

108TH CONGRESS
1ST SESSION

S. 1275

To establish a comprehensive federal program to provide benefits to U.S. victims of international terrorism, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2003

Mr. LUGAR (by request) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To establish a comprehensive federal program to provide benefits to U.S. victims of international terrorism, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Benefits for Victims
5 of International Terrorism Act of 2003”.

6 **SEC. 2. ESTABLISHMENT OF PROGRAM.**

7 There is established the Benefits for Victims of Inter-
8 national Terrorism Program (“Program”) under which
9 monetary awards shall be made in accordance with this
10 Act to eligible individuals who are physically injured,

1 killed, or held hostage as a result of an act of international
2 terrorism.

3 **SEC. 3. DEFINITIONS.**

4 In this Act, the following definitions apply:

5 (a) ACT OF INTERNATIONAL TERRORISM.—The term
6 “act of international terrorism” means an activity that
7 constitutes terrorism within the definition provided in Sec-
8 tion 2(15) of the Homeland Security Act of 2002 and that
9 was committed by foreign nationals or foreign govern-
10 ments (or the agents thereof) and directed, in whole or
11 in part, at the United States or at an individual because
12 of the individual’s status as a national of the United
13 States.

14 (b) CLAIMANT.—The term “claimant” means an indi-
15 vidual filing a claim for benefits under this Act. In the
16 case of an individual who died as the direct result of the
17 act of international terrorism, any individual who is eligi-
18 ble to recover under section 107(a) may be a claimant.
19 In the case of an individual who suffered physical injury
20 or was held hostage as the direct result of an act of inter-
21 national terrorism, the claimant shall be the individual
22 who suffered the physical injury or was held hostage, ex-
23 cept that a parent or legal guardian may file a claim on
24 behalf of an individual who is less than 18 years of age,
25 incompetent or incapacitated.

1 (c) CHILD.—The term “child” shall have the mean-
2 ing given to it by 42 U.S.C. 3796b(2).

3 (d) DEPARTMENT.—The term “Department” means
4 the Department of State.

5 (e) NATIONAL OF THE UNITED STATES.—The term
6 “national of the United States” has the meaning given
7 in section 101(a) of the Immigration and Nationality Act
8 (U.S.C. 1101(a)).

9 (f) PHYSICAL INJURY.—The term “physical injury”
10 means an injury to the body, from a source external to
11 the body, that directly results in partial or total physical
12 disability, incapacity, or disfigurement.

13 (g) UNITED STATES.—The term “United States”
14 means the States, the District of Columbia, the Common-
15 wealth of Puerto Rico, the Commonwealth of the Mariana
16 Islands, the territories and possessions of the United
17 States, the territorial sea of the United States, and the
18 airspace above them.

19 **SEC. 4. ADMINISTRATION.**

20 (a) THRESHOLD DETERMINATION.—

21 (1) Upon the occurrence of a terrorist incident,
22 the Secretary of State, in consultation with the At-
23 torney General and the Secretaries of Defense,
24 Homeland Security and the Treasury, shall promptly
25 determine in writing whether an act of international

1 terrorism as defined in section 103(a) of this Act
2 has taken place. Any such determination shall be
3 published in the Federal Register.

4 (2) The Secretary of State's determination
5 under this section shall be final and conclusive, and
6 it shall not be subject to review in any judicial, ad-
7 ministrative or other proceeding.

8 (b) ADJUDICATION AND PAYMENT.—When a thresh-
9 old determination set forth in subsection (a) is made, the
10 Department shall have jurisdiction to receive, examine, ad-
11 judicate, and render final decisions, and pay awards with
12 respect to claims filed under section 105 in accordance
13 with the provisions of this Act.

14 **SEC. 5. FILING OF CLAIMS.**

15 (a) IN GENERAL.—Claims for benefits under the Pro-
16 gram shall be filed with the Department on the form devel-
17 oped under subsection (b).

18 (b) CLAIM FORM.—

19 (1) The Department shall develop a form that
20 claimants shall use when submitting claims under
21 subsection (a).

22 (2) The claim form at a minimum shall re-
23 quest—

24 (A) in the case of a claim filed for a death
25 benefit with respect to a decedent, information

1 demonstrating the decedent's death as a direct
2 result of the act of international terrorism and
3 information demonstrating that the claimant is
4 eligible to recover under the Act.

5 (B) in the case of a claim not involving a
6 death, information demonstrating the physical
7 harm that the claimant suffered as a direct re-
8 sult of the act of international terrorism or in-
9 formation demonstrating the period the claim-
10 ant was held hostage as a direct result of the
11 act of international terrorism; and

12 (C) in the case of a claim filed by a parent
13 or legal guardian, information demonstrating
14 the claimant's status as a parent or legal
15 guardian.

16 (3) The claim form shall state clearly and con-
17 spicuously the information contained in section
18 112(c) of this Act.

19 **SEC. 6. ELIGIBILITY.**

20 (a) IN GENERAL.—The Department shall review each
21 claim filed under this Program and determine whether the
22 claimant is an eligible individual under subsection (b) of
23 this section or has filed a claim on account of the death
24 of an eligible individual under subsection (b).

1 (b) ELIGIBLE INDIVIDUALS.—An eligible individual
2 is a victim who, as of the date on which the act of inter-
3 national terrorism occurred—

4 (1) was a national of the United States; and

5 (2)(A) died as the direct result of the act of
6 international terrorism;

7 (B) suffered physical injury as the direct result
8 of the act of international terrorism; or

9 (C) was held hostage as a direct result of an
10 act of international terrorism and not solely for ran-
11 som.

12 (c) EXCLUSION FOR PARTICIPANTS OR CONSPIRA-
13 TORS IN ACTS OF TERRORISM.—A participant or con-
14 spirator in any act of international terrorism, or a rep-
15 resentative of such individual, shall not be an eligible indi-
16 vidual.

17 (d) EXCLUSION FOR MILITARY PERSONNEL.—This
18 Program does not apply to any claim arising out of injury,
19 death, or period as a hostage sustained by a member of
20 the U.S. Armed Forces while serving on active duty.

21 (e) SEPTEMBER 11TH VICTIM COMPENSATION
22 FUND.—Notwithstanding any other provision in this Act,
23 no individual who is or was eligible to recover under the
24 September 11th Victim Compensation Fund of 2001 shall
25 be eligible to recover under this Act.

1 **SEC. 7. NATURE OF AWARDS.**

2 (a) DEATH BENEFIT.—In any case in which the De-
3 partment determines, under regulations issued pursuant
4 to this Act, that an eligible individual has died as the di-
5 rect and proximate result of an act of international ter-
6 rorism, the Department shall award a benefit to the sur-
7 vivor or survivors in the same manner and the same
8 amount as death benefits are paid pursuant to the Public
9 Safety Officers' Benefits Program under subpart 1 of part
10 L of title I of the Omnibus Crime Control and Safe Streets
11 Act of 1968 (42 U.S.C. 3796 et seq.).

12 (b) INJURY OR HOSTAGE BENEFIT.—In the event the
13 claimant was physically injured or held hostage as a direct
14 result of an act of international terrorism, the Department
15 shall award a benefit to the claimant in an amount deter-
16 mined by the Department up to, but not to exceed, the
17 amount provided for under the preceding subsection. The
18 Secretary of State may issue regulations regarding the
19 amount of benefits to be provided under this subsection
20 for categories of injuries or for durations of time as a hos-
21 tage.

22 (c) NO FAULT PROGRAM.—Awards shall be made
23 without regard to the negligence or any other theory of
24 liability of the claimant or of the individual on whose be-
25 half the claimant is filing a claim.

1 (d) REVERSION OF AMOUNTS TO THE FUND.—If no
 2 person is entitled to receive the amount awarded under
 3 the above subsections, the amount shall revert to the
 4 Fund.

5 **SEC. 8. LIMITATIONS ON CLAIMS.**

6 (a) PROHIBITION ON DOUBLE RECOVERY.—No ben-
 7 efit is payable under this Act with respect to a victim hav-
 8 ing been injured or held hostage if a benefit is payable
 9 under this Act with respect to the death of such victim.
 10 In the event that a payment is made under this Act on
 11 account of death or period as a hostage and a death ben-
 12 efit subsequently becomes payable for the death of the
 13 same victim, such death benefit shall be reduced by
 14 amounts previously awarded.

15 (b) TIME LIMITATION FOR FILING.—No claim may
 16 be filed on the basis of an act of international terrorism
 17 after the date that is 2 years after the date of publication
 18 in the Federal Register of the relevant determination
 19 under section 104(a) of this Act.

20 **SEC. 9. INTERNATIONAL TERRORISM BEFORE EFFECTIVE**
 21 **DATE.**

22 (a) INTERNATIONAL TERRORISM BEFORE EFEC-
 23 TIVE DATE.—Benefits may be awarded under this Act,
 24 subject to the provisions of subsection (b) of this section,
 25 to eligible individuals for acts of international terrorism

1 that took place before the effective date of this Act and
2 which occurred on or after November 1, 1979.

3 (b) DETERMINATION.—The Secretary of State, in
4 consultation with the Attorney General and the Secre-
5 taries of Defense, Homeland Security and the Treasury,
6 shall issue, promptly upon the request of a claimant poten-
7 tially covered under subsection (a), a determination wheth-
8 er an incident that occurred on or after November 1,
9 1979, and before the date of enactment of this Act was
10 an act of international terrorism. Such requests will be
11 considered only if made within one year after the date of
12 enactment of this Act. Any such determination shall be
13 published in the Federal Register.

14 **SEC. 10. AUTHORIZATION.**

15 (a) AUTHORIZATION.—There is established for the
16 purpose of providing benefits under this Act a Victims of
17 International Terrorism Benefits Fund (“Fund”). In ad-
18 dition to amounts otherwise authorized to be appropriated
19 for the Department of State, there are authorized to be
20 appropriated to the Department of State for deposit into
21 the Fund such sums as may be necessary to pay awards
22 under this Act and to administer this Program.

23 (1) Amounts in the Fund shall be available
24 until expended.

1 (2) CONTRIBUTIONS.—The Secretary of State
2 is authorized to accept such amounts as may be con-
3 tributed by individuals, business concerns, foreign
4 governments, or other entities for the payment of
5 awards certified under this Act and such amounts
6 may be deposited directly into the Fund.

7 (3) Unexpended balances of expired appropria-
8 tions available to the Department of State may be
9 transferred directly into the Fund for the payment
10 of awards under this Act and, to the extent and in
11 such amounts as provided in appropriations acts, for
12 the costs to administer this Program.

13 **SEC. 11. SUBROGATION.**

14 The United States shall be subrogated, to the extent
15 of the payments, to any recovery in litigation or settlement
16 of litigation related to an injury, death, or period of a hos-
17 tage for which payment was made under the Program.
18 Any amounts recovered under this subsection shall be de-
19 posited into the Fund established by section 110(a).

20 **SEC. 12. ADMINISTRATIVE PROVISIONS.**

21 (a) RULES AND PROCEDURES.—The Secretary of
22 State may issue such rules and procedures as may be nec-
23 essary to carry out this Act, including rules with respect
24 to choice of law principles, admitting agents or other per-
25 sons to representation before the Department of claimants

1 under this Act, and the nature and maximum amount of
2 fees that such agent or other person may charge for such
3 representation.

4 (b) ACTS COMMITTED TO OFFICER'S DISCRETION.—

5 Any action taken or omitted by an officer of the United
6 States under this Act is committed to the discretion of
7 such officer.

8 (c) CIVIL ACTIONS AGAINST FOREIGN STATES.—

9 (1) A person who by a civil action has obtained
10 and received full satisfaction of a judgment against
11 a foreign state or government or its agencies or in-
12 strumentalities, or against the United States or its
13 agencies or instrumentalities, for death, injury, or
14 period as a hostage due to an act of international
15 terrorism shall not receive an award under this Act
16 based on the same act of international terrorism.

17 (2) A person who has accepted benefits pursu-
18 ant to an award under this Act relating to an act
19 of international terrorism shall not thereafter com-
20 mence or maintain in a court of the United States
21 a civil action based on the same act of international
22 terrorism against a foreign state or government or
23 its agencies or instrumentalities or against the
24 United States or its agencies or instrumentalities.

1 **SEC. 13. NO JUDICIAL REVIEW.**

2 Decisions made under this Act shall not be subject
3 to review in any judicial, administrative or other pro-
4 ceeding.

5 **SEC. 14. CONFORMING AMENDMENTS.**

6 (a) Section 201 of the Terrorism Risk Insurance Act
7 of 2002 (Public Law 107–297) is amended by adding the
8 following as new subsection (e):

9 “(e) Subsection (a) shall not apply to any judgment
10 obtained pursuant to a complaint filed after [the date of
11 submission of the Benefits for Victims of International
12 Terrorism Act of 2003].”.

13 (b) Section 1610(f) of Title 28, United States Code
14 (28 U.S.C. 1610(f)), is amended by adding the following
15 at the end as new subparagraph (4):

16 “(4) Subsection (f) shall not apply to any judg-
17 ment obtained pursuant to a complaint filed after
18 [the date of submission of the Benefits for Victims
19 of International Terrorism Act of 2003].”.

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