

107TH CONGRESS
1ST SESSION

H. R. 3503

To indemnify contractors for World Trade Center recovery efforts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2001

Mr. SWEENEY introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To indemnify contractors for World Trade Center recovery efforts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “World Trade Center
5 Worker and Contractor Protection Act of 2001”.

6 **SEC. 2. INDEMNIFICATION OF CONTRACTORS FOR WORLD**
7 **TRADE CENTER RECOVERY EFFORTS.**

8 (a) IN GENERAL.—Regardless of any other provisions
9 of law or any contract, including the law of any State,
10 the United States Government shall, subject to the limita-

1 tions contained in this section, indemnify contractors and
2 State and local governments against the following:

3 (1) Claims (including reasonable expenses of
4 litigation or settlement) (including employees of the
5 contractor) for death, personal injury, or loss of,
6 damage to, or loss of use of property.

7 (2) Loss of, damage to, or loss of use of con-
8 tractor property, excluding loss of profit.

9 (3) Loss of, damage to, or loss of use of United
10 States Government property or property of any
11 State or local government, excluding loss of profit.

12 (4) Professional liability.

13 (b) COORDINATION WITH INSURANCE.—The indem-
14 nification under subsection (a) shall apply only to the ex-
15 tent that the claim, loss, or damage is not compensated
16 for by insurance procured by a State or local government.

17 (c) LIMITATION IN CASE OF WILLFUL MISCONDUCT
18 OR LACK OF GOOD FAITH.—When any claim, loss or dam-
19 age is caused by willful misconduct or lack of good faith
20 on the part of any of the contractor's principal officials,
21 the contractor shall not be indemnified under this section
22 for the following:

23 (1) Government claims against the contractor
24 (other than those arising through subrogation).

1 (2) Loss or damage affecting the contractor's
2 property.

3 (d) RIGHTS AND OBLIGATIONS OF PARTIES.—The
4 rights and obligations of the parties under this section
5 shall survive any termination, expiration, or completion of
6 a contract.

7 (e) PROCEDURE.—In order to obtain any indem-
8 nification under this section, the State or local government
9 or the contractor shall—

10 (1) promptly notify the Attorney General of any
11 claim or action against, or any loss by, the State or
12 local government or the contractor that may reason-
13 ably be expected to involve indemnification under
14 this section;

15 (2) immediately, upon request, furnish to the
16 United States Government copies of all pertinent pa-
17 pers the State or local government or the contractor
18 receives;

19 (3) upon request, furnish evidence or proof of
20 any claim, loss, or damage covered by this section in
21 the manner and form the United States Government
22 requires; and

23 (4) comply with the United States Govern-
24 ment's directions and execute any authorizations re-

1 quired in connection with settlement or defense of
2 claims or actions.

3 (f) GOVERNMENT PARTICIPATION IN ACTIONS ON
4 CLAIMS.—The United States Government may direct, con-
5 trol, or assist in settling or defending any claim or action
6 that may involve indemnification under this section.

7 (g) DEFINITIONS.—For purposes of this section, the
8 following definitions shall apply:

9 (1) RESPONSE TO THE WORLD TRADE CENTER
10 ATTACK.—The term “response to the World Trade
11 Center attack” means all actions or omissions by a
12 State or local government, contractor, or volunteer
13 in response to, in connection with, or arising out of
14 the attack on September 11, 2001, in New York
15 City, New York, including any rescue and evacuation
16 of any individual, any recovery of a body, any clean
17 up effort, any remediation, any removal of debris,
18 and the protection of the public health, safety, and
19 welfare.

20 (2) CONTRACTOR.—The term “contractor”
21 means any person or entity, including contractors,
22 subcontractors at any tier, construction managers,
23 and design professionals, including their parent com-
24 panies and other affiliates, officers, directors, part-
25 ners, or employees, involved in providing work, labor,

1 equipment, materials or services in connection with
2 any effort in response to the World Trade Center at-
3 tack.

4 (3) CONTRACTOR'S PRINCIPAL OFFICIALS.—The
5 term “contractor’s principal officials” means direc-
6 tors, officers, managers, superintendents, or other
7 representatives supervising or directing—

8 (A) all or substantially all of the contrac-
9 tor’s business;

10 (B) all or substantially all of the contrac-
11 tor’s operations at any one plant or separate lo-
12 cation in which this contract is being per-
13 formed; or

14 (C) a separate and complete major indus-
15 trial operation in connection with the perform-
16 ance of this contract.

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