

Title I and title IV of the Air Transportation Safety and System Stabilization Act

[Public Law 107–42; 115 Stat. 230; 49 U.S.C. 40101 note]

[As Amended Through P.L. 116–34, Enacted July 29, 2019]

[Currency: This publication is a compilation of the text of Public Law 107–42. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>**]**

[Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).**]**

AN ACT To preserve the continued viability of the United States air transportation system.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. [49 U.S.C. 40101 note] SHORT TITLE.

This Act may be cited as the “Air Transportation Safety and System Stabilization Act”.

TITLE I—AIRLINE STABILIZATION

SEC. 101. [49 U.S.C. 40101 note] AVIATION DISASTER RELIEF.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the President shall take the following actions to compensate air carriers for losses incurred by the air carriers as a result of the terrorist attacks on the United States that occurred on September 11, 2001:

(1) [Repealed. Pub. L. 110-161, div. D, title I, Dec. 26, 2007, 121 Stat. 1974.]

(2) Compensate air carriers in an aggregate amount equal to \$5,000,000,000 for—

(A) direct losses incurred beginning on September 11, 2001, by air carriers as a result of any Federal ground stop order issued by the Secretary of Transportation or any subsequent order which continues or renews such a stoppage; and

(B) the incremental losses incurred beginning September 11, 2001, and ending December 31, 2001, by air carriers as a direct result of such attacks.

(b) **EMERGENCY DESIGNATION.**—Congress designates the amount of new budget authority and outlays in all fiscal years re-

sulting from this title as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

SEC. 102. [REPEALED. PUB. L. 110-161, DIV. D, TITLE I, DEC. 26, 2007, 121 STAT. 1974.]

SEC. 103. [49 U.S.C. 40101 note] SPECIAL RULES FOR COMPENSATION.

(a) **DOCUMENTATION.**—Subject to subsection (b), the amount of compensation payable to an air carrier under section 101(a)(2) may not exceed the amount of losses described in section 101(a)(2) that the air carrier demonstrates to the satisfaction of the President, using sworn financial statements or other appropriate data, that the air carrier incurred. The Secretary of Transportation and the Comptroller General of the United States may audit such statements and may request any information that the Secretary and the Comptroller General deems necessary to conduct such audit.

(b) **MAXIMUM AMOUNT OF COMPENSATION PAYABLE PER AIR CARRIER.**—The maximum total amount of compensation payable to an air carrier under section 101(a)(2) may not exceed the lesser of—

(1) the amount of such air carrier's direct and incremental losses described in section 101(a)(2); or

(2) in the case of—

(A) flights involving passenger-only or combined passenger and cargo transportation, the product of—

(i) \$4,500,000,000; and

(ii) the ratio of—

(I) the available seat miles of the air carrier for the month of August 2001 as reported to the Secretary; to

(II) the total available seat miles of all such air carriers for such month as reported to the Secretary; and

(B) flights involving cargo-only transportation, the product of—

(i) \$500,000,000; and

(ii) the ratio of—

(I) the revenue ton miles or other auditable measure of the air carrier for cargo for the latest quarter for which data is available as reported to the Secretary; to

(II) the total revenue ton miles or other auditable measure of all such air carriers for cargo for such quarter as reported to the Secretary.

(c) **PAYMENTS.**—The President may provide compensation to air carriers under section 101(a)(2) in 1 or more payments up to the amount authorized by this title.

(d) **COMPENSATION FOR CERTAIN AIR CARRIERS.**—

(1) **SET-ASIDE.**—The President may set aside a portion of the amount of compensation payable to air carriers under section 101(a)(2) to provide compensation to classes of air carriers,

such as air tour operators and air ambulances (including hospitals operating air ambulances) for whom the application of a distribution formula containing available seat miles as a factor would inadequately reflect their share of direct and incremental losses. The President shall reduce the \$4,500,000,000 specified in subsection (b)(2)(A)(i) by the amount set aside under this subsection.

(2) DISTRIBUTION OF AMOUNTS.—The President shall distribute the amount set aside under this subsection proportionally among such air carriers based on an appropriate auditable measure, as determined by the President.

SEC. 104. [REPEALED. PUB. L. 110-161, DIV. D, TITLE I, DEC. 26, 2007, 121 STAT. 1974.]

SEC. 105. [49 U.S.C. 40101 note] CONTINUATION OF CERTAIN AIR SERVICE.

(a) ACTION OF SECRETARY.—The Secretary of Transportation should take appropriate action to ensure that all communities that had scheduled air service before September 11, 2001, continue to receive adequate air transportation service and that essential air service to small communities continues without interruption.

(b) ESSENTIAL AIR SERVICE.—There is authorized to be appropriated to the Secretary to carry out the essential air service program under subchapter II of chapter 417 of title 49, United States Code, \$120,000,000 for fiscal year 2002.

(c) SECRETARIAL OVERSIGHT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized to require an air carrier receiving direct financial assistance under this Act to maintain scheduled air service to any point served by that carrier before September 11, 2001.

(2) AGREEMENTS.—In applying paragraph (1), the Secretary may require air carriers receiving direct financial assistance under this Act to enter into agreements which will ensure, to the maximum extent practicable, that all communities that had scheduled air service before September 11, 2001, continue to receive adequate air transportation service.

SEC. 106. [49 U.S.C. 40101 note] REPORTS.

(a) REPORT.—Not later than February 1, 2002, the President shall transmit to the Committee on Transportation and Infrastructure, the Committee on Appropriations, and the Committee on the Budget of the House of Representatives and the Committee on Commerce, Science, and Transportation, the Committee on Appropriations, and the Committee on the Budget of the Senate a report on the financial status of the air carrier industry and the amounts of assistance provided under this title to each air carrier.

(b) UPDATE.—Not later than the last day of the 7-month period following the date of enactment of this Act, the President shall update and transmit the report to the Committees.

SEC. 107. [49 U.S.C. 40101 note] DEFINITIONS.

In this title, the following definitions apply:

(1) AIR CARRIER.—The term “air carrier” has the meaning such term has under section 40102 of title 49, United States Code.

(2) [Repealed. Pub. L. 110-161, div. D, title I, Dec. 26, 2007, 121 Stat. 1974.]

(3) INCREMENTAL LOSS.—The term “incremental loss” does not include any loss that the President determines would have been incurred if the terrorist attacks on the United States that occurred on September 11, 2001, had not occurred.

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TITLE IV—VICTIM COMPENSATION

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SEC. 401. [49 U.S.C. 40101 note] SHORT TITLE.

This title may be cited as the “September 11th Victim Compensation Fund of 2001”.

SEC. 402. [49 U.S.C. 40101 note] DEFINITIONS.

In this title, the following definitions apply:

(1) AIR CARRIER.—The term “air carrier” means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees and agents (including persons engaged in the business of providing air transportation security and their affiliates) of such citizen. For purposes of the preceding sentence, the term “agent”, as applied to persons engaged in the business of providing air transportation security, shall only include persons that have contracted directly with the Federal Aviation Administration on or after and commenced services no later than February 17, 2002, to provide such security, and had not been or are not debarred for any period within 6 months from that date.

(2) AIR TRANSPORTATION.—The term “air transportation” means foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.

(3) AIRCRAFT MANUFACTURER.—The term “aircraft manufacturer” means any entity that manufactured the aircraft or any parts or components of the aircraft involved in the terrorist related aircraft crashes of September 11, 2001, including employees and agents of that entity.

(4) AIRPORT SPONSOR.—The term “airport sponsor” means the owner or operator of an airport (as defined in section 40102 of title 49, United States Code).

(5) CLAIMANT.—The term “claimant” means an individual filing a claim for compensation under section 405(a)(1).

(6) COLLATERAL SOURCE.—The term “collateral source” means all collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the terrorist-related aircraft crashes of September 11, 2001, or debris removal, including under the World Trade Center Health Program established under section 3001 of the Public Health Service Act, and payments made pursuant to the settlement of a civil action described in section 405(c)(3)(C)(iii).

(7) **CONTRACTOR AND SUBCONTRACTOR.**—The term “contractor and subcontractor” means any contractor or subcontractor (at any tier of a subcontracting relationship), including any general contractor, construction manager, prime contractor, consultant, or any parent, subsidiary, associated or allied company, affiliated company, corporation, firm, organization, or joint venture thereof that participated in debris removal at any 9/11 crash site. Such term shall not include any entity, including the Port Authority of New York and New Jersey, with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect.

(8) **DEBRIS REMOVAL.**—The term “debris removal” means rescue and recovery efforts, removal of debris, cleanup, remediation, and response during the immediate aftermath of the terrorist-related aircraft crashes of September 11, 2001, with respect to a 9/11 crash site.

(9) **ECONOMIC LOSS.**—The term “economic loss” means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, replacement services loss, loss due to death, burial costs, loss of business or employment opportunities, and past out-of-pocket medical expense loss but not future medical expense loss) to the extent recovery for such loss is allowed under applicable State law.

(10) **ELIGIBLE INDIVIDUAL.**—The term “eligible individual” means an individual determined to be eligible for compensation under section 405(c).

(11) **IMMEDIATE AFTERMATH.**—The term “immediate aftermath” means any period beginning with the terrorist-related aircraft crashes of September 11, 2001, and ending on May 30, 2002.

(12) **NONECONOMIC LOSSES.**—The term “noneconomic losses” means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(13) **SPECIAL MASTER.**—The term “Special Master” means the Special Master appointed under section 404(a).

(14) **WTC PROGRAM ADMINISTRATOR.**—The term “WTC Program Administrator” has the meaning given such term in section 3306 of the Public Health Service Act (42 U.S.C. 300mm–5).

(15) **WTC-RELATED PHYSICAL HEALTH CONDITION.**—The term “WTC-related physical health condition”—

(A) means, subject to subparagraph (B), a WTC-related health condition as defined by section 3312(a) of the Public Health Service Act (42 U.S.C. 300mm–22(a)), including the conditions listed in section 3322(b) of such Act (42 U.S.C. 300mm–32(b)); and

(B) does not include—

(i) a mental health condition described in paragraph (1)(A)(ii) or (3)(B) of section 3312(a) of such Act (42 U.S.C. 300mm-22(a));

(ii) any mental health condition certified under section 3312(b)(2)(B)(iii) of such Act (42 U.S.C. 300mm-22(b)(2)(B)(iii)) (including such certification as applied under section 3322(a) of such Act (42 U.S.C. 300mm-32(a));

(iii) a mental health condition described in section 3322(b)(2) of such Act (42 U.S.C. 300mm-32(b)(2)); or

(iv) any other mental health condition.

(16) 9/11 CRASH SITE.—The term “9/11 crash site” means—

(A) the World Trade Center site, Pentagon site, and Shanksville, Pennsylvania site;

(B) the buildings or portions of buildings that were destroyed as a result of the terrorist-related aircraft crashes of September 11, 2001;

(C) the area in Manhattan that is south of the line that runs along Canal Street from the Hudson River to the intersection of Canal Street and East Broadway, north on East Broadway to Clinton Street, and east on Clinton Street to the East River;¹

(D) any area related to, or along, routes of debris removal, such as barges and Fresh Kills.

SEC. 403. [49 U.S.C. 40101 note] PURPOSE.

It is the purpose of this title to provide full compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001, or the rescue and recovery efforts during the immediate aftermath of such crashes.

SEC. 404. [49 U.S.C. 40101 note] ADMINISTRATION.

(a) IN GENERAL.—The Attorney General, acting through a Special Master appointed by the Attorney General, shall—

(1) administer the compensation program established under this title;

(2) promulgate all procedural and substantive rules for the administration of this title; and

(3) employ and supervise hearing officers and other administrative personnel to perform the duties of the Special Master under this title.

(b) APPOINTMENT OF SPECIAL MASTER AND DEPUTY SPECIAL MASTERS.—The Attorney General may appoint a Special Master and no more than two Deputy Special Masters without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such employee shall serve at the pleasure of the Attorney General. The Attorney General shall fix the annual salary of the Special Master and the Deputy Special Masters.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to pay the ad-

¹ Probably should read “; and” at the end of subparagraph (C).

ministrative and support costs for the Special Master in carrying out this title.

SEC. 405. [49 U.S.C. 40101 note] DETERMINATION OF ELIGIBILITY FOR COMPENSATION.

(a) FILING OF CLAIM.—

(1) IN GENERAL.—A claimant may file a claim for compensation under this title with the Special Master. The claim shall be on the form developed under paragraph (2) and shall state the factual basis for eligibility for compensation and the amount of compensation sought.

(2) CLAIM FORM.—

(A) IN GENERAL.—The Special Master shall develop a claim form that claimants shall use when submitting claims under paragraph (1). The Special Master shall ensure that such form can be filed electronically, if determined to be practicable.

(B) CONTENTS.—The form developed under subparagraph (A) shall request—

(i) information from the claimant concerning the physical harm that the claimant suffered, or in the case of a claim filed on behalf of a decedent information confirming the decedent's death, as a result of the terrorist-related aircraft crashes of September 11, 2001, or debris removal during the immediate aftermath;

(ii) information from the claimant concerning any possible economic and noneconomic losses that the claimant suffered as a result of such crashes or debris removal during the immediate aftermath; and

(iii) information regarding collateral sources of compensation the claimant has received or is entitled to receive as a result of such crashes or debris removal during the immediate aftermath.

(3) LIMITATION.—

(A) IN GENERAL.—Except as provided by subparagraph (B), no claim may be filed under paragraph (1) after the date that is 2 years after the date on which regulations are promulgated under section 407(a).

(B) EXCEPTION.—A claim may be filed under paragraph (1), in accordance with subsection (c)(3)(A)(i), by an individual (or by a personal representative on behalf of a deceased individual) during the period beginning on the date on which the regulations are updated under section 407(b)(1) and ending on October 1, 2090.

(C) SPECIAL MASTER DETERMINATION.—

(i) IN GENERAL.—For claims filed under this title during the period described in subparagraph (B), the Special Master shall establish a system for determining whether, for purposes of this title, the claim is—

- (I) a claim in Group A, as described in clause (ii); or
- (II) a claim in Group B, as described in clause (iii).

(ii) GROUP A CLAIMS.—A claim under this title is a claim in Group A if—

(I) the claim is filed under this title during the period described in subparagraph (B); and

(II) on or before the day before the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act, the Special Master postmarks and transmits a final award determination to the claimant filing such claim.

(iii) GROUP B CLAIMS.—A claim under this title is a claim in Group B if the claim—

(I) is filed under this title during the period described in subparagraph (B); and

(II) is not a claim described in clause (ii).

(iv) DEFINITION OF FINAL AWARD DETERMINATION.—For purposes of this subparagraph, the term “final award determination” means a letter from the Special Master indicating the total amount of compensation to which a claimant is entitled for a claim under this title without regard to the limitation under the second sentence of section 406(d)(1), as such section was in effect on the day before the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act.

(b) REVIEW AND DETERMINATION.—

(1) REVIEW.—The Special Master shall review a claim submitted under subsection (a) and determine—

(A) whether the claimant is an eligible individual under subsection (c);

(B) with respect to a claimant determined to be an eligible individual—

(i) the extent of the harm to the claimant, including any economic and noneconomic losses; and

(ii) subject to paragraph (7), the amount of compensation to which the claimant is entitled based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.

(2) NEGLIGENCE.—With respect to a claimant, the Special Master shall not consider negligence or any other theory of liability.

(3) DETERMINATION.—Not later than 120 days after that date on which a claim is filed under subsection (a), the Special Master shall complete a review, make a determination, and provide written notice to the claimant, with respect to the matters that were the subject of the claim under review. Such a determination shall be final and not subject to judicial review.

(4) RIGHTS OF CLAIMANT.—A claimant in a review under paragraph (1) shall have—

(A) the right to be represented by an attorney;

(B) the right to present evidence, including the presentation of witnesses and documents; and

(C) any other due process rights determined appropriate by the Special Master.

(5) NO PUNITIVE DAMAGES.—The Special Master may not include amounts for punitive damages in any compensation paid under a claim under this title.

(6) COLLATERAL COMPENSATION.—

(A) IN GENERAL.—The Special Master shall reduce the amount of compensation determined under paragraph (1)(B)(ii) by the amount of the collateral source compensation the claimant has received or is entitled to receive as a result of the terrorist-related aircraft crashes of September 11, 2001.

(B) GROUP B CLAIMS.—Notwithstanding any other provision of this title, in the case of a claim in Group B as described in subsection (a)(3)(C)(iii), a claimant filing such claim shall receive an amount of compensation under this title for such claim that is not greater than the amount determined under paragraph (1)(B)(ii) less the amount of any collateral source compensation that such claimant has received or is entitled to receive for such claim as a result of the terrorist-related aircraft crashes of September 11, 2001.

(7) LIMITATIONS FOR GROUP B CLAIMS.—

(A) NONECONOMIC LOSSES.—

(i) IN GENERAL.—Except as provided in clause (ii), with respect to a claim in Group B as described in subsection (a)(3)(C)(iii), the total amount of compensation to which a claimant filing such claim is entitled to receive for such claim under this title on account of any noneconomic loss—

(I) that results from any type of cancer shall not exceed \$250,000; and

(II) that does not result from any type of cancer shall not exceed \$90,000.

(ii) EXCEPTION.—The Special Master may exceed the applicable limitation in clause (i) for a claim in Group B as described in subsection (a)(3)(C)(iii) if the Special Master determines that the claim presents special circumstances.

(B) DETERMINATION OF ECONOMIC LOSS.—

(i) IN GENERAL.—Subject to the limitation described in clause (ii) and with respect to a claim in Group B as described in subsection (a)(3)(C)(iii), the Special Master shall, for purposes of calculating the amount of compensation to which a claimant is entitled under this title for such claim on account of any economic loss, determine the loss of earnings or other benefits related to employment by using the applicable methodology described in section 104.43 or 104.45 of title 28, Code of Federal Regulations, as such Code was in effect on the day before the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act.

(ii) ANNUAL GROSS INCOME LIMITATION.—In considering annual gross income under clause (i) for the purposes described in such clause, the Special Master

shall, for each year of any loss of earnings or other benefits related to employment, limit the annual gross income of the claimant (or decedent in the case of a personal representative) for each such year to an amount that is not greater than the annual gross income limitation. The annual gross income limitation in effect on the date of enactment of the Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act is \$200,000. The Special Master shall periodically adjust that annual gross income limitation to account for inflation.

(C) GROSS INCOME DEFINED.—For purposes of this paragraph, the term “gross income” has the meaning given such term in section 61 of the Internal Revenue Code of 1986.

(c) ELIGIBILITY.—

(1) IN GENERAL.—A claimant shall be determined to be an eligible individual for purposes of this subsection if the Special Master determines that such claimant—

- (A) is an individual described in paragraph (2); and
- (B) meets the requirements of paragraph (3).

(2) INDIVIDUALS.—A claimant is an individual described in this paragraph if the claimant is—

- (A) an individual who—
 - (i) was present at the World Trade Center, (New York, New York), the Pentagon (Arlington, Virginia), the site of the aircraft crash at Shanksville, Pennsylvania, or any other 9/11 crash site at the time, or in the immediate aftermath, of the terrorist-related aircraft crashes of September 11, 2001; and
 - (ii) suffered physical harm or death as a result of such an air crash or debris removal;
- (B) an individual who was a member of the flight crew or a passenger on American Airlines flight 11 or 77 or United Airlines flight 93 or 175, except that an individual identified by the Attorney General to have been a participant or conspirator in the terrorist-related aircraft crashes of September 11, 2001, or a representative of such individual shall not be eligible to receive compensation under this title; or

(C) in the case of a decedent who is an individual described in subparagraph (A) or (B), the personal representative of the decedent who files a claim on behalf of the decedent.

(3) REQUIREMENTS.—

(A) REQUIREMENTS FOR FILING CLAIMS DURING EXTENDED FILING PERIOD.—

(i) TIMING REQUIREMENTS FOR FILING CLAIMS.—An individual (or a personal representative on behalf of a deceased individual) may file a claim during the period described in subsection (a)(3)(B) as follows:

- (I) In the case that the Special Master determines the individual knew (or reasonably should

have known) before the date specified in clause (iii) that the individual suffered a physical harm at a 9/11 crash site as a result of the terrorist-related aircraft crashes of September 11, 2001, or as a result of debris removal, and that the individual knew (or should have known) before such specified date that the individual was eligible to file a claim under this title, the individual may file a claim not later than the date that is 2 years after such specified date.

(II) In the case that the Special Master determines the individual first knew (or reasonably should have known) on or after the date specified in clause (iii) that the individual suffered such a physical harm or that the individual first knew (or should have known) on or after such specified date that the individual was eligible to file a claim under this title, the individual may file a claim not later than the last day of the 2-year period beginning on the date the Special Master determines the individual first knew (or should have known) that the individual both suffered from such harm and was eligible to file a claim under this title.

(ii) OTHER ELIGIBILITY REQUIREMENTS FOR FILING CLAIMS.—Except with respect to claims in Group B as described in subsection (a)(3)(C)(iii), an individual may file a claim during the period described in subsection (a)(3)(B) only if—

(I) the individual was treated by a medical professional for suffering from a physical harm described in clause (i)(I) within a reasonable time from the date of discovering such harm; and

(II) the individual's physical harm is verified by contemporaneous medical records created by or at the direction of the medical professional who provided the medical care.

(iii) DATE SPECIFIED.—The date specified in this clause is the date on which the regulations are updated under section 407(b)(1).

(iv) GROUP B CLAIMS.—

(I) IN GENERAL.—Subject to subclause (II), an individual filing a claim in Group B as described in subsection (a)(3)(C)(iii) may be eligible for compensation under this title only if the Special Master, with assistance from the WTC Program Administrator as necessary, determines based on the evidence presented that the individual has a WTC-related physical health condition, as defined by section 402 of this Act.

(II) PERSONAL REPRESENTATIVES.—An individual filing a claim in Group B, as described in subsection (a)(3)(C)(iii), who is a personal representative described in paragraph (2)(C) may be eligible for compensation under this title only if

the Special Master, with assistance from the WTC Program Administrator as necessary, determines based on the evidence presented that the applicable decedent suffered from a condition that was, or would have been determined to be, a WTC-related physical health condition, as defined by section 402 of this Act.

(B) **SINGLE CLAIM.**—Not more than one claim may be submitted under this title by an individual or on behalf of a deceased individual.

(C) **LIMITATION ON CIVIL ACTION.**—

(i) **IN GENERAL.**—Upon the submission of a claim under this title, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, or for damages arising from or related to debris removal. The preceding sentence does not apply to a civil action to recover collateral source obligations, or to a civil action against any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act.

(ii) **PENDING ACTIONS.**—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title—

(I) during the period described in subsection (a)(3)(A) unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 407(a); and

(II) during the period described in subsection (a)(3)(B) unless such individual withdraws from such action by the date that is 90 days after the date on which the regulations are updated under section 407(b)(1).

(iii) **SETTLED ACTIONS.**—In the case of an individual who settled a civil action described in clause (i), such individual may not submit a claim under this title unless such action was commenced after December 22, 2003, and a release of all claims in such action was tendered prior to the date on which the James Zadroga 9/11 Health and Compensation Act of 2010 was enacted.

SEC. 406. [49 U.S.C. 40101 note] PAYMENTS TO ELIGIBLE INDIVIDUALS.

(a) **IN GENERAL.**—Subject to the limitations under subsection (d), not later than 20 days after the date on which a determination is made by the Special Master regarding the amount of compensation due a claimant under this title, the Special Master shall authorize payment to such claimant of the amount determined with respect to the claimant.

(b) **PAYMENT AUTHORITY.**—For the purpose of providing compensation for claims in Group A as described in section

405(a)(3)(C)(ii), this title constitutes budget authority in advance of appropriations Acts in the amounts provided under subsection (d)(1) and represents the obligation of the Federal Government to provide for the payment of amounts for compensation under this title subject to the limitations under subsection (d).

(c) ADDITIONAL FUNDING.—

(1) IN GENERAL.—The Attorney General is authorized to accept such amounts as may be contributed by individuals, business concerns, or other entities to carry out this title, under such terms and conditions as the Attorney General may impose.

(2) USE OF SEPARATE ACCOUNT.—In making payments under this section, amounts contained in any account containing funds provided under paragraph (1) shall be used prior to using appropriated amounts.

(d) LIMITATIONS.—

(1) GROUP A CLAIMS.—

(A) IN GENERAL.—The total amount of Federal funds paid for compensation under this title, with respect to claims in Group A as described in section 405(a)(3)(C)(ii), shall not exceed \$2,775,000,000.

(B) REMAINDER OF CLAIM AMOUNTS.—In the case of a claim in Group A as described in section 405(a)(3)(C)(ii) and for which the Special Master has ratably reduced the amount of compensation for such claim pursuant to paragraph (2) of this subsection, as this subsection was in effect on the day before the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act, the Special Master shall, as soon as practicable after the date of enactment of such Act, authorize payment of the amount of compensation that is equal to the difference between—

(i) the amount of compensation that the claimant would have been paid under this title for such claim without regard to the limitation under the second sentence of paragraph (1) of this subsection, as this subsection was in effect on the day before the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act; and

(ii) the amount of compensation the claimant was paid under this title for such claim prior to the date of enactment of such Act.

(2) GROUP B CLAIMS.—

(A) IN GENERAL.—The total amount of Federal funds paid for compensation under this title, with respect to claims in Group B as described in section 405(a)(3)(C)(iii), shall not exceed the amount of funds deposited into the Victims Compensation Fund under section 410.

(B) PAYMENT SYSTEM.—The Special Master shall establish a system for providing compensation for claims in Group B as described in section 405(a)(3)(C)(iii) in accordance with this subsection and section 405(b)(7).

(C) DEVELOPMENT OF AGENCY POLICIES AND PROCEDURES.—

(i) DEVELOPMENT.—

(I) IN GENERAL.—Not later than 30 days after the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act, the Special Master shall develop agency policies and procedures that meet the requirements under subclauses (II) and (III) for providing compensation for claims in Group B as described in section 405(a)(3)(C)(iii), including policies and procedures for presumptive award schedules, administrative expenses, and related internal memoranda.

(II) LIMITATION.—The policies and procedures developed under subclause (I) shall ensure that total expenditures, including administrative expenses, in providing compensation for claims in Group B, as described in section 405(a)(3)(C)(iii), do not exceed the amount of funds deposited into the Victims Compensation Fund under section 410.

(III) PRIORITIZATION.—The policies and procedures developed under subclause (I) shall prioritize claims for claimants who are determined by the Special Master as suffering from the most debilitating physical conditions to ensure, for purposes of equity, that such claimants are not unduly burdened by such policies or procedures.

(ii) REASSESSMENT.—Beginning 1 year after the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act, and each year thereafter until the Victims Compensation Fund is permanently closed under section 410(e), the Special Master shall conduct a reassessment of the agency policies and procedures developed under clause (i) to ensure that such policies and procedures continue to satisfy the requirements under subclauses (II) and (III) of such clause. If the Special Master determines, upon reassessment, that such agency policies or procedures do not achieve the requirements of such subclauses, the Special Master shall take additional actions or make such modifications as necessary to achieve such requirements.

(D) COMPENSATION REDUCED BY SPECIAL MASTER DUE TO INSUFFICIENT FUNDING.—

(i) IN GENERAL.—In any claim in Group B as described in section 405(a)(3)(C)(iii) in which, prior to the enactment of the Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act, the Special Master had advised the claimant that the amount of compensation has been reduced on the basis of insufficient funding, the Special Master shall, in the first fiscal year beginning after sufficient funding becomes available under such

Act, pay to the claimant an amount that is, as determined by the Special Master, equal to the difference between—

(I) the amount the claimant would have been paid under this title if sufficient funding was available to the Special Master at the time the Special Master determined the amount due the claimant under this title; and

(II) the amount the claimant was paid under this title.

(ii) DEFINITIONS.—For purposes of this subparagraph:

(I) INSUFFICIENT FUNDING.—The term “insufficient funding” means funding—

(aa) that is available to the Special Master under section 410(c) on the day before the date of enactment of the Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act for purposes of compensating claims in Group B as described in section 405(a)(3)(C)(iii); and

(bb) that the Special Master determines is insufficient for purposes of compensating all such claims and complying with subparagraph (A).

(II) SUFFICIENT FUNDING.—The term “sufficient funding” means funding—

(aa) made available to the Special Master for purposes of compensating claims in Group B as described in section 405(a)(3)(C)(iii) through an Act of Congress that is enacted after the date on which the amount of the claim described in clause (i) has been reduced; and

(bb) that the Special Master determines is sufficient for purposes of compensating all claims in such Group B.

(e) ATTORNEY FEES.—

(1) IN GENERAL.—Notwithstanding any contract, the representative of an individual may not charge, for services rendered in connection with the claim of an individual under this title, more than 10 percent of an award made under this title on such claim.

(2) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of an individual who was charged a legal fee in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii), the representative of the individual may not charge any amount for compensation for services rendered in connection with a claim filed under this title.

(B) EXCEPTION.—If the legal fee charged in connection with the settlement of a civil action described in section

405(c)(3)(C)(iii) of an individual is less than 10 percent of the aggregate amount of compensation awarded to such individual through such settlement, the representative of such individual may charge an amount for compensation for services rendered to the extent that such amount charged is not more than—

(i) 10 percent of such aggregate amount through the settlement, minus

(ii) the total amount of all legal fees charged for services rendered in connection with such settlement.

(3) **DISCRETION TO LOWER FEE.**—In the event that the special master finds that the fee limit set by paragraph (1) or (2) provides excessive compensation for services rendered in connection with such claim, the Special Master may, in the discretion of the Special Master, award as reasonable compensation for services rendered an amount lesser than that permitted for in paragraph (1).

SEC. 407. [49 U.S.C. 40101 note] REGULATIONS.

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out this title, including regulations with respect to—

- (1) forms to be used in submitting claims under this title;
- (2) the information to be included in such forms;
- (3) procedures for hearing and the presentation of evidence;
- (4) procedures to assist an individual in filing and pursuing claims under this title; and
- (5) other matters determined appropriate by the Attorney General.

(b) **UPDATED REGULATIONS.**—

(1) **JAMES ZADROGA 9/11 HEALTH AND COMPENSATION ACT OF 2010.**—Not later than 180 days after the date of the enactment of the James Zadroga 9/11 Health and Compensation Act of 2010, the Special Master shall update the regulations promulgated under subsection (a) to the extent necessary to comply with the provisions of title II of such Act.

(2) **JAMES ZADROGA 9/11 VICTIM COMPENSATION FUND REAUTHORIZATION ACT.**—Not later than 180 days after the date of enactment of the James Zadroga 9/11 Victim Compensation Fund Reauthorization Act, the Special Master shall update the regulations promulgated under subsection (a), and updated under paragraph (1), to the extent necessary to comply with the amendments made by such Act.

SEC. 408. [49 U.S.C. 40101 note] LIMITATION ON LIABILITY.

(a) **IN GENERAL.**—

(1) **LIABILITY LIMITED TO INSURANCE COVERAGE.**—Notwithstanding any other provision of law, liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity, arising from the terrorist-related aircraft crashes of September 11, 2001, against an air carrier, aircraft manufacturer, airport sponsor, or person with a property interest in the World Trade Center, on September 11, 2001, wheth-

er fee simple, leasehold or easement, direct or indirect, or their directors, officers, employees, or agents, shall not be in an amount greater than the limits of liability insurance coverage maintained by that air carrier, aircraft manufacturer, airport sponsor, or person.

(2) WILLFUL DEFAULTS ON REBUILDING OBLIGATION.—Paragraph (1) does not apply to any such person with a property interest in the World Trade Center if the Attorney General determines, after notice and an opportunity for a hearing on the record, that the person has defaulted willfully on a contractual obligation to rebuild, or assist in the rebuilding of, the World Trade Center.

(3) LIMITATIONS ON LIABILITY FOR NEW YORK CITY.—Liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity arising from the terrorist-related aircraft crashes of September 11, 2001, against the City of New York shall not exceed the greater of the city's insurance coverage or \$350,000,000. If a claimant who is eligible to seek compensation under section 405 of this Act, submits a claim under section 405, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, including any such action against the City of New York. The preceding sentence does not apply to a civil action to recover collateral source obligations.

(4) LIABILITY FOR CERTAIN CLAIMS.—Notwithstanding any other provision of law, liability for all claims and actions (including claims or actions that have been previously resolved, that are currently pending, and that may be filed) for compensatory damages, contribution or indemnity, or any other form or type of relief, arising from or related to debris removal, against the City of New York, any entity (including the Port Authority of New York and New Jersey) with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or easement, or direct or indirect) and any contractors and subcontractors, shall not be in an amount that exceeds the sum of the following, as may be applicable:

(A) The amount of funds of the WTC Captive Insurance Company, including the cumulative interest.

(B) The amount of all available insurance identified in schedule 2 of the WTC Captive Insurance Company insurance policy.

(C) As it relates to the limitation of liability of the City of New York, the amount that is the greater of the City of New York's insurance coverage or \$350,000,000. In determining the amount of the City's insurance coverage for purposes of the previous sentence, any amount described in subparagraphs (A) and (B) shall not be included.

(D) As it relates to the limitation of liability of any entity, including the Port Authority of New York and New Jersey, with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or

easement, or direct or indirect), the amount of all available liability insurance coverage maintained by any such entity.

(E) As it relates to the limitation of liability of any individual contractor or subcontractor, the amount of all available liability insurance coverage maintained by such contractor or subcontractor on September 11, 2001.

(5) PRIORITY OF CLAIMS PAYMENTS.—Payments to plaintiffs who obtain a settlement or judgment with respect to a claim or action to which paragraph (4) applies, shall be paid solely from the following funds in the following order, as may be applicable:

(A) The funds described in subparagraph (A) or (B) of paragraph (4).

(B) If there are no funds available as described in subparagraph (A) or (B) of paragraph (4), the funds described in subparagraph (C) of such paragraph.

(C) If there are no funds available as described in subparagraph (A), (B), or (C) of paragraph (4), the funds described in subparagraph (D) of such paragraph.

(D) If there are no funds available as described in subparagraph (A), (B), (C), or (D) of paragraph (4), the funds described in subparagraph (E) of such paragraph.

(6) DECLARATORY JUDGMENT ACTIONS AND DIRECT ACTION.—Any claimant to a claim or action to which paragraph (4) applies may, with respect to such claim or action, either file an action for a declaratory judgment for insurance coverage or bring a direct action against the insurance company involved, except that no such action for declaratory judgment or direct action may be commenced until after the funds available in subparagraph (A), (B), (C), and (D) of paragraph (5) have been exhausted consistent with the order described in such paragraph for payment.

(b) FEDERAL CAUSE OF ACTION.—

(1) AVAILABILITY OF ACTION.—There shall exist a Federal cause of action for damages arising out of the hijacking and subsequent crashes of American Airlines flights 11 and 77, and United Airlines flights 93 and 175, on September 11, 2001. Notwithstanding section 40120(c) of title 49, United States Code, this cause of action shall be the exclusive remedy for damages arising out of the hijacking and subsequent crashes of such flights.

(2) SUBSTANTIVE LAW.—The substantive law for decision in any such suit shall be derived from the law, including choice of law principles, of the State in which the crash occurred unless such law is inconsistent with or preempted by Federal law.

(3) JURISDICTION.—The United States District Court for the Southern District of New York shall have original and exclusive jurisdiction over all actions brought for any claim (including any claim for loss of property, personal injury, or death) resulting from or relating to the terrorist-related aircraft crashes of September 11, 2001.

(c) EXCLUSION.—Nothing in this section shall in any way limit any liability of any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act. Sub-

sections (a) and (b) do not apply to civil actions to recover collateral source obligations.

SEC. 409. [49 U.S.C. 40101 note] RIGHT OF SUBROGATION.

The United States shall have the right of subrogation with respect to any claim paid by the United States under this title, subject to the limitations described in section 408.

SEC. 410. [49 U.S.C. 40101 note] VICTIMS COMPENSATION FUND.

(a) **IN GENERAL.**—There is established in the Treasury of the United States a fund to be known as the “Victims Compensation Fund”, consisting of amounts deposited into such fund under subsection (b).

(b) **DEPOSITS INTO FUND.**—There shall be deposited into the Victims Compensation Fund each of the following:

(1) Effective on the day after the date on which all claimants who file a claim in Group A, as described in section 405(a)(3)(C)(ii), have received the full compensation due such claimants under this title for such claim, any amounts remaining from the total amount made available under section 406 to compensate claims in Group A as described in section 405(a)(3)(C)(ii).

(2) The amount appropriated under subsection (c).

(c) **APPROPRIATIONS.**—There is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for fiscal year 2019 and each fiscal year thereafter through fiscal year 2092, to remain available until expended, to provide compensation for claims in Group B as described in section 405(a)(3)(C)(iii).

(d) **AVAILABILITY OF FUNDS.**—Amounts deposited into the Victims Compensation Fund shall be available, without further appropriation, to the Special Master to provide compensation for claims in Group B as described in section 405(a)(3)(C)(iii).

(e) **TERMINATION.**—On October 1, 2092, or at such time thereafter as all funds are expended, the Victims Compensation Fund shall be permanently closed.

SEC. 411. [49 U.S.C. 40101 note] 9-11 RESPONSE AND BIOMETRIC ENTRY-EXIT FEE.

(a) **TEMPORARY L-1 VISA FEE INCREASE.**—Notwithstanding section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) or any other provision of law, during the period beginning on the date of the enactment of this section and ending on September 30, 2027, the combined filing fee and fraud prevention and detection fee required to be submitted with an application for admission as a non-immigrant under section 101(a)(15)(L) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(L)), including an application for an extension of such status, shall be increased by \$4,500 for applicants that employ 50 or more employees in the United States if more than 50 percent of the applicant’s employees are non-immigrants admitted pursuant to subparagraph (H)(i)(b) or (L) of section 101(a)(15) of such Act.

(b) **TEMPORARY H-1B VISA FEE INCREASE.**—Notwithstanding section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) or any other provision of law, during the period beginning on the date of the enactment of this section and ending on September 30,

2027, the combined filing fee and fraud prevention and detection fee required to be submitted with an application for admission as a nonimmigrant under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)), including an application for an extension of such status, shall be increased by \$4,000 for applicants that employ 50 or more employees in the United States if more than 50 percent of the applicant's employees are such nonimmigrants or nonimmigrants described in section 101(a)(15)(L) of such Act.

(c) 9-11 RESPONSE AND BIOMETRIC EXIT ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the “9–11 Response and Biometric Exit Account”.

(2) DEPOSITS.—

(A) IN GENERAL.—Subject to subparagraph (B), of the amounts collected pursuant to the fee increases authorized under subsections (a) and (b)—

(i) 50 percent shall be deposited in the general fund of the Treasury; and

(ii) 50 percent shall be deposited as offsetting receipts into the 9–11 Response and Biometric Exit Account, and shall remain available until expended.

(B) TERMINATION OF DEPOSITS IN ACCOUNT.—After a total of \$1,000,000,000 is deposited into the 9–11 Response and Biometric Exit Account under subparagraph (A)(ii), all amounts collected pursuant to the fee increases authorized under subsections (a) and (b) shall be deposited in the general fund of the Treasury.

(3) USE OF FUNDS.—For fiscal year 2017, and each fiscal year thereafter, amounts in the 9–11 Response and Biometric Exit Account shall be available to the Secretary of Homeland Security without further appropriation for implementing the biometric entry and exit data system described in section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b).