

TITLE IV--VICTIM COMPENSATION

SEC. 401. SHORT TITLE.

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

SEC. 402. DEFINITIONS.

In this title, the following definitions apply:

- (1) AIR CARRIER- The term `air carrier' means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees and agents of such citizen.
- (2) AIR TRANSPORTATION- The term `air transportation' means foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.
- (3) CLAIMANT- The term `claimant' means an individual filing a claim for compensation under section 405(a)(1).
- (4) COLLATERAL SOURCE- The term `collateral source' means all collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the terrorist-related aircraft crashes of September 11, 2001.
- (5) ECONOMIC LOSS- The term `economic loss' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.
- (6) ELIGIBLE INDIVIDUAL- The term `eligible individual' means an individual determined to be eligible for compensation under section 405(c).
- (7) NONECONOMIC LOSSES- The term `noneconomic losses' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.
- (8) SPECIAL MASTER- The term `Special Master' means the Special Master appointed under section 404(a).

SEC. 403. PURPOSE.

It is the purpose of this title to provide compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001.

SEC. 404. ADMINISTRATION.

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

- (1) administer the compensation program established under this title;
- (2) promulgate all procedural and substantive rules for the administration of this title; and
- (3) employ and supervise hearing officers and other administrative personnel to perform the duties of the Special Master under this title.

(b) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated such sums as may be necessary to pay the administrative and support costs for the Special Master in carrying out this title.

SEC. 405. DETERMINATION OF ELIGIBILITY FOR COMPENSATION.

(a) FILING OF CLAIM-

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

(2) CLAIM FORM-

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

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

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

(ii) information from the claimant concerning any possible economic and noneconomic losses that the claimant suffered as a result of such crashes; and

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

(3) LIMITATION- No claim may be filed under paragraph (1) after the date that is 2

years after the date on which regulations are promulgated under section 407.

(b) REVIEW AND DETERMINATION-

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) ELIGIBILITY-

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

(A) is an individual described in paragraph (2); and

(B) meets the requirements of paragraph (3).

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

(A) an individual who--

(i) was present at the World Trade Center, (New York, New York), the Pentagon (Arlington, Virginia), or the site of the aircraft crash at Shanksville, Pennsylvania at the time, or in the immediate aftermath, of the terrorist-related aircraft crashes of September 11, 2001; and

(ii) suffered physical harm or death as a result of such an air crash;

(B) an individual who was a member of the flight crew or a passenger on American Airlines flight 11 or 77 or United Airlines flight 93 or 175, except that an individual identified by the Attorney General to have been a participant or conspirator in the terrorist-related aircraft crashes of September 11, 2001, or a representative of such individual shall not be eligible to receive compensation under this title; or

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

(3) REQUIREMENTS-

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

(B) LIMITATION ON CIVIL ACTION-

(i) IN GENERAL- Upon the submission of a claim under this title, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001. The preceding sentence does not apply to a civil action to recover collateral source obligations.

(ii) PENDING ACTIONS- In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 407.

SEC. 406. PAYMENTS TO ELIGIBLE INDIVIDUALS.

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

(b) PAYMENT AUTHORITY- This title constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of amounts for compensation under this title.

(c) ADDITIONAL FUNDING-

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

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

SEC. 407. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out this title, including regulations with respect to--

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

SEC. 408. LIMITATION ON AIR CARRIER LIABILITY.

(a) IN GENERAL- Notwithstanding any other provision of law, liability for all claims, whether for compensatory or punitive damages, arising from the terrorist-related aircraft crashes of September 11, 2001, against any air carrier shall not be in an amount greater than the limits of the liability coverage maintained by the air carrier.

(b) FEDERAL CAUSE OF ACTION-

(1) AVAILABILITY OF ACTION- There shall exist a Federal cause of action for damages arising out of the hijacking and subsequent crashes of American Airlines flights 11 and 77, and United Airlines flights 93 and 175, on September 11, 2001.

Notwithstanding section 40120(c) of title 49, United States Code, this cause of action shall be the exclusive remedy for damages arising out of the hijacking and subsequent crashes of such flights.

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

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

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

SEC. 409. RIGHT OF SUBROGATION.

The United States shall have the right of subrogation with respect to any claim paid by the United States under this title.