

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3375

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.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 29, 2001

Mr. BLUNT (for himself, Mr. MORAN of Virginia, Mr. WOLF, Mr. OBEY, Mr. ISAKSON, Mr. WYNN, Mr. BOYD, Ms. MCKINNEY, Mr. FRANK, Ms. WATERS, Mr. FALEOMAVAEGA, Mr. WATT of North Carolina, Mr. SCOTT, Mr. THOMPSON of Mississippi, Mr. OWENS, and Mr. PAYNE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

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”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act, the following definitions apply:

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

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

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

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

23 (5) NONECONOMIC LOSSES.—The term “non-  
24 economic losses” means losses for physical and emo-  
25 tional pain, suffering, inconvenience, physical im-  
26 pairment, mental anguish, disfigurement, loss of en-

1 joyment of life, loss of society and companionship,  
2 loss of consortium (other than loss of domestic serv-  
3 ice), hedonic damages, injury to reputation, and all  
4 other nonpecuniary losses of any kind or nature.

5 (6) SPECIAL MASTER.—The term “Special Mas-  
6 ter” means the Special Master appointed under sec-  
7 tion 404(a) of the September 11th Victim Com-  
8 pensation Fund of 2001 (title IV of the Air Trans-  
9 portation Safety and System Stabilization Act (Pub-  
10 lic Law 107–42; 115 Stat. \_\_\_\_)).

11 **SEC. 3. PURPOSE.**

12 It is the purpose of this Act to provide compensation  
13 to any individual (or relatives of a deceased individual)  
14 who was physically injured or killed as a result of the  
15 bombings of United States embassies in East Africa on  
16 August 7, 1998.

17 **SEC. 4. ADMINISTRATION.**

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

20 (1) administer the compensation program es-  
21 tablished under this Act;

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

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

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

8   **SEC. 5. DETERMINATION OF ELIGIBILITY FOR COMPENSA-**  
9                                   **TION.**

10          (a) FILING OF CLAIM.—

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

17               (2) CLAIM FORM.—

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

24                       (B) CONTENTS.—The form developed  
25                       under subparagraph (A) shall request—

1 (i) information from the claimant con-  
2 cerning the physical harm that the claim-  
3 ant suffered, or in the case of a claim filed  
4 on behalf of a decedent information con-  
5 firming the decedent's death, as a result of  
6 the bombings of United States embassies  
7 in East Africa on August 7, 1998;

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

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

16 (3) LIMITATION.—No claim may be filed under  
17 paragraph (1) after the date that is 2 years after  
18 the date on which regulations are promulgated  
19 under section 7.

20 (b) REVIEW AND DETERMINATION.—

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

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

1 (B) with respect to a claimant determined  
2 to be an eligible individual—

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

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

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

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

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

24 (A) the right to be represented by an at-  
25 torney;

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

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

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

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

17 (c) ELIGIBILITY.—

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

22 (A) is an individual described in paragraph  
23 (2); and

24 (B) meets the requirements of paragraph  
25 (3).

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

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

4                   (i) was present at the United States  
5 Embassy in Nairobi, Kenya, or the United  
6 States Embassy in Dar es Salaam, Tan-  
7 zania, at the time, or in the immediate  
8 aftermath, of the bombings of United  
9 States embassies in East Africa on August  
10 7, 1998; and

11                   (ii) suffered physical harm or death as  
12 a result of such a bombing; or

13           (B) in the case of a decedent who is an in-  
14 dividual described in subparagraph (A), the per-  
15 sonal representative of the decedent who files a  
16 claim on behalf of the decedent.

17           (3) REQUIREMENTS.—

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

21           (B) LIMITATION ON CIVIL ACTION.—

22                   (i) IN GENERAL.—Upon the submis-  
23 sion of a claim under this Act, the claim-  
24 ant waives the right to file a civil action  
25 (or to be a party to an action) in any Fed-

1           eral or State court for damages sustained  
2           as a result of the bombings of United  
3           States embassies in East Africa on August  
4           7, 1998. The preceding sentence does not  
5           apply to a civil action to recover collateral  
6           source obligations.

7           (ii) PENDING ACTIONS.—In the case  
8           of an individual who is a party to a civil  
9           action described in clause (i), such indi-  
10          vidual may not submit a claim under this  
11          Act unless such individual withdraws from  
12          such action by the date that is 90 days  
13          after the date on which regulations are  
14          promulgated under section 7.

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

16          (a) IN GENERAL.—Not later than 20 days after the  
17          date on which a determination is made by the Special Mas-  
18          ter regarding the amount of compensation due a claimant  
19          under this Act, the Special Master shall authorize pay-  
20          ment to such claimant of the amount determined with re-  
21          spect to the claimant.

22          (b) PAYMENT AUTHORITY.—This Act constitutes  
23          budget authority in advance of appropriations Acts and  
24          represents the obligation of the Federal Government to

1 provide for the payment of amounts for compensation  
2 under this Act.

3 (c) ADDITIONAL FUNDING.—

4 (1) IN GENERAL.—The Attorney General is au-  
5 thORIZED to accept such amounts as may be contrib-  
6 uted by individuals, business concerns, or other enti-  
7 ties to carry out this Act, under such terms and con-  
8 ditions as the Attorney General may impose.

9 (2) USE OF SEPARATE ACCOUNT.—In making  
10 payments under this section, amounts contained in  
11 any account containing funds provided under para-  
12 graph (1) shall be used prior to using appropriated  
13 amounts.

14 **SEC. 7. REGULATIONS.**

15 Not later than 90 days after the date of enactment  
16 of this Act, the Attorney General, in consultation with the  
17 Special Master, shall promulgate regulations to carry out  
18 this Act, including regulations with respect to—

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

21 (2) the information to be included in such  
22 forms;

23 (3) procedures for hearing and the presentation  
24 of evidence;

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

3           (5) other matters determined appropriate by  
4           the Attorney General.

5 **SEC. 8. RIGHT OF SUBROGATION.**

6           The United States shall have the right of subrogation  
7 with respect to any claim paid by the United States under  
8 this Act.

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