

4/23/90
AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2024

A BILL

To amend the Organic Act of Guam, 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. AMENDMENT TO THE ORGANIC ACT OF GUAM.

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

"SEC. 36. (a) This Section shall apply to Guamanians who did not meet the one-year time limitation for filing of death or personal injury claims provided in Section 1 of the Act of November 15, 1945 (chapter 483; 59 Stat. 582), or, who suffered other compensable injuries contained in (b)(2) below, provided, however, that claimants otherwise meet the eligibility, time limitation for filing, and other criteria set forth in this section.

"(b) For the purposes of this section:

"(1) The term 'award' means the amount of compensation due to any claimant found eligible by the Secretary of the Interior under the criteria set forth in this section.

"(2) The term 'compensable injury' means one of the following three categories of injury incurred during, or as a result of, World War II:

"(A) Death.

"(B) Personal injury.

"(C) Forced labor, forced march, or interment.

"(3) The term 'Guamanian' means any person who resided in the territory of Guam during the period beginning December 8, 1941, and ending September 2, 1945, and who was a United States citizen or national during the period.

"(4) The term 'Secretary' means the Secretary of the Interior.

"(c)(1) The Secretary shall have the authority to receive, examine, and render final decisions concerning claims which may be filed under this section. In addition, the Secretary is authorized to certify and disburse payments from the Fund established in subsection (f)(1) to eligible claimants.

"(2) In order to be eligible for benefits under this section, the following criteria must be met:

"(A) The claimant is a living Guamanian who personally received the compensable injury, except that in a claim for death, a claimant may be the heir or next of kin of the decedent Guamanian, and payment of the award shall be pro-rated among heirs or next of kin claiming for the same death as provided in Guam probate laws;

"(B) the claimant files a claim with the Secretary for a compensable injury containing all the information described in paragraph (3); and

"(C) the claimant is able to furnish either proof of the compensable injury or is able to produce

affidavits by two (2) witnesses to the compensable injury.

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

"(3) In order to be eligible for benefits under this section, the claimant must file a claim with the Secretary which must be under oath and shall include-

"(A) the claimant's name and age;

"(B) the village in which the claimant resided at the time the compensable injury occurred;

"(C) the approximate date or dates when the compensable injury was incurred;

"(D) a brief description of the compensable injury being claimed;

"(E) the circumstances leading up to that compensable injury.

"In the event that death is the compensable injury being claimed, the claimant must state, and furnish proof, of his or her relationship to the deceased.

"(d) A claimant may only be eligible for benefits arising out of one category of compensable injury.

"(e)(1) The Secretary shall certify all awards for payment. The Secretary shall pay the following amounts to each eligible claimant from the Fund established in subsection (f)(1).

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

"(B) \$5,000 for the category of personal

injury.

"(C) \$3,000 for the category of forced labor, forced march, or interment.

"(2) If an eligible claimant refuses to accept payment under this section, such amount shall remain in the Fund established by subsection (f)(1), and no payment shall be made under this section to such claimant at any future date.

"(f)(1) There is established in the Treasury of the United States, the Guam Claims Fund, to be administered by the Secretary of the Treasury, as directed by the Secretary of the Interior. Amounts in the Fund shall only be available for disbursement by the Secretary of the Interior in the amounts specified in subsection (e). In the event that all eligible claims have been paid and a balance exists in the Fund, any unobligated funds shall revert to the general fund of the Treasury of the United States sixty (60) days after the final report required in subsection (h)(3) is submitted to Congress.

"(2) No costs incurred by the Secretary in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any eligible claimant.

"(3) There is authorized to be appropriated to the Fund such sums as are required to carry out this section.

"(g)(1) Not later than 90 days after the date of enactment of this section, the Secretary shall give public notice

in the territory of Guam and such other places as the Secretary deems appropriate of the time when, and the time limitation within which, claims may be filed under this section. The Secretary shall assure that the provisions of this section are widely published in the territory of Guam and such other places as the Secretary deems appropriate, and the Secretary shall make every effort to advise promptly all persons who may be entitled to file claims under the provisions of this section and to assist them in the preparation and filing of their claims.

"(2) The Secretary shall act expeditiously in the examination, determination, and certification of submitted claims, but in no event not later than one year after the expiration of the time for filing claims under this section.

"(3) The Secretary shall notify each claimant of the approval or denial of his or her claim in writing, as provided by regulations to be issued by the Secretary.

"(h)(1) No later than 18 months after enactment of this section, the Secretary shall submit a report to Congress with a recommendation of a specific amount of compensation necessary to fully carry out this section. Said report shall include-

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

"(B) a list of all claims, categorized by compensable injury, which were denied under this section, and a brief explanation for the reason therefor.

"A copy of this report shall be transmitted to the Governor of Guam.

"(2) Beginning with the first full fiscal year ending after submittal of the report provided in paragraph (1), and annually thereafter until submission of the report under paragraph (3), the Secretary shall submit an annual report to Congress concerning the operations under this section, the status of the Fund, and any request for an appropriation in order to make disbursements from the Fund. Such report shall be submitted no later than January 15th of each year.

"(3) Once all eligible claims have been paid, the Secretary shall submit a report to Congress certifying-

"(A) The total amount of compensation paid under this section, broken down by category of compensable injury; and

"(B) The final status of the Fund, and, the amount of any existing balance thereof.

"A copy of this report shall be transmitted to the Governor of Guam.

"(i) Any remuneration on account of services rendered on behalf of any claimant, or any association of claimants, in connection with any claim or claims under this section may not exceed 5 percent of the amount paid on such claim or claims under this section. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or

receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in accordance with title 18, United States Code, imprisoned not more than 12 months, or both.

"(k) Nothing contained herein shall constitute a United States obligation to pay any claim arising out of war. The compensation provided in this section is ex gratia in nature and intended solely as a means of recognizing the demonstrated loyalty of the people of Guam to the United States during the Second World War."