

Public Law 88-666

October 16, 1964
[H. R. 12259]

AN ACT

To amend the International Claims Settlement Act of 1949 to provide for the determination of the amounts of claims of nationals of the United States against the Government of Cuba.

International
Claims Settlement
Act, amendment.
64 Stat. 12;
72 Stat. 527.
22 USC 1621
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Claims Settlement Act of 1949 is amended by adding at the end thereof the following new title:

"TITLE V

"PURPOSE OF TITLE

Cuba.
Claims of U.S.
nationals.

"SEC. 501. It is the purpose of this title to provide for the determination of the amount and validity of claims against the Government of Cuba which have arisen out of debts for merchandise furnished or services rendered by nationals of the United States without regard to the date on which such merchandise was furnished or services were rendered or which have arisen since January 1, 1959, out of nationalization, expropriation, intervention, or other takings of, or special measures directed against, property of nationals of the United States, and claims for disability or death of nationals of the United States arising out of violations of international law by the Government of Cuba, in order to obtain information concerning the total amount of such claims against the Government of Cuba on behalf of nationals of the United States. This title shall not be construed as authorizing an appropriation or as any intention to authorize an appropriation for the purpose of paying such claims.

"DEFINITIONS

"SEC. 502. For the purposes of this title:

"(1) The term 'national of the United States' means (A) a natural person who is a citizen of the United States, or (B) a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity. The term does not include aliens.

"(2) The term 'Commission' means the Foreign Claims Settlement Commission of the United States.

"(3) The term 'property' means any property, right, or interest, including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

"(4) The term 'Government of Cuba' includes the government of any political subdivision, agency, or instrumentality thereof.

"RECEIPT OF CLAIMS

"SEC. 503. (a) The Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising out of debts for merchandise furnished or services rendered by nationals of the United

States without regard to the date on which such merchandise was furnished or services were rendered or arising since January 1, 1959, for losses resulting from the nationalization, expropriation, intervention, or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States, if such claims are submitted to the Commission within such period specified by the Commission by notice published in the Federal Register (which period shall not be more than eighteen months after such publication) within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later. In making the determination with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to, (i) fair market value, (ii) book value, (iii) going concern value, or (iv) cost of replacement.

Publication in
Federal Register.

“(b) The Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959, for disability or death resulting from actions taken by or under the authority of the Government of Cuba, if such claims are submitted to the Commission within the period established by the Commission under subsection (a), or within six months after the date the claims first arose (as determined by the Commission), whichever date last occurs.

“OWNERSHIP OF CLAIMS

“SEC. 504. (a) A claim shall not be considered under section 503 (a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

“(b) A claim for disability under section 503 (b) may be considered if it is filed by the disabled person or by his successors in interest; and a claim for death under section 503 (b) may be considered if filed by the personal representative of decedent's estate or by a person or persons for pecuniary losses and damage sustained on account of such death. A claim shall not be considered under this section unless the disabled or deceased person was a national of the United States at the time of injury or death and if considered, shall be considered only to the extent the claim has been held by a national or nationals of the United States continuously until the date of filing with the Commission.

“CORPORATE CLAIMS

“SEC. 505. (a) A claim under section 503 (a) of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall not be considered.

“(b) A claim under section 503 (a) of this title based upon a direct ownership interest in a corporation, association, or other entity for loss shall be considered, subject to the other provisions of this title, if such corporation, association, or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

“(c) A claim under section 503(a) of this title based upon an indirect ownership interest in a corporation, association, or other entity for loss shall be considered, subject to the other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof at the time of such loss was vested in nationals of the United States.

“(d) The amount of any claim covered by subsection (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same proportion to such loss as the ownership interest of the claimant at the time of loss bears to the entire ownership interest thereof.

“OFFSETS

“SEC. 506. In determining the amount of any claim, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses: *Provided*, That the deduction of such amounts shall not be construed as divesting the United States of any rights against the Government of Cuba for the amounts so deducted.

“ACTION OF COMMISSION WITH RESPECT TO CLAIMS

“SEC. 507. (a) The Commission shall certify to each individual who has filed a claim under this title the amount determined by the Commission to be the loss or damage suffered by the claimant which is covered by this title. The Commission shall certify to the Secretary of State such amount and the basic information underlying that amount, together with a statement of the evidence relied upon and the reasoning employed in reaching its decision.

“(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

“TRANSFER OF RECORDS

“SEC. 508. The Secretary of State 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.

“APPLICATION OF OTHER LAWS

“SEC. 509. To the extent they are not inconsistent with the provisions of this title, the following provisions of title I of this Act shall be applicable to this title: Subsections (b), (c), (d), (e), (h), and (j) of section 4; subsection (f) of section 7.

“SETTLEMENT PERIOD

“SEC. 510. The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than three years following the final date for the filing of claims as provided in section 503(a) of this title or following the enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later.

“APPROPRIATIONS AND VESTING AND LIQUIDATION OF CUBAN PROPERTY

“SEC. 511. (a) There are hereby authorized to be appropriated such sums, not to exceed the aggregate amount of the net proceeds realized from the sale or liquidation of the property of the Government of Cuba pursuant to subsection (b) of this section, as may be necessary to enable the Commission and the Treasury Department to pay administrative expenses incurred in carrying out their functions under this title.

“(b) Any property of the Government of Cuba which was blocked in accordance with the Cuban assets control regulations, July 8, 1963 (31 C.F.R., part 515, et seq.), and which remains so blocked six months following the date of enactment of this title shall vest in such officer or agency as the President may from time to time designate upon such terms as the President or his designee shall direct. Such property shall be sold or otherwise liquidated as expeditiously as possible after vesting under such rules and regulations as the President or his designee may prescribe. So much of the net proceeds remaining upon completion of the liquidation thereof as may be necessary shall be used to reimburse the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this title. Any proceeds remaining thereafter shall be covered into the Treasury to the credit of miscellaneous receipts.

“FEES FOR SERVICES

“SEC. 512. No remuneration on account of any services rendered on behalf of any claimant in connection with any claim filed with the Commission under this title shall exceed 10 per centum of so much of the total amount of such claim, as determined under this title, as does not exceed \$20,000, plus 5 per centum of so much of such amount, if any, as exceeds \$20,000. 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 fined not more than \$5,000 or imprisoned not more than twelve months, or both.

“SEPARABILITY

“SEC. 513. If any provision of this Act, or the application thereof to any person or circumstances, shall be held invalid, the remainder of the Act, or the application of such provision to other persons or circumstances, shall not be affected.”

Approved October 16, 1964.