

10 United States Code §2733
(Popular Name: Military Claims Act)

Sec. 2733. Property loss; personal injury or death: incident to noncombat activities of Department of Army, Navy, or Air Force

- a. Under such regulations as the Secretary concerned may prescribe, he, or subject to appeal to him, the Judge Advocate General of an armed force under his jurisdiction, or the chief Counsel of the Coast Guard, as appropriate, if designated by him, may settle, and pay in an amount not more than \$100,000, a claim against the United States for -
- (1) damage to or loss of real property, including damage or loss incident to use and occupancy;
 - (2) damage to or loss of personal property, including property bailed to the United States and including registered or insured mail damaged, lost, or destroyed by a criminal act while in the possession of the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be; or
 - (3) personal injury or death; either caused by a civilian officer or employee of that department, or the Coast Guard, or a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be, acting within the scope of this employment, or otherwise incident to noncombat activities of that department, or the Coast Guard.
- b. A claim may be allowed under subsection (a) only if -
- (1) it is presented in writing within two years after it accrues, except that if the claim accrues in time of war or armed conflict or if such a war or armed conflict intervenes within two years after it accrues, and if good cause is shown, the claim may be presented not later than two years after the war or armed conflict is terminated;
 - (2) it is not covered by section 2734 of this title or section 2672 of title 28;
 - (3) it is not for personal injury or death of such a member or civilian officer or employee whose injury or death is incident to his service;
 - (4) the damage to, or loss of, property, or the personal injury or death, was not caused wholly or partly by a negligent or wrongful act of the claimant, his agent, or his employee; or, if so caused, allowed only to the extent that the law of the place where the act or omission complained of occurred would permit recovery from a private individual under like circumstances; and
 - (5) it is substantiated as prescribed in regulations of the Secretary concerned. For the purposes of clause (1), the dates of the beginning and ending of the armed conflict are the dates established by concurrent resolution of Congress or by a determination of the President.
- c. Payment may not be made under this section for reimbursement for medical, hospital, or burial services furnished at the expense of the United States.

- d. If the Secretary concerned considers that a claim in excess of \$100,000 is meritorious, and the claim otherwise is payable under this section, the Secretary may pay the claimant \$100,000 and report any meritorious amount in excess of \$100,000 to the Secretary of the Treasury for payment under section 1304 of title 31.
- e. Except as provided in subsection (d), no claim may be paid under this section unless the amount tendered is accepted by the claimant in full satisfaction.
- f. For the purposes of this section, a member of the National Oceanic and Atmospheric Administration or of the Public Health Service who is serving with the Navy or Marine Corps shall be treated as if he were a member of that armed force.
- g. Under regulations prescribed by the Secretary concerned, an officer or employee under the jurisdiction of the Secretary may settle a claim that otherwise would be payable under this section in an amount not to exceed \$25,000. A decision of the officer or employee who makes a final settlement decision under this section may be appealed by the claimant to the Secretary concerned or an officer or employee designated by the Secretary for that purpose.
- h. Under such regulations as the Secretary of Defense may prescribe, he or his designee has the same authority as the Secretary of a military department under this section with respect to the settlement of claims based on damage, loss, personal injury, or death caused by a civilian officer or employee of the Department of Defense acting within the scope of his employment or otherwise incident to noncombat activities of that department.