

107TH CONGRESS
1ST SESSION

H. R. 2926

To preserve the continued viability of the United States air transportation system.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2001

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means, the Judiciary, and the Budget, 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

SEPTEMBER 21, 2001

The Committees on Transportation and Infrastructure, Ways and Means, the Judiciary, and the Budget discharged; considered and passed

A BILL

To preserve the continued viability of the United States air transportation system.

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 “Air Transportation
5 Safety and System Stabilization Act”.

TITLE I—AIRLINE STABILIZATION

SEC. 101. AVIATION DISASTER RELIEF.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President shall take the following actions to compensate air carriers for losses incurred by the air carriers as a result of the terrorist attacks on the United States that occurred on September 11, 2001:

(1) Subject to such terms and conditions as the President deems necessary, issue Federal credit instruments to air carriers that do not, in the aggregate, exceed \$10,000,000,000 and provide the subsidy amounts necessary for such instruments in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(2) Compensate air carriers in an aggregate amount equal to \$5,000,000,000 for—

(A) direct losses incurred beginning on September 11, 2001, by air carriers as a result of any Federal ground stop order issued by the Secretary of Transportation or any subsequent order which continues or renews such a stoppage; and

(B) the incremental losses incurred beginning September 11, 2001, and ending Decem-

ber 31, 2001, by air carriers as a direct result of such attacks.

(b) EMERGENCY DESIGNATION.—Congress designates the amount of new budget authority and outlays in all fiscal years resulting from this title as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(e)). Such amount shall be available only to the extent that a request, that includes designation of such amount as an emergency requirement as defined in such Act, is transmitted by the President to Congress.

SEC. 102. AIR TRANSPORTATION STABILIZATION BOARD.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) BOARD.—The term “Board” means the Air Transportation Stabilization Board established under subsection (b).

(2) FINANCIAL OBLIGATION.—The term “financial obligation” means any note, bond, debenture, or other debt obligation issued by an obligor in connection with financing under this section and section 101(a)(1).

(3) LENDER.—The term “lender” means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal

1 Regulations (or any successor regulation) known as
2 Rule 144A(a) of the Securities and Exchange Com-
3 mission and issued under the Security Act of 1933,
4 including—

5 (A) a qualified retirement plan (as defined
6 in section 4974(c) of the Internal Revenue Code
7 of 1986 (26 U.S.C. 4974(c)) that is a qualified
8 institutional buyer; and

9 (B) a governmental plan (as defined in
10 section 414(d) of the Internal Revenue Code of
11 1986 (26 U.S.C. 414(d)) that is a qualified in-
12 stitutional buyer.

13 (4) OBLIGOR.—The term “obligor” means a
14 party primarily liable for payment of the principal of
15 or interest on a Federal credit instrument, which
16 party may be a corporation, partnership, joint ven-
17 ture, trust, or governmental entity, agency, or in-
18 strumentality.

19 (b) AIR TRANSPORTATION STABILIZATION BOARD.—

20 (1) ESTABLISHMENT.—There is established a
21 board (to be known as the “Air Transportation Sta-
22 bilization Board”) to review and decide on applica-
23 tions for Federal credit instruments under section
24 101(a)(1).

1 (2) COMPOSITION.—The Board shall consist
2 of—

3 (A) the Secretary of Transportation or the
4 designee of the Secretary;

5 (B) the Chairman of the Board of Gov-
6 ernors of the Federal Reserve System, or the
7 designee of the Chairman, who shall be the
8 Chair of the Board;

9 (C) the Secretary of the Treasury or the
10 designee of the Secretary; and

11 (D) the Comptroller General of the United
12 States, or the designee of the Comptroller Gen-
13 eral, as a nonvoting member of the Board.

14 (c) FEDERAL CREDIT INSTRUMENTS.—

15 (1) IN GENERAL.—The Board may enter into
16 agreements with 1 or more obligors to issue Federal
17 credit instruments under section 101(a)(1) if the
18 Board determines, in its discretion, that—

19 (A) the obligor is an air carrier for which
20 credit is not reasonably available at the time of
21 the transaction;

22 (B) the intended obligation by the obligor
23 is prudently incurred; and

1 (C) such agreement is a necessary part of
2 maintaining a safe, efficient, and viable com-
3 mercial aviation system in the United States.

4 (2) TERMS AND LIMITATIONS.—

5 (A) FORMS; TERMS AND CONDITIONS.—A
6 Federal credit instrument shall be issued under
7 section 101(a)(1) in such form and on such
8 terms and conditions and contain such cov-
9 enants, representatives, warranties, and require-
10 ments (including requirements for audits) as
11 the Board determines appropriate.

12 (B) PROCEDURES.—Not later than 14
13 days after the date of enactment of this Act,
14 the Director of the Office of Management and
15 Budget shall issue regulations setting forth pro-
16 cedures for application and minimum require-
17 ments, which may be supplemented by the
18 Board in its discretion, for the issuance of Fed-
19 eral credit instruments under section 101(a)(1).

20 (d) FINANCIAL PROTECTION OF GOVERNMENT.—

21 (1) IN GENERAL.—To the extent feasible and
22 practicable, the Board shall ensure that the Govern-
23 ment is compensated for the risk assumed in making
24 guarantees under this title.

1 (2) GOVERNMENT PARTICIPATION IN GAINS.—

2 To the extent to which any participating corporation
3 accepts financial assistance, in the form of accepting
4 the proceeds of any loans guaranteed by the Govern-
5 ment under this title, the Board is authorized to
6 enter into contracts under which the Government,
7 contingent on the financial success of the partici-
8 pating corporation, would participate in the gains of
9 the participating corporation or its security holders
10 through the use of such instruments as warrants,
11 stock options, common or preferred stock, or other
12 appropriate equity instruments.

13 (3) DEPOSIT IN TREASURY.—All amounts col-
14 lected by the Secretary of the Treasury under this
15 subsection shall be deposited in the Treasury as mis-
16 cellaneous receipts.

17 **SEC. 103. SPECIAL RULES FOR COMPENSATION.**

18 (a) DOCUMENTATION.—Subject to subsection (b), the
19 amount of compensation payable to an air carrier under
20 section 101(a)(2) may not exceed the amount of losses de-
21 scribed in section 101(a)(2) that the air carrier dem-
22 onstrates to the satisfaction of the President, using sworn
23 financial statements or other appropriate data, that the
24 air carrier incurred. The Secretary of Transportation and
25 the Comptroller General of the United States may audit

1 such statements and may request any information that the
 2 Secretary and the Comptroller General deems necessary
 3 to conduct such audit.

4 (b) MAXIMUM AMOUNT OF COMPENSATION PAYABLE
 5 PER AIR CARRIER.—The maximum total amount of com-
 6 pensation payable to an air carrier under section
 7 101(a)(2) may not exceed the lesser of—

8 (1) the amount of such air carrier’s direct and
 9 incremental losses described in section 101(a)(2); or
 10 (2) in the case of—

11 (A) flights involving passenger-only or
 12 combined passenger and cargo transportation,
 13 the product of—

14 (i) \$4,500,000,000; and

15 (ii) the ratio of—

16 (I) the available seat miles of the
 17 air carrier for the month of August
 18 2001 as reported to the Secretary; to

19 (II) the total available seat miles
 20 of all such air carriers for such month
 21 as reported to the Secretary; and

22 (B) flights involving cargo-only transpor-
 23 tation, the product of—

24 (i) \$500,000,000; and

25 (ii) the ratio of—

1 (I) the revenue ton miles or other
2 auditable measure of the air carrier
3 for cargo for the latest quarter for
4 which data is available as reported to
5 the Secretary; to

6 (II) the total revenue ton miles
7 or other auditable measure of all such
8 air carriers for cargo for such quarter
9 as reported to the Secretary.

10 (c) PAYMENTS.—The President may provide com-
11 pensation to air carriers under section 101(a)(2) in 1 or
12 more payments up to the amount authorized by this title.

13 **SEC. 104. LIMITATION ON CERTAIN EMPLOYEE COMPENSA-**
14 **TION.**

15 (a) IN GENERAL.—The President may only issue a
16 Federal credit instrument under section 101(a)(1) to an
17 air carrier after the air carrier enters into a legally binding
18 agreement with the President that, during the 2-year pe-
19 riod beginning September 11, 2001, and ending Sep-
20 tember 11, 2003, no officer or employee of the air carrier
21 whose total compensation exceeded \$300,000 in calendar
22 year 2000 (other than an employee whose compensation
23 is determined through an existing collective bargaining
24 agreement entered into prior to September 11, 2001)—

1 (1) will receive from the air carrier total com-
2 pensation which exceeds, during any 12 consecutive
3 months of such 2-year period, the total compensa-
4 tion received by the officer or employee from the air
5 carrier in calendar year 2000; and

6 (2) will receive from the air carrier severance
7 pay or other benefits upon termination of employ-
8 ment with the air carrier which exceeds twice the
9 maximum total compensation received by the officer
10 or employee from the air carrier in calendar year
11 2000.

12 (b) TOTAL COMPENSATION DEFINED.—In this sec-
13 tion, the term “total compensation” includes salary, bo-
14 nuses, awards of stock, and other financial benefits pro-
15 vided by an air carrier to an officer or employee of the
16 air carrier.

17 **SEC. 105. CONTINUATION OF CERTAIN AIR SERVICE.**

18 (a) ACTION OF SECRETARY.—The Secretary of
19 Transportation should take appropriate action to ensure
20 that all communities that had scheduled air service before
21 September 11, 2001, continue to receive adequate air
22 transportation service and that essential air service to
23 small communities continues without interruption.

24 (b) ESSENTIAL AIR SERVICE.—There is authorized
25 to be appropriated to the Secretary to carry out the essen-

1 tial air service program under subchapter II of chapter
2 417 of title 49, United States Code, \$120,000,000 for fis-
3 cal year 2002.

4 (c) SECRETARIAL OVERSIGHT.—

5 (1) IN GENERAL.—Notwithstanding any other
6 provision of law, the Secretary is authorized to re-
7 quire an air carrier receiving direct financial assist-
8 ance under this Act to maintain scheduled air serv-
9 ice to any point served by that carrier before Sep-
10 tember 11, 2001.

11 (2) AGREEMENTS.—In applying paragraph (1),
12 the Secretary may require air carriers receiving di-
13 rect financial assistance under this Act to enter into
14 agreements which will ensure, to the maximum ex-
15 tent practicable, that all communities that had
16 scheduled air service before September 11, 2001,
17 continue to receive adequate air transportation serv-
18 ice.

19 **SEC. 106. REPORTS.**

20 (a) REPORT.—Not later than February 1, 2001, the
21 President shall transmit to the Committee on Transpor-
22 tation and Infrastructure, the Committee on Appropria-
23 tions, and the Committee on the Budget of the House of
24 Representatives and the Committee on Commerce,
25 Science, and Transportation, the Committee on Appro-

1 priations, and the Committee on the Budget of the Senate
2 a report on the financial status of the air carrier industry
3 and the amounts of assistance provided under this title
4 to each air carrier.

5 (b) UPDATE.—Not later than the last day of the 7-
6 month period following the date of enactment of this Act,
7 the President shall update and transmit the report to the
8 Committees.

9 **SEC. 107. DEFINITIONS.**

10 In this title, the following definitions apply:

11 (1) AIR CARRIER.—The term “air carrier” has
12 the meaning such term has under section 40102 of
13 title 49, United States Code.

14 (2) FEDERAL CREDIT INSTRUMENT.—The term
15 “Federal credit instrument” means any guarantee or
16 other pledge by the Board issued under section
17 101(a)(1) to pledge the full faith and credit of the
18 United States to pay all or part of any of the prin-
19 cipal of and interest on a loan or other debt obliga-
20 tion issued by an obligor and funded by a lender.

21 (3) INCREMENTAL LOSS.—The term “incre-
22 mental loss” does not include any loss that the
23 President determines would have been incurred if
24 the terrorist attacks on the United States that oc-
25 curred on September 11, 2001, had not occurred.

1 **TITLE II—AVIATION INSURANCE**

2 **SEC. 201. DOMESTIC INSURANCE AND REIMBURSEMENT OF**
3 **INSURANCE COSTS.**

4 (a) IN GENERAL.—Section 44302 of title 49, United
5 States Code, is amended—

6 (1) in subsection (a)(1)—

7 (A) by striking “subsection (b)” and in-
8 sserting “subsection (c)”; and

9 (B) by striking “foreign-flag aircraft—”
10 and all that follows through the period at the
11 end of subparagraph (B) and inserting “for-
12 eign-flag aircraft.”;

13 (2) by redesignating subsections (b), (c), and
14 (d) as subsections (c), (d), and (e), respectively;

15 (3) by inserting after subsection (a) the fol-
16 lowing:

17 “(b) REIMBURSEMENT OF INSURANCE COST IN-
18 CREASES.—

19 “(1) IN GENERAL.—The Secretary may reim-
20 burse an air carrier for the increase in the cost of
21 insurance, with respect to a premium for coverage
22 ending before October 1, 2002, against loss or dam-
23 age arising out of any risk from the operation of an
24 American aircraft over the insurance premium that
25 was in effect for a comparable operation during the

1 period beginning September 4, 2001, and ending
 2 September 10, 2001, as the Secretary may deter-
 3 mine. Such reimbursement is subject to subsections
 4 (a)(2), (c), and (d) of this section and to section
 5 44303.

6 “(2) PAYMENT FROM REVOLVING FUND.—A re-
 7 imbursement under this subsection shall be paid
 8 from the revolving fund established by section
 9 44307.

10 “(3) FURTHER CONDITIONS.—The Secretary
 11 may impose such further conditions on insurance for
 12 which the increase in premium is subject to reim-
 13 bursement under this subsection as the Secretary
 14 may deem appropriate in the interest of air com-
 15 merce.

16 “(4) TERMINATION OF AUTHORITY.—The au-
 17 thority to reimburse air carriers under this sub-
 18 section shall expire 180 days after the date of enact-
 19 ment of this paragraph.”;

20 (4) in subsection (c) (as so redesignated)—

21 (A) in the first sentence by inserting “, or
 22 reimburse an air carrier under subsection (b) of
 23 this section,” before “only with the approval”;
 24 and

25 (B) in the second sentence—

1 (i) by inserting “or the reimburse-
2 ment” before “only after deciding”; and

3 (ii) by inserting “in the interest of air
4 commerce or national security or” before
5 “to carry out the foreign policy”; and

6 (5) in subsection (d) (as so redesignated) by in-
7 serting “or reimbursing an air carrier” before
8 “under this chapter”.

9 (b) COVERAGE.—

10 (1) IN GENERAL.—Section 44303 of such title
11 is amended—

12 (A) in the matter preceding paragraph (1)
13 by inserting “, or reimburse insurance costs,
14 as” after “insurance and reinsurance”; and

15 (B) in paragraph (1) by inserting “in the
16 interest of air commerce or national security
17 or” before “to carry out the foreign policy”.

18 (2) DISCRETION OF THE SECRETARY.—For
19 acts of terrorism committed on or to an air carrier
20 during the 180-day period following the date of en-
21 actment of this Act, the Secretary of Transportation
22 may certify that the air carrier was a victim of an
23 act of terrorism and in the Secretary’s judgment,
24 based on the Secretary’s analysis and conclusions re-
25 garding the facts and circumstances of each case,

1 shall not be responsible for losses suffered by third
2 parties (as referred to in section 205.5(b)(1) of title
3 14, Code of Federal Regulations) that exceed
4 \$100,000,000, in the aggregate, for all claims by
5 such parties arising out of such act. If the Secretary
6 so certifies, the air carrier shall not be liable for an
7 amount that exceeds \$100,000,000, in the aggregate,
8 for all claims by such parties arising out of
9 such act, and the Government shall be responsible
10 for any liability above such amount. No punitive
11 damages may be awarded against an air carrier (or
12 the Government taking responsibility for an air carrier
13 under this paragraph) under a cause of action
14 arising out of such act.

15 (c) REINSURANCE.—Section 44304 of such title is
16 amended—

17 (1) by striking “(a) GENERAL AUTHORITY.—”;

18 and

19 (2) by striking subsection (b).

20 (d) PREMIUMS.—Section 44306 of such title is
21 amended—

22 (1) by redesignating subsections (b) and (c) as
23 subsections (c) and (d), respectively; and

24 (2) by inserting after subsection (a) the following:
25

1 “(b) ALLOWANCES IN SETTING PREMIUM RATES FOR
 2 REINSURANCE.—In setting premium rates for reinsur-
 3 ance, the Secretary may make allowances to the insurance
 4 carrier for expenses incurred in providing services and fa-
 5 cilities that the Secretary considers good business prac-
 6 tices, except for payments by the air carrier for the stimu-
 7 lation or solicitation of insurance business.”.

8 (e) CONFORMING AMENDMENT.—Section 44305(b)
 9 of such title is amended by striking “44302(b)” and in-
 10 serting “44302(c)”.

11 **SEC. 202. EXTENSION OF PROVISIONS TO VENDORS,**
 12 **AGENTS, AND SUBCONTRACTORS OF AIR**
 13 **CARRIERS.**

14 Notwithstanding any other provision of this title, the
 15 Secretary may extend any provision of chapter 443 of title
 16 49, United States Code, as amended by this title, and the
 17 provisions of this title, to vendors, agents, and subcontrac-
 18 tors of air carriers. For the 180-day period beginning on
 19 the date of enactment of this Act, the Secretary may ex-
 20 tend or amend any such provisions so as to ensure that
 21 the entities referred to in the preceding sentence are not
 22 responsible in cases of acts of terrorism for losses suffered
 23 by third parties that exceed the amount of such entities’
 24 liability coverage, as determined by the Secretary.

1 **TITLE III—TAX PROVISIONS**

2 **SEC. 301. EXTENSION OF DUE DATE FOR EXCISE TAX DE-**
 3 **POSITS; TREATMENT OF LOSS COMPENSA-**
 4 **TION.**

5 (a) EXTENSION OF DUE DATE FOR EXCISE TAX DE-
 6 POSITS.—

7 (1) IN GENERAL.—In the case of an eligible air
 8 carrier, any airline-related deposit required under
 9 section 6302 of the Internal Revenue Code of 1986
 10 to be made after September 10, 2001, and before
 11 November 15, 2001, shall be treated for purposes of
 12 such Code as timely made if such deposit is made
 13 on or before November 15, 2001. If the Secretary of
 14 the Treasury so prescribes, the preceding sentence
 15 shall be applied by substituting for “November 15,
 16 2001” each place it appears—

17 (A) “January 15, 2002”, or

18 (B) such earlier date after November 15,
 19 2001, as such Secretary may prescribe.

20 (2) ELIGIBLE AIR CARRIER.—For purposes of
 21 this subsection, the term “eligible air carrier” means
 22 any domestic corporation engaged in the trade or
 23 business of transporting (for hire) persons by air if
 24 such transportation is available to the general pub-
 25 lic.

1 (3) AIRLINE-RELATED DEPOSIT.—For purposes
 2 of this subsection, the term “airline-related deposit”
 3 means any deposit of—

4 (A) taxes imposed by subchapter C of
 5 chapter 33 of such Code (relating to transpor-
 6 tation by air), and

7 (B) taxes imposed by chapters 21, 22, and
 8 24 with respect to employees engaged in a trade
 9 or business referred to in paragraph (2).

10 (b) TREATMENT OF LOSS COMPENSATION.—Nothing
 11 in any provision of law shall be construed to exclude from
 12 gross income under the Internal Revenue Code of 1986
 13 any compensation received under section 101(a)(2) of this
 14 Act.

15 **TITLE IV—VICTIM** 16 **COMPENSATION**

17 **SEC. 401. SHORT TITLE.**

18 This title may be cited as the “September 11th Vic-
 19 tim Compensation Fund of 2001”.

20 **SEC. 402. DEFINITIONS.**

21 In this title, the following definitions apply:

22 (1) AIR CARRIER.—The term “air carrier”
 23 means a citizen of the United States undertaking by
 24 any means, directly or indirectly, to provide air

1 transportation and includes employees and agents of
2 such citizen.

3 (2) AIR TRANSPORTATION.—The term “air
4 transportation” means foreign air transportation,
5 interstate air transportation, or the transportation
6 of mail by aircraft.

7 (3) CLAIMANT.—The term “claimant” means
8 an individual filing a claim for compensation under
9 section 405(a)(1).

10 (4) COLLATERAL SOURCE.—The term “collat-
11 eral source” means all collateral sources, including
12 life insurance, pension funds, death benefit pro-
13 grams, and payments by Federal, State, or local
14 governments related to the terrorist-related aircraft
15 crashes of September 11, 2001.

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

1 (6) ELIGIBLE INDIVIDUAL.—The term “eligible
2 individual” means an individual determined to be eli-
3 gible for compensation under section 405(c).

4 (7) 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 (8) SPECIAL MASTER.—The term “Special Mas-
13 ter” means the Special Master appointed under sec-
14 tion 404(a).

15 **SEC. 403. PURPOSE.**

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

20 **SEC. 404. ADMINISTRATION.**

21 (a) IN GENERAL.—The Attorney General, acting
22 through a Special Master appointed by the Attorney Gen-
23 eral, shall—

24 (1) administer the compensation program es-
25 tablished under this title;

1 (2) promulgate all procedural and substantive
2 rules for the administration of this title; and

3 (3) employ and supervise hearing officers and
4 other administrative personnel to perform the duties
5 of the Special Master under this title.

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

10 **SEC. 405. DETERMINATION OF ELIGIBILITY FOR COM-**
11 **PENSATION.**

12 (a) FILING OF CLAIM.—

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

19 (2) CLAIM FORM.—

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

1 (B) CONTENTS.—The form developed
2 under subparagraph (A) shall request—

3 (i) information from the claimant con-
4 cerning the physical harm that the claim-
5 ant suffered, or in the case of a claim filed
6 on behalf of a decedent information con-
7 firming the decedent's death, as a result of
8 the terrorist-related aircraft crashes of
9 September 11, 2001;

10 (ii) information from the claimant
11 concerning any possible economic and non-
12 economic losses that the claimant suffered
13 as a result of such crashes; and

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

18 (3) LIMITATION.—No claim may be filed under
19 paragraph (1) after the date that is 2 years after
20 the date on which regulations are promulgated
21 under section 407.

22 (b) REVIEW AND DETERMINATION.—

23 (1) REVIEW.—The Special Master shall review
24 a claim submitted under subsection (a) and
25 determine—

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

3 (B) with respect to a claimant determined
4 to be an eligible individual—

5 (i) the extent of the harm to the
6 claimant, including any economic and non-
7 economic losses; and

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

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

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

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

1 (A) the right to be represented by an at-
2 torney;

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

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

8 (5) NO PUNITIVE DAMAGES.—The Special Mas-
9 ter may not include amounts for punitive damages
10 in any compensation paid under a claim under this
11 title.

12 (6) COLLATERAL COMPENSATION.—The Special
13 Master shall reduce the amount of compensation de-
14 termined under paragraph (1)(B)(ii) by the amount
15 of the collateral source compensation the claimant
16 has received or is entitled to receive as a result of
17 the terrorist-related aircraft crashes of September
18 11, 2001.

19 (c) ELIGIBILITY.—

20 (1) IN GENERAL.—A claimant shall be deter-
21 mined to be an eligible individual for purposes of
22 this subsection if the Special Master determines that
23 such claimant—

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

1 (B) meets the requirements of paragraph
2 (3).

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

5 (A) an individual who—

6 (i) was present at the World Trade
7 Center, (New York, New York), the Pen-
8 tagon (Arlington, Virginia), or the site of
9 the aircraft crash at Shanksville, Pennsyl-
10 vania at the time, or in the immediate
11 aftermath, of the terrorist-related aircraft
12 crashes of September 11, 2001; and

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

15 (B) an individual who was a member of
16 the flight crew or a passenger on American Air-
17 lines flight 11 or 77 or United Airlines flight 93
18 or 175, except that an individual identified by
19 the Attorney General to have been a participant
20 or conspirator in the terrorist-related aircraft
21 crashes of September 11, 2001, or a represent-
22 ative of such individual shall not be eligible to
23 receive compensation under this title; or

24 (C) in the case of a decedent who is an in-
25 dividual described in subparagraph (A) or (B),

1 the personal representative of the decedent who
2 files a claim on behalf of the decedent.

3 (3) REQUIREMENTS.—

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

7 (B) LIMITATION ON CIVIL ACTION.—

8 (i) IN GENERAL.—Upon the submis-
9 sion of a claim under this title, the claim-
10 ant waives the right to file a civil action
11 (or to be a party to an action) in any Fed-
12 eral or State court for damages sustained
13 as a result of the terrorist-related aircraft
14 crashes of September 11, 2001. The pre-
15 ceding sentence does not apply to a civil
16 action to recover collateral source obliga-
17 tions.

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

1 **SEC. 406. PAYMENTS TO ELIGIBLE INDIVIDUALS.**

2 (a) IN GENERAL.—Not later than 20 days after the
3 date on which a determination is made by the Special Mas-
4 ter regarding the amount of compensation due a claimant
5 under this title, the Special Master shall authorize pay-
6 ment to such claimant of the amount determined with re-
7 spect to the claimant.

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

13 (c) ADDITIONAL FUNDING.—

14 (1) IN GENERAL.—The Attorney General is au-
15 thorized to accept such amounts as may be contrib-
16 uted by individuals, business concerns, or other enti-
17 ties to carry out this title, under such terms and
18 conditions as the Attorney General may impose.

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

24 **SEC. 407. REGULATIONS.**

25 Not later than 90 days after the date of enactment
26 of this Act, the Attorney General, in consultation with the

1 Special Master, shall promulgate regulations to carry out
2 this title, including regulations with respect to—

3 (1) forms to be used in submitting claims under
4 this title;

5 (2) the information to be included in such
6 forms;

7 (3) procedures for hearing and the presentation
8 of evidence;

9 (4) procedures to assist an individual in filing
10 and pursuing claims under this title; and

11 (5) other matters determined appropriate by
12 the Attorney General.

13 **SEC. 408. LIMITATION ON AIR CARRIER LIABILITY.**

14 (a) IN GENERAL.—Notwithstanding any other provi-
15 sion of law, liability for all claims, whether for compen-
16 satory or punitive damages, arising from the terrorist-re-
17 lated aircraft crashes of September 11, 2001, against any
18 air carrier shall not be in an amount greater than the lim-
19 its of the liability coverage maintained by the air carrier.

20 (b) FEDERAL CAUSE OF ACTION.—

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

1 Notwithstanding section 40120(c) of title 49, United
2 States Code, this cause of action shall be the exclu-
3 sive remedy for damages arising out of the hijacking
4 and subsequent crashes of such flights.

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

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

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

21 **SEC. 409. RIGHT OF SUBROGATION.**

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

1 **TITLE V—AIR TRANSPORTATION**
2 **SAFETY**

3 **SEC. 501. INCREASED AIR TRANSPORTATION SAFETY.**

4 Congress affirms the President's decision to spend
5 \$3,000,000,000 on airline safety and security in conjunc-
6 tion with this Act in order to restore public confidence
7 in the airline industry.

8 **SEC. 502. CONGRESSIONAL COMMITMENT.**

9 Congress is committed to act expeditiously, in con-
10 sultation with the Secretary of Transportation, to
11 strengthen airport security and take further measures to
12 enhance the security of air travel.

13 **TITLE VI—SEPARABILITY**

14 **SEC. 601. SEPARABILITY.**

15 If any provision of this Act (including any amend-
16 ment made by this Act) or the application thereof to any
17 person or circumstance is held invalid, the remainder of
18 this Act (including any amendment made by this Act) and
19 the application thereof to other persons or circumstances
20 shall not be affected thereby.

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