

112TH CONGRESS
2^D SESSION

H. R. 5796

To establish a common fund to pay claims to the Americans held hostage in Iran, and to members of their families, who are identified as class members in case number 1:08–CV–00487 (EGS) of the United States District Court for the District of Columbia, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2012

Mr. BRALEY of Iowa (for himself and Ms. ROS-LEHTINEN) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a common fund to pay claims to the Americans held hostage in Iran, and to members of their families, who are identified as class members in case number 1:08–CV–00487 (EGS) of the United States District Court for the District of Columbia, 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 “Justice for the Amer-
5 ican Diplomats Held Hostage in Tehran Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) In 1979, agents of the Islamic Republic of
4 Iran stormed the United States Embassy in Tehran,
5 taking American military and diplomatic personnel
6 hostage.

7 (2) The Iranian Government then held United
8 States Embassy personnel as hostages for 444 days,
9 subjecting them to profound physical and mental
10 abuse, and forcing the United States to negotiate
11 their release, under duress.

12 (3) In the resultant agreement (commonly
13 known as the Algiers Accords) the United States
14 agreed, among other steps, to bar and preclude the
15 hostages from prosecuting any claim against Iran in
16 United States courts.

17 (4) The Algiers Accords were never submitted
18 to Congress for ratification and none of the hostages
19 or their family members was consulted by the
20 United States Government or consented to these
21 provisions precluding prosecution of their claims.

22 (5) Notwithstanding the applicability of legal
23 principles which allowed the United States to re-
24 nounce this obligation to bar and preclude the pros-
25 ecution of claims in United States courts because
26 they were so clearly negotiated under duress, the

1 United States Government has repeatedly intervened
2 in United States courts to preclude the prosecution
3 of any claim by the hostages against Iran, arguing
4 that, in its opinion, compliance with this agreement
5 served overriding national security interests which
6 justified the taking of the hostages' right to pursue
7 compensation from Iran in United States courts.

8 (6) The United States Government has failed to
9 propose any process by which the hostages and their
10 family members could be compensated for the inju-
11 ries and damages suffered by them by reason of the
12 horrific and heinous treatment while in captivity.

13 (7) Congress has determined that the provision
14 of compensation to the hostages and their families
15 through, among other sources, funds obtained by
16 vesting and liquidating property in which Iran and
17 its surrogates claim an interest (including any funds
18 held by the United States, including in trust) is fully
19 consistent with the Algiers Accords.

20 (8) Congress has determined that, only upon
21 the payment of such compensation, should the agree-
22 ment by the United States Government to bar and
23 preclude prosecution of such claims in United States
24 courts be confirmed and ratified by legislation, not-

1 withstanding the duress under which the United
2 States originally negotiated that agreement.

3 **SEC. 3. JUSTICE FOR FORMER AMERICAN HOSTAGES IN**
4 **IRAN.**

5 (a) COMMON FUND FOR HOSTAGES.—Not later than
6 90 days after the date of the enactment of this Act, the
7 Secretary of the Treasury, in consultation with the Sec-
8 retary of State, shall establish a common fund to be ad-
9 ministered by the class representatives and agents for the
10 former American hostages in Iran and their survivors (as
11 identified in case number 1:08–CV–00487 (EGS) of the
12 United District Court for the District of Columbia). Such
13 common fund shall—

14 (1) be administered to pay claims to the Ameri-
15 cans held hostage in Iran, and to members of their
16 families, who are identified as class members in case
17 number 1:08–CV–00487 (EGS) of the United States
18 District Court for the District of Columbia; and

19 (2) be administered for purposes of satisfying
20 such claims, as approved by the class representatives
21 and agents identified in that case number.

22 (b) FUNDING.—

23 (1) SOURCES.—

24 (A) FINES AND PENALTIES.—

1 (i) IN GENERAL.—The President shall
2 pay to the fund under subsection (a) an
3 amount equal to 50 percent of all amounts
4 collected as fines and penalties by reason
5 of the application of clause (ii) on or after
6 the date of enactment of this Act. The
7 total amount of payments that may be
8 made into the fund under this clause may
9 not exceed the estimated total amount of
10 payments to be made under subsection (d).

11 (ii) FINES AND PENALTIES.—The
12 maximum fines and penalties authorized to
13 be imposed, in whole or in part, for viola-
14 tions of any conduct or activities with re-
15 spect to any government or person by rea-
16 son of their connection with or sponsorship
17 by Iran are hereby increased by 100 per-
18 cent.

19 (B) SEIZED OR FROZEN ASSETS.—The
20 President is authorized to pay to the fund
21 under subsection (a)—

22 (i) any funds or property in which
23 Iran has an interest, and

24 (ii) any funds or property in which
25 any person or entity subject to any law

1 providing for sanctions against Iran by
2 reason of such person's or entity's relation-
3 ship to or connection with Iran has an in-
4 terest,
5 held by the United States (including in the
6 form of a trust) or subject to any prohibition or
7 regulation with respect to any financial trans-
8 actions in connection therewith. The President
9 is authorized to vest and liquidate any property
10 identified in this subparagraph in order to
11 make payment as provided in this subpara-
12 graph.

13 (2) TIMING OF FUNDING.—Payments of claims
14 from the fund under subsection (a)—

15 (A) using funds held by the United States
16 or funds that become subject to prohibition or
17 regulation as of the date of enactment of this
18 Act shall be made not later than 60 days of the
19 date of enactment of this Act; and

20 (B) using funds which come into the pos-
21 session of the United States or funds that be-
22 come subject to prohibition or regulation after
23 the date of enactment of this Act shall be paid
24 not later 60 days after coming into the posses-
25 sion of the United States or funds that become

1 subject to prohibition or regulation, as the case
2 may be.

3 (3) SATISFACTION OF CLAIMS.—Payments to
4 the fund under subsection (a) shall be made until
5 the amounts described in subsection (d) are satisfied
6 in full. If the President determines that the amounts
7 can be fully satisfied within 1 year after the date of
8 enactment of this Act from funds other than those
9 held by the United States as trustee, the President
10 may defer payment of funds held by the United
11 States as trustee until one year after such date of
12 enactment, but shall ensure during such 1-year pe-
13 riod of deferral that any such funds held by the
14 United States as trustee shall not be disbursed,
15 transferred or otherwise constrained for payment as
16 otherwise may be required under this Act.

17 (c) DISTRIBUTION OF FUNDS.—

18 (1) IN GENERAL.—Funds paid to the fund
19 under subsection (b) shall be distributed by the class
20 representatives and agents to the former American
21 hostages in Iran and their survivors (as identified in
22 case number 1:08–CV–00487 (EGS) of the United
23 States District Court for the District of Columbia)
24 in the amounts described in subsection (d).

1 (2) PRIORITY.—Subject to subsection (d), pay-
2 ments from funds paid to the fund under subsection
3 (b) shall be distributed as follows:

4 (A) First, to each living former hostage
5 identified as a class member under subsection
6 (a)(1).

7 (B) Second, to the estate of each deceased
8 former hostage identified as a class member
9 under subsection (a)(1).

10 (C) Third, to each spouse or child of a
11 former hostage identified as a class member
12 under subsection (a)(1) if the spouse or child is
13 identified as a class member under subsection
14 (a)(1).

15 (d) AMOUNT OF PAYMENTS.—The amount of pay-
16 ments from funds paid to the fund under subsection (b)
17 shall be distributed as follows:

18 (1) For each former hostage described in sub-
19 section (c)(2)(A), \$10,000 for each day of captivity
20 of the former hostage.

21 (2) For the estate of each deceased former hos-
22 tage described in subsection (c)(2)(B), \$10,000 for
23 each day of captivity of the former hostage.

1 (3) For each spouse or child of a former hos-
2 tage described in subsection (c)(2)(C), \$5,000 for
3 each day of captivity of the former hostage.

4 (e) SUBROGATION.—The United States shall be fully
5 subrogated, with respect to payments under this Act, to
6 all rights of each individual paid under subsection (d)
7 against the Government of Iran or the Iranian Revolu-
8 tionary Guard Corps or its affiliates or agents. The Presi-
9 dent shall pursue these subrogated rights as claims or off-
10 sets of the United States in appropriate ways until such
11 subrogated claims have been resolved to the satisfaction
12 of the United States.

13 (f) PRECLUSION OF SUIT AND WAIVER OF CLAIMS.—
14 Upon payment of all amounts described in subsection (d),
15 each person receiving such payment shall be precluded
16 from bringing suit against Iran of any claim arising out
17 of events occurring between November 3, 1979, and Janu-
18 ary 20, 1981, and all such claims as against Iran shall
19 be deemed waived and forever released.

20 (g) REIMBURSEMENT OF SEIZED OR FROZEN AS-
21 SETS.—Upon payment of all amounts described in sub-
22 section (d), the President is authorized to make payments
23 from amounts paid to the fund under subsection (b)(1)(A)
24 to any person or entity described in subsection (b)(1)(B)
25 for purposes of reimbursing such person or entity for

1 funds or property of such person or entity held by the
2 United States as identified in subsection (b)(1)(B).

3 (h) DEPOSIT OF FUNDS IN THE TREASURY.—Any
4 amounts in the fund under subsection (a) which remain
5 after the date on which payments of all amounts described
6 in subsection (d) are made, or the date that is 2 years
7 after the date of the enactment of this Act, whichever oc-
8 curs later, shall be deposited in the Treasury of the United
9 States.

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