HEARINGS**
2 **AND APPEALS IN THE SMALL BUSINESS AD-**
3 **MINISTRATION; PETITIONS FOR RECONSID-**
4 **ERATION OF SIZE STANDARDS.**

5 (a) ESTABLISHMENT OF AN OFFICE OF HEARINGS
6 AND APPEALS IN THE SMALL BUSINESS ADMINISTRA-
7 TION.—

8 (1) IN GENERAL.—Section 5 of the Small Busi-
9 ness Act (15 U.S.C. 634) is amended by adding at
10 the end the following new subsection:

11 “(i) OFFICE OF HEARINGS AND APPEALS.—

12 “(1) ESTABLISHMENT.—

13 “(A) OFFICE.—There is established in the
14 Administration an Office of Hearings and Ap-
15 peals—

1 “(i) to impartially decide matters re-
2 relating to program decisions of the Admin-
3 istrator—

4 “(I) for which Congress requires
5 a hearing on the record; or

6 “(II) that the Administrator des-
7 ignates for hearing by regulation; and

8 “(ii) which shall contain the office of
9 the Administration that handles requests
10 submitted pursuant to sections 552 of title
11 5, United States Code (commonly referred
12 to as the ‘Freedom of Information Act’)
13 and maintains records pursuant to section
14 552a of title 5, United States Code (com-
15 monly referred to as the ‘Privacy Act of
16 1974’).

17 “(B) JURISDICTION.—The Office of Hear-
18 ings and Appeals shall only hear appeals of
19 matters as described in this Act, the Small
20 Business Investment Act of 1958 (15 U.S.C.
21 661 et seq.), and title 13 of the Code of Federal
22 Regulations.

23 “(C) ASSOCIATE ADMINISTRATOR.—The
24 head of the Office of Hearings and Appeals
25 shall be the Chief Hearing Officer appointed

1 under section 4(b)(1), who shall be responsible
2 to the Administrator.

3 “(2) CHIEF HEARING OFFICER DUTIES.—

4 “(A) IN GENERAL.—The Chief Hearing
5 Officer shall—

6 “(i) be a career appointee in the Sen-
7 ior Executive Service and an attorney li-
8 censed by a State, commonwealth, territory
9 or possession of the United States, or the
10 District of Columbia; and

11 “(ii) be responsible for the operation
12 and management of the Office of Hearings
13 and Appeals.

14 “(B) ALTERNATIVE DISPUTE RESOLU-
15 TION.—The Chief Hearing Officer may assign a
16 matter for mediation or other means of alter-
17 native dispute resolution.

18 “(3) HEARING OFFICERS.—

19 “(A) IN GENERAL.—The Office of Hear-
20 ings and Appeals shall appoint Hearing Officers
21 to carry out the duties described in paragraph
22 (1)(A)(i).

23 “(B) CONDITIONS OF EMPLOYMENT.—A
24 Hearing Officer appointed under this para-
25 graph—

1 “(i) shall serve in the excepted service
2 as an employee of the Administration
3 under section 2103 of title 5, United
4 States Code, and under the supervision of
5 the Chief Hearing Officer;

6 “(ii) shall be classified at a position to
7 which section 5376 of title 5, United
8 States Code, applies; and

9 “(iii) shall be compensated at a rate
10 not exceeding the maximum rate payable
11 under such section.

12 “(C) AUTHORITY; POWERS.—Notwith-
13 standing section 556(b) of title 5, United States
14 Code, a Hearing Officer—

15 “(i) shall have the authority to hear
16 claims arising under section 554 of such
17 title;

18 “(ii) shall have the powers described
19 in section 556(c) of such title; and

20 “(iii) shall conduct hearings and issue
21 decisions in the manner described under
22 sections 555, 556, and 557 of such title, as
23 applicable.

24 “(D) TREATMENT OF CURRENT PER-
25 SONNEL.—An individual serving as a Judge in

1 the Office of Hearings and Appeals (as that po-
2 sition and office are designated in section
3 134.101 of title 13, Code of Federal Regula-
4 tions) on the effective date of this subsection
5 shall be considered as qualified to be, and re-
6 designated as, a Hearing Officer.

7 “(4) HEARING OFFICER DEFINED.—In this
8 subsection, the term ‘Hearing Officer’ means an in-
9 dividual appointed or redesignated under this sub-
10 section who is an attorney licensed by a State, com-
11 monwealth, territory or possession of the United
12 States, or the District of Columbia.”.

13 (2) ASSOCIATE ADMINISTRATOR AS CHIEF
14 HEARING OFFICER.—Section 4(b)(1) of such Act (15
15 U.S.C. 633(b)) is amended by adding at the end the
16 following: “One such Associate Administrator shall
17 be the Chief Hearing Officer, who shall administer
18 the Office of Hearings and Appeals established
19 under section 5(i).”.

20 (3) REPEAL OF REGULATION.—Section
21 134.102(t) of title 13, Code of Federal Regulations,
22 as in effect on January 1, 2015, (relating to types
23 of hearings within the jurisdiction of the Office of
24 Hearings and Appeals) shall have no force or effect.

1 (b) PETITIONS FOR RECONSIDERATION OF SIZE
2 STANDARDS FOR SMALL BUSINESS CONCERNS.—Section
3 3(a) of the Small Business Act (15 U.S.C. 632(a)) is
4 amended by adding at the end the following:

5 “(9) PETITIONS FOR RECONSIDERATION OF
6 SIZE STANDARDS.—

7 “(A) IN GENERAL.—A person may file a
8 petition for reconsideration with the Office of
9 Hearings and Appeals (as established under
10 section 5(i)) of a size standard revised, modi-
11 fied, or established by the Administrator pursu-
12 ant to this subsection.

13 “(B) TIME LIMIT.—A person filing a peti-
14 tion for reconsideration described in subpara-
15 graph (A) shall file such petition not later than
16 30 days after the publication in the Federal
17 Register of the notice of final rule to revise,
18 modify, or establish size standards described in
19 paragraph (6).

20 “(C) PROCESS FOR AGENCY REVIEW.—The
21 Office of Hearings and Appeals shall use the
22 same process it uses to decide challenges to the
23 size of a small business concern to decide a pe-
24 tition for review pursuant to this paragraph.

1 “(D) JUDICIAL REVIEW.—The publication
2 of a final rule in the Federal Register described
3 in subparagraph (B) shall be considered final
4 agency action for purposes of seeking judicial
5 review. Filing a petition for reconsideration
6 under subparagraph (A) shall not be a condi-
7 tion precedent to judicial review of any such
8 size standard.”.

