

116TH CONGRESS
1ST SESSION

H. R. 4605

To provide compensation to certain residents of the island of Vieques, Puerto Rico, for the use of such island for military readiness, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 4, 2019

Miss GONZÁLEZ-COLÓN of Puerto Rico (for herself, Mr. KELLY of Mississippi, and Mr. SOTO) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on the Judiciary, 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 provide compensation to certain residents of the island of Vieques, Puerto Rico, for the use of such island for military readiness, 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 “Vieques Recovery and
5 Redevelopment Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) Vieques is an island municipality of Puerto
2 Rico, measuring approximately 21 miles long by 4
3 miles wide, and located approximately 8 miles east
4 of the main island of Puerto Rico.

5 (2) Prior to Hurricane Maria, residents of
6 Vieques were served by an urgent medical care facil-
7 ity, the Susana Centeno Family Health Center, and
8 residents had to travel off-island to obtain medical
9 services, including most types of emergency care be-
10 cause the facility did not have the basic use of x-ray
11 machines, CT machines, EKG machines,
12 ultrasounds, or PET scans.

13 (3) The predominant means of transporting
14 passengers and goods between Vieques and the main
15 island of Puerto Rico is by ferry boat service, and
16 over the years, the efficiency of this service has fre-
17 quently been disrupted, unreliable, and difficult for
18 cancer patients to endure to receive treatment. Each
19 trip to Ceiba, Puerto Rico, for the cancer patient is
20 an additional out-of-pocket expense ranging from
21 \$120 to \$200.

22 (4) The United States Military maintained a
23 presence on the eastern and western portions of
24 Vieques for close to 60 years, and used parts of the
25 island as a training range during those years, drop-

1 ping over 80 million tons of ordnance and other
2 weaponry available to the United States military
3 since World War II.

4 (5) The unintended, unknown, and unavoidable
5 consequences of these exercises were to expose
6 Americans living on the islands to the residue of
7 that weaponry which includes heavy metals and
8 many other chemicals now known to harm human
9 health.

10 (6) According to Government and independent
11 documentation, the island of Vieques has high levels
12 of heavy metals and has been exposed to chemical
13 weapons and toxic chemicals. Since the military ac-
14 tivity in Vieques, island residents have suffered from
15 the health impacts from long-term exposure to envi-
16 ronmental contamination as a result of 62 years of
17 military operations, and have experienced higher
18 rates of certain diseases among residents, including
19 cancer, cirrhosis, hypertension, diabetes, heavy metal
20 diseases, along with many unnamed and
21 uncategorized illnesses. These toxic residues have
22 caused the American residents of Vieques to develop
23 illnesses due to ongoing exposure.

24 (7) In 2017, Vieques was hit by Hurricane
25 Maria, an unusually destructive storm that dev-

1 astated Puerto Rico and intensified the existing hu-
2 manitarian crisis on the island by destroying existing
3 medical facilities.

4 (8) The medical systems in place prior to Hur-
5 ricane Maria were unable to properly handle the
6 health crisis that existed due to the toxic residue left
7 on the island by the military's activities.

8 (9) After Maria, the medical facility was closed
9 due to damage and continues to be unable to per-
10 form even the few basic services that it did provide.
11 Vieques needs a medical facility that can treat and
12 address the critical and urgent need to get life-sav-
13 ing medical services to its residents. Due to legal re-
14 strictions, the Federal Emergency Management
15 Agency (in this Act referred to as "FEMA") is un-
16 able to provide a hospital where its capabilities ex-
17 ceed the abilities of the facility that existed prior to
18 Maria; therefore Vieques needs assistance to build a
19 facility to manage the vast health needs of its resi-
20 dents.

21 (10) Every American has benefitted from the
22 sacrifices of those Americans who have lived and are
23 living on Vieques and it is our intent to acknowledge
24 that sacrifice and to treat those Americans with the

1 same respect and appreciation that other Americans
2 enjoy.

3 (11) In 2012, the residents of Vieques were de-
4 nied the ability to address their needs in Court due
5 to sovereign immunity, *Sánchez v. United States*,
6 No. 3:09-cv-01260-DRD (D.P.R.). However, the
7 United States Court of Appeals for the First Circuit
8 referred the issue to Congress and urged it to ad-
9 dress the humanitarian crisis. This bill attempts to
10 satisfy that request such that Americans living on
11 Vieques have a remedy for the suffering they have
12 endured.

13 **SEC. 3. SETTLEMENT OF CLAIMS AGAINST THE UNITED**
14 **STATES FOR CERTAIN RESIDENTS OF THE IS-**
15 **LAND OF VIEQUES, PUERTO RICO.**

16 (a) IN GENERAL.—An individual claimant who files
17 a claim for compensation under this section with the Spe-
18 cial Master, appointed pursuant to subsection (c), shall be
19 awarded monetary compensation as described in sub-
20 section (b) if—

21 (1) the Special Master determines that the
22 claimant is or was a resident, the child of a resident,
23 or an immediate heir (as determined by the laws of
24 Puerto Rico) of a deceased claimant on the island of
25 Vieques, Puerto Rico, during or after the United

1 States Government used the island of Vieques, Puer-
2 to Rico, for military readiness;

3 (2) the claimant previously filed a lawsuit or an
4 administrative claim, or files a claim not later than
5 120 days after the date of the enactment of this Act
6 against the United States Government for personal
7 injury, including illness or death arising from use by
8 the United States Government of the island of
9 Vieques for military readiness; and

10 (3) the claimant submits to the Special Master
11 written medical documentation that indicates the
12 claimant contracted a chronic, life threatening, or
13 physical or mental disease or illness, including can-
14 cer, hypertension, cirrhosis, kidney disease, diabetes,
15 or a heavy metal poisoning during or after the
16 United States Government used the island of
17 Vieques, Puerto Rico, for military readiness.

18 (b) AMOUNTS OF AWARD.—

19 (1) IN GENERAL.—A claimant who meets the
20 requirements of subsection (a) shall be awarded
21 compensation as follows:

22 (A) \$10,000 for exposure in the case of a
23 claimant who provides proof—

24 (i) of a previously filed lawsuit or ad-
25 ministrative claim and not less than 5

1 years of residency on the island of Vieques,
2 Puerto Rico; or

3 (ii) that the claimant is the child of a
4 parent who resided in Vieques, Puerto
5 Rico, for not less than 5 years.

6 (B) \$50,000 for 1 disease described in sub-
7 section (a)(3).

8 (C) \$80,000 for 2 diseases described in
9 subsection (a)(3).

10 (D) \$110,000 for 3 or more diseases de-
11 scribed in subsection (a)(3).

12 (2) INCREASE IN AWARD.—In the case that an
13 individual receiving an award under paragraph (1)
14 of this subsection contracts another disease under
15 subsection (a)(3) and files a new claim with the Spe-
16 cial Master for an additional award not later than
17 10 years after the date of the enactment of this Act,
18 the Special Master may award the individual an
19 amount that is equal to the difference between—

20 (A) the amount that the individual would
21 have been eligible to receive had the disease
22 been contracted before the individual filed an
23 initial claim under subsection (a); and

24 (B) the amount received by the individual
25 pursuant to paragraph (1).

1 (3) DECEASED CLAIMANTS.—In the case of an
2 individual who dies before making a claim under this
3 section or a claimant who dies before receiving an
4 award under this section, any immediate heir to the
5 individual or claimant, as determined by the laws of
6 Puerto Rico, shall be eligible for 1 of the following
7 awards:

8 (A) Compensation in accordance with
9 paragraph (1), divided among any such heir.

10 (B) Compensation based on the age of the
11 deceased as follows:

12 (i) In the case of an individual or
13 claimant who dies before attaining 20
14 years of age, \$110,000, divided among any
15 such heir.

16 (ii) In the case of an individual or
17 claimant who dies before attaining 40
18 years of age, \$80,000, divided among any
19 such heir.

20 (iii) In the case of an individual or
21 claimant who dies before attaining 60
22 years of age, \$50,000, divided among any
23 such heir.

24 (c) APPOINTMENT OF SPECIAL MASTER.—

1 (1) IN GENERAL.—The Attorney General shall
2 appoint a Special Master not later than 90 days
3 after the date of the enactment of this Act to con-
4 sider claims by individuals and the Municipality.

5 (2) QUALIFICATIONS.—The Attorney General
6 shall consider the following in choosing the Special
7 Master:

8 (A) The individual’s experience in the proc-
9 essing of victims’ claims in relation to foreign
10 or domestic governments.

11 (B) The individual’s balance of experience
12 in representing the interests of the United
13 States and individual claimants.

14 (C) The individual’s experience in matters
15 of national security.

16 (D) The individual’s demonstrated abilities
17 in investigation and fact findings in complex
18 factual matters.

19 (E) Any experience the individual has had
20 advising the United States Government.

21 (d) AWARD AMOUNTS RELATED TO CLAIMS BY THE
22 MUNICIPALITY OF VIEQUES.—

23 (1) AWARD.—The Special Master, in exchange
24 for its administrative claims, shall provide the fol-

1 lowing as compensation to the Municipality of
2 Vieques:

3 (A) STAFF.—The Special Master shall pro-
4 vide medical staff, and other resources nec-
5 essary to build and operate a level three trauma
6 center (in this section, referred to as “medical
7 facility”) with a cancer center and renal dialysis
8 unit and its equipment. The medical facility
9 shall be able to treat life threatening, chronic,
10 heavy metal, and physical and mental diseases.
11 The medical facility shall be able to provide
12 basic x-ray, EKG, internal medicine expertise,
13 medical coordination personnel and case man-
14 agers, ultrasound, and resources necessary to
15 screen residents for cancer and the other pre-
16 vailing health problems.

17 (B) OPERATIONS.—The Special Master
18 shall fund the operations of the medical facility
19 to provide medical care for pediatric and adult
20 patients who reside on the island of Vieques, al-
21 lowing the patients to be referred for tertiary
22 and quaternary health care facilities when nec-
23 essary, and providing the transportation and
24 medical costs when traveling off the island of
25 Vieques, until such time as medical testing es-

1 tablishes that the disease levels are reduced to
2 the average in the United States.

3 (C) ADMINISTRATIVE EXPERTISE.—The
4 Special Master shall ensure that the Adminis-
5 trator of FEMA provides all administrative and
6 technical expertise and oversight in the bidding
7 and construction of the facility but the design
8 and abilities of the hospital shall be determined
9 by the Special Master considering the medical
10 and research needs of the residents of the is-
11 land of Vieques. All costs shall be part of the
12 municipality’s compensation.

13 (D) INTERIM SERVICES.—Before the med-
14 ical facility on the island of Vieques is oper-
15 ational, the Special Master shall provide—

16 (i) urgent health care air transport to
17 hospitals on the mainland of Puerto Rico
18 from the island of Vieques;

19 (ii) medical coordination personnel
20 and case managers;

21 (iii) telemedicine communication abili-
22 ties; and

23 (iv) any other services that are nec-
24 essary to alleviate the health crisis on the
25 island of Vieques.

1 (E) SCREENING.—The Special Master
2 shall make available, at no cost to the patient,
3 medical screening for cancer, cirrhosis, diabetes,
4 and heavy metal contamination on the island of
5 Vieques.

6 (F) ACADEMIC PARTNER.—The Special
7 Master shall appoint an academic partner, with
8 appropriate experience and an established rela-
9 tionship with the Municipality of Vieques
10 shall—

11 (i) lead a research and outreach en-
12 deavor on behalf of the Municipality of
13 Vieques;

14 (ii) select the appropriate scientific ex-
15 pertise and administer defined studies,
16 conducting testing and evaluation of the
17 soils, seas, plant and animal food sources,
18 and the health of residents; and

19 (iii) determine and implement the
20 most efficient and effective way to reduce
21 the environmental toxins to a level suffi-
22 cient to return the soils, seas, food sources,
23 and health circumstances to a level that re-
24 duces the diseases on the island of Vieques
25 to the average in the United States.

1 (G) COMPENSATION.—The Special Master
2 shall compensate the Municipality of Vieques
3 for research conducted on behalf of the Munici-
4 pality, before the date of the enactment of this
5 Act, by universities, colleges, scientists, and
6 doctors who have tested and evaluated the prev-
7 alence of toxic substances in the soil, food
8 sources, and human populations.

9 (H) DUTIES.—The Special Master shall
10 provide amounts necessary for the academic
11 partner and medical coordinator to carry out
12 the duties described in subparagraphs (A)
13 through (D).

14 (I) PROCUREMENT.—The Special Master
15 shall provide amounts necessary to compensate
16 the Municipality of Vieques for—

17 (i) contractual procurement obliga-
18 tions and additional expenses incurred by
19 the Municipality as a result of the enact-
20 ment of this section and settlement of its
21 claim; and

22 (ii) any other damages and costs to be
23 incurred by the Municipality, if the Special
24 Master determines that it is necessary to
25 carry out the purpose of this section.

1 (J) CONSULTING FIRMS.—The Special
2 Master shall provide amounts necessary for the
3 Special Master to contract with consulting
4 firms for technical advice on any aspect of the
5 Special Master’s duties.

6 (K) POWER SOURCE.—The Special Master
7 shall determine the best source of producing
8 independent power on the island of Vieques that
9 is hurricane resilient and can effectively sustain
10 the needs of the island and shall authorize such
11 construction as an award to the Municipality of
12 Vieques.

13 (2) SOURCE.—Amounts awarded under this Act
14 shall be made from amounts appropriated under sec-
15 tion 1304 of title 31, United States Code, commonly
16 known as the “Judgment Fund”, as if claims were
17 adjudicated by a United States District Court under
18 section 1346(b) of title 28, United States Code.

19 (3) DETERMINATION AND PAYMENT OF
20 CLAIMS.—

21 (A) ESTABLISHMENT OF FILING PROCE-
22 DURES.—The Attorney General shall establish
23 procedures whereby individuals and the Municipi-
24 pality may submit claims for payments under
25 this section to the Special Master.

1 (B) DETERMINATION OF CLAIMS.—The
2 Special Master shall, in accordance with this
3 subsection, determine whether each claim meets
4 the requirements of this section. Claims filed by
5 residents of the island of Vieques that have
6 been disposed of by a court under chapter 171
7 of title 28, United States Code, shall be treated
8 as if such claims are currently filed.

9 (e) ACTION ON CLAIMS.—The Special Master shall
10 make a determination on any claim filed under the proce-
11 dures established under this section not later than 150
12 days after the date on which the claim is filed.

13 (f) PAYMENT IN FULL SETTLEMENT OF CLAIMS BY
14 INDIVIDUALS AND THE MUNICIPALITY OF VIEQUES
15 AGAINST THE UNITED STATES.—The acceptance by an
16 individual or the Municipality of Vieques of a payment of
17 an award under this section shall—

18 (1) be final and conclusive;

19 (2) be deemed to be in full satisfaction of all
20 claims under chapter 171 of title 28, United States
21 Code; and

22 (3) constitute a complete release by the indi-
23 vidual or Municipality of such claim against the
24 United States and against any employee of the
25 United States acting in the scope of employment

1 who is involved in the matter giving rise to the
2 claim.

3 (g) CERTIFICATION OF TREATMENT OF PAYMENTS
4 UNDER OTHER LAWS.—Amounts paid to an individual
5 under this section—

6 (1) shall be treated for purposes of the laws of
7 the United States as damages for human suffering;
8 and

9 (2) may not be included as income or resources
10 for purposes of determining eligibility to receive ben-
11 efits described in section 3803(c)(2)(C) of title 31,
12 United States Code, or the amount of such benefits.

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