

103^D CONGRESS
2^D SESSION

H. R. 4741

To amend the Organic Act of Guam to provide for restitution to the people of Guam who suffered atrocities such as personal injury, forced labor, forced marches, internment and death during the occupation of Guam in World War II, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 1994

Mr. UNDERWOOD introduced the following bill; which was referred jointly to the Committees on Natural Resources and the Judiciary

A BILL

To amend the Organic Act of Guam to provide for restitution to the people of Guam who suffered atrocities such as personal injury, forced labor, forced marches, internment and death during the occupation of Guam in World War II, 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 “Guam War Restitution
5 Act”.

1 **SEC. 2. AMENDMENT TO THE ORGANIC ACT OF GUAM.**

2 The Organic Act of Guam (48 U.S.C. 1421 et seq.)
3 is amended by adding at the end the following new section:

4 **“SEC. 36. RECOGNITION OF DEMONSTRATED LOYALTY OF**
5 **THE PEOPLE OF GUAM TO THE UNITED**
6 **STATES, AND THE SUFFERING AND DEPRIVA-**
7 **TION ARISING THEREFROM, DURING WORLD**
8 **WAR II.**

9 “(a) APPLICATION OF SECTION.—This section shall
10 apply to Guamanians who did not meet the one-year time
11 limitation for filing of death or personal injury claims
12 specified in the first section of the Act of November 15,
13 1945 (Chapter 483; 59 Stat. 582), or who suffered other
14 compensable injuries if such Guamanians, their heirs or
15 next of kin, meet the eligibility, time limitation for filing,
16 and other criteria set forth in this section.

17 “(b) DEFINITIONS.—For the purposes of this section:

18 “(1) AWARD.—The term ‘award’ means the
19 amount of compensation payable under subsection
20 (c).

21 “(2) BENEFIT.—The term ‘benefit’ means the
22 amount of compensation payable under subsection
23 (d).

24 “(3) BOARD.—The term ‘Board’ means the
25 Guam Restitution Trust Fund Board of Directors
26 established by subsection (h).

1 “(4) CLAIMS FUND.—The term ‘Claims Fund’
2 means the Guam Restitution Claims Fund estab-
3 lished by subsection (f)(1).

4 “(5) COMPENSABLE INJURY.—The term ‘com-
5 pensable injury’ means one of the following three
6 categories of injury incurred during, or as a result
7 of, World War II:

8 “(A) Death.

9 “(B) Personal injury.

10 “(C) Forced labor, forced march, or in-
11 ternment.

12 “(6) GUAMANIAN.—The term ‘Guamanian’
13 means any person who resided in the territory of
14 Guam during the period beginning December 8,
15 1941, and ending September 2, 1945, and who was
16 a United States citizen or national during the pe-
17 riod.

18 “(7) SECRETARY.—The term ‘Secretary’ means
19 the Secretary of the Interior.

20 “(8) TRUST FUND.—The term ‘Trust Fund’
21 means the Guam Restitution Trust Fund established
22 by subsection (g)(1).

23 “(c) GENERAL AUTHORITY OF SECRETARY AND
24 BOARD; REQUIREMENTS.—

1 “(1) IN GENERAL.—The Secretary may receive,
2 examine, and render final decisions concerning
3 claims for awards under subsection (d) and benefits
4 under subsection (e) filed in accordance with this
5 section. The Secretary may certify and disburse pay-
6 ments from the Claims Fund, and the Board may
7 certify and disburse payments from the Trust Fund,
8 in accordance with this section.

9 “(2) REQUIRED INFORMATION FOR INCLUSION
10 IN CLAIMS FOR AWARDS AND BENEFITS.—A claim
11 for an award or benefit under this section shall be
12 made under oath and shall include—

13 “(A) the claimant’s name and age;

14 “(B) the village in which the claimant re-
15 sided at the time the compensable injury oc-
16 curred;

17 “(C) the approximate date or dates when
18 the compensable injury incurred;

19 “(D) a brief description of the compen-
20 sable injury being claimed;

21 “(E) the circumstances leading up to that
22 compensable injury; and

23 “(F) in the case of an award based on
24 death as the compensable injury and in the case

1 of a claim for a benefit, proof of the relation-
2 ship of the claimant to the deceased.

3 “(3) TIME LIMITATION APPLICABLE TO SEC-
4 RETARY.—The Secretary shall act expeditiously in
5 the examination, determination, and certification of
6 submitted claims, but in no event later than one
7 year after the expiration of the time to be issued by
8 the Secretary.

9 “(d) ELIGIBILITY.—

10 “(1) ELIGIBILITY FOR AWARDS.—To be eligible
11 for an award under this section, the following cri-
12 teria must be met:

13 “(A) The claimant is a living Guamanian
14 who personally received the compensable injury,
15 except that in a claim for death, a claimant
16 may be the heir or next of kin of the decedent
17 Guamanian.

18 “(B) The claimant files a claim with the
19 Secretary for a compensable injury containing
20 all the information required by subsection
21 (c)(2).

22 “(C) The claimant is able to furnish either
23 proof of the compensable injury or is able to
24 produce affidavits by two witnesses to the com-
25 pensable injury.

1 “(D) The claimant files a claim within one
2 year after the date of enactment of this section.

3 “(2) ELIGIBILITY FOR BENEFITS.—To be eligi-
4 ble for benefits under this section, the following cri-
5 teria must be met:

6 “(A) The claimant is a living Guamanian
7 who is an heir or next of kin of the decedent
8 Guamanian who personally received the com-
9 pensable injury and who died after September
10 2, 1945.

11 “(B) The claimant files a claim with the
12 Secretary or the Board for a compensable in-
13 jury containing all the information required by
14 subsection (c)(2).

15 “(C) The claimant is able to furnish either
16 proof of the compensable injury or is able to
17 produce affidavits by two witnesses to the com-
18 pensable injury.

19 “(D) The claimant files a claim within one
20 year after the date of enactment of this section;
21 except that persons who can prove consanguin-
22 ity with claimants who have met the criteria
23 specified in subparagraphs (A) through (C) may
24 become eligible for pro rata share of benefits
25 accruing to such claim by filing a claim with

1 the Board at any time, by such procedures as
2 the Board may prescribe.

3 “(3) LIMITATION ON ELIGIBILITY FOR AWARDS
4 AND BENEFITS.—(A) A claimant may only be eligi-
5 ble for an award arising out of one category of com-
6 pensable injury.

7 “(B) A claimant may only be eligible for bene-
8 fits arising out of one category of compensable in-
9 jury.

10 “(e) PAYMENTS.—

11 “(1) CERTIFICATION.—The Secretary shall cer-
12 tify all awards for payment, and the Board shall cer-
13 tify all benefits for payment, under this section.

14 “(2) AWARDS.—The Secretary shall pay the fol-
15 lowing amounts as an award to each eligible claim-
16 ant under subsection (d)(1) from the Claims Fund:

17 “(A) \$20,000 for the category of death.

18 “(B) \$7,000 for the category of personal
19 injury.

20 “(C) \$5,000 for the category of forced
21 labor, forced march, or internment.

22 “(3) BENEFITS.—The Secretary shall pay the
23 following amounts as a benefit to each eligible claim-
24 ant under subsection (d)(2) from the Trust Fund:

1 “(A) \$7,000 for the category of personal
2 injury.

3 “(B) \$5,000 for the category of forced
4 labor, forced march, or internment.

5 “(4) REFUSAL TO ACCEPT PAYMENT.—If a
6 claimant refuses to accept a payment under para-
7 graph (2) or (3), an amount equal to such payment
8 shall remain in the Claims Fund or Trust Fund, as
9 appropriate, and no payment may be made under
10 this section to such claimant at any future date.

11 “(5) PRORATED PAYMENTS RELATED TO
12 CLAIMS FOR THE SAME DEATH.—Payment of the
13 award or benefit relating to death shall be prorated
14 among the heirs or next of kin claiming for the same
15 death, as provided in the Guam probate laws.

16 “(6) ORDER OF PAYMENTS.—The Secretary
17 shall endeavor to make payments under this section
18 to eligible individuals in the order of date of birth
19 (with the oldest individual on the date of the enact-
20 ment of this Act or, if applicable, that individual’s
21 survivors under paragraph (6), receiving full pay-
22 ment first), until all eligible individuals have received
23 payment in full.

24 “(f) GUAM RESTITUTION CLAIMS FUND.—

1 “(1) ESTABLISHMENT.—There is established in
2 the Treasury of the United States the Guam Res-
3 titution Claims Fund, to be administered by the Sec-
4 retary of the Treasury, as directed by the Secretary
5 of the Interior. Amounts in the Claims Fund shall
6 only be available for disbursement by the Secretary
7 of the Interior in the amounts specified in subsection
8 (e). In the event that all eligible claims have been
9 paid and a balance exists in the Claims Fund, any
10 unobligated funds shall be transferred to the Trust
11 Fund 60 days after the final report required in sub-
12 section (j)(3) is submitted to Congress.

13 “(2) LIMITATION ON USE OF AMOUNTS FROM
14 CLAIMS FUND.—No cost incurred by the Secretary
15 in carrying out this section shall be paid from the
16 Claims Fund or set off against, or otherwise de-
17 ducted from, any payment under this section to any
18 eligible claimant.

19 “(g) GUAM RESTITUTION TRUST FUND.—

20 “(1) ESTABLISHMENT.—There is established in
21 the Treasury of the United States the Guam Res-
22 titution Trust Fund, which shall be administered by
23 the Secretary of the Treasury.

1 “(2) INVESTMENTS.—Amounts in the Trust
2 Fund shall be invested in accordance with section
3 9702 of title 31, United States Code.

4 “(3) USES.—Amounts in the Trust Fund shall
5 be available only for disbursement by the Board in
6 accordance with subsection (h).

7 “(h) GUAM RESTITUTION TRUST FUND BOARD OF
8 DIRECTORS.—

9 “(1) ESTABLISHMENT.—There is established
10 the Guam Restitution Trust Fund Board of Direc-
11 tors, which shall be responsible for making disburse-
12 ments from the Trust Fund in the manner provided
13 in this subsection.

14 “(2) USES.—The Board may make disburse-
15 ments from the Trust Fund only—

16 “(A) to sponsor research and public edu-
17 cational activities so that the events surround-
18 ing the wartime experiences and losses of the
19 Guamanian people will be remembered, and so
20 that the causes and circumstances of this and
21 similar events may be illuminated and under-
22 stood;

23 “(B) to disburse available funds as benefits
24 to eligible claimants through a revolving fund
25 for such purposes as post-secondary scholar-

1 ships, first-time home ownership loans, and
2 other suitable purposes as may be determined
3 by the Board; and

4 “(C) for reasonable administrative ex-
5 penses of the Board, including expenses in-
6 curred under paragraphs (3)(C), (4), and (5).

7 “(3) MEMBERSHIP.—(A) The Board shall be
8 composed of nine members appointed by the Sec-
9 retary from recommendations made by the Governor
10 of Guam, from individuals who are not officers or
11 employees of the United States Government.

12 “(B)(i) Except as provided in subparagraphs
13 (B) and (C), members shall be appointed for terms
14 of three years.

15 “(ii) Of the members first appointed—

16 “(I) five shall be appointed for terms of
17 three years, and

18 “(II) four shall be appointed for terms of
19 two years,

20 as designed by the Secretary at the time of appoint-
21 ment.

22 “(iii) Any member appointed to fill a vacancy
23 occurring before the expiration of the term for which
24 such member’s predecessor was appointed shall be
25 appointed only for the remainder of such term. A

1 member may serve after the expiration of such mem-
2 ber's term until such member's successor has taken
3 office. No individual may be appointed as a member
4 for more than two consecutive terms.

5 “(C) Members of the Board shall serve without
6 pay as such, except that members of the Board shall
7 be entitled to reimbursement for travel, subsistence,
8 and other necessary expenses incurred by them in
9 carrying out the functions of the Board, in the same
10 manner as persons employed intermittently in the
11 United States Government are allowed expenses
12 under section 5703 of title 5, United States Code.

13 “(D) Five members of the Board shall con-
14 stitute a quorum but a lesser number may hold
15 hearings.

16 “(E) The Chair of the Board shall be elected by
17 the members of the Board.

18 “(4)(A) The Board shall have a Director who
19 shall be appointed by the Board.

20 “(B) The Board may appoint and fix the pay
21 of such additional staff as it may require.

22 “(C) The Director and the additional staff of
23 the Board may be appointed without regard to sec-
24 tion 5311(b) of title 5, United States Code, and
25 without regard to the provisions of such title govern-

1 ing appointments in the competitive service, and
2 may be paid without regard to the provisions of
3 chapter 51 and subchapter III of chapter 53 of such
4 title relating to classification and General Schedule
5 pay rates, except that the compensation of any em-
6 ployee of the Board may not exceed a rate equiva-
7 lent to the minimum rate of basic pay payable for
8 GS-15 of the General Schedule under section
9 5332(a) of such title.

10 “(5) ADMINISTRATIVE SUPPORT SERVICES.—
11 The Administrator of General Services shall provide
12 to the Board on a reimbursable basis such adminis-
13 trative support services as the Board may request.

14 “(6) GIFTS AND DONATIONS.—The Board may
15 accept, use, and dispose of gifts or donations of serv-
16 ices or property for purposes authorized under para-
17 graph (2).

18 “(7) ANNUAL REPORT.—Not later than 12
19 months after the first meeting of the Board and
20 every 12 months thereafter, the Board shall trans-
21 mit to the President and to each House of the Con-
22 gress a report describing the activities of the Board.

23 “(i) NOTICE.—Not later than 90 days after the date
24 of enactment of this section, the Secretary shall give public
25 notice in the territory of Guam and such other places as

1 the Secretary deems appropriate of the time when, and
2 the time limitation within which, claims may be filed under
3 this section. The Secretary shall assure that the provisions
4 of this section are widely published in the territory of
5 Guam and such other places as the Secretary deems ap-
6 propriate, and the Secretary shall make every effort to ad-
7 vise promptly all persons who may be entitled to file claims
8 under the provisions of this section and to assist them in
9 the preparation and filing of their claims.

10 “(j) REPORTS.—

11 “(1) COMPENSATION NEEDED.—No later than
12 18 months after enactment of this section, the Sec-
13 retary shall submit a report to Congress and the
14 Governor of Guam with a recommendation of a spe-
15 cific amount of compensation necessary to fully
16 carry out this section. The report shall include—

17 “(A) a list of all claims, categorized by
18 compensable injury, which were approved under
19 this section; and

20 “(B) a list of all claims, categorized by
21 compensable injury, which were denied under
22 this section, and a brief explanation for the rea-
23 son therefore.

24 “(2) ANNUAL.—Beginning with the first full
25 fiscal year ending after submittal of the report pro-

1 vided in paragraph (1), and annually thereafter, the
2 Secretary shall submit an annual report to Congress
3 concerning the operations under this section, the
4 status of the Claims Fund and Trust Fund, and any
5 request for an appropriation in order to make dis-
6 bursement from the Claims Fund and Trust Fund.
7 Such report shall be submitted no later than Janu-
8 ary 15th of each year.

9 “(3) FINAL AWARD REPORT.—Once all awards
10 have been paid to eligible claimants, the Secretary
11 shall submit a report to Congress and to the Gov-
12 ernor of Guam certifying—

13 “(A) the total amount of compensation
14 paid as awards under this section, broken down
15 by category of compensable injury; and

16 “(B) the final status of the Claims Fund
17 and the amount of any existing balance thereof.

18 “(k) LIMITATION.—Any remuneration on account of
19 services rendered on behalf of any claimant, or any asso-
20 ciation of claimants, in connection with any claim or
21 claims under this section may not exceed 5 percent of the
22 amount paid on such claim or claims under this section.
23 Any agreement to the contrary shall be unlawful and void.
24 Whoever, in the United States or elsewhere, demands or
25 receives, on account of services so rendered, any remu-

1 neration in excess of the maximum permitted by this sec-
2 tion, shall be guilty of a misdemeanor and upon conviction
3 thereof, shall be fined in accordance with title 18, United
4 States Code, imprisoned not more than 12 months, or
5 both.

6 “(l) DISCLAIMER.—Nothing contained in this section
7 shall constitute a United States obligation to pay any
8 claim arising out of war. The compensation provided in
9 this section is ex gratia in nature intended solely as a
10 means of recognizing the demonstrated loyalty of the peo-
11 ple of Guam to the United States, and the suffering and
12 deprivation arising therefrom, during World War II.

13 “(m) AUTHORIZATION OF APPROPRIATIONS.—There
14 is authorized to be appropriated such sums as may be nec-
15 essary to carry out this section. Amounts appropriated
16 pursuant to this section are authorized to remain available
17 until expended.”.

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HR 4741 IH—2