

DISCUSSION DRAFT BILL

115th CONGRESS
2d Session

S. _____

To create a private right of action under United States law to enable United States citizens of Iranian descent to secure fair, comprehensive, and nondiscriminatory restitution of or compensation for all of their private property that was wrongfully and unjustly seized and confiscated by the Government of Iran.

IN THE SENATE OF THE UNITED STATES

August __, 2018

Mr. _____(for himself and Mr. _____) introduced the following bill.

A BILL

To create a private right of action under United States law to enable United States citizens of Iranian descent to secure fair, comprehensive, and nondiscriminatory restitution of or compensation for all of their private property that was wrongfully and unjustly seized and confiscated by the Government of Iran.

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 “Iranian Justice and Restitution Act (IJRA) of 2018.”

SEC. 2. FINDINGS.

Congress finds the following:

- (1) The Government of Iran came to power in 1979 and is ruled to this day by an autocratic government.

- (2) Victims of the Government of Iran included individuals persecuted or targeted for persecution based on their political beliefs and associations, as well as their religious, ethnic, and cultural identities.
- (3) An instrumentality of state persecution included the wrongful and unjust seizure and confiscation of private property including real property, personal property, and financial assets.
- (4) A great number of owners of such property fled for safety to the United States or Europe and are now citizens of those countries.
- (5) The Government of Iran has transferred ownership of such confiscated property to government-affiliated foundations and related institutions.
- (6) The Government of Iran has shown no sign that it intends to return or compensate the rightful owners of said government's wrongful property seizures.
- (7) Further, Iran is characterized by high levels of official and institutional corruption, and substantial involvement by Iran's security forces, particularly the Islamic Revolutionary Guard Corps (in this Act referred to as the "IRGC"), in the economy.
- (8) Many members of Iran's senior political and military leadership have acquired significant personal and institutional wealth by using their positions to secure control of significant portions of Iran's national economy.
- (9) The Department of the Treasury in 2011 designated Iran's financial sector as a jurisdiction of primary money laundering concern under section 5318A of title 31, United States Code, stating "Treasury has for the first time identified the entire Iranian financial sector; including Iran's Central Bank, private Iranian banks, and branches, and subsidiaries of Iranian banks operating outside of Iran as posing illicit finance risks for the global financial system."
- (10) Iran continues to be listed by the Financial Action Task Force (in this section referred to as "FATF") among the "high-risk and non-cooperative jurisdictions", jurisdictions that FATF perceives to be non-cooperative in the global fight against terrorist finance and money laundering.
- (11) Iran and North Korea are the only countries listed by the FATF as "high-risk and non-cooperative jurisdictions" against which countries that are members of FATF should take measures.
- (12) The Transparency International index of perceived public corruption ranks Iran 131st out of 176 countries surveyed.
- (13) The Department of State identified Iran as a "major money-laundering country" in its International Narcotics Control Strategy Report for 2016.

- (14) The Department of State currently identifies Iran, along with North Korea, Sudan, and Syria, as a state sponsor of terrorism, for “having repeatedly provided support for acts of international terrorism”.
- (15) The Department of State’s Country Reports on Terrorism for 2014, noted that “Iran continued to sponsor terrorist groups around the world, principally through its Islamic Revolutionary Guard Corps–Qods Force (IRGC–QF). These groups included Lebanese Hizballah, several Iraqi Shia militant groups, Hamas, and Palestine Islamic Jihad. Iran, Hizballah, and other Shia militia continued to provide support to the Asad regime, dramatically bolstering its capabilities, prolonging the civil war in Syria, and worsening the human rights and refugee crisis there.”.
- (16) The Government of Iran’s tolerance of corruption and nepotism in business limits opportunities for foreign and domestic investment, particularly given the significant involvement of the IRGC in many sectors of Iran’s economy.
- (17) The IRGC and the leadership-controlled bonyads (foundations) control an estimated 1/3 of Iran’s total economy, including large portions of Iran’s telecommunications, construction, and airport and port operations. These operations give the IRGC and bonyads vast funds to support terrorist organizations such as Hezbollah and Hamas.
- (18) By gaining control of major economic sectors, the IRGC and bonyads have also served to further disadvantage the average citizen of Iran.

SEC. 3. IRANIAN JUSTICE AND RESTITUTION.

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

"SUBCHAPTER VIII – CLAIMS AGAINST IRAN

“SEC. 801. CONGRESSIONAL DECLARATION OF PURPOSE

"It is the purpose of this title to provide for the determination of the validity and amounts of outstanding claims against Iran which arose out of the nationalization, expropriation, or other taking of (or special measures directed against) property of nationals of the United States. 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) the term 'national of the United States' means—

"(A) a natural person who is a citizen of the United States;

“(B) a natural person who was a citizen of Iran but fled for safety to the United States and is now a citizen of the United States; and

"(C) 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;

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

"(3) the term 'property' means—

"(A) any property, right, or interest, including any leasehold interest,

"(B) any debt owed by Iran or by any enterprise which has been nationalized, expropriated, or otherwise taken by Iran, and

"(C) any debt which is a charge on property which has been nationalized, expropriated, or otherwise taken by Iran;

"(4) the term 'Iran' means—

"(A) the Government of the Islamic Republic of Iran,

"(B) any predecessor governing authority operating in Iran on or after April 1, 1979, including the ruling Revolutionary Council and the Islamic Republican Party, and

"(C) any political subdivision, agency, or instrumentality of any of the entities referred to in subparagraphs (A) and (B); and

"(5) the term 'Claims Fund' means the special fund established in the Treasury of the United States composed 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 803 that may be entered into between the Governments of the United States and Iran.

“SEC. 803. RECEIPT AND DETERMINATION OF CLAIMS

“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 Iran arising on or after April 1, 1979, for losses incurred as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property which was owned wholly or partially, directly or indirectly, by nationals of the United States to whom no restoration or adequate compensation for such property has been made. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than a period of two years beginning on the date of such publication) within sixty days after the date of 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.

“SEC. 804. OWNERSHIP OF CLAIMS

“A claim may be favorably considered under section 803 of this Act 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 on the date of loss and only to the extent that the claim has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission.

"SEC. 805. CORPORATE CLAIMS

“(a) A claim under section 803 of this Act based upon an ownership interest in any corporation, association, or other entity which is a national of the United States may not be considered. A claim under section 803 based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico may be considered only if such debt or other obligation is a charge on property which has been nationalized, expropriated, or otherwise taken by Iran.

“(b) A claim under section 803 based upon a direct ownership interest in a corporation, association, or other entity may 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 803 based upon an indirect ownership interest in a corporation, association, or other entity may 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 or if, at the time of the loss, nationals of the United States in fact controlled the corporation, association, or entity, as determined by the Commission.

“(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 the corporation, association, or other entity, with respect to which the claim is made, 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.

"SEC. 806. OFFSETS

“In determining the amount of any claim under this title, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses for which the claim is filed.

"SEC. 807. CERTIFICATION; ASSIGNED CLAIMS

“(a) The Commission shall certify to each claimant who files a claim under this title the amount determined by the Commission to be the loss 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 making that determination.

“(b) 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 shall not exceed the amount of actual consideration paid by the last such assignee.

"SEC. 808. CONSOLIDATED AWARDS

“With respect to any claim under section 803 of this Act which, 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, which award shall indicate the respective interests of such claimants in the award, and 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. 809. CLAIMS

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

“(b) The Secretary of the Treasury shall deduct from any amounts covered into the Claims Fund an amount equal to 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this title. The amounts so deducted shall be covered into the Treasury as miscellaneous receipts.

“SEC. 810. AWARD PAYMENT PROCEDURES

“(a) The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to section 803 of this Act.

“(b) (1) Upon certification of each award made pursuant to section 803, 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 \$2,500 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 which 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) 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) 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. 811. SETTLEMENT PERIOD

“The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than three years after the final date for the filing of claims as provided in section 803 of this Act.

“SEC. 812. 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. 813. AUTHORIZATION OF APPROPRIATIONS

“There are authorized to be appropriated for any fiscal year beginning on or after October 1, 2018, such sums as may be necessary to enable the Commission and the Treasury Department 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. 814. FEES FOR SERVICES

"No remuneration on account of 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 the total amount paid pursuant to any award certified under the provisions of this title on account of such claim. 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 not more than \$5,000 or imprisoned not more than twelve months, or both.

"SEC. 815. APPLICATION OF OTHER PROVISIONS OF THE ACT

"(a) 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), and (h) of section 4 and subsections (c), (d), (e), and (f) of section 7. Any reference in such provisions to 'this title' shall be deemed to be a reference to those provisions and to this title.

"(b) Except as otherwise provided in this title and in those provisions of title I referred to in subsection (a), 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. 816. SEPARABILITY

"If any provision of this title or the application thereof to any person or circumstances is held invalid, the remainder of this title or the application of such provision to other persons or circumstances shall not be affected."