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112TH CONGRESS
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H. R. 2597

To amend the International Claims Settlement Act of 1949 to allow for certain claims of nationals of the United States against Turkey, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2011

Mr. PALLONE (for himself, Mrs. MALONEY, and Mr. BILIRAKIS) introduced the following bill; which was referred to the Committee on Foreign Affairs, 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

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A BILL

To amend the International Claims Settlement Act of 1949 to allow for certain claims of nationals of the United States against Turkey, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American-Owned Property in Occupied Cyprus Claims Act".

SEC. 2. INTERNATIONAL CLAIMS SETTLEMENT ACT.

The International Claims Settlement Act of 1949 (22 U.S.C. 1621 et seq.) is amended by adding at the end the following new title:

"TITLE VIII—CLAIMS AGAINST TURKEY

"SEC. 801. PURPOSE.

''The purpose of this title is to provide for the determination of the validity and amounts of claims against Turkey that arise out of the continued exclusion of nationals of the United States from property such nationals own that is located in those portions of the territory of Cyprus that Turkey occupies. This title shall not be construed as authorizing or as any intention to authorize an appropriation by the United States for the purpose of paying such claims.

"SEC. 802. DEFINITIONS.

''As used in this title:

''(1) CLAIMANT.—The term 'claimant' means any national of the United States who files a claim under this title.

''(2) CLAIMS FUND.—The term 'Claims Fund' means the claims fund described in section 808(a).

''(3) COMMISSION.—The term 'Commission' means the Foreign Claims Settlement Commission of the United States.

"(4) CYPRUS.—The term 'Cyprus' means the Republic of Cyprus.

"(5) NATIONAL OF THE UNITED STATES.—The term 'national of the United States' means—

"(A) a natural person who is either a citizen of the United States or an alien lawfully admitted for permanent residence to the United States;

"(B) a natural person who acquired title to property in Cyprus through intestate or testate succession under the laws of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States from or through a natural person described in subparagraph (A); or

"(C) a corporation or other legal entity that is organized under the laws of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, if one or more natural persons described in subparagraph (A) own, directly or indirectly, 50 percent or more of the outstanding capital stock

or other beneficial interest of such corporation or entity.

"(6) PROPERTY.—The term 'property' means any real property or any right or interest in real property, including any leasehold interest, held under the laws of Cyprus and located in any portion of the territory of Cyprus that is occupied by Turkey.

"(7) TURKEY.—The term 'Turkey' means—

"(A) the Republic of Turkey;

"(B) any political subdivision, agency, or instrumentality of the Republic of Turkey, including the Turkish Armed Forces;

"(C) any agent of the Government of Turkey, or any unincorporated association that purports to discharge any function of a nation-state under the auspices of the Republic of Turkey, including the unincorporated association known as the 'Turkish Republic of Northern Cyprus';

"(D) any organization that purports to be a political subdivision, agency, or instrumentality of the unincorporated association known as the 'Turkish Republic of Northern Cyprus'; and

"(E) any natural person or legal entity that purports to claim or hold any title or right to property described in paragraph (6) under the alleged authority of any entity described in of subparagraph (A), (B), (C), or (D).

"SEC. 803. COMMENCEMENT OF NEGOTIATIONS BY THE SECRETARY OF STATE.

"(a) IN GENERAL.—The President is urged to authorize the Secretary of State to commence negotiations with Turkey and to continue such negotiations until an agreement is reached with respect to the payment by Turkey of claims certified under section 806.

"(b) REQUIREMENT TO RECEIVE CLAIMS.—The Commission shall receive claims under section 804, determine the validity of such claims, and make awards under section 804 as of the effective date of the American-Owned Property in Occupied Cyprus Claims Act without regard to whether or not—

"(1) the President authorizes the Secretary of State to commence the negotiations to which subsection (a) refers; and

"(2) if the President does authorize the Secretary of State to commence such negotiations, the Secretary of State commences such negotiations.

"SEC. 804. RECEIPT AND DETERMINATION OF CLAIMS.

"(a) DETERMINATION OF CLAIMS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against Turkey arising on or after July 20, 1974, for the fair rental market value of the use and continued occupation by Turkey of property located in the territory of Cyprus that—

"(A) is owned by such nationals under the laws of Cyprus; and

"(B) at the time the exclusion from or occupation of the property began, was owned wholly or partially, directly or indirectly, by nationals of the United States under the laws of Cyprus.

"(2) LIMITATION.—The Commission shall reduce the dollar amount of the fair rental market value of each claim to the extent that possession of the property has been restored to the claimant or the claimant has received actual and adequate compensation for the use and occupation of the property from any source on account of the same loss or losses for which the claim is filed.

"(b) OWNERSHIP RIGHTS RETAINED.—No claimant shall be required nor be deemed, either directly or indirectly, to transfer, waive, or otherwise forfeit any right of ownership in or to the property that claimant owns under the laws of Cyprus as a condition to or as the result of filing a claim, having the claim determined, or accepting an award based on the claim.

"(c) SUBMISSION OF CLAIMS.—

"(1) REQUIREMENT TO ESTABLISH TIME PERIOD.—Not later than 60 calendar days after the date of the enactment of an appropriations Act that makes available funds for the payment of administrative expenses incurred by the Commission in carrying out this title, the Commission shall establish a period during which claimants may submit claims under this title.

"(2) PUBLICATION.—The Commission shall publish in the Federal Register the beginning and ending dates of the time period to which paragraph (1) refers.

"(3) TIME PERIOD.—The time period to which paragraph (1) refers may not exceed 24 consecutive calendar months beginning with the first month following the month in which the notice is published under paragraph (2).

"SEC. 805. OWNERSHIP OF CLAIMS.

"A claim may be favorably considered under section 804—

"(1) only if the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States under the laws of Cyprus on the date on which the exclusion from or occupation of the property began; and

"(2) only to the extent that the claim has been held or acquired by one or more nationals of the United States continuously from that date until the date on which the claim is filed with the Commission.

"SEC. 806. CERTIFICATION; ASSIGNED CLAIMS.

"(a) CERTIFICATION OF CLAIMS.—

"(1) CERTIFICATION TO THE CLAIMANT.—The Commission shall certify to each claimant who files a claim under this title—

"(A) the dollar amount determined by the Commission to be the loss suffered by the claimant that is covered by this title; and

"(B) if, on the date on which the Commission makes the certification under subparagraph (A), Turkey is excluding the claimant from the claimant's property, a mathematical basis determined by the Commission for calcu-

lating the loss suffered by the claimant for the continued use and occupation of the property by Turkey after the date of the award.

"(2) CERTIFICATION TO THE SECRETARY OF STATE.—The Commission shall certify to the Secretary of State—

"(A) the dollar amount of each claim certified under paragraph (1)(A);

"(B) any mathematical basis certified under paragraph (1)(B) in connection with that claim; and

"(C) a statement of the evidence upon which the Commission relied and the reasoning employed by the Commission in determining the dollar amount described in subparagraph (A) and the mathematical basis described in subparagraph (B).

"(b) ASSIGNED CLAIMS.—In any case in which a claim under this title is assigned by purchase before the Commission determines the amount due on that claim, the amount so determined may not exceed the amount of actual consideration paid by the last such assignee.

"SEC. 807. CONSOLIDATED AWARDS.

"With respect to any claim under section 804 that, at the time of the award, is vested in persons other than

the person by whom the original loss was sustained, the Commission shall issue a consolidated award in favor of all claimants then entitled to the award. The award shall indicate the respective interests of such claimants in the award. All such claimants shall participate, in proportion to their indicated interests, in any payments that may be made under this title in all respects as if the award had been in favor of a single person.

"SEC. 808. CLAIMS FUND.

"(a) AUTHORITY.—The Secretary of the Treasury may establish in the Treasury of the United States a Claims Fund for the payment of unsatisfied claims of nationals of the United States against Turkey, as authorized by this title.

"(b) CONTRIBUTIONS TO CLAIMS FUND.—The Claims Fund shall consist of such sums as may be paid to or realized by the United States pursuant to the terms of any agreement settling those claims described in section 804 that may be concluded between the Governments of the United States and Turkey.

"(c) DEDUCTION OF ADMINISTRATIVE EXPENSES.—The Secretary of the Treasury shall deduct from any amounts covered into the Claims Fund a dollar amount equal to 5 percent thereof as reimbursement to the Government of the United States for expenses incurred by the

Commission and by the Department of the Treasury in the administration of this title. The amounts so deducted shall be covered into the Treasury as miscellaneous receipts.

"SEC. 809. AWARD PAYMENT PROCEDURES.

"(a) CERTIFICATION OF AWARDS TO SECRETARY OF THE TREASURY.—The Commission shall certify to the Secretary of the Treasury the dollar amount of each award made pursuant to section 804.

"(b) PAYMENT OF AWARDS.—

"(1) PRINCIPAL AMOUNTS.—Upon certification of each award made under section 804, the Secretary of the Treasury shall, out of the sums covered into the Claims Fund, make payments on account of such awards as follows, and in the following order of priority:

"(A) Payment in the amount of $25,000 or the principal amount of the award, whichever is less.

"(B) Thereafter, payments from time to time, in ratable proportions, on account of the unpaid balance of the principal amounts of all awards according to the proportions that the unpaid balance of such awards bear to the total

amount in the Claims Fund available for distribution at the time such payments are made.

''(2) SUBSEQUENT PAYMENTS.—After payment has been made in full of the principal amounts of all awards pursuant to paragraph (1), pro rata payments may be made on account of any interest that may be allowed on such awards.

''(c) REGULATIONS.—Payments or applications for payments under subsection (b) shall be made in accordance with such regulations as the Secretary of the Treasury may prescribe.

''SEC. 810. SETTLEMENT PERIOD.

''The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than the end of the 3-year period beginning on the final date for the filing of claims as provided in section 804(c).

''SEC. 811. TRANSFER OF RECORDS.

''The Secretary of State, the Secretary of the Treasury, and the Secretary of Defense shall transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this title as may be required by the Commission in carrying out its functions under this title.

"SEC. 812. FEES FOR SERVICES.

"(a) LIMITATION ON FEES.—

"(1) LIMITATION.—Remuneration on account of services rendered on behalf of any claimant in connection with any claim filed with the Commission under this title may not exceed 10 percent of the total dollar amount paid pursuant to an award certified under the provisions of this title on account of such claim.

"(2) NOTIFICATION OF AGREEMENTS.—Any agreement contrary to the limitation set forth in paragraph (1) is unlawful and void.

"(b) PENALTY FOR VIOLATION.—Any person who demands or receives any remuneration that exceeds the maximum remuneration set forth in subsection (a) shall be fined under title 18, United States Code, imprisoned for not more than 12 months, or both.

"SEC. 813. APPLICATION OF OTHER PROVISIONS.

"(a) IN GENERAL.—

"(1) PROVISIONS.—To the extent that they are not inconsistent with the provisions of the title, the following provisions of title I of this Act shall apply to this title:

"(A) Subsections (b), (c), (d), (e) and (h) of section 4.

"(B) Subsections (c), (d), (e) and (f) of section 7.

"(2) REFERENCE.—Any reference to 'this title' in the provisions described in subparagraph (A) or (B) of paragraph (1) is a reference to such provisions and to this title.

"(b) ADMINISTRATIVE PROCEDURE.—Except as otherwise set forth in this title and in those provisions of title I set forth in subparagraph (A) or (B) of subsection (a)(1), the Commission shall comply with the provisions of subchapter II of chapter 5, and the provisions of chapter 7, of title 5, United States Code.

"SEC. 814. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for any fiscal year beginning on or after October 1, 2010, such sums as may be necessary to enable the Commission and the Department of the Treasury to pay their respective administrative expenses incurred in carrying out their functions under this title. Amounts appropriated under this section may remain available until expended.".

SEC. 3. JURISDICTION OF UNITED STATES DISTRICT COURTS.

(a) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1370. Civil actions by nationals of the United States who own real property in Cyprus against private persons

''(a) JURISDICTION.—The district courts shall have original jurisdiction of any civil action that is brought—

''(1) by a national of the United States—

''(A) who holds title to any real property under the laws of Cyprus that is located in that portion of the territory of Cyprus that is occupied by Turkey; and

''(B) who has been excluded from that property by reason of such occupation;

''(2) against any private person who for any purpose and in any way uses, occupies, or benefits from that property at any time during the period of such exclusion; and

''(3) for the fair rental value of the property during the period of such use, occupation, or benefit.

''(b) DEFINITIONS.—As used in this section—

''(1) the term 'national of the United States' means—

''(A) a natural person who is either a citizen of the United States or an alien lawfully admitted for permanent residence to the United States;

"(B) a natural person who acquired title to property in Cyprus through intestate or testate succession under the laws of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States from or through a natural person described in subparagraph (A); or

"(C) a corporation or other legal entity that is organized under the laws of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, if one or more natural persons described in subparagraph (A) own, directly or indirectly, 50 percent or more of the outstanding capital stock or other beneficial interest of such corporation or entity;

"(2) the term 'property' means any real property or any right or interest in any real property, including any leasehold interest, to which a national of the United States holds title under the laws of Cyprus;

"(3) the term 'Turkey' means—

"(A) the Republic of Turkey;

"(B) any political subdivision, agency, or instrumentality of the Republic of Turkey, including the Turkish Armed Forces;

"(C) any agent of or unincorporated association that purports to discharge any function of a nation-state under the auspices of the Republic of Turkey, including the unincorporated association known as the 'Turkish Republic of Northern Cyprus'; and

"(D) any organization that purports to be a political subdivision, agency, or instrumentality of the unincorporated association known as the 'Turkish Republic of Northern Cyprus';

"(4) the term 'Cyprus' means the Republic of Cyprus; and

"(5) the term 'private person' means—

"(A) any natural person who—

"(i) at any time on or after July 20, 1974, uses, occupies, or benefits from property in Cyprus, if such use, occupation, or benefit was enabled by Turkey or any person or entity, other than a national of the United States who held lawful title to that property under the laws of Cyprus as of July 20, 1974; and

"(ii) holds such title when any civil action under this section is brought by reason of such use, occupation, or benefit; and

"(B) any corporation or other legal entity that—

"(i) is organized under the laws of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States or under the laws of any foreign state; and

"(ii)(I) at any time on or after July 20, 1974, uses, occupies, or benefits from property in Cyprus, if such use, occupation, or benefit was enabled by Turkey or any person or entity, other than a national of the United States who held title to that property under the laws of Cyprus as of July 20, 1974; and

"(II) holds such title when any civil action under this section is brought by reason of such use, occupation, or benefit.

"(c) SPECIAL RULES.—For purposes of this section—

"(1) process is served if service is accomplished in any manner set forth in this title;

"(2) the district court shall not consider the doctrine of forum non conveniens in any civil action asserted under this section and shall refuse to hear any motion or request by any person or party that the civil action be dismissed on the grounds of forum non conveniens;

"(3) in determining whether the person or party asserting the civil action has lawful title, the district court shall apply only the laws of Cyprus in making that determination; and

"(4) in determining the amount of any award in any civil action, the district court shall consider only evidence of the fair rental market value of the property for each calendar year for which the plaintiff has been excluded from its property, as that value would have been calculated in Cyprus if the plaintiff had not been excluded from the property.

"(d) LIMITATION ON ACTIONS.—Any civil action against a private person under this section may be brought at any time before the end of the period of 36 consecutive calendar months that begins after the last day of the month in which the private person ceases to use, occupy,

or benefit from the property that is the subject of the action. This subsection applies in lieu of section 1658.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 85 of title 28, United States Code, is amended by adding at the end the following new item:

''1370. Civil actions by nationals of the United States who own real property in Cyprus against private persons.''.

(c) APPLICABILITY.—The amendments made by this section shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

SEC. 4. VENUE.

(a) IN GENERAL.—Chapter 87 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 1414. Venue of civil actions against private persons brought by nationals of the United States who own real property in Cyprus

''Notwithstanding any other provision of this chapter, a civil action under section 1370 may be brought only in the District Court for the District of Columbia or the District Court for the Southern District of New York.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 87 of title 28, United States Code, is amended by adding at the end the following new item:

''1414. Venue of civil actions against private persons brought by nationals of the United States who own real property in Cyprus.''.

SEC. 5. EFFECTIVE DATE.

Subject to section 3(c), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

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