

107TH CONGRESS
2^D SESSION

H. R. 3375

IN THE SENATE OF THE UNITED STATES

MAY 22, 2002

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001.

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 “Embassy Employee
5 Compensation Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act, the following definitions apply:

8 (1) CLAIMANT.—The term “claimant” means
9 an individual filing a claim for compensation under
10 section 5(a)(1).

11 (2) COLLATERAL SOURCE.—The term “collat-
12 eral source” means all collateral sources, including
13 life insurance, pension funds, death benefit pro-
14 grams, and payments by Federal, State, or local
15 governments related to the bombings of United
16 States embassies in East Africa on August 7, 1998.

17 (3) ECONOMIC LOSS.—The term “economic
18 loss” means any pecuniary loss resulting from harm
19 (including the loss of earnings or other benefits re-
20 lated to employment, medical expense loss, replace-
21 ment services loss, loss due to death, burial costs,
22 and loss of business or employment opportunities) to
23 the extent recovery for such loss is allowed under ap-
24 plicable State law.

1 (4) ELIGIBLE INDIVIDUAL.—The term “eligible
2 individual” means an individual determined to be eli-
3 gible for compensation under section 5(c).

4 (5) NONECONOMIC LOSSES.—The term “non-
5 economic losses” means losses for physical and emo-
6 tional pain, suffering, inconvenience, physical im-
7 pairment, mental anguish, disfigurement, loss of en-
8 joyment of life, loss of society and companionship,
9 loss of consortium (other than loss of domestic serv-
10 ice), hedonic damages, injury to reputation, and all
11 other nonpecuniary losses of any kind or nature.

12 (6) SPECIAL MASTER.—The term “Special Mas-
13 ter” means the Special Master appointed under sec-
14 tion 404(a) of the September 11th Victim Com-
15 pensation Fund of 2001 (title IV of the Air Trans-
16 portation Safety and System Stabilization Act (Pub-
17 lic Law 107–42; 115 Stat. ____)).

18 **SEC. 3. PURPOSE.**

19 It is the purpose of this Act to provide compensation
20 to any individual (or relatives of a deceased individual)
21 who was physically injured or killed as a result of the
22 bombings of United States embassies in East Africa on
23 August 7, 1998.

1 **SEC. 4. ADMINISTRATION.**

2 (a) IN GENERAL.—The Attorney General, acting
3 through the Special Master, shall—

4 (1) administer the compensation program es-
5 tablished under this Act;

6 (2) promulgate all procedural and substantive
7 rules for the administration of this Act; and

8 (3) employ and supervise hearing officers and
9 other administrative personnel to perform the duties
10 of the Special Master under this Act.

11 (b) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated such sums as may be
13 necessary to pay the administrative and support costs for
14 the Special Master in carrying out this Act.

15 **SEC. 5. DETERMINATION OF ELIGIBILITY FOR COMPENSA-**
16 **TION.**

17 (a) FILING OF CLAIM.—

18 (1) IN GENERAL.—A claimant may file a claim
19 for compensation under this Act with the Special
20 Master. The claim shall be on the form developed
21 under paragraph (2) and shall state the factual basis
22 for eligibility for compensation and the amount of
23 compensation sought.

24 (2) CLAIM FORM.—

25 (A) IN GENERAL.—The Special Master
26 shall develop a claim form that claimants shall

1 use when submitting claims under paragraph
2 (1). The Special Master shall ensure that such
3 form can be filed electronically, if determined to
4 be practicable.

5 (B) CONTENTS.—The form developed
6 under subparagraph (A) shall request—

7 (i) information from the claimant con-
8 cerning the physical harm that the claim-
9 ant suffered, or in the case of a claim filed
10 on behalf of a decedent information con-
11 firming the decedent's death, as a result of
12 the bombings of United States embassies
13 in East Africa on August 7, 1998;

14 (ii) information from the claimant
15 concerning any possible economic and non-
16 economic losses that the claimant suffered
17 as a result of such bombings; and

18 (iii) information regarding collateral
19 sources of compensation the claimant has
20 received or is entitled to receive as a result
21 of such bombings.

22 (3) LIMITATION.—No claim may be filed under
23 paragraph (1) after the date that is 2 years after
24 the date on which regulations are promulgated
25 under section 7.

1 (b) REVIEW AND DETERMINATION.—

2 (1) REVIEW.—The Special Master shall review
3 a claim submitted under subsection (a) and
4 determine—

5 (A) whether the claimant is an eligible in-
6 dividual under subsection (c);

7 (B) with respect to a claimant determined
8 to be an eligible individual—

9 (i) the extent of the harm to the
10 claimant, including any economic and non-
11 economic losses; and

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

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

20 (3) DETERMINATION.—Not later than 120 days
21 after that date on which a claim is filed under sub-
22 section (a), the Special Master shall complete a re-
23 view, make a determination, and provide written no-
24 tice to the claimant, with respect to the matters that
25 were the subject of the claim under review. Such a

1 determination shall be final and not subject to judi-
2 cial review.

3 (4) RIGHTS OF CLAIMANT.—A claimant in a re-
4 view under paragraph (1) shall have—

5 (A) the right to be represented by an at-
6 torney;

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

10 (C) any other due process rights deter-
11 mined appropriate by the Special Master.

12 (5) NO PUNITIVE DAMAGES.—The Special Mas-
13 ter may not include amounts for punitive damages
14 in any compensation paid under a claim under this
15 Act.

16 (6) COLLATERAL COMPENSATION.—The Special
17 Master shall reduce the amount of compensation de-
18 termined under paragraph (1)(B)(ii) by the amount
19 of the collateral source compensation the claimant
20 has received or is entitled to receive as a result of
21 the bombings of United States embassies in East Af-
22 rica on August 7, 1998.

23 (c) ELIGIBILITY.—

24 (1) IN GENERAL.—A claimant shall be deter-
25 mined to be an eligible individual for purposes of

1 this subsection if the Special Master determines that
2 such claimant—

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

5 (B) meets the requirements of paragraph
6 (3).

7 (2) INDIVIDUALS.—A claimant is an individual
8 described in this paragraph if the claimant is—

9 (A) a citizen of the United States who—

10 (i) was present at the United States
11 Embassy in Nairobi, Kenya, or the United
12 States Embassy in Dar es Salaam, Tan-
13 zania, at the time, or in the immediate
14 aftermath, of the bombings of United
15 States embassies in East Africa on August
16 7, 1998; and

17 (ii) suffered physical harm or death as
18 a result of such a bombing; or

19 (B) in the case of a decedent who is an in-
20 dividual described in subparagraph (A), the per-
21 sonal representative of the decedent who files a
22 claim on behalf of the decedent.

23 (3) REQUIREMENTS.—

1 (A) SINGLE CLAIM.—Not more than one
2 claim may be submitted under this Act by an
3 individual or on behalf of a deceased individual.

4 (B) LIMITATION ON CIVIL ACTION.—

5 (i) IN GENERAL.—Upon the submis-
6 sion of a claim under this Act, the claim-
7 ant waives the right to file a civil action
8 (or to be a party to an action) in any Fed-
9 eral or State court for damages sustained
10 as a result of the bombings of United
11 States embassies in East Africa on August
12 7, 1998. The preceding sentence does not
13 apply to a civil action to recover collateral
14 source obligations.

15 (ii) PENDING ACTIONS.—In the case
16 of an individual who is a party to a civil
17 action described in clause (i), such indi-
18 vidual may not submit a claim under this
19 Act unless such individual withdraws from
20 such action by the date that is 90 days
21 after the date on which regulations are
22 promulgated under section 7.

23 **SEC. 6. PAYMENTS TO ELIGIBLE INDIVIDUALS.**

24 (a) IN GENERAL.—Not later than 20 days after the
25 date on which a determination is made by the Special Mas-

1 ter regarding the amount of compensation due a claimant
2 under this Act, the Special Master shall authorize pay-
3 ment to such claimant of the amount determined with re-
4 spect to the claimant.

5 (b) PAYMENT AUTHORITY.—This Act constitutes
6 budget authority in advance of appropriations Acts and
7 represents the obligation of the Federal Government to
8 provide for the payment of amounts for compensation
9 under this Act.

10 (c) ADDITIONAL FUNDING.—

11 (1) IN GENERAL.—The Attorney General is au-
12 thorized to accept such amounts as may be contrib-
13 uted by individuals, business concerns, or other enti-
14 ties to carry out this Act, under such terms and con-
15 ditions as the Attorney General may impose.

16 (2) USE OF SEPARATE ACCOUNT.—In making
17 payments under this section, amounts contained in
18 any account containing funds provided under para-
19 graph (1) shall be used prior to using appropriated
20 amounts.

21 **SEC. 7. REGULATIONS.**

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

1 (1) forms to be used in submitting claims under
2 this Act;

3 (2) the information to be included in such
4 forms;

5 (3) procedures for hearing and the presentation
6 of evidence;

7 (4) procedures to assist an individual in filing
8 and pursuing claims under this Act; and

9 (5) other matters determined appropriate by
10 the Attorney General.

11 **SEC. 8. RIGHT OF SUBROGATION.**

12 The United States shall have the right of subrogation
13 with respect to any claim paid by the United States under
14 this Act.

Passed the House of Representatives May 21, 2002.

Attest: JEFF TRANDAHL,
Clerk.