

110TH CONGRESS
2D SESSION

S. 3370

To resolve pending claims against Libya by United States nationals, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2008

Mr. BIDEN (for himself, Mr. LUGAR, Mr. LAUTENBERG, Mr. WARNER, Mr.
LEAHY, Mr. LEVIN, and Mr. VOINOVICH) introduced the following bill;
which was read twice, considered, read the third time, and passed

A BILL

To resolve pending claims against Libya by United States
nationals, 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 “Libyan Claims Resolu-
5 tion Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

8 (1) the term “appropriate congressional com-
9 mittees” means the Committee on Foreign Relations
10 and the Committee on the Judiciary of the Senate

1 and the Committee on Foreign Affairs and the Com-
2 mittee on the Judiciary of the House of Representa-
3 tives;

4 (2) the term “claims agreement” means an
5 international agreement between the United States
6 and Libya, binding under international law, that
7 provides for the settlement of terrorism-related
8 claims of nationals of the United States against
9 Libya through fair compensation;

10 (3) the term “national of the United States”
11 has the meaning given that term in section
12 101(a)(22) of the Immigration and Nationality Act
13 (8 U.S.C. 1101(a)(22));

14 (4) the term “Secretary” means the Secretary
15 of State; and

16 (5) the term “state sponsor of terrorism”
17 means a country the government of which the Sec-
18 retary has determined, for purposes of section 6(j)
19 of the Export Administration Act of 1979 (50
20 U.S.C. App. 2405(j)), section 620A of the Foreign
21 Assistance Act of 1961 (22 U.S.C. 2371), section 40
22 of the Arms Export Control Act (22 U.S.C. 2780),
23 or any other provision of law, is a government that
24 has repeatedly provided support for acts of inter-
25 national terrorism.

1 **SEC. 3. SENSE OF CONGRESS.**

2 Congress supports the President in his efforts to pro-
3 vide fair compensation to all nationals of the United
4 States who have terrorism-related claims against Libya
5 through a comprehensive settlement of claims by such na-
6 tionals against Libya pursuant to an international agree-
7 ment between the United States and Libya as a part of
8 the process of restoring normal relations between Libya
9 and the United States.

10 **SEC. 4. ENTITY TO ASSIST IN IMPLEMENTATION OF CLAIMS**
11 **AGREEMENT.**

12 (a) DESIGNATION OF ENTITY.—

13 (1) DESIGNATION.—The Secretary, by publica-
14 tion in the Federal Register, may, after consultation
15 with the appropriate congressional committees, des-
16 ignate 1 or more entities to assist in providing com-
17 pensation to nationals of the United States, pursu-
18 ant to a claims agreement.

19 (2) AUTHORITY OF THE SECRETARY.—The des-
20 ignation of an entity under paragraph (1) is within
21 the sole discretion of the Secretary, and may not be
22 delegated. The designation shall not be subject to ju-
23 dicial review.

24 (b) IMMUNITY.—

25 (1) PROPERTY.—

(A) IN GENERAL.—Notwithstanding any other provision of law, if the Secretary designates any entity under subsection (a)(1), any property described in subparagraph (B) of this paragraph shall be immune from attachment or any other judicial process. Such immunity shall be in addition to any other applicable immunity.

(B) PROPERTY DESCRIBED.—The property described in this subparagraph is any property that—

(i) relates to the claims agreement;

and

(ii) for the purpose of implementing the claims agreement, is—

(I) held by an entity designated by the Secretary under subsection (a)(1);

(II) transferred to the entity; or

(III) transferred from the entity.

(2) OTHER ACTS.—An entity designated by the Secretary under subsection (a)(1), and any person acting through or on behalf of such entity, shall not be liable in any Federal or State court for any action taken to implement a claims agreement.

1 (c) NONAPPLICABILITY OF THE GOVERNMENT COR-
2 PORATION CONTROL ACT.—An entity designated by the
3 Secretary under subsection (a)(1) shall not be subject to
4 chapter 91 of title 31, United States Code (commonly
5 known as the “Government Corporation Control Act”).

6 **SEC. 5. RECEIPT OF ADEQUATE FUNDS; IMMUNITIES OF**
7 **LIBYA.**

8 (a) IMMUNITY.—

9 (1) IN GENERAL.—Notwithstanding any other
10 provision of law, upon submission of a certification
11 described in paragraph (2)—

12 (A) Libya, an agency or instrumentality of
13 Libya, and the property of Libya or an agency
14 or instrumentality of Libya, shall not be subject
15 to the exceptions to immunity from jurisdiction,
16 liens, attachment, and execution contained in
17 section 1605A, 1605(a)(7), or 1610 (insofar as
18 section 1610 relates to a judgment under such
19 section 1605A or 1605(a)(7)) of title 28,
20 United States Code;

21 (B) section 1605A(c) of title 28, United
22 States Code, section 1083(c) of the National
23 Defense Authorization Act for Fiscal Year 2008
24 (Public Law 110–181; 122 Stat. 342; 28
25 U.S.C. 1605A note), section 589 of the Foreign

1 Operations, Export Financing, and Related
2 Programs Appropriations Act, 1997 (28 U.S.C.
3 1605 note), and any other private right of ac-
4 tion relating to acts by a state sponsor of ter-
5 rorism arising under Federal, State, or foreign
6 law shall not apply with respect to claims
7 against Libya, or any of its agencies, instru-
8 mentalities, officials, employees, or agents in
9 any action in a Federal or State court; and

10 (C) any attachment, decree, lien, execution,
11 garnishment, or other judicial process brought
12 against property of Libya, or property of any
13 agency, instrumentality, official, employee, or
14 agent of Libya, in connection with an action
15 that would be precluded by subparagraph (A)
16 or (B) shall be void.

17 (2) CERTIFICATION.—A certification described
18 in this paragraph is a certification—

19 (A) by the Secretary to the appropriate
20 congressional committees; and

21 (B) stating that the United States Govern-
22 ment has received funds pursuant to the claims
23 agreement that are sufficient to ensure—

24 (i) payment of the settlements re-
25 ferred to in section 654(b) of division J of

1 the Consolidated Appropriations Act, 2008
2 (Public Law 110–161; 121 Stat. 2342);
3 and

4 (ii) fair compensation of claims of na-
5 tionals of the United States for wrongful
6 death or physical injury in cases pending
7 on the date of enactment of this Act
8 against Libya arising under section 1605A
9 of title 28, United States Code (including
10 any action brought under section
11 1605(a)(7) of title 28, United States Code,
12 or section 589 of the Foreign Operations,
13 Export Financing, and Related Programs
14 Appropriations Act, 1997 (28 U.S.C. 1605
15 note), that has been given effect as if the
16 action had originally been filed under
17 1605A(c) of title 28, United States Code,
18 pursuant to section 1083(c) of the Na-
19 tional Defense Authorization Act for Fiscal
20 Year 2008 (Public Law 110–181; 122
21 Stat. 342; 28 U.S.C. 1605A note)).

22 (b) TEMPORAL SCOPE.—Subsection (a) shall apply
23 only with respect to any conduct or event occurring before
24 June 30, 2006, regardless of whether, or the extent to

1 which, application of that subsection affects any action
2 filed before, on, or after that date.

3 (c) AUTHORITY OF THE SECRETARY.—The certifi-
4 cation by the Secretary referred to in subsection (a)(2)
5 may not be delegated, and shall not be subject to judicial
6 review.

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