



variety of amendments proposed, the Senate passed the legislation on March 8, 2011, by a wide 95-5 margin.

Congressman Lamar Smith introduced H.R. 1249 “America Invents Act” on March 30, 2010, to the House of Representatives, which has also held extensive hearings on patent law reform. The House Judiciary Committee approved the legislation with amendments on April 14, 2011, with a margin of 32-3. The House version of the legislation is very similar in many ways to the legislation passed by the Senate, and amendments accepted in Committee reduced the number of differences between the two bills. The House version would establish prior user rights for an earlier inventor who failed to be the first inventor to file, but would require both reduction to practice and commercial use at least one year before the late inventor filed an application. The House allows a longer window for inter partes review initiation after a litigation begins, with 12 months compared to 6 months in the Senate version. The time frames for post-grant review also differ, with one year in the House compared to nine months in the Senate. The House version only establishes USPTO fee setting authority for six years, whereas the Senate makes this change permanent. Finally, the House offers a three-year safe harbor after a patent expires for false marking.

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