

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3520

To amend the International Claims Settlement Act of 1949 to allow for certain claims of nationals of the United States against Turkey, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 15, 2006

Ms. SNOWE (for herself and Mr. MENENDEZ) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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## A BILL

To amend the International Claims Settlement Act of 1949 to allow for certain claims of nationals of the United States against Turkey, 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 “American-Owned Prop-  
5 erty in Occupied Cyprus Claims Act”.

6 **SEC. 2. INTERNATIONAL CLAIMS SETTLEMENT ACT.**

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

1     **“TITLE VIII—CLAIMS AGAINST**  
2                                   **TURKEY**

3     **“SEC. 801. PURPOSE.**

4             “The purpose of this title is to provide for the deter-  
5 mination of the validity and amounts of claims against  
6 Turkey which arise out of the continued exclusion of na-  
7 tionals of the United States from property they own that  
8 is located in those portions of the territory of Cyprus  
9 which Turkey occupies. This title may not be construed  
10 as authorizing or as any intention to authorize an appro-  
11 priation by the United States for the purpose of paying  
12 such claims.

13     **“SEC. 802. DEFINITIONS.**

14             “In this title—

15                 “(1) CLAIMANT.—The term ‘claimant’ means  
16 any national of the United States who files a claim  
17 under this title.

18                 “(2) CLAIMS FUND.—The term ‘Claims Fund’  
19 means the claims fund described in section 808(a).

20                 “(3) COMMISSION.—The term ‘Commission’  
21 means the Foreign Claims Settlement Commission  
22 of the United States.

23                 “(4) CYPRUS.—The term ‘Cyprus’ means the  
24 Republic of Cyprus.

1           “(5) NATIONAL OF THE UNITED STATES.—The  
2 term ‘national of the United States’ means—

3           “(A) a natural person who is a citizen of  
4 the United States; and

5           “(B) a corporation or other legal entity  
6 which is organized under the laws of the United  
7 States or of any State, the District of Colum-  
8 bia, or the Commonwealth of Puerto Rico, if  
9 natural persons who are citizens of the United  
10 States own, directly or indirectly, 50 percent or  
11 more of the outstanding capital stock or other  
12 beneficial interest of such corporation or entity.

13           “(6) PROPERTY.—The term ‘property’ means  
14 any real property, or any right, or interest in real  
15 property, including any lease owned under the laws  
16 of Cyprus and located in those portions of the terri-  
17 tory of Cyprus that are occupied by Turkey.

18           “(7) TURKEY.—The term ‘Turkey’ means—

19           “(A) the Republic of Turkey;

20           “(B) any agent of the Government of Tur-  
21 key, or any unincorporated association that  
22 purports to discharge any function of a nation-  
23 state under the auspices of the Government of  
24 Turkey, including the unincorporated associa-

1           tion known as the ‘Turkish Republic of North-  
2           ern Cyprus’;

3           “(C) any political subdivision, agency, or  
4           instrumentality of Turkey, including the Turk-  
5           ish Armed Forces; and

6           “(D) any organization that purports to be  
7           a political subdivision, agency, or instrumen-  
8           tality of the unincorporated association known  
9           as the ‘Turkish Republic of Northern Cyprus’.

10 **“SEC. 803. COMMENCEMENT OF NEGOTIATIONS BY THE**  
11 **SECRETARY OF STATE.**

12       “(a) IN GENERAL.—The President is urged to au-  
13 thorize the Secretary of State to commence negotiations  
14 with Turkey to reach an agreement with respect to the  
15 payment by Turkey of claims certified under section 806  
16 and to continue such negotiations until such agreement  
17 is reached.

18       “(b) REQUIREMENT TO RECEIVE CLAIMS.—The  
19 Commission shall receive claims, determine the validity of  
20 claims, and make awards under section 804 as of the ef-  
21 fective date of the American-Owned Property in Occupied  
22 Cyprus Claims Act without regard to whether or not the  
23 President authorizes the Secretary of State to commence  
24 the negotiations referred to in subsection (a) and without

1 regard to whether or not the Secretary of State com-  
2 mences such negotiations if authorized.

3 **“SEC. 804. RECEIPT AND DETERMINATION OF CLAIMS.**

4 “(a) DETERMINATION OF CLAIMS.—

5 “(1) IN GENERAL.—Subject to paragraph (2),  
6 the Commission shall receive and determine in ac-  
7 cordance with applicable substantive law, including  
8 international law, the validity and amounts of claims  
9 by nationals of the United States against Turkey  
10 arising on or after July 20, 1974, for the fair rental  
11 market value of the use and continued occupation by  
12 Turkey of property located in the territory of Cyprus  
13 which—

14 “(A) is owned by such nationals under the  
15 laws of Cyprus; and

16 “(B) at the time the exclusion from or oc-  
17 cupation of the property began, was owned,  
18 under the laws of Cyprus, wholly or partially,  
19 directly or indirectly, by nationals of the United  
20 States.

21 “(2) LIMITATION.—The Commission shall re-  
22 duce value of the fair rental market value deter-  
23 mined under paragraph (1) to the extent restoration  
24 or adequate compensation for such use and occupa-  
25 tion has been made, including all amounts the claim-

1       ant has received from any source on account of the  
2       same loss or losses for which the claim is filed.

3       “(b) RIGHTS IN PROPERTY RETAINED.—A claimant  
4 shall not be required or deemed, either directly or indi-  
5 rectly, to transfer, waive, or otherwise forfeit any right of  
6 ownership in or to the property that the claimant owns  
7 under the laws of Cyprus as a condition of or as the result  
8 of filing a claim under this title, having the claim deter-  
9 mined, or accepting an award based on the claim.

10       “(c) SUBMISSION OF CLAIMS.—

11               “(1) REQUIREMENT TO ESTABLISH TIME PE-  
12 RIOD.—Not later than 60 days after the date of the  
13 enactment of an appropriations Act that makes  
14 available funds for payment of administrative ex-  
15 penses incurred by the Commission in carrying out  
16 this title, the Commission shall establish a period  
17 during which claimants may submit claims under  
18 this title.

19               “(2) PUBLICATION.—The Commission shall  
20 publish the beginning and ending dates of the period  
21 referred to in paragraph (1) in the Federal Register.

22               “(3) LENGTH.—The period referred to in para-  
23 graph (1) may not be longer than 24 months and  
24 shall begin on the last day of the month in which

1 the notice is of the period published under para-  
2 graph (2).

3 **“SEC. 805. OWNERSHIP OF CLAIMS.**

4 “A claim may be favorably considered under section  
5 804—

6 “(1) only if the property right on which the  
7 claim is based was owned, wholly or partially, di-  
8 rectly or indirectly, by a national of the United  
9 States under the laws of Cyprus on the date on  
10 which the exclusion from or occupation of the prop-  
11 erty began; and

12 “(2) only to the extent that the claim has been  
13 held by one or more nationals of the United States  
14 continuously from that date until the date the claim  
15 is filed with the Commission.

16 **“SEC. 806. CERTIFICATION; ASSIGNED CLAIMS.**

17 “(a) CERTIFICATION OF CLAIMS.—

18 “(1) TO THE CLAIMANT.—The Commission  
19 shall certify to each claimant who files a claim under  
20 this title—

21 “(A) the amount determined by the Com-  
22 mission to be the loss suffered by the claimant  
23 which is covered by this title; and

24 “(B) if, on the date on which the certifi-  
25 cation under subparagraph (A) is made, Turkey

1 is excluding the claimant from the claimant's  
2 property, a mathematical basis determined by  
3 the Commission for calculating the loss suffered  
4 by the claimant for the continued use and occu-  
5 pation of the property by Turkey after the date  
6 of the award.

7 “(2) TO THE SECRETARY OF STATE.—The  
8 Commission shall certify to the Secretary of State—

9 “(A) the amount of each claim certified  
10 under paragraph (1)(A);

11 “(B) any mathematical basis certified  
12 under paragraph (1)(B) in connection with that  
13 claim; and

14 “(C) a statement of the evidence relied  
15 upon and the reasoning employed in making the  
16 Commission's determination of the amount re-  
17 ferred to in subparagraph (A) and the mathe-  
18 matical basis referred to in subparagraph (B).

19 “(b) ASSIGNED CLAIMS.—In any case in which a  
20 claim under this title is assigned by purchase before the  
21 Commission determines the amount due on that claim, the  
22 amount so determined shall not exceed the amount of ac-  
23 tual consideration paid by the last such assignee.

1 **“SEC. 807. CONSOLIDATED AWARDS.**

2 “With respect to any claim under section 804 which,  
3 at the time of the award, is vested in persons other than  
4 the person by whom the original loss was sustained, the  
5 Commission shall issue a consolidated award in favor of  
6 all claimants then entitled to the award. The award shall  
7 indicate the respective interests of such claimants in the  
8 award, and all such claimants shall participate, in propor-  
9 tion to their indicated interests, in any payments that may  
10 be made under this title in all respects as if the award  
11 had been in favor of a single person.

12 **“SEC. 808. CLAIMS FUND.**

13 “(a) **AUTHORITY.**—The Secretary of the Treasury  
14 may establish in the Treasury of the United States a  
15 Claims Fund for the payment of unsatisfied claims of na-  
16 tionals of the United States against Turkey, as authorized  
17 by this title.

18 “(b) **CONTRIBUTIONS TO CLAIMS FUND.**—The  
19 Claims Fund shall be composed of such sums as may be  
20 paid to, or realized by, the United States pursuant to the  
21 terms of any agreement settling those claims described in  
22 section 804 that may be entered into between the Govern-  
23 ments of the United States and Turkey.

24 “(c) **DEDUCTION FOR ADMINISTRATIVE EX-**  
25 **PENSES.**—The Secretary of the Treasury shall deduct  
26 from any amounts covered into the Claims Fund an

1 amount equal to 5 percent thereof as reimbursement to  
2 the Government of the United States for expenses in-  
3 curred by the Commission and by the Department of the  
4 Treasury in the administration of this title. The amounts  
5 so deducted shall be covered into the Treasury as miscella-  
6 neous receipts.

7 **“SEC. 809. AWARD PAYMENT PROCEDURES.**

8       “(a) CERTIFICATION OF AWARDS TO SECRETARY OF  
9 THE TREASURY.—The Commission shall certify to the  
10 Secretary of the Treasury, in terms of United States cur-  
11 rency, each award made pursuant to section 804.

12       “(b) PAYMENT OF AWARDS.—

13               “(1) PRINCIPAL AMOUNTS.—Upon certification  
14 of each award made under section 804, the Sec-  
15 retary of the Treasury shall, out of the sums covered  
16 into the Claims Fund, make payments on account of  
17 such awards as follows, and in the following order  
18 of priority:

19                       “(A) Payment in the amount of \$5,000 or  
20 the principal amount of the award (excluding  
21 any calculations made under any mathematical  
22 basis certified under section 806(a)(1)(B)),  
23 whichever is less.

24                       “(B) Thereafter, payments from time to  
25 time, in ratable proportions, on account of the

1           unpaid balance of the principal amounts of all  
2           awards (including any calculations made under  
3           any mathematical basis certified under section  
4           807(a)(1)(B)) according to the proportions  
5           which the unpaid balance of such awards bear  
6           to the total amount in the Claims Fund avail-  
7           able for distribution at the time such payments  
8           are made.

9           “(2) SUBSEQUENT PAYMENTS.—After payment  
10          has been made in full of the principal amounts of all  
11          awards pursuant to paragraph (1), pro rata pay-  
12          ments may be made on account of any interest that  
13          may be allowed on such awards.

14          “(c) REGULATIONS.—Payments or applications for  
15          payments under subsection (b) shall be made in accord-  
16          ance with any such regulations as the Secretary of the  
17          Treasury may prescribe.

18          **“SEC. 810. SETTLEMENT PERIOD.**

19          “The Commission shall complete the settlement of  
20          claims under this title not later than 3 years after the  
21          final date for the filing of claims as provided in section  
22          804.

23          **“SEC. 811. TRANSFER OF RECORDS.**

24          “The Secretary of State, the Secretary of the Treas-  
25          ury, and the Secretary of Defense shall transfer or other-

1 wise make available to the Commission such records and  
2 documents relating to claims described in section 804 by  
3 this title as may be required by the Commission in car-  
4 rying out its functions under this title.

5 **“SEC. 812. FEES FOR SERVICES.**

6 “(a) LIMITATION ON FEES.—

7 “(1) LIMITATION.—No remuneration on ac-  
8 count of services rendered on behalf of any claimant,  
9 in connection with any claim filed with the Commis-  
10 sion under this title, may exceed 10 percent of the  
11 total amount paid pursuant to an award certified  
12 under the provisions of this title on account of such  
13 claim.

14 “(2) NOTIFICATION OF AGREEMENTS.—Any  
15 agreement contrary to the limitation set forth in  
16 paragraph (1) shall be unlawful and void.

17 “(b) PENALTY FOR VIOLATION.—Whoever, in the  
18 United States or elsewhere, demands or receives, on ac-  
19 count of services rendered to which paragraph (1) applies,  
20 any remuneration in excess of the maximum permitted by  
21 subsection (a), shall be fined not more than \$5,000, or  
22 imprisoned not more than 12 months, or both.

23 **“SEC. 813. APPLICATION OF OTHER PROVISIONS.**

24 “(a) IN GENERAL.—

1           “(1) PROVISIONS.—To the extent they are not  
2           inconsistent with the provisions of this title, the fol-  
3           lowing provisions of title I of this Act shall apply to  
4           this title:

5                   “(A) Subsections (b), (c), (d), (e), and (h)  
6                   of section 4.

7                   “(B) Subsections (c), (d), (e), and (f) of  
8                   section 7.

9           “(2) REFERENCE.—Any reference to ‘this title’  
10          in the provisions described in subparagraph (A) or  
11          (B) of paragraph (1) shall be deemed to be a ref-  
12          erence to such provisions and to this title.

13          “(b) APPLICABILITY OF ADMINISTRATIVE PROCE-  
14          DURE.—Except as otherwise provided in this title and in  
15          the provisions of title I referred to in subparagraph (A)  
16          or (B) of subsection (a)(1), the Commission shall comply  
17          with the provisions of subchapter II of chapter 5, and the  
18          provisions of chapter 7 of title 5, United States Code.

19          **“SEC. 814. SEPARABILITY.**

20                 “If any provision of this title or the application there-  
21                 of to any person or circumstance is held invalid, the re-  
22                 mainder of this title or the application of such provision  
23                 to other persons or circumstances shall not be affected.

1 **“SEC. 815. AUTHORIZATION OF APPROPRIATIONS.**

2       “(a) IN GENERAL.—There are authorized to be ap-  
3 propriated for any fiscal year beginning on or after Octo-  
4 ber 1, 2005, such sums as may be necessary to enable  
5 the Commission and the Secretary of the Treasury to pay  
6 their respective administrative expenses incurred in car-  
7 rying out their functions under this title.

8       “(b) AVAILABILITY OF FUNDS.—Amounts appro-  
9 priated pursuant to the authorization of appropriations in  
10 subsection (a) may remain available until expended.”.

11 **SEC. 3. JURISDICTION OF U.S. DISTRICT COURTS.**

12       (a) IN GENERAL.—Chapter 85 of title 28, United  
13 States Code, is amended by adding at the end the fol-  
14 lowing new section:

15 **“§ 1370. Civil actions against private persons by na-**  
16 **tionals of the United States who own real**  
17 **property in Cyprus**

18       “(a) JURISDICTION.—

19               “(1) IN GENERAL.—The district courts shall  
20 have original jurisdiction of any covered civil action  
21 brought by a national of the United States—

22                       “(A) who holds title to any property under  
23 the laws of Cyprus that is located in that por-  
24 tion of the territory of Cyprus that is occupied  
25 by Turkey as the result of the invasion of Cy-  
26 prus by Turkey on July 20, 1974; and

1           “(B) who has been excluded from the  
2           property by reason of such occupation.

3           “(2) RECOVERY.—In a covered civil action, a  
4           national of the United States may recover the fair  
5           rental value of the property that is the subject of  
6           such action during the period of use, or occupation  
7           of, or benefit from, such property.

8           “(b) SPECIAL RULES.—In any covered civil action  
9           brought under this section—

10           “(1) process shall be deemed served if service is  
11           accomplished in any manner provided under this  
12           title;

13           “(2) the district court shall not consider the  
14           doctrine of forum non conveniens and shall refuse to  
15           hear any motion or request by any person or party  
16           that the covered civil action be dismissed on the  
17           grounds of forum non conveniens;

18           “(3) in determining whether the person or  
19           party asserting the covered civil action has lawful  
20           title, the district court shall apply only the laws of  
21           Cyprus;

22           “(4) in determining the amount of any award  
23           in the covered civil action, the district court shall  
24           consider only evidence of the fair rental market  
25           value of the property for the period of occupation,

1 use, or benefit by the person against whom the ac-  
2 tion is brought, as that value would have been cal-  
3 culated in Cyprus if the plaintiff had not been ex-  
4 cluded from the property; and

5 “(5) the district court shall deduct the amount  
6 of any award paid to the plaintiff under title VIII  
7 of the International Claims Settlement Act of 1949,  
8 or the amount of any judgment for the plaintiff  
9 under section 5 of the American-Owned Property in  
10 Occupied Cyprus Claims Act on account of the same  
11 use, occupation, or benefit that is the basis of the  
12 covered civil action under this section.

13 “(c) LIMITATION OF ACTION.—Any covered civil ac-  
14 tion against a private person under this section may not  
15 be brought later than 36 months after the last day of the  
16 month in which the private person ceases to use, occupy,  
17 or benefit from the property. This subsection applies in  
18 lieu of section 1658 of this title.

19 “(d) DEFINITIONS.—As used in this section—

20 “(1) the term ‘covered civil action’ means a civil  
21 action against any private person who for any pur-  
22 pose and in any way uses, occupies, or benefits from  
23 property described in subsection (a)(1)(A) at any  
24 time during the period of the exclusion described in  
25 subsection (a)(1)(B);

1           “(2) the term ‘Cyprus’ means the Republic of  
2           Cyprus;

3           “(3) the term ‘national of the United States’  
4           means—

5                   “(A) a natural person who is a citizen of  
6                   the United States; and

7                   “(B) a corporation or other legal entity  
8                   which is organized under the laws of the United  
9                   States or of any State, the District of Colum-  
10                  bia, or the Commonwealth of Puerto Rico, if  
11                  natural persons who are citizens of the United  
12                  States own, directly or indirectly, 50 percent or  
13                  more of the outstanding capital stock or other  
14                  beneficial interest of such corporation or entity;

15           “(4) the term ‘private person’ means any nat-  
16           ural person or legal entity other than Turkey;

17           “(5) the term ‘property’ means any real prop-  
18           erty or any right or interest in any real property, in-  
19           cluding any lease to which a national of the United  
20           States holds title under the laws of Cyprus; and

21           “(6) the term ‘Turkey’ means—

22                   “(A) the Republic of Turkey;

23                   “(B) any agent of the Government of Tur-  
24                   key, or any unincorporated association that  
25                   purports to discharge any function of a nation-

1 state under the auspices of the Government of  
 2 Turkey, including the unincorporated associa-  
 3 tion known as the ‘Turkish Republic of North-  
 4 ern Cyprus’;

5 “(C) any political subdivision, agency, or  
 6 instrumentality of the Republic of Turkey, in-  
 7 cluding the Turkish Armed Forces; and

8 “(D) any organization that purports to be  
 9 a political subdivision, agency, or instrumen-  
 10 tality of the unincorporated association known  
 11 as the ‘Turkish Republic of Northern Cyprus’.”.

12 (b) CONFORMING AMENDMENT.—The table of sec-  
 13 tions for chapter 85 of title 28, United States Code, is  
 14 amended by adding at the end the following new item:

“1370. Civil actions against private persons by nationals of the United States  
 who own real property in Cyprus.”.

15 **SEC. 4. VENUE.**

16 (a) IN GENERAL.—Chapter 87 of title 28, United  
 17 States Code, is amended by adding at the end the fol-  
 18 lowing new section:

19 **“§ 1414. Venue for civil actions against private per-**  
 20 **sons brought by nationals of the United**  
 21 **States who own real property in Cyprus**

22 “A covered civil action under section 1370 may be  
 23 brought only in the United States District Court for the

1 District of Columbia and the United States District Court  
2 for the Southern District of New York.”.

3 (b) CONFORMING AMENDMENT.—The table of sec-  
4 tions for chapter 87 of title 28, United States Code, is  
5 amended by adding at the end the following new item:

“1414. Venue for civil actions against private persons brought by nationals of  
the United States who own real property in Cyprus.”.

6 **SEC. 5. ACTION AGAINST THE TURKISH GOVERNMENT.**

7 (a) JURISDICTION OF U.S. COURTS.—The Govern-  
8 ment of Turkey shall not be immune from the jurisdiction  
9 of the courts of the United States or of the States in any  
10 case in which—

11 (1) rights in property of a national of the  
12 United States that is occupied by the Government of  
13 Turkey in violation of international law are in issue;  
14 and

15 (2) that property or any property exchanged for  
16 such property—

17 (A) is present in the United States in con-  
18 nection with a commercial activity carried on by  
19 the Government of Turkey in the United  
20 States; or

21 (B) is owned or operated by an agency or  
22 instrumentality of the Government of Turkey  
23 and that agency or instrumentality—

1 (i) is engaged in a commercial activity  
2 in the United States; or

3 (ii) purchases or otherwise acquires  
4 any good or service for which the approval,  
5 authorization, or consent of the United  
6 States is required by law, by the President,  
7 or by any department, agency, or instru-  
8 mentality of the United States Govern-  
9 ment.

10 (b) APPLICABILITY OF AND RELATIONSHIP TO FOR-  
11 EIGN SOVEREIGN IMMUNITIES ACT.—

12 (1) APPLICABILITY.—The provisions of chapter  
13 97 of title 28, United States Code, apply to a civil  
14 action brought under subsection (a) as if the action  
15 were brought under such chapter.

16 (2) ASSERTION OF INDEPENDENT JURISDIC-  
17 TION.—The jurisdiction conferred by subsection (a)  
18 is in addition to any jurisdiction conferred by chap-  
19 ter 97 of title 28, United States Code.

20 (c) DEDUCTIONS OF OTHER AWARDS.—In any action  
21 brought under subsection (a), the court shall deduct from  
22 the amount of any judgment the amount of any award  
23 paid to the plaintiff under title VIII of the International  
24 Claims Settlement Act of 1949, or the amount of any  
25 judgment for the plaintiff under section 1370 of title 28,

1 United States Code, on account of the same subject mat-  
2 ter that is the basis of the action under this section.

3 (d) DEFINITIONS.—In this section—

4 (1) the term “Government of Turkey” includes  
5 all the entities described in subparagraphs (B), (C),  
6 and (D) of section 802(7) of the International  
7 Claims Settlement Act of 1949;

8 (2) the term “agency or instrumentality of the  
9 Government of Turkey” means any of the entities  
10 described in subparagraphs (B), (C), and (D) of sec-  
11 tion 802(7) of the International Claims Settlement  
12 Act of 1949;

13 (3) the term “court of the United States” has  
14 the meaning given that term in section 451 of title  
15 28, United States Code;

16 (4) the terms “national of the United States”  
17 and “property” have the meanings given those terms  
18 in section 802 of the International Claims Settle-  
19 ment Act of 1949; and

20 (5) the term “State” means each of the several  
21 States, the District of Columbia, and any common-  
22 wealth territory, or possession of the United States.

1 **SEC. 6. EFFECTIVE DATE.**

2       This Act and the amendments made by this Act shall  
3 take effect on the date of the enactment of this Act.

○