

in a memorandum of agreement between the Secretary of Defense and the Secretary of the Treasury.

(c) DEFINITIONS.—In this section:

(1) The term “explosive material” means explosives, blasting agents, and detonators.

(2) The terms “destructive device” and “ammunition” have the meanings given those terms by paragraphs (4) and (17), respectively, of section 921(a) of title 18.

(Added Pub. L. 100-456, div. A, title III, §344(a), Sept. 29, 1988, 102 Stat. 1961; amended Pub. L. 109-364, div. A, title X, §1071(a)(24), Oct. 17, 2006, 120 Stat. 2399.)

AMENDMENTS

2006—Subsec. (c)(2). Pub. L. 109-364 substituted “921(a)” for “921”.

EFFECTIVE DATE

Pub. L. 100-456, div. A, title III, §344(c), Sept. 29, 1988, 102 Stat. 1962, provided that: “The amendment made by subsection (a) [enacting this section] shall take effect with respect to thefts and losses discovered more than 180 days after the date of the enactment of this Act [Sept. 29, 1988].”

§ 2723. Notice to congressional committees of certain security and counterintelligence failures within defense programs

(a) REQUIRED NOTIFICATION.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a notification of each security or counterintelligence failure or compromise of classified information relating to any defense operation, system, or technology of the United States that the Secretary considers likely to cause significant harm or damage to the national security interests of the United States. The Secretary shall consult with the Director of National Intelligence and the Director of the Federal Bureau of Investigation, as appropriate, before submitting any such notification.

(b) MANNER OF NOTIFICATION.—Notification of a failure or compromise of classified information under subsection (a) shall be provided, in accordance with the procedures established pursuant to subsection (c), not later than 30 days after the date on which the Department of Defense determines that the failure or compromise has taken place.

(c) PROCEDURES.—The Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives shall each establish such procedures as may be necessary to protect from unauthorized disclosure classified information, information relating to intelligence sources and methods, and sensitive law enforcement information that is submitted to those committees pursuant to this section and that are otherwise necessary to carry out the provisions of this section.

(d) STATUTORY CONSTRUCTION.—(1) Nothing in this section shall be construed as authority to withhold any information from the Committees on Armed Services of the Senate and House of Representatives on the grounds that providing the information to those committees would constitute the unauthorized disclosure of classified information, information relating to intel-

ligence sources and methods, or sensitive law enforcement information.

(2) Nothing in this section shall be construed to modify or supersede any other requirement to report information on intelligence activities to the Congress, including the requirement under section 501 of the National Security Act of 1947 (50 U.S.C. 3091).

(Added Pub. L. 106-65, div. A, title X, §1042(a), Oct. 5, 1999, 113 Stat. 759; amended Pub. L. 110-181, div. A, title IX, §931(a)(13), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110-417, [div. A], title IX, §932(a)(12), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111-84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 113-291, div. A, title X, §1071(c)(12), Dec. 19, 2014, 128 Stat. 3509.)

AMENDMENTS

2014—Subsec. (d)(2). Pub. L. 113-291 substituted “(50 U.S.C. 3091)” for “(50 U.S.C. 413)”.

2009—Subsec. (a). Pub. L. 111-84 repealed Pub. L. 110-417, §932(a)(12). See 2008 Amendment note below.

2008—Subsec. (a). Pub. L. 110-181 and Pub. L. 110-417, §932(a)(12), amended subsec. (a) identically, substituting “Director of National Intelligence” for “Director of Central Intelligence”. Pub. L. 110-417, §932(a)(12), was repealed by Pub. L. 111-84. See 2009 Amendment note above.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided in part that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110-417 as enacted.

CHAPTER 163—MILITARY CLAIMS

<p>Sec. 2731. 2732. 2733. 2734. 2734a. 2734b. 2735. 2736. 2737. 2738. 2739. 2740.</p>	<p>Definition. Payment of claims: availability of appropriations. Property loss; personal injury or death: incident to noncombat activities of Department of Army, Navy, or Air Force. Property loss; personal injury or death: incident to noncombat activities of the armed forces; foreign countries. Property loss; personal injury or death: incident to noncombat activities of armed forces in foreign countries; international agreements. Property loss; personal injury or death: incident to activities of armed forces of foreign countries in United States; international agreements. Settlement: final and conclusive. Property loss; personal injury or death: advance payment. Property loss; personal injury or death: incident to use of property of the United States and not cognizable under other law. Property loss: reimbursement of members for certain losses of household effects caused by hostile action. Amounts recovered from third parties for loss or damage to personal property shipped or stored at Government expense: crediting to appropriations. Property loss: reimbursement of members and civilian employees for full replacement value of household effects when contractor reimbursement not available.</p>
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AMENDMENTS

2011—Pub. L. 111-383, div. A, title III, §354(a)(2), Jan. 7, 2011, 124 Stat. 4195, added item 2740.

1998—Pub. L. 105-261, div. A, title X, §1010(a)(2), Oct. 17, 1998, 112 Stat. 2117, added item 2739.

1994—Pub. L. 103-337, div. A, title V, §557(b), Oct. 5, 1994, 108 Stat. 2776, added item 2738.

1990—Pub. L. 101-510, div. A, title XIV, §1481(j)(2), Nov. 5, 1990, 104 Stat. 1708, added item 2732.

1984—Pub. L. 98-525, title XIV, §1405(42)(B), Oct. 19, 1984, 98 Stat. 2625, substituted “in foreign countries” for “: foreign countries” in item 2734a.

1968—Pub. L. 90-521, §2, Sept. 26, 1968, 82 Stat. 874, substituted “advance payment” for “incident to aircraft or missile operation” in item 2736.

1966—Pub. L. 89-718, §21(b), Nov. 2, 1966, 80 Stat. 1118, substituted “2737” for “2736” as item number for “Property loss; personal injury or death: incident to use of property of the United States and not cognizable under other law”.

1964—Pub. L. 88-558, §5(2), Aug. 31, 1964, 78 Stat. 768, struck out item 2732 “Property loss: incident to service; members of Army, Navy, Air Force, or Marine Corps and civilian employees”, effective two years after Aug. 31, 1964. Pub. L. 88-558, was itself repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068.

1962—Pub. L. 87-769, §1(1)(B), Oct. 9, 1962, 76 Stat. 768, added item 2736 “Property loss; personal injury or death: incident to use of property of the United States and not cognizable under other law”.

Pub. L. 87-651, title I, §113(b), Sept. 7, 1962, 76 Stat. 513, added items 2734a and 2734b.

1961—Pub. L. 87-212, §1(2), Sept. 8, 1961, 75 Stat. 488, added item 2736 “Property loss; personal injury or death: incident to aircraft or missile operation”.

1959—Pub. L. 86-223, §1(2), Sept. 1, 1959, 73 Stat. 454, substituted “armed forces” for “Department of Army, Navy, or Air Force” in item 2734.

§ 2731. Definition

In this chapter, “settle” means consider, ascertain, adjust, determine, and dispose of a claim, whether by full or partial allowance or by disallowance.

(Aug. 10, 1956, ch. 1041, 70A Stat. 152.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2731	[No source].	[No source].

The revised section is inserted for clarity and is based on usage in the source laws for this revised chapter.

CONGRESSIONAL DEFENSE COMMITTEES DEFINED

Pub. L. 113-235, div. C, title VIII, §8026, Dec. 16, 2014, 128 Stat. 2258, provided that: “For the purposes of this Act [div. C of Pub. L. 113-235, see Tables for classification], the term ‘congressional defense committees’ means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 113-76, div. C, title VIII, §8025, Jan. 17, 2014, 128 Stat. 109.

EX GRATIA PAYMENTS

Pub. L. 113-235, div. C, title VIII, §8121, Dec. 16, 2014, 128 Stat. 2281, provided that:

“(a) Of the funds appropriated in this Act [div. C of Pub. L. 113-235, see Tables for classification] for the Department of Defense, amounts may be made available, under such regulations as the Secretary may prescribe, to local military commanders appointed by the Secretary of Defense, or by an officer or employee designated by the Secretary, to provide at their discretion ex gratia payments in amounts consistent with subsection (d) of this section for damage, personal injury,

or death that is incident to combat operations of the Armed Forces in a foreign country.

“(b) An ex gratia payment under this section may be provided only if—

“(1) the prospective foreign civilian recipient is determined by the local military commander to be friendly to the United States;

“(2) a claim for damages would not be compensable under chapter 163 of title 10, United States Code (commonly known as the ‘Foreign Claims Act’); and

“(3) the property damage, personal injury, or death was not caused by action by an enemy.

“(c) NATURE OF PAYMENTS.—Any payments provided under a program under subsection (a) shall not be considered an admission or acknowledgement of any legal obligation to compensate for any damage, personal injury, or death.

“(d) AMOUNT OF PAYMENTS.—If the Secretary of Defense determines a program under subsection (a) to be appropriate in a particular setting, the amounts of payments, if any, to be provided to civilians determined to have suffered harm incident to combat operations of the Armed Forces under the program should be determined pursuant to regulations prescribed by the Secretary and based on an assessment, which should include such factors as cultural appropriateness and prevailing economic conditions.

“(e) LEGAL ADVICE.—Local military commanders shall receive legal advice before making ex gratia payments under this subsection. The legal advisor, under regulations of the Department of Defense, shall advise on whether an ex gratia payment is proper under this section and applicable Department of Defense regulations.

“(f) WRITTEN RECORD.—A written record of any ex gratia payment offered or denied shall be kept by the local commander and on a timely basis submitted to the appropriate office in the Department of Defense as determined by the Secretary of Defense.

“(g) REPORT.—The Secretary of Defense shall report to the congressional defense committees [Committees on Armed Services and Subcommittees on Defense of the Committees on Appropriations of the Senate and the House of Representatives] on an annual basis the efficacy of the ex gratia payment program including the number of types of cases considered, amounts offered, the response from ex gratia payment recipients, and any recommended modifications to the program.

“(h) LIMITATION.—Nothing in this section shall be deemed to provide any new authority to the Secretary of Defense.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 113-76, div. C, title VIII, §8127, Jan. 17, 2014, 128 Stat. 134.

REPORT ON DEPARTMENT POLICY ON PAYMENT OF CLAIMS FOR LOSS OF PERSONAL PROPERTY

Pub. L. 105-85, div. A, title X, §1013(b), Nov. 18, 1997, 111 Stat. 1874, provided that: “The Secretary of Defense shall submit to Congress a report describing the Department of Defense policy regarding the payment of a claim by a member of the Armed Forces who is not assigned to quarters of the United States for losses and damage to personal property of the member incurred at the member’s residence as a result of a natural disaster. The report shall include a description of the number of such claims received over the past 10 years, the number of claims paid, and the number of claims rejected. If the Secretary determines the Department of Defense should modify its policy in order to accept additional claims by members who are not assigned to quarters of the United States for losses and damage to personal property, the Secretary shall also include in the report any legislative changes that the Secretary considers necessary to enable the Secretary to implement the policy change.”

PUBLIC HEALTH SERVICE

Authority vested by this chapter in “military departments”, “the Secretary concerned”, or “the Secretary

of Defense" to be exercised, with respect to commissioned officers of Public Health Service, by Secretary of Health and Human Services or his designee, see section 213a of Title 42, The Public Health and Welfare.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Authority vested by sections 2731, 2732, and 2735 of this title in "military departments", "the Secretary concerned", or "the Secretary of Defense" to be exercised, with respect to commissioned officer corps of National Oceanic and Atmospheric Administration, by Secretary of Commerce or his designee, see section 3071 of Title 33, Navigation and Navigable Waters.

§ 2732. Payment of claims: availability of appropriations

Appropriations available to the Department of Defense for operation and maintenance may be used for payment of claims authorized by law to be paid by the Department of Defense (except for civil functions), including—

(1) claims for damages arising under training contracts with carriers; and

(2) repayment of amounts determined by the Secretary concerned to have been erroneously collected—

(A) from military and civilian personnel of the Department of Defense; or

(B) from States or territories or the District of Columbia (or members of the National Guard units thereof).

(Added Pub. L. 101-510, div. A, title XIV, § 1481(j)(1), Nov. 5, 1990, 104 Stat. 1708.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 100-463, title VIII, § 8098, Oct. 1, 1988, 102 Stat. 2270-35, which was set out as a note under section 2241 of this title, prior to repeal by Pub. L. 101-510, § 1481(j)(3).

A prior section 2732, acts Aug. 10, 1956, ch. 1041, 70A Stat. 152; Sept. 2, 1958, Pub. L. 85-861, §§ 1(53), 33(a)(16), 72 Stat. 1461, 1565; Sept. 15, 1965, Pub. L. 89-185, § 1, 79 Stat. 789, related to settlement of property loss incident to service, prior to repeal by Pub. L. 88-558, § 5(3), Aug. 31, 1964, 78 Stat. 768, effective two years from Aug. 31, 1964. See section 3701 et seq. of Title 31, Money and Finance.

§ 2733. Property loss; personal injury or death: incident to noncombat activities of Department of Army, Navy, or Air Force

(a) Under such regulations as the Secretary concerned may prescribe, he, or, subject to appeal to him, the Judge Advocate General of an armed force under his jurisdiction, or the chief Counsel of the Coast Guard, as appropriate, if designated by him, may settle, and pay in an amount not more than \$100,000, a claim against the United States for—

(1) damage to or loss of real property, including damage or loss incident to use and occupancy;

(2) damage to or loss of personal property, including property bailed to the United States and including registered or insured mail damaged, lost, or destroyed by a criminal act while in the possession of the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be; or

(3) personal injury or death;

either caused by a civilian officer or employee of that department, or the Coast Guard, or a mem-

ber of the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be, acting within the scope of his employment, or otherwise incident to noncombat activities of that department, or the Coast Guard.

(b) A claim may be allowed under subsection (a) only if—

(1) it is presented in writing within two years after it accrues, except that if the claim accrues in time of war or armed conflict or if such a war or armed conflict intervenes within two years after it accrues, and if good cause is shown, the claim may be presented not later than two years after the war or armed conflict is terminated;

(2) it is not covered by section 2734 of this title or section 2672 of title 28;

(3) it is not for personal injury or death of such a member or civilian officer or employee whose injury or death is incident to his service;

(4) the damage to, or loss of, property, or the personal injury or death, was not caused wholly or partly by a negligent or wrongful act of the claimant, his agent, or his employee; or, if so caused, allowed only to the extent that the law of the place where the act or omission complained of occurred would permit recovery from a private individual under like circumstances; and

(5) it is substantiated as prescribed in regulations of the Secretary concerned.

For the purposes of clause (1), the dates of the beginning and ending of an armed conflict are the dates established by concurrent resolution of Congress or by a determination of the President.

(c) Payment may not be made under this section for reimbursement for medical, hospital, or burial services furnished at the expense of the United States.

(d) If the Secretary concerned considers that a claim in excess of \$100,000 is meritorious, and the claim otherwise is payable under this section, the Secretary may pay the claimant \$100,000 and report any meritorious amount in excess of \$100,000 to the Secretary of the Treasury for payment under section 1304 of title 31.

(e) Except as provided in subsection (d), no claim may be paid under this section unless the amount tendered is accepted by the claimant in full satisfaction.

(f) For the purposes of this section, a member of the National Oceanic and Atmospheric Administration or of the Public Health Service who is serving with the Navy or Marine Corps shall be treated as if he were a member of that armed force.

(g) Under regulations prescribed by the Secretary concerned, an officer or employee under the jurisdiction of the Secretary may settle a claim that otherwise would be payable under this section in an amount not to exceed \$25,000. A decision of the officer or employee who makes a final settlement decision under this section may be appealed by the claimant to the Secretary concerned or an officer or employee designated by the Secretary for that purpose.

(h) Under such regulations as the Secretary of Defense may prescribe, he or his designee has the same authority as the Secretary of a mili-

tary department under this section with respect to the settlement of claims based on damage, loss, personal injury, or death caused by a civilian officer or employee of the Department of Defense acting within the scope of his employment or otherwise incident to noncombat activities of that department.

(Aug. 10, 1956, ch. 1041, 70A Stat. 153; Pub. L. 85-729, §1, Aug. 23, 1958, 72 Stat. 813; Pub. L. 85-861, §1(54), Sept. 2, 1958, 72 Stat. 1461; Pub. L. 89-718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 90-522, Sept. 26, 1968, 82 Stat. 875; Pub. L. 90-525, §§1, 3-5, Sept. 26, 1968, 82 Stat. 877, 878; Pub. L. 91-312, §2, July 8, 1970, 84 Stat. 412; Pub. L. 93-336, §1, July 8, 1974, 88 Stat. 291; Pub. L. 96-513, title V, §511(94), Dec. 12, 1980, 94 Stat. 2928; Pub. L. 98-564, §1, Oct. 30, 1984, 98 Stat. 2918; Pub. L. 104-316, title II, §202(e), Oct. 19, 1996, 110 Stat. 3842.)

HISTORICAL AND REVISION NOTES
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2733(a)	31:223b (1st sentence, less 52d through 62d, and 76th through 93d, words; and less proviso).	July 3, 1943, ch. 189, §1 (less 4th sentence), 57 Stat. 372; May 29, 1945, ch. 135, §4, 59 Stat. 225; June 28, 1946, ch. 514, §1, 60 Stat. 332; July 3, 1952, ch. 570, §2(c), 66 Stat. 334; Mar. 31, 1953, ch. 13 (as applicable to Act of July 3, 1952, ch. 570, §2(c)), 67 Stat. 18; June 30, 1953, ch. 172 (as applicable to Act of July 3, 1952, ch. 570, §2(c)), 67 Stat. 131.
2733(b)	[Uncodified: Aug. 2, 1946, ch. 753, §424(a) (4th clause), 60 Stat. 847]. 31:223b (76th through 93d words and proviso of 1st sentence; and 2d sentence).	Aug. 2, 1946, ch. 753, §424(a) (4th clause), 60 Stat. 847.
2733(c)	31:223b (3d sentence).	Dec. 28, 1945, ch. 597, §1, 59 Stat. 662; June 28, 1946, ch. 514, §2, 60 Stat. 333.
2733(d)	31:223b (last sentence).	Dec. 28, 1945, ch. 597, §6; added Mar. 20, 1946, ch. 104 (last par.), 60 Stat. 56.
2733(e)	31:223b (52d through 62d words of 1st sentence).	
2733(f)	31:222h. [31:223b is made applicable to the Navy by 31:223d and 223e].	

In subsection (a), the words “a civilian officer or employee of that department, or a member of the Army, Navy, Air Force, or Marine Corps, as the case may be” are substituted for the words “military personnel or civilian employees of the Department of the Army or of the Army”. The words “whether under a lease, express or implied” are omitted as surplusage. The words “consider, ascertain, adjust, determine” are omitted as covered by the word “settle”, as defined in section 2731 of this title. The words “arising on or after May 27, 1941” are omitted as executed, since, under revised subsection (b), a claim must be filed within one year after it accrues, or within one year after the war is terminated, if it accrues in time of war.

In subsection (a)(1), the words “or loss” are inserted before the word “incident”, for clarity.

In subsection (b)(1), the words “it accrues” are substituted for the words “the accident or incident out of which such claim arises shall have occurred”, in 31:223b. The words “the claim accrues” are substituted for the words “That if such accident or incident occurs”. The words “not later than” are substituted for the words “within” to make it clear that a claim may be presented during a war. The words “the war is terminated” are substituted for the words “after peace is established”, since the other time covered is “time of war”. 31:223b (last 49 words of proviso of 2d sentence) is omitted as executed.

In subsection (b)(2), the words “or section 2672 of title 28” are substituted for the words “claims cognizable under part 2 of this title”, to reflect the express amend-

ment of 31:223b and 223c by the fourth clause of section 424(a) of the Federal Tort Claims Act, 60 Stat. 847. Section 424(a) of the Federal Tort Claims Act referred to “claims cognizable under part 2 of this title”. Part 2 of that act consisted of sections 403 and 404 which were repealed by section 39 of the Act of June 25, 1948, ch. 646, 62 Stat. 1008, and replaced by sections 2672 and 2673 of title 28. The words “or possessions thereof” are omitted, since possessions of foreign countries are not specifically covered by the section to which the words refer.

In subsection (d), the words “claim * * * that would otherwise be covered by this section” are substituted for the words “such claims”.

In subsection (e), the words “and final settlement” are omitted as surplusage.

1958 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2733	31:223b.	Mar. 29, 1956, ch. 103, §§1-3, 70 Stat. 60, 61.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104-316 substituted “Secretary of the Treasury” for “Comptroller General”.

1984—Subsec. (a). Pub. L. 98-564, §1(1), substituted “Chief Counsel” for “chief legal officer” and “\$100,000” for “\$25,000” in provisions preceding par. (1).

Subsec. (d). Pub. L. 98-564, §1(2), amended subsec. (d) generally, substituting “\$100,000” for “\$25,000” and provisions requiring Secretary to report excess to the Comptroller General for provisions requiring reporting to Congress.

Subsec. (g). Pub. L. 98-564, §1(3), substituted provisions permitting officers and employees of Secretary concerned to settle claims not otherwise payable under this section in amounts not to exceed \$25,000 and providing for an appeal to Secretary concerned or his designee for provisions which provided for delegation of claims settlement authority by Secretary for cases not to exceed \$5,000 and for appeal therefrom.

1980—Subsec. (f). Pub. L. 96-513 substituted “National Oceanic and Atmospheric Administration” for “Environmental Science Services Administration”.

1974—Subsec. (a). Pub. L. 93-336, §1(1), substituted “\$25,000” for “\$15,000”.

Subsec. (d). Pub. L. 93-336, §1(2), substituted “\$25,000” for “\$15,000” wherever appearing.

Subsec. (g). Pub. L. 93-336, §1(3), substituted “\$5,000” for “\$2,500”.

1970—Subsec. (a). Pub. L. 91-312, §2(a), substituted “\$15,000” for “\$5,000”.

Subsec. (d). Pub. L. 91-312, §2(b), substituted “\$15,000” for “\$5,000” wherever appearing.

1968—Subsec. (a). Pub. L. 90-525, §1, substituted “Secretary concerned” for “Secretary of a military department”, and authorized the Chief Legal Officer of the Coast Guard to settle claims, settlement of claims for damage or loss to personal property in possession of the Coast Guard, and settlements when the torts are caused by civilian officers or employees and members of the Coast Guard when acting within scope of employment or otherwise incident to noncombat activities of the Coast Guard.

Subsec. (b)(4). Pub. L. 90-522, §1(1), authorized application of local law in determining effect of claimant’s contributory negligence.

Subsec. (d). Pub. L. 90-525, §5, struck out “of the military department” after “Secretary”.

Subsec. (g). Pub. L. 90-525, §3, increased limitation on amount of settlement from \$1,000 to \$2,500, struck out “military” before “department concerned”, and provided for appeals to Secretary concerned, or his designee, from determinations delegating authority to settle claims to an officer of an armed force. See Pub. L. 90-522, §1(2), hereunder, for identical provision for appeals to Secretary concerned.

Pub. L. 90-522, §1(2), provided for appeals to Secretary concerned, or his designee, from determinations dele-

gating authority to settle claims to an officer of an armed force.

Subsec. (h). Pub. L. 90-525, § 4, added subsec. (h).

1966—Subsec. (f). Pub. L. 89-718 substituted “Environmental Science Services Administration” for “Coast and Geodetic Survey”.

1958—Subsec. (a). Pub. L. 85-729, §1(1)(A), substituted “the Judge Advocate General of an armed force under his jurisdiction, if designated by him, may settle, and pay in an amount not more than \$5,000” for “any officer designated by him may settle, and pay in an amount not more than \$1,000”.

Subsec. (b). Pub. L. 85-861, §1(54)(A), (B), in cl. (1), substituted “two years” for “one year” in three places and included claims accruing in time of armed conflict, and inserted sentence providing for the determination of dates of the beginning and ending of an armed conflict.

Subsec. (c). Pub. L. 85-861, §1(54)(C), substituted provisions prohibiting payment for reimbursement for medical, hospital, or burial services furnished at the expense of the United States for provisions which prohibited allowance of claims for personal injury or death for more than the cost of reasonable medical, hospital, and burial expenses actually incurred, and not otherwise furnished or paid by the United States.

Subsec. (d). Pub. L. 85-729, §1(1)(B), substituted provisions authorizing partial payments on claims over \$5,000 for provisions which authorized the Secretary of the military department concerned to report a claim for more than \$1,000 to Congress for its consideration.

Subsec. (e). Pub. L. 85-729, §1(1)(B), substituted “Except as provided in subsection (d), no claim may be paid under this section” for “No claim may be paid under subsection (a)”.

Subsec. (g). Pub. L. 85-729, §1(1)(C), added subsec. (g).

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a Amendment note under section 101 of this title.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 89-718, §8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97-295, §6(b), Oct. 12, 1982, 96 Stat. 1314.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions of Public Health Service, see note set out under section 802 of this title.

CLAIMS FOR INJURY OR DEATH ACCRUED BEFORE MARCH 30, 1956

Pub. L. 85-861, §17, Sept. 2, 1958, 72 Stat. 1558, disallowed claims for personal injury or death under section 2733 of this title, for more than the cost of reasonable medical, hospital, and burial expenses actually incurred if the claim accrued before March 30, 1956.

§ 2734. Property loss; personal injury or death; incident to noncombat activities of the armed forces; foreign countries

(a) To promote and to maintain friendly relations through the prompt settlement of meritorious claims, the Secretary concerned, or an officer or employee designated by the Secretary, may appoint, under such regulations as the Sec-

retary may prescribe, one or more claims commissions, each composed of one or more officers or employees or combination of officers or employees of the armed forces, to settle and pay in an amount not more than \$100,000, a claim against the United States for—

(1) damage to, or loss of, real property of any foreign country or of any political subdivision or inhabitant of a foreign country, including damage or loss incident to use and occupancy;

(2) damage to, or loss of, personal property of any foreign country or of any political subdivision or inhabitant of a foreign country, including property bailed to the United States;

or

(3) personal injury to, or death of, any inhabitant of a foreign country;

if the damage, loss, personal injury, or death occurs outside the United States, or the Commonwealths or possessions, and is caused by, or is otherwise incident to noncombat activities of, the armed forces under his jurisdiction, or is caused by a member thereof or by a civilian employee of the military department concerned or the Coast Guard, as the case may be. The claim of an insured, but not that of a subrogee, may be considered under this subsection. In this section, “foreign country” includes any place under the jurisdiction of the United States in a foreign country. An officer or employee may serve on a claims commission under the jurisdiction of another armed force only with the consent of the Secretary of his department, or his designee, but shall perform his duties under regulations of the department appointing the commission.

(b) A claim may be allowed under subsection (a) only if—

(1) it is presented within two years after it accrues;

(2) in the case of a national of a country at war with the United States, or of any ally of that country, the claimant is determined by the commission or by the local military commander to be friendly to the United States; and

(3) it did not arise from action by an enemy or result directly or indirectly from an act of the armed forces of the United States in combat, except that a claim may be allowed if it arises from an accident or malfunction incident to the operation of an aircraft of the armed forces of the United States, including its airborne ordnance, indirectly related to combat, and occurring while preparing for, going to, or returning from a combat mission.

(c) The Secretary concerned may appoint any officer or employee under the jurisdiction of the Secretary to act as an approval authority for claims determined to be allowable under subsection (a) in an amount in excess of \$10,000.

(d) If the Secretary concerned considers that a claim in excess of \$100,000 is meritorious, and the claim otherwise is payable under this section, the Secretary may pay the claimant \$100,000 and report any meritorious amount in excess of \$100,000 to the Secretary of the Treasury for payment under section 1304 of title 31.

(e) Except as provided in subsection (d), no claim may be paid under this section unless the amount tendered is accepted by the claimant in full satisfaction.

(f) Upon the request of the department concerned, a claim arising in that department and covered by subsection (a) may be settled and paid by a commission appointed under subsection (a) and composed of officers of an armed force under the jurisdiction of another department.

(g) Payment of claims against the Coast Guard arising while it is operating as a service in the Department of Homeland Security shall be made out of the appropriation for the operating expenses of the Coast Guard.

(h) The Secretary of Defense may designate any claims commission appointed under subsection (a) to settle and pay, as provided in this section, claims for damage caused by a civilian employee of the Department of Defense other than an employee of a military department. Payments of claims under this subsection shall be made from appropriations as provided in section 2732 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 154; Pub. L. 85-861, §1(55), Sept. 2, 1958, 72 Stat. 1461; Pub. L. 86-223, §1(1), Sept. 1, 1959, 73 Stat. 453; Pub. L. 86-411, Apr. 8, 1960, 74 Stat. 16; Pub. L. 90-521, §§1, 3, Sept. 26, 1968, 82 Stat. 874; Pub. L. 91-312, §1, July 8, 1970, 84 Stat. 412; Pub. L. 93-336, §2, July 8, 1974, 88 Stat. 292; Pub. L. 96-513, title V, §511(95), Dec. 12, 1980, 94 Stat. 2928; Pub. L. 98-564, §2, Oct. 30, 1984, 98 Stat. 2918; Pub. L. 101-510, div. A, title XIV, §1481(j)(4)(A), Nov. 5, 1990, 104 Stat. 1709; Pub. L. 104-316, title II, §202(e), Oct. 19, 1996, 110 Stat. 3842; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109-163, div. A, title X, §1057(a)(5), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2734(a)	31:224d (less 98th through 109th words and provisos).	Jan. 2, 1942, ch. 645, §§1 (less last proviso), 6, 7, 55 Stat. 880; restated Apr. 22, 1943, ch. 67, §§1 (less last proviso), 6, 7, 57 Stat. 66, 67.
2734(b)	31:224d (1st and 3d provisos).	
2734(c)	31:224d (2d proviso, less words after semicolon).	
2734(d)	31:224d (words of 2d proviso after semicolon).	
2734(e)	31:224d (98th through 109th words).	
2734(f)	31:224i.	
2734(g)	31:224h.	

In subsection (a), the words “for such purposes”, “or destruction”, “public”, “private”, “Army * * * forces”, and “whether under a lease, express or implied” are omitted as surplusage. The words “armed forces under his jurisdiction” are substituted for the words “Army, Air Force, Navy, or Marine Corps”. The same words are substituted for the words “Army, Air Force, Navy, or Marine Corps forces” to reflect the opinion of the Judge Advocate General of the Army (JAGD/D-55-51000, 17 Jan. 55). The word “settle” is substituted for the words “consider, ascertain, adjust, determine”, since the word “settle”, as defined in section 2731 of this title, includes those actions. The words “a member thereof, or by a civilian employee of the department concerned” are substituted for the words “or individual members thereof, including military personnel and civilian employees”. The last sentence is substituted for the words “including places located therein which are under the temporary or permanent jurisdiction of the United States”.

In subsection (a)(2), the words “United States” are substituted for the word “Government”.

In subsection (b), the word “accident” is omitted as surplusage. The words “except that claims arising out of accidents or incidents occurring after December 6, 1941, but prior to May 1, 1943, may be presented at any time prior to May 1, 1944” are omitted as executed. Clauses (2) and (3) are substituted for 31:224d (3d proviso).

In subsection (c), the first 28 words of the second proviso of 31:224d and the words “but does not exceed \$5,000” are omitted as covered by subsection (a). The words “commanding officer or other” are omitted as surplusage. The word “commissioned” is inserted for clarity. The word “designated” is substituted for the words “may prescribe”.

In subsection (d), the word “may” is substituted for the words “shall have authority, if he deems”. The words “that would otherwise be covered by this section” are inserted for clarity. The words “to be meritorious” and “character of such” are omitted as surplusage.

In subsection (f), the words “a military department” are substituted for the words “service concerned” after the words “the request of the”. The words “or Commissions” and “even though not” are omitted as surplusage. The words “an armed force under the jurisdiction of another military department” are substituted for the words “service concerned” after the words “officers of the”. 31:224i (last 19 words) is omitted, since all claims are paid from one appropriation made to the Department of Defense.

1958 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2734(a)	31:224d.	July 28, 1956, ch. 769, §1, 70 Stat. 703.
2734(d)	31:224d.	
2734(f)	31:224i.	
2734(h)	31:224i-1.	

In subsections (a)(1) and (2), the words “a foreign country” are substituted for the words “that country” to make clear that damage to a political subdivision or an inhabitant of a foreign country need not have occurred in that country.

In subsection (h), the word “settle” is substituted for the words “consider, ascertain, adjust, determine,” since the word “settle”, as defined in section 2731 of this title, includes those actions. The words “as provided in this section” are substituted for the words “as described in section 224d of this title” and 31:224i-1 (2d sentence).

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-163 substituted “Commonwealths or possessions” for “Territories, Commonwealths, or possessions” in concluding provisions.

2002—Subsec. (g). Pub. L. 107-296 substituted “Department of Homeland Security” for “Department of Transportation”.

1996—Subsec. (d). Pub. L. 104-316 substituted “Secretary of the Treasury” for “Comptroller General”.

1990—Subsec. (h). Pub. L. 101-510 substituted “as provided in section 2732 of this title” for “available to the Office of the Secretary of Defense for the payment of claims”.

1984—Subsec. (a). Pub. L. 98-564, §2(1), substituted “\$100,000” for “\$25,000” and inserted provisions whereby employees as well as officers of the Secretary may settle claims in text preceding par. (1).

Pub. L. 98-564, §2(2), inserted “or employee” after “An officer” in last sentence.

Subsec. (c). Pub. L. 98-564, §2(3), substituted provisions whereby the Secretary may appoint officers and employees to act as approval authority for claims in excess of \$10,000 for provisions which provided that allowance of a claim for more than \$2,500 may be subject to the approval of any commissioned officer designated by the Secretary concerned.

Subsec. (d). Pub. L. 98-564, §2(4), substituted provisions providing that if the Secretary considers a claim

in excess of \$100,000 meritorious, the Secretary may pay \$100,000 and report any excess amount to the Comptroller General for provisions which provided that for claims in excess of \$25,000 the Secretary may pay \$25,000 and certify any excess to Congress as a legal claim to be paid from appropriations.

1980—Subsec. (g). Pub. L. 96-513 substituted “Department of Transportation” for “Department of the Treasury”.

1974—Subsec. (a). Pub. L. 93-336 substituted “\$25,000” for “\$15,000”.

Subsec. (d). Pub. L. 93-336 substituted “\$25,000” for “\$15,000” in two places.

1970—Subsec. (d). Pub. L. 91-312 authorized the Secretary to pay, without certification to Congress, up to \$15,000 towards the settlement of meritorious claims in excess of \$15,000.

Subsec. (e). Pub. L. 91-312 excepted claims under subsec. (d) from requirement that all claims paid be accepted by the claimant in full satisfaction, and struck out provision limiting the application of such requirement to claims payable under subsec. (a) of this section.

1968—Subsec. (a). Pub. L. 90-521, §1, struck out “under his jurisdiction” after “armed forces” in text preceding cl. (1) and permitted an officer to serve on a claims commission under the jurisdiction of another armed force only with the consent of the Secretary of his department, or his designee, but required him to perform his duties under regulations of the department appointing the commission, respectively.

Subsec. (b)(3). Pub. L. 90-521, §3, provided for allowance of claim if it arises from an accident or malfunction incident to the operation of an aircraft of the armed forces of the United States, including the airborne ordnance, indirectly related to combat, and occurring while preparing for, going to, or returning from a combat mission.

1960—Subsec. (b). Pub. L. 86-411 substituted “two years” for “one year” in cl. (1).

1959—Pub. L. 86-223, §1(1)(A), substituted “the armed forces” for “Department of Army, Navy, or Air Force” in section catchline.

Subsec. (a). Pub. L. 86-223, §1(1)(B), substituted “concerned” and “the military department concerned or the Coast Guard, as the case may be” for “of a military department” and “the department concerned”, respectively.

Subsecs. (c), (d). Pub. L. 86-223, §1(1)(C), struck out “of the military department” after “Secretary”.

Subsec. (f). Pub. L. 86-223, §1(1)(D), substituted “the department concerned” for “a military department” and deleted “military” after “another”.

Subsec. (g). Pub. L. 86-223, §1(1)(E), substituted provision for payment of claims against the Coast Guard arising while it is operating as a service in the Department of the Treasury out of the appropriation for the operating expenses of the Coast Guard for provisions excluding such claims unless they arise, are settled and paid while the Coast Guard is operating as a service of the Navy and authorizing Coast Guard officers to serve on claims commissions or to approve settlements, only for claims against the Coast Guard.

1958—Subsec. (a). Pub. L. 85-861, §1(55)(A)-(D), struck out “arising in foreign countries” after “meritorious claims”, and substituted “\$15,000” for “\$5,000”, “outside the United States, or the Territories, Commonwealths, or possessions,” for “in that country”, and “a foreign country” for “that country” in cls. (1) and (2).

Subsec. (d). Pub. L. 85-861, §1(55)(A), substituted “\$15,000” for “\$5,000”.

Subsec. (f). Pub. L. 85-861, §1(55)(E), substituted “Upon” for “In time of war and upon”.

Subsec. (h). Pub. L. 85-861, §1(55)(F), added subsec. (h).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

§ 2734a. Property loss; personal injury or death; incident to noncombat activities of armed forces in foreign countries; international agreements

(a) When the United States is a party to an international agreement which provides for the settlement or adjudication and cost sharing of claims against the United States arising out of the acts or omissions of a member or civilian employee of an armed force of the United States done in the performance of official duty, or arising out of any other act, omission, or occurrence for which an armed force of the United States is legally responsible under the law of another party to the international agreement, and causing damage in the territory of such party, the Secretary of Defense or the Secretary of Homeland Security or their designees may—

(1) reimburse the party to the agreement for the agreed pro rata share of amounts, including any authorized arbitration costs, paid by that party in satisfying awards or judgments on claims, in accordance with the agreement; or

(2) pay the party to the agreement the agreed pro rata share of any claim, including any authorized arbitration costs, for damage to property owned by it, in accordance with the agreement.

(b) A claim arising out of an act of an enemy of the United States or arising, directly or indirectly, from an act of the armed forces, or a member thereof, while engaged in combat may not be considered or paid under this section.

(c) A reimbursement or payment under this section shall be made by the Secretary of Defense out of appropriations as provided in section 2732 of this title except that payment of claims against the Coast Guard arising while it is operating as a service of the Department of Homeland Security shall be made out of the appropriations for the operating expenses of the Coast Guard. The appropriations referred to in this subsection may be used to buy foreign currencies required for the reimbursement or payment.

(d) Upon the request of the Secretary of Homeland Security or his designee, any payments made relating to claims arising from the activities of the Coast Guard and covered by subsection (a) may be reimbursed or paid to the foreign country concerned by the authorized representative of the Department of Defense out of appropriations as provided in section 2732 of this title, subject to reimbursement from the Department of Homeland Security.

(Added Pub. L. 87-651, title I, §113(a), Sept. 7, 1962, 76 Stat. 512; amended Pub. L. 90-521, §4, Sept. 26, 1968, 82 Stat. 874; Pub. L. 94-390, §1(1), Aug. 19, 1976, 90 Stat. 1191; Pub. L. 98-525, title XIV, §1405(42)(A), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 101-510, div. A, title XIV, §1481(j)(4)(B), Nov. 5, 1990, 104 Stat. 1709; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2734a(a) ...	31:224i-2 (less proviso).	Aug. 31, 1954, ch. 1152, §§1 (less proviso, as applicable to § 2), 4 (as applicable to § 1), 68 Stat. 1006, 1007.
2734a(b) ...	31:224i-2 (proviso, as applicable to 31:224i-2).	
2734a(c) ...	31:224i-5 (as applicable to 31-224i-2).	

In subsection (a), the following substitutions are made: “Under” for “Pursuant to the terms”; “country” for “government”; “under its laws and regulations” for “in accordance with the laws and regulations of such foreign government”; “may” for “is authorized”; “amounts” for “sums”; and “spent” for “expended”. The words “now or may hereafter be” are omitted as surplusage.

In subsection (b), the following substitutions are made: “act” for “action” and “may” for “shall”.

In subsection (c), the words “pro rata” are omitted as surplusage. The following substitutions are made: “under this section” for “by the United States with respect to a settlement, award, or compromise made pursuant to sections 224i-2 to 224i-5 of this title”; “to buy” for “for the purchase of”; and “needed” for “necessary”. The words “which appropriations are authorized” are omitted as unnecessary.

AMENDMENTS

2002—Subsecs. (a), (c), (d). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation” wherever appearing.

1990—Subsec. (c). Pub. L. 101-510, §1481(j)(4)(B)(i), substituted “as provided in section 2732 of this title” for “for that purpose”.

Subsec. (d). Pub. L. 101-510, §1481(j)(4)(B)(ii), substituted “appropriations as provided in section 2732 of this title” for “the appropriation for claims of the Department of Defense”.

1984—Pub. L. 98-525 substituted “in foreign countries” for “; foreign countries” in section catchline.

1976—Subsec. (a). Pub. L. 94-390 substituted provisions authorizing the Secretary of Defense or the Secretary of Transportation to reimburse or pay, including arbitration costs, claims arising under international agreements to which the United States is a party and providing for settlement or adjudication and cost sharing based on the responsibility of the United States under the law of the other party to the international agreement, for provisions authorizing the Secretary of Defense to reimburse or pay claims arising under international agreements to which the United States is a party and providing for adjudication by the other country under its laws and regulations.

1968—Subsec. (c). Pub. L. 90-521, §4(a), provided for payment of claims against the Coast Guard arising while it is operating as a service of the Department of Transportation out of appropriations for operating expenses of the Coast Guard.

Subsec. (d). Pub. L. 90-521, §4(b), added subsec. (d).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

§ 2734b. Property loss; personal injury or death; incident to activities of armed forces of foreign countries in United States; international agreements

(a) When the United States is a party to an international agreement which provides for the settlement or adjudication by the United States under its laws and regulations, and subject to agreed pro rata reimbursement, of claims against another party to the agreement arising out of the acts or omissions of a member or ci-

vilian employee of an armed force of that party done in the performance of official duty, or arising out of any other act, omission, or occurrence for which that armed force is legally responsible under applicable United States law, and causing damage in the United States, or a territory, Commonwealth, or possession thereof; those claims may be prosecuted against the United States, or settled by the United States, in accordance with the agreement, as if the acts or omissions upon which they are based were the acts or omissions of a member or a civilian employee of an armed force of the United States.

(b) When a dispute arises in the settlement or adjudication of a claim under this section whether an act or omission was in the performance of official duty, or whether the use of a vehicle of the armed forces was authorized, the dispute shall be decided under the international agreement with the foreign country concerned. Such a decision is final and conclusive. The Secretary of Defense may pay that part of the cost of obtaining such a decision that is chargeable to the United States under that agreement.

(c) A claim arising out of an act of an enemy of the United States may not be considered or paid under this section.

(d) A payment under this section shall be made by the Secretary of Defense out of appropriations as provided in section 2732 of this title.

(Added Pub. L. 87-651, title I, §113(a), Sept. 7, 1962, 76 Stat. 512; amended Pub. L. 94-390, §1(2), Aug. 19, 1976, 90 Stat. 1191; Pub. L. 101-510, div. A, title XIV, §1481(j)(4)(C), Nov. 5, 1990, 104 Stat. 1709.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2734b(a) ...	31:224i-3.	Aug. 31, 1954, ch. 1152, §§1 (proviso, less applicability to § 1), 2, 3, 4 (less applicability to § 1), 68 Stat. 1006, 1007.
2734b(b) ...	31:224i-4.	
2734b(c) ...	31:224i-2 (proviso, less applicability to 31:224i-2).	
2734b(d) ...	31:224i-5 (less applicability to 31:224i-2).	

In subsection (a), the following omissions as surplusage are made: “the terms of” and “now or may hereafter be”. The following substitutions are made: “country” for “government”; “in the United States, or a Territory, Commonwealth, or possession” for “within the territory of the United States”; “under” for “in accordance with”; “upon which they are based were the acts or omissions of” for “were performed”.

In subsection (b), the following substitutions are made: “under this section” for “asserted under section 224i-3 of this title”; “the dispute” for “such disputed question or questions”; “under” for “in accordance with the terms of”; and the last sentence for the last sentence of 31:224i-4. The following omissions as surplusage are made: “of a civilian employee or military personnel of a foreign country” and “of the armed forces for such party”.

In subsection (c), the word “act” is substituted for the word “action”.

In subsection (d), the words “under this section” are substituted for the words “by the United States with respect to a settlement, award, or compromise made pursuant to section 224i-2 to 224i-5 of this title”. The words “which appropriations are authorized” are omitted as unnecessary.

AMENDMENTS

1990—Subsec. (d). Pub. L. 101-510 substituted “as provided in section 2732 of this title” for “for that purpose”.

1976—Subsec. (a). Pub. L. 94-390 substituted provisions authorizing claims, for which another armed force is legally responsible under applicable United States law, to be prosecuted against the United States or settled by the United States in accordance with an international agreement providing for the settlement or adjudication by the United States under its laws and regulations as if the acts or omissions upon which the claims are based were of a member or a civilian employee of an armed force of the United States, for provisions authorizing claims to be prosecuted against the United States or settled by the United States by adjudication by the United States under its laws and regulations as if the acts or omissions upon which the claims are based were the acts or omissions in the performance of official duty of a civilian employee or a member of an armed force.

§ 2735. Settlement: final and conclusive

Notwithstanding any other provision of law, the settlement of a claim under section 2733, 2734, 2734a, 2734b, or 2737 of this title is final and conclusive.

(Aug. 10, 1956, ch. 1041, 70A Stat. 155; Pub. L. 88-558, §5(1), Aug. 31, 1964, 78 Stat. 768; Pub. L. 92-413, Aug. 29, 1972, 86 Stat. 649.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2735	31:222c (1st sentence of (e)). 31:223b (4th sentence). 31:224d (last proviso).	May 29, 1945, ch. 135, §1 (e) (1st sentence); restated July 3, 1952, ch. 548, §1 (1st sentence of last par.), 66 Stat. 323. July 3, 1943, ch. 189, §1 (4th sentence), 57 Stat. 373. Jan. 2, 1942, ch. 645, §1 (last proviso); restated Apr. 22, 1943, ch. 67, §1 (last proviso), 57 Stat. 67.

The words “for all purposes” and “to the contrary”, in each source credit; “by the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of Defense, or their designees” and “such regulations as they, respectively, may prescribe hereunder”, in 31:222c(e); “by the Secretary of the Army, or his designee” and “such regulations as he may prescribe hereunder”, in 31:223b; and “by such Commissions”, in 31:224d; are omitted as surplusage.

AMENDMENTS

1972—Pub. L. 92-413 inserted reference to sections 2734a, 2734b, and 2737 of this title.

1964—Pub. L. 88-558 struck out reference to section 2732.

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-558, §5, Aug. 31, 1964, 78 Stat. 768, provided that the amendment made by that section is effective two years from Aug. 31, 1964.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 88-558, Aug. 31, 1964, 78 Stat. 767, cited as a credit to this section and in the Effective Date of 1964 Amendment note above, was repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068.

§ 2736. Property loss; personal injury or death: advance payment

(a)(1) In the case of a person who is injured or killed, or whose property is damaged or lost, under circumstances for which the Secretary of a military department is authorized by law to

allow a claim, the Secretary of the military department concerned may make a payment to or for the person, or the legal representatives of the person, in advance of the submission of such a claim or, if such a claim is submitted, in advance of the final settlement of the claim. The amount of such a payment may not exceed \$100,000.

(2) Payments under this subsection are limited to payments which would otherwise be payable under section 2733 or 2734 of this title or section 715 of title 32.

(3) The Secretary of a military department may delegate the authority to make payments under this subsection to the Judge Advocate General of an armed force under the jurisdiction of the Secretary. The Secretary may delegate such authority to any other officer or employee under the jurisdiction of the Secretary, but only with respect to the payment of amounts of \$25,000 or less.

(4) Payments under this subsection shall be made under regulations prescribed by the Secretary of the military department concerned.

(b) Any amount paid under subsection (a) shall be deducted from any amount that may be allowed under any other provision of law to the person, or his legal representative, for injury, death, damage, or loss attributable to the accident concerned.

(c) So far as practicable, regulations prescribed under this section shall be uniform for the military departments.

(d) Payment of an amount under subsection (a) is not an admission by the United States of liability for the accident concerned.

(Added Pub. L. 87-212, §1(1), Sept. 8, 1961, 75 Stat. 488; amended Pub. L. 90-521, §2, Sept. 26, 1968, 82 Stat. 874; Pub. L. 98-564, §3, Oct. 30, 1984, 98 Stat. 2919; Pub. L. 100-456, div. A, title VII, §735(a), Sept. 29, 1988, 102 Stat. 2005.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-456 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Under such regulations as the Secretary of a military department may prescribe, payment of an amount not in excess of \$10,000 may be made in advance of the submission of a claim to or for any person, or his legal representatives, who was injured or killed, or whose property was damaged or lost, under circumstances for which allowance of a claim is authorized by law. Payments under this subsection are limited to those which would otherwise be payable under section 2733 or 2734 of this title or section 715 of title 32.”

1984—Subsec. (a). Pub. L. 98-564 substituted “\$10,000” for “\$1,000”.

1968—Pub. L. 90-521 substituted “advance payment” for “incident to aircraft or missile operation” in section catchline.

Subsec. (a). Pub. L. 90-521 substituted “under circumstances” for “as the result of an accident involving an aircraft or missile under the control of that department”.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-456, div. A, title VII, §735(b), Sept. 29, 1988, 102 Stat. 2006, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any claim which would otherwise be payable under section 2733 or 2734 of title 10, United States Code, or under section 715 of title 32, United States Code, and which has not been finally settled on or before the date of the enactment of this Act [Sept. 29, 1988].”

§ 2737. Property loss; personal injury or death: incident to use of property of the United States and not cognizable under other law

(a) Under such regulations as the Secretary concerned may prescribe, he or his designee may settle and pay, in an amount not more than \$1,000, a claim against the United States, not cognizable under any other provision of law, for—

- (1) damage to, or loss of, property; or
- (2) personal injury or death;

caused by a civilian official or employee of a military department or the Coast Guard, or a member of the armed forces, incident to the use of a vehicle of the United States at any place, or any other property of the United States on a Government installation.

(b) Under such regulations as the Secretary of Defense may prescribe, he or his designee has the same authority as the Secretary of a military department with respect to a claim, not cognizable under any other provision of law, for—

- (1) damage to, or loss of, property; or
- (2) personal injury or death;

caused by a civilian official or employee of the Department of Defense not covered by subsection (a), incident to the use of a vehicle of the United States at any place, or any other property of the United States on a Government installation.

(c) A claim may not be allowed under subsection (a) or (b) if the damage to, or loss of, property, or the personal injury or death was caused wholly or partly by a negligent or wrongful act of the claimant, his agent, or his employee.

(d) A claim for personal injury or death under this section may not be allowed for more than the cost of reasonable medical, hospital, and burial expenses actually incurred, and not otherwise furnished or paid by the United States.

(e) No claim may be allowed under this section unless it is presented in writing within two years after it accrues.

(f) A claim may not be paid under subsection (a) or (b) unless the amount tendered is accepted by the claimant in full satisfaction.

(g) No claim or any part thereof, the amount of which is legally recoverable by the claimant under an indemnifying law or indemnity contract, may be paid under this section. No subrogated claim may be paid under this section.

(h) So far as practicable, regulations prescribed under this section shall be uniform. Regulations prescribed under this section by the Secretaries of the military departments must be approved by the Secretary of Defense.

(Added Pub. L. 87-769, §1(1)(A), Oct. 9, 1962, 76 Stat. 767, §2736; renumbered §2737, Pub. L. 89-718, §21(a), Nov. 2, 1966, 80 Stat. 1118.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security,

and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 2738. Property loss: reimbursement of members for certain losses of household effects caused by hostile action

(a) **AUTHORITY TO REIMBURSE.**—The Secretary concerned may reimburse a member of the armed forces in an amount not more than \$100,000 for a loss described in subsection (b).

(b) **COVERED LOSSES.**—This section applies with respect to a loss of household effects sustained during a move made incident to a change of permanent station when, as determined by the Secretary, the loss was caused by a hostile action incident to war or a warlike action by a military force.

(c) **LIMITATION.**—The Secretary may provide reimbursement under this section for a loss described in subsection (b) only to the extent that the loss is not reimbursed under insurance or under the authority of another provision of law.

(d) **APPLICABILITY OF OTHER AUTHORITIES AND REQUIREMENTS.**—Subsections (b), (d), (e), (f), and (g) of section 2733 of this title shall apply to a request for a reimbursement under this section as if the request were a claim against the United States.

(Added Pub. L. 103-337, div. A, title V, §557(a), Oct. 5, 1994, 108 Stat. 2775.)

EFFECTIVE DATE

Pub. L. 103-337, div. A, title V, §557(c), Oct. 5, 1994, 108 Stat. 2776, provided that:

“(1) Section 2738 of title 10, United States Code, as added by subsection (a), applies with respect to losses incurred after June 30, 1990.

“(2) In the case of a loss incurred after June 30, 1990, and before the date of the enactment of this Act [Oct. 5, 1994], a request for reimbursement shall be filed with the Secretary of the military department concerned not later than two years after such date of enactment.”

§ 2739. Amounts recovered from third parties for loss or damage to personal property shipped or stored at Government expense: crediting to appropriations

(a) **CREDITING OF COLLECTIONS.**—Any qualifying military department third-party collection shall be credited to the appropriate current appropriation. Amounts so credited shall be merged with the funds in that appropriation and shall be available for the same period and purposes as the funds with which merged.

(b) **APPROPRIATE CURRENT APPROPRIATION.**—For purposes of subsection (a), the appropriate current appropriation with respect to a qualifying military department third-party collection is the appropriation currently available, as of the date of the collection, for the payment of claims by that military department for loss or damage of personal property shipped or stored at Government expense.

(c) **QUALIFYING MILITARY DEPARTMENT THIRD-PARTY COLLECTIONS.**—For purposes of subsection (a), a qualifying military department third-party collection is any amount that a military department collects under sections 3711, 3716, 3717, and 3721 of title 31 from a third party for a loss or damage to personal property that oc-

curred during shipment or storage of the property at Government expense and for which the Secretary of the military department paid the owner in settlement of a claim.

(Added Pub. L. 105-261, div. A, title X, § 1010(a)(1), Oct. 17, 1998, 112 Stat. 2117.)

EFFECTIVE DATE

Pub. L. 105-261, div. A, title X, § 1010(b), Oct. 17, 1998, 112 Stat. 2117, provided that: “Section 2739 of title 10, United States Code, as added by subsection (a), applies with respect to amounts collected by a military department on or after the date of the enactment of this Act [Oct. 17, 1998].”

§ 2740. Property loss: reimbursement of members and civilian employees for full replacement value of household effects when contractor reimbursement not available

The Secretary of Defense and the Secretaries of the military departments, in paying a claim under section 3721 of title 31 arising from loss or damage to household goods stored or transported at the expense of the Department of Defense, may pay the claim on the basis of full replacement value in any of the following cases in which reimbursement for the full replacement value for the loss or damage is not available directly from a carrier under section 2636a of this title:

(1) A case in which—

(A) the lost or damaged goods were stored or transported under a contract, tender, or solicitation in accordance with section 2636a of this title that requires the transportation service provider to settle claims on the basis of full replacement value; and

(B) the loss or damage occurred under circumstances that exclude the transportation service provider from liability.

(2) A case in which—

(A) the loss or damage occurred while the lost or damaged goods were in the possession of an ocean carrier that was transporting, loading, or unloading the goods under a Department of Defense contract for ocean carriage; and

(B) the land-based portions of the transportation were under contracts, in accordance with section 2636a of this title, that require the land carriers to settle claims on the basis of full replacement value.

(3) A case in which—

(A) the lost or damaged goods were transported or stored under a contract or solicitation that requires at least one of the transportation service providers or carriers that handled the shipment to settle claims on the basis of full replacement value pursuant to section 2636a of this title;

(B) the lost or damaged goods have been in the custody of more than one independent contractor or transportation service provider; and

(C) a claim submitted to the delivering transportation service provider or carrier is denied in whole or in part because the loss or damage occurred while the lost or damaged goods were in the custody of a prior transportation service provider or carrier or government entity.

(Added Pub. L. 111-383, div. A, title III, § 354(a)(1), Jan. 7, 2011, 124 Stat. 4194.)

EFFECTIVE DATE

Pub. L. 111-383, div. A, title III, § 354(b), Jan. 7, 2011, 124 Stat. 4195, provided that: “Section 2740 of title 10, United States Code, as added by subsection (a), shall apply with respect to losses incurred after the date of the enactment of this Act [Jan. 7, 2011].”

CHAPTER 165—ACCOUNTABILITY AND RESPONSIBILITY

Sec.	
2771.	Final settlement of accounts: deceased members.
2772.	Share of fines and forfeitures to benefit Armed Forces Retirement Home.
2773.	Designation, powers, and accountability of deputy disbursing officials.
2773a.	Departmental accountable officials.
2773b.	Parking of funds: prohibition; penalties.
2774.	Claims for overpayment of pay and allowances and of travel and transportation allowances.
2775.	Liability of members assigned to military housing.
2776.	Use of receipts of public money for current expenditures.
2777.	Requisitions for advances and removal of charges outstanding in accounts of advances.
[2778.	Repealed.]
2779.	Use of funds because of fluctuations in currency exchange rates of foreign countries.
2780.	Debt collection.
2781.	Availability of appropriations: exchange fees; losses in accounts.
2782.	Damage to real property: disposition of amounts recovered.
2783.	Nonappropriated fund instrumentalities: financial management and use of nonappropriated funds.
2784.	Management of purchase cards.
2784a.	Management of travel cards.
2785.	Remittance addresses: regulation of alterations.
2786.	Department of Defense payments by electronic transfers of funds: exercise of authority for waivers.
2787.	Reports of survey.
2788.	Property accountability: regulations.
2789.	Individual equipment: unauthorized disposition.
2790.	Recovery of improperly disposed of Department of Defense property.

AMENDMENTS

2011—Pub. L. 111-383, div. A, title III, § 355(b), Jan. 7, 2011, 124 Stat. 4197, added item 2790.

2008—Pub. L. 110-181, div. A, title III, § 375(b), Jan. 28, 2008, 122 Stat. 83, added items 2788 and 2789.

2006—Pub. L. 109-364, div. A, title X, § 1053(a)(2), Oct. 17, 2006, 120 Stat. 2396, added item 2773b.

2002—Pub. L. 107-314, div. A, title X, §§ 1005(b), 1006(a)(2), 1007(b)(2), 1008(b), Dec. 2, 2002, 116 Stat. 2632-2635, substituted “purchase” for “credit” in item 2784 and added items 2773a, 2784a, and 2787.

1999—Pub. L. 106-65, div. A, title IX, § 933(a)(2), title X, § 1008(a)(2), Oct. 5, 1999, 113 Stat. 730, 738, added items 2784 to 2786.

1996—Pub. L. 104-316, title I, § 105(d), Oct. 19, 1996, 110 Stat. 3830, struck out item 2778 “Accounts of the military departments”.

Pub. L. 104-106, div. B, title XXVIII, § 2821(b), Feb. 10, 1996, 110 Stat. 556, added item 2782.

1993—Pub. L. 103-160, div. A, title XI, § 1182(a)(8)(C), Nov. 30, 1993, 107 Stat. 1771, added item 2783.

1990—Pub. L. 101-510, div. A, title XIV, § 1405(c)(2), title XV, § 1533(a)(4)(B), Nov. 5, 1990, 104 Stat. 1680, 1734,