

(i) **IN GENERAL.**—Upon the submission of a claim under this title, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001. The preceding sentence does not apply to a civil action to recover collateral source obligations.

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

49 USC 40101
note.
Deadline.

SEC. 406. PAYMENTS TO ELIGIBLE INDIVIDUALS.

(a) **IN GENERAL.**—Not later than 20 days after the date on which a determination is made by the Special Master regarding the amount of compensation due a claimant under this title, the Special Master shall authorize payment to such claimant of the amount determined with respect to the claimant.

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

(c) **ADDITIONAL FUNDING.**—

(1) **IN GENERAL.**—The Attorney General is authorized to accept such amounts as may be contributed by individuals, business concerns, or other entities to carry out this title, under such terms and conditions as the Attorney General may impose.

(2) **USE OF SEPARATE ACCOUNT.**—In making payments under this section, amounts contained in any account containing funds provided under paragraph (1) shall be used prior to using appropriated amounts.

49 USC 40101
note.
Deadline.

SEC. 407. REGULATIONS.

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

- (1) forms to be used in submitting claims under this title;
- (2) the information to be included in such forms;
- (3) procedures for hearing and the presentation of evidence;
- (4) procedures to assist an individual in filing and pursuing claims under this title; and
- (5) other matters determined appropriate by the Attorney General.

49 USC 40101
note.

SEC. 408. LIMITATION ON AIR CARRIER LIABILITY.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, liability for all claims, whether for compensatory or punitive damages, arising from the terrorist-related aircraft crashes of September 11, 2001, against any air carrier shall not be in an amount greater than the limits of the liability coverage maintained by the air carrier.

(b) **FEDERAL CAUSE OF ACTION.**—

(1) **AVAILABILITY OF ACTION.**—There shall exist a Federal cause of action for damages arising out of the hijacking and

the Internal Revenue Code of 1986 any compensation received under section 101(a)(2) of this Act.

TITLE IV—VICTIM COMPENSATION

SEC. 401. SHORT TITLE.

This title may be cited as the “September 11th Victim Compensation Fund of 2001”.

SEC. 402. DEFINITIONS.

In this title, the following definitions apply:

(1) **AIR CARRIER.**—The term “air carrier” means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees and agents of such citizen.

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

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

(4) **COLLATERAL SOURCE.**—The term “collateral source” means all collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the terrorist-related aircraft crashes of September 11, 2001.

(5) **ECONOMIC LOSS.**—The term “economic loss” means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(6) **ELIGIBLE INDIVIDUAL.**—The term “eligible individual” means an individual determined to be eligible for compensation under section 405(c).

(7) **NONECONOMIC LOSSES.**—The term “noneconomic losses” means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(8) **SPECIAL MASTER.**—The term “Special Master” means the Special Master appointed under section 404(a).

SEC. 403. PURPOSE.

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

SEC. 404. ADMINISTRATION.

(a) **IN GENERAL.**—The Attorney General, acting through a Special Master appointed by the Attorney General, shall—

(1) administer the compensation program established under this title;

September 11th
Victim
Compensation
Fund of 2001.
Terrorism.
49 USC 40101
note.

49 USC 40101
note.

49 USC 40101
note.

49 USC 40101
note.

SEC. 145. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED SERVICE. 49 USC 40101 note.

(a) **IN GENERAL.**—Each air carrier that provides scheduled air transportation on a route shall provide, to the extent practicable, air transportation to passengers ticketed for air transportation on that route by any other air carrier that suspends, interrupts, or discontinues air passenger service on the route by reason of insolvency or bankruptcy of the other air carrier.

(b) **PASSENGER OBLIGATION.**—An air carrier is not required to provide air transportation under subsection (a) to a passenger unless that passenger makes alternative arrangements with the air carrier for such transportation within 60 days after the date on which that passenger's air transportation was suspended, interrupted, or discontinued (without regard to the originally scheduled travel date on the ticket). Deadline.

(c) **SUNSET.**—This section does not apply to air transportation the suspension, interruption, or discontinuance of which occurs more than 18 months after the date of enactment of this Act.

SEC. 146. AIRCRAFT OPERATIONS IN ENHANCED CLASS B AIRSPACE. Federal Register, publication.

Upon request of an operator of an aircraft affected by the restrictions imposed under Notice to Airmen FDC 1/0618 issued by the Federal Aviation Administration, or any other notice issued after September 11, 2001, and prior to the date of enactment of this Act that restricts the ability of United States registered aircraft to conduct operations under part 91 of title 14, Code of Federal Regulations, in enhanced class B airspace (as defined by such Notice), such restrictions shall cease to be in effect for the affected class of operator beginning on the 30th day following the request, unless the Secretary of Transportation publishes a notice in the Federal Register before such 30th day reimposing the restriction and explaining the reasons for the restriction.

SEC. 147. AVIATION WAR RISK INSURANCE.

Section 44306(b) of title 49, United States Code, is amended by striking “60 days” each place it appears and inserting “1 year”.

TITLE II—LIABILITY LIMITATION

SEC. 201. AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT AMENDMENTS.

(a) **RECOVERY OF COLLATERAL SOURCE OBLIGATIONS OF TERRORISTS.**—Section 405(c)(3)(B)(i) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended by striking “obligations.” and inserting “obligations, or to a civil action against any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act.”

(b) **EXTENSION OF LIABILITY RELIEF TO AIRCRAFT MANUFACTURERS AND OTHERS.**—Section 408 of that Act is amended—

- (1) by striking “air carrier” in the section heading;
- (2) by striking subsection (a) and inserting the following:

49 USC 40101 note.

“(a) IN GENERAL.—

“(1) LIABILITY LIMITED TO INSURANCE COVERAGE.—Notwithstanding any other provision of law, liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity, arising from the terrorist-related aircraft crashes of September 11, 2001, against an air carrier, aircraft manufacturer, airport sponsor, or person with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect, or their directors, officers, employees, or agents, shall not be in an amount greater than the limits of liability insurance coverage maintained by that air carrier, aircraft manufacturer, airport sponsor, or person.

“(2) WILLFUL DEFAULTS ON REBUILDING OBLIGATION.—Paragraph (1) does not apply to any such person with a property interest in the World Trade Center if the Attorney General determines, after notice and an opportunity for a hearing on the record, that the person has defaulted willfully on a contractual obligation to rebuild, or assist in the rebuilding of, the World Trade Center.

“(3) LIMITATIONS ON LIABILITY FOR NEW YORK CITY.—Liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity arising from the terrorist-related aircraft crashes of September 11, 2001, against the City of New York shall not exceed the greater of the city’s insurance coverage or \$350,000,000. If a claimant who is eligible to seek compensation under section 405 of this Act, submits a claim under section 405, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, including any such action against the City of New York. The preceding sentence does not apply to a civil action to recover collateral source obligations.”; and

(3) by adding at the end of subsection (c) the following: “Subsections (a) and (b) do not apply to civil actions to recover collateral source obligations. Nothing in this section shall in any way limit any liability of any person who is engaged in the business of providing air transportation security and who is not an airline or airport sponsor or director, officer, or employee of an airline or airport sponsor.”

(c) LIMITATION OF UNITED STATES SUBROGATION RIGHT.—Section 409 of that Act is amended by striking “title.” and inserting “title, subject to the limitations described in section 408.”

(d) DEFINITIONS.—Section 402 of that Act is amended—

(1) by adding at the end of paragraph (1) the following: “The term ‘air carrier’ does not include a person, other than an air carrier, engaged in the business of providing air transportation security.”

(2) by redesignating paragraphs (3) through (8) as paragraphs (5) through (10), respectively; and

49 USC 40101
note.

49 USC 40101
note.

House bill

Title II:

Conference substitute

The Conference substitute extends the liability limitations of the Air Transportation Stabilization Act to aircraft manufacturers, State port authorities, owners and operators of airports, and persons with property interests in the World Trade Center.

These provisions limit liability under the Act to the maximum level of their insurance coverage.

Any person with a property interest in the World Trade Center, as a condition to receiving liability protection under the Act, is required to satisfy all contractual obligations to rebuild or assist in the rebuilding of the World Trade Center.

The Conference substitute also limits the liability for all claims arising from the terrorist-related attacks of September 11, 2001, brought against the City of New York to the greater of the City's insurance coverage or \$350,000,000.

This limitation on damages against the City of New York, however, does not apply to any non-government or private entity that is contracted with the City.

The Conference substitute also excludes entities primarily engaged in the business of airport security from its limitation on liability.

Don Young,

Thomas Petri,

John J. Duncan, Jr.,

John L. Mica,

Vernon J. Ehlers,

James L. Oberstar,

William O. Lipinski,

“(a) IN GENERAL.—

“(1) LIABILITY LIMITED TO INSURANCE COVERAGE.—Notwithstanding any other provision of law, liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity, arising from the terrorist-related aircraft crashes of September 11, 2001, against an air carrier, aircraft manufacturer, airport sponsor, or person with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect, or their directors, officers, employees, or agents, shall not be in an amount greater than the limits of liability insurance coverage maintained by that air carrier, aircraft manufacturer, airport sponsor, or person.

“(2) WILLFUL DEFAULTS ON REBUILDING OBLIGATION.—Paragraph (1) does not apply to any such person with a property interest in the World Trade Center if the Attorney General determines, after notice and an opportunity for a hearing on the record, that the person has defaulted willfully on a contractual obligation to rebuild, or assist in the rebuilding of, the World Trade Center.

“(3) LIMITATIONS ON LIABILITY FOR NEW YORK CITY.—Liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity arising from the terrorist-related aircraft crashes of September 11, 2001, against the City of New York shall not exceed the greater of the city’s insurance coverage or \$350,000,000. If a claimant who is eligible to seek compensation under section 405 of this Act, submits a claim under section 405, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, including any such action against the City of New York. The preceding sentence does not apply to a civil action to recover collateral source obligations.”; and

(3) by adding at the end of subsection (c) the following: “Subsections (a) and (b) do not apply to civil actions to recover collateral source obligations. Nothing in this section shall in any way limit any liability of any person who is engaged in the business of providing air transportation security and who is not an airline or airport sponsor or director, officer, or employee of an airline or airport sponsor.”

(c) LIMITATION OF UNITED STATES SUBROGATION RIGHT.—Section 409 of that Act is amended by striking “title.” and inserting “title, subject to the limitations described in section 408.”

(d) DEFINITIONS.—Section 402 of that Act is amended—

(1) by adding at the end of paragraph (1) the following: “The term ‘air carrier’ does not include a person, other than an air carrier, engaged in the business of providing air transportation security.”

(2) by redesignating paragraphs (3) through (8) as paragraphs (5) through (10), respectively; and

49 USC 40101
note.

49 USC 40101
note.

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H.R.5005

July 26, 2002

Homeland Security Act of 2002 (Engrossed as Agreed to or Passed by House)**SEC. 781. AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT AMENDMENTS.**

The Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended--

- (1) in section 408 by striking the last sentence of subsection (c); and
- (2) in section 402 by striking paragraph (1) and inserting the following:

'(1) AIR CARRIER- The term 'air carrier' means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees and agents (including persons engaged in the business of providing air transportation security and their affiliates) of such citizen. For purposes of the preceding sentence, the term 'agent', as applied to persons engaged in the business of providing air transportation security, shall only include persons that have contracted directly with the Federal Aviation Administration on or after February 17, 2002, to provide such security, or are not debarred.'

Subtitle H--Information Sharing**SEC. 790. SHORT TITLE.**

This subtitle may be cited as the 'Homeland Security Information Sharing Act'.

SEC. 791. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS- The Congress finds the following:

- (1) The Federal Government is required by the Constitution to provide for the common defense, which includes terrorist attack.
- (2) The Federal Government relies on State and local personnel to protect against terrorist attack.
- (3) The Federal Government collects, creates, manages, and protects classified and sensitive but unclassified information to enhance homeland security.



Tuesday, October 16, 2001
OIG 3-01

Contacts:
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Initial Findings of Review of Argenbright Security, Inc.

The U.S. Department of Transportation's Office of Inspector General (OIG) and Federal Aviation Administration (FAA) today released initial results of an ongoing review of background checks of security screeners employed by Argenbright Security, Inc. at 14 airports. The special security assessment was begun Friday, October 12 by joint teams composed of officials from OIG and FAA.

The assessment was initiated after the U.S. Attorney's Office for the Eastern District of Pennsylvania filed a petition October 11 to order Argenbright to answer charges that they continue to violate a probation agreement regarding the hiring of screeners at Philadelphia International Airport without appropriate background checks or training. A court hearing is set for October 23 in U.S. District Court in Philadelphia.

Argenbright was sentenced on October 20, 2000 in U.S. District Court in Philadelphia on charges of making false statements to FAA concerning the training, testing and background verification of employees. An OIG investigation found that in some cases, convicted felons had been hired as security screeners. Argenbright was placed on three years' probation and was ordered to pay \$1,550,000 in fines and restitution, including: 1) a \$1 million fine; 2) \$350,000 payment to airlines Argenbright provided services to as reimbursement for fraudulent billings; and 3) \$200,000 for investigative costs.

A subsequent FAA audit of Argenbright's operations at Philadelphia International Airport and other airports found possible violations of FAA regulations, including the continued badging of new employees prior to completing their background checks and allowing them access to secure areas of the airport. Argenbright was also not conducting nationwide criminal background checks as previously ordered, according to the U.S. Attorney's filing.

At the request of Transportation Secretary Norman Y. Mineta, a joint OIG-FAA team was dispatched to Philadelphia on October 11 to scrutinize screening operations and ensure that Federal standards are being enforced. The team was also to ensure that the court's compliance order is adhered to by Argenbright Holdings, with specific focus on verifying employee background checks, testing and training.

Subsequently, OIG and FAA, in cooperation with the Justice Department, initiated assessments for other airports cited in the U.S. Attorney's filing. A copy of the filing is available on the U.S. Attorney's web site at <http://www.usao-edpa.com/press.htm>.

October 16, 2001
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Preliminary findings of the assessment have found that:

- Screeners at some airports had a prior criminal record that should have disqualified them from employment in security sensitive positions. For example, a screener at Seattle-Tacoma International Airport was removed from his post and had his secure area identification badge revoked after investigators learned he had been convicted on charges of being a felon in possession of a handgun.
- Investigators have also worked with the Immigration and Naturalization Service to determine whether employees who were foreign nationals had authorization to work in the U.S. INS detained seven screeners at Dallas-Fort Worth International Airport after finding they were illegally working in the U.S.
- An individual was arrested by OIG special agents at Washington Dulles International Airport on October 13 after he passed through a security checkpoint with a concealed pocketknife on his person. The individual was detained and was arraigned October 15 in U.S. District Court in Alexandria, VA on charged of attempting to board an aircraft with a concealed weapon. A preliminary hearing was set for October 23.
- Also at Dulles, 7 out of 20 screeners re-tested during a spot check at a security checkpoint by OIG were not able to pass the skills tests required as a condition of employment. To be employed as a screener, applicants must complete 12 hours of instruction, pass a written test and be re-tested on an annual basis. The employees were removed from their screening positions.

Separately, Secretary Mineta announced October 12 that separate FAA teams will begin auditing background checks of all U.S. airport security screeners, starting with those employed at the nation's 20 largest airports.

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