

107TH CONGRESS  
1ST SESSION

# H. R. 3272

To establish the Office of World Trade Center Attack Claims to pay claims for injury to businesses and property suffered as a result of the attack on the World Trade Center in New York City that occurred on September 11, 2001, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 2001

Mr. NADLER (for himself and Mr. HINCHEY) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Transportation and Infrastructure, 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

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## A BILL

To establish the Office of World Trade Center Attack Claims to pay claims for injury to businesses and property suffered as a result of the attack on the World Trade Center in New York City that occurred on September 11, 2001, 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 “World Trade Center  
5       Attack Claims Act”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) on September 11, 2001, an unprecedented  
4 terrorist attack was perpetrated against the United  
5 States on American soil;

6 (2) 1 of the targets of that terrorist attack was  
7 the World Trade Center in New York City;

8 (3) the attack on the World Trade Center re-  
9 sulted in the loss of thousands of lives, and the dam-  
10 age or destruction of a 16-acre area in lower Man-  
11 hattan, including thousands of homes and busi-  
12 nesses;

13 (4) more than 1,000,000 tons of rubble must be  
14 removed from the attack site;

15 (5) nearly 25,000,000 square feet of office  
16 space, equivalent to 20 percent of all office space in  
17 downtown New York, was damaged or destroyed by  
18 the attack;

19 (6) approximately 850 businesses and over  
20 125,000 workers were physically displaced as a re-  
21 sult of the attack;

22 (7) more than an additional 9,000 businesses  
23 employing over 145,000 people have been affected as  
24 a result of restrictions on access resulting from the  
25 attack;

1           (8) many of those businesses are on the verge  
2           of bankruptcy because the businesses remain unable  
3           to gain access to their property or are temporarily  
4           unable to receive foot or vehicular traffic;

5           (9) it is estimated that the attack will cost New  
6           York City and businesses in the city over  
7           \$105,000,000,000 in financial losses over the next 2  
8           years; and

9           (10) certain victims of the attack are in need of  
10          compensation for certain business and residential  
11          losses resulting directly from the attack.

12          (b) PURPOSES.—The purposes of this Act are—

13               (1) to compensate certain victims of the ter-  
14               rorist attack on the World Trade Center in New  
15               York City for certain business and residential losses  
16               resulting directly from the attack;

17               (2) to provide for the expeditious consideration  
18               and payment of claims for those losses; and

19               (3) to assist victims of the attack to continue,  
20               repair, replace, start, establish, or locate a business  
21               or residence in New York City that was located in  
22               the affected area before September 11, 2001.

23 **SEC. 3. DEFINITIONS.**

24          In this Act, the following definitions apply:

1           (1) AFFECTED AREA.—The term “affected  
2           area” means the area south of Canal Street in the  
3           borough of Manhattan, New York City, New York.

4           (2) ATTACK.—The term “attack” means the at-  
5           tack on the World Trade Center in New York City  
6           that occurred on September 11, 2001.

7           (3) CLAIM.—The term “claim” means a claim  
8           by an injured person under this Act for payment for  
9           injury suffered by the injured person as a result of  
10          the attack.

11          (4) CLAIMANT.—The term “claimant” means  
12          an injured person that submits a claim under section  
13          5(b).

14          (5) DIRECTOR.—The term “Director” means—

15                (A) the Director of the Federal Emergency  
16                Management Agency; or

17                (B) if an Independent Claims Manager is  
18                appointed under section 4(d)(4), the Inde-  
19                pendent Claims Manager.

20          (6) INJURED PERSON.—

21                (A) IN GENERAL.—The term “injured per-  
22                son” means an individual, corporation, partner-  
23                ship, company, association, cooperative, joint  
24                venture, limited liability company, estate, trust,  
25                or nonprofit organization that—

1 (i) suffered injury as a result of the  
2 attack; and

3 (ii) resides or maintains a place of  
4 business in the affected area.

5 (B) EXCLUSIONS.—The term “injured per-  
6 son” does not include—

7 (i) a lender that holds a mortgage on  
8 or security interest in real or personal  
9 property affected by the attack; or

10 (ii) a person that holds a lien on real  
11 or personal property affected by the at-  
12 tack.

13 (7) OFFICE.—The term “Office” means the Of-  
14 fice of World Trade Center Attack Claims estab-  
15 lished by section 4.

16 **SEC. 4. OFFICE OF WORLD TRADE CENTER ATTACK**  
17 **CLAIMS.**

18 (a) IN GENERAL.—There is established within the  
19 Federal Emergency Management Agency an office to be  
20 known as the “Office of World Trade Center Attack  
21 Claims”.

22 (b) PURPOSE.—The Office shall receive, process, and  
23 pay claims in accordance with section 5.

24 (c) FUNDING.—The Office—

1           (1) shall be funded from funds made available  
2       under this Act; and

3           (2) may reimburse any other Federal agency  
4       for provision of assistance in the receipt and proc-  
5       essing of claims.

6       (d) PERSONNEL.—

7           (1) IN GENERAL.—The Office may appoint and  
8       fix the compensation of such temporary personnel as  
9       are necessary to carry out the duties of the Office,  
10      without regard to the provisions of title 5, United  
11      States Code, governing appointments in the competi-  
12      tive service.

13          (2) PERSONNEL FROM OTHER AGENCIES.—On  
14      the request of the Director, the head of any other  
15      Federal agency may detail, on a reimbursable basis,  
16      any of the personnel of the agency to the Federal  
17      Emergency Management Agency to assist the Office  
18      in carrying out the duties of the Office under this  
19      Act.

20          (3) EFFECT ON OTHER FEMA DUTIES.—The es-  
21      tablishment of the Office shall not diminish the au-  
22      thority of, or funding available to, the Director to  
23      carry out the responsibilities of the Federal Emer-  
24      gency Management Agency under the Robert T.  
25      Stafford Disaster Relief and Emergency Assistance

1 Act (42 U.S.C. 5121 et seq.), including the timely  
2 provision of disaster assistance to any area with re-  
3 spect to which a major disaster or emergency is de-  
4 clared by the President to exist during the period in  
5 which the Director carries out this Act.

6 (4) APPOINTMENT OF INDEPENDENT CLAIMS  
7 MANAGER.—The Director may appoint an Inde-  
8 pendent Claims Manager to head the Office and to  
9 assume the duties of the Director under this Act.

10 **SEC. 5. COMPENSATION FOR VICTIMS OF THE ATTACK.**

11 (a) IN GENERAL.—Each injured person may receive  
12 from the United States compensation for injury suffered  
13 by the injured person as a result of the attack, as deter-  
14 mined by the Director in accordance with subsection (d).

15 (b) SUBMISSION OF CLAIMS.—Not later than 2 years  
16 after the date on which interim final regulations are pro-  
17 mulgated under subsection (h), an injured person may  
18 submit to the Director a written claim for payment of in-  
19 jury suffered by the injured person as a result of the at-  
20 tack in accordance with such requirements as the Director  
21 determines to be appropriate.

22 (c) INVESTIGATION OF CLAIMS.—The Director shall  
23 investigate, adjust, grant, deny, settle, or compromise any  
24 claim submitted under subsection (b).

25 (d) AMOUNT OF PAYMENT.—

1           (1) IN GENERAL.—Any payment on a claim by  
2           an injured person—

3                   (A) shall be limited to the amount nec-  
4                   essary to compensate the injured person for in-  
5                   jury described in paragraph (2) suffered as a  
6                   result of the attack during the period beginning  
7                   on September 11, 2001, and ending on March  
8                   11, 2003;

9                   (B) shall be subject to subsection  
10                  (e)(1)(D);

11                  (C) shall not include—

12                           (i) interest on the amount of the pay-  
13                           ment before the date of settlement or pay-  
14                           ment of a claim; or

15                           (ii) punitive damages or any other  
16                           form of noncompensatory damages; and

17                  (D) shall not exceed \$500,000, except in  
18                  the case of a claim for which the Director de-  
19                  termines that a greater amount is appropriate.

20           (2) TYPES OF INJURY.—

21                   (A) RESIDENTIAL LOSS.—Under para-  
22                   graph (1), an injured person may receive pay-  
23                   ment for a residential loss consisting of 1 or  
24                   more of the following:



1 (i) An uninsured or underinsured  
2 property loss.

3 (ii) Damage to or destruction of phys-  
4 ical infrastructure.

5 (iii) An insurance deductible.

6 (iv) A temporary living or relocation  
7 expense.

8 (v) Debris removal and other cleanup  
9 costs.

10 (vi) Any other type of related injury  
11 that the Director determines to be appro-  
12 priate.

13 (B) BUSINESS LOSS.—Under paragraph  
14 (1), an injured person may receive payment for  
15 a business loss consisting of 1 or more of the  
16 following:

17 (i) An uninsured or underinsured  
18 property loss.

19 (ii) Damage to or destruction of phys-  
20 ical infrastructure.

21 (iii) Damage to or destruction of tan-  
22 gible assets or inventory.

23 (iv) A business interruption loss.

24 (v) Overhead costs.

1 (vi) Employee wages for work not per-  
2 formed.

3 (vii) An insurance deductible.

4 (viii) A temporary relocation expense.

5 (ix) Debris removal and other cleanup  
6 costs.

7 (x) Any other type of injury that the  
8 Director determines to be appropriate.

9 (3) BURDEN OF PROOF.—

10 (A) IN GENERAL.—Subject to subpara-  
11 graph (B), a claimant shall have the burden of  
12 demonstrating injury suffered by the claimant.

13 (B) ABSENCE OF DOCUMENTS.—If docu-  
14 mentary evidence substantiating injury is not  
15 reasonably available, the Director may pay a  
16 claim based on an affidavit or other documenta-  
17 tion executed by the claimant.

18 (e) PAYMENT OF CLAIMS.—

19 (1) DETERMINATION AND PAYMENT OF  
20 AMOUNT.—

21 (A) IN GENERAL.—To the maximum ex-  
22 tent practicable, not later than 180 days after  
23 the date on which a claim is submitted under  
24 subsection (b), the Director shall—

1 (i) determine the amount, if any, to  
2 be paid for the claim; and

3 (ii) pay the amount.

4 (B) PRIORITY.—The Director may estab-  
5 lish priorities for processing and paying claims  
6 based on—

7 (i) an assessment of the needs of the  
8 claimants; and

9 (ii) any other criteria that the Direc-  
10 tor determines to be appropriate.

11 (C) PARAMETERS OF DETERMINATION.—  
12 In determining and paying a claim, the Director  
13 shall determine only—

14 (i) whether the claimant is an injured  
15 person;

16 (ii) whether the injuries that are the  
17 subject of the claim resulted from the at-  
18 tack;

19 (iii) the amount, if any, to be paid  
20 under this section; and

21 (iv) the person or persons entitled to  
22 receive the amount.

23 (D) INSURANCE AND OTHER BENEFITS.—

24 (i) IN GENERAL.—Subject to clause

25 (ii), to prevent recovery by a claimant in

1 excess of the equivalent of actual compen-  
2 satory damages in accordance with sub-  
3 section (d), the Director, in determining  
4 the amount of, and paying, a claim, shall  
5 reduce the amount to be paid for the claim  
6 by an amount that is equal to the sum of  
7 the payments or settlements of any kind  
8 that were paid, or will be paid, with re-  
9 spect to the claim, including—

10 (I) payments on insurance poli-  
11 cies; and

12 (II) benefits under the public as-  
13 sistance program, individual assist-  
14 ance program, or other program of  
15 the Federal Emergency Management  
16 Agency or under a program of any  
17 other Federal, State, or local agency.

18 (ii) GOVERNMENT LOANS.—Clause (i)  
19 shall not apply to the receipt by a claimant  
20 of any Federal, State, or local government  
21 loan that is required to be repaid by the  
22 claimant.

23 (2) ADVANCE OR PARTIAL PAYMENTS.—At the  
24 request of a claimant, the Director may make 1 or

1 more advance or partial payments before the final  
2 settlement of a claim.

3 (f) RECOVERY OF FUNDS IMPROPERLY PAID OR MIS-  
4 USED.—The United States may recover any portion of a  
5 payment on a claim that was improperly paid to the claim-  
6 ant as a result of—

7 (1) fraud or misrepresentation on the part of  
8 the claimant or a representative of the claimant;

9 (2) a material mistake on the part of the  
10 United States;

11 (3) the payment of benefits described in sub-  
12 section (e)(1)(D) that were not taken into account  
13 in determining the amount of the payment; or

14 (4) the failure of the claimant to cooperate in  
15 an audit.

16 (g) APPEALS OF DECISIONS.—

17 (1) RIGHT OF APPEAL.—A claimant may appeal  
18 a decision concerning payment of a claim by filing,  
19 not later than 60 days after the date on which the  
20 claimant is notified that the claim of the claimant  
21 will or will not be paid, a notice of appeal—

22 (A) in the case of a decision on a claim re-  
23 lating to a business loss, with the Administrator  
24 of the Small Business Administration; and

1 (B) in the case of a decision on a claim re-  
2 lating to a residential loss, with the Director.

3 (2) PERIOD FOR DECISION.—A decision con-  
4 cerning an appeal under paragraph (1) shall be ren-  
5 dered not later than 90 days after the date on which  
6 the notice of appeal is received.

7 (h) REGULATIONS.—Notwithstanding any other pro-  
8 vision of law, not later than 45 days after the date of en-  
9 actment of this Act—

10 (1) the Director shall promulgate and publish  
11 in the Federal Register interim final regulations for  
12 the processing and payment of claims; and

13 (2) the Director and the Administrator of the  
14 Small Business Administration shall jointly promul-  
15 gate and publish in the Federal Register procedures  
16 under which a dispute concerning payment of a  
17 claim may be settled through an appeals process de-  
18 scribed in subsection (g).

19 (i) PUBLIC INFORMATION.—At the time of publica-  
20 tion of interim final regulations under subsection (h), the  
21 Director shall disseminate, through brochures, pamphlets,  
22 radio, television, the print news media, and such other  
23 media as the Director determines to be likely to reach pro-  
24 spective claimants, a clear, concise, and easily understand-

1 able explanation, in English, Spanish, and any other lan-  
 2 guage that the Director determines to be appropriate, of—

3 (1) the rights conferred under this section; and

4 (2) the procedural and other requirements of  
 5 the regulations promulgated under subsection (h).

6 (j) COORDINATION.—In carrying out this section, the  
 7 Director shall coordinate with the Administrator of the  
 8 Small Business Administration, other Federal agencies,  
 9 State and local agencies, and any other individual or enti-  
 10 ty, as the Director determines to be necessary—

11 (1) to ensure the efficient administration of the  
 12 claims process; and

13 (2) to provide for local concerns.

14 (k) APPLICABILITY OF DEBT COLLECTION REQUIRE-  
 15 MENTS.—

16 (1) IN GENERAL.—Section 3716 of title 31,  
 17 United States Code, shall not preclude any payment  
 18 on a claim.

19 (2) ASSIGNMENT AND EXEMPTION FROM  
 20 CLAIMS OF CREDITORS.—

21 (A) ASSIGNMENT.—No assignment, re-  
 22 lease, or commutation of a payment due or pay-  
 23 able under this section shall be valid.

24 (B) EXEMPTION.—

1 (i) IN GENERAL.—A payment under  
 2 this section shall be exempt from all claims  
 3 of creditors and from levy, execution, at-  
 4 tachment, or other remedy for recovery or  
 5 collection of a debt.

6 (ii) NONWAIVABLE EXEMPTION.—The  
 7 exemption provided by clause (i) may not  
 8 be waived.

9 (3) EXCEPTION.—Notwithstanding paragraph  
 10 (2), the Director may—

11 (A) require the repayment, using a pay-  
 12 ment under this section, of any disaster loan  
 13 made by the Small Business Administration to  
 14 address injury suffered as a result of the at-  
 15 tack; and

16 (B) use the remedies provided by sub-  
 17 chapter II of chapter 37 of title 31, United  
 18 States Code, in collecting debts due to the Fed-  
 19 eral Government that arise from this Act.

20 **SEC. 6. ACCEPTANCE OF SERVICES OF OTHER AGENCIES**  
 21 **AND VOLUNTEERS; GIFTS**

22 In carrying out this Act, the Director may—

23 (1) accept and use the services or facilities of  
 24 any State or local government, or of any agency, of-



1        fice, or employee of any State or local government,  
2        with the consent of the government;

3            (2) use such voluntary and uncompensated  
4        services by individuals or organizations as may be  
5        needed; and

6            (3) accept gifts of supplies, equipment, and fa-  
7        cilities to be used in carrying out this Act.

8   **SEC. 7. RELATIONSHIP TO FEDERAL ENTITLEMENT PRO-**  
9            **GRAMS.**

10        (a) REQUESTS FOR BENEFITS.—Nothing in this Act  
11        affects any right of an injured person that submits a claim  
12        to submit a request for benefits under any Federal entitle-  
13        ment program.

14        (b) CONSIDERATION OF PAYMENTS AS RE-  
15        SOURCES.—A payment on a claim received by an injured  
16        person under section 5 shall not be taken into account in  
17        determining the assets or resources of any individual or  
18        household under any Federal program or federally assisted  
19        program that provides financial aid, assistance, or benefits  
20        based on need, including—

21            (1) the food stamp program under the Food  
22        Stamp Act of 1977 (7 U.S.C. 2011 et seq.); and

23            (2) any program established under the Social  
24        Security Act (42 U.S.C. 301 et seq.).

1 **SEC. 8. REPORTS AND AUDITS.**

2 (a) REPORTS.—Not later than 1 year after the date  
3 of promulgation of interim final regulations under section  
4 5(i) and annually thereafter, the Director shall submit to  
5 Congress a report that describes the claims submitted  
6 under section 5(b) during the year preceding the date of  
7 submission of the report, including, with respect to each  
8 claim—

9 (1) the amount claimed;

10 (2) a brief description of the nature of the  
11 claim; and

12 (3) the status or disposition of the claim, in-  
13 cluding the amount of any payment on the claim.

14 (b) AUDITS.—The Comptroller General shall—

15 (1) conduct an annual audit of the payment of  
16 all claims submitted under section 5(b); and

17 (2) not later than 120 days after the date on  
18 which the Director submits to Congress the initial  
19 report required by subsection (a) and annually  
20 thereafter, submit to Congress a report on the re-  
21 sults of the audit.

22 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) IN GENERAL.—There are authorized to be appro-  
24 priated to carry out this Act—

25 (1) for administration by the Office of the com-  
26 pensation process \$100,000,000; and

1           (2) for payment of claims \$1,900,000,000.

2           (b) AVAILABILITY.—Amounts made available under  
3 subsection (a) shall remain available until expended.

4           (c) FEMA FUNDS.—None of the funds made avail-  
5 able to the Federal Emergency Management Agency for  
6 the administration of disaster relief shall be used to carry  
7 out this Act.

8 **SEC. 10. TERMINATION OF AUTHORITY.**

9           The authority provided by this Act terminates effec-  
10 tive 42 months after the date of enactment of this Act.

○