

(c) A claim arising out of an act of an enemy of the United States may not be considered or paid under this section.

(d) A payment under this section shall be made by the Secretary of Defense out of appropriations as provided in section 2732 of this title.

(Added Pub. L. 87-651, title I, §113(a), Sept. 7, 1962, 76 Stat. 512; amended Pub. L. 94-390, §1(2), Aug. 19, 1976, 90 Stat. 1191; Pub. L. 101-510, div. A, title XIV, §1481(j)(4)(C), Nov. 5, 1990, 104 Stat. 1709.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2734b(a) ...	31:224i-3.	Aug. 31, 1954, ch. 1152, §1
2734b(b) ...	31:224i-4.	(proviso, less applicability to §1), 2, 3, 4
2734b(c) ...	31:224i-2 (proviso, less applicability to 31:224i-2). 31:224i-5 (less applicability to 31:224i-2).	(less applicability to §1), 68 Stat. 1006, 1007.
2734b(d) ...		

In subsection (a), the following omissions as surplusage are made: “the terms of” and “now or may hereafter be”. The following substitutions are made: “country” for “government”; “in the United States, or a Territory, Commonwealth, or possession” for “within the territory of the United States”; “under” for “in accordance with”; “upon which they are based were the acts or omissions of” for “were performed”.

In subsection (b), the following substitutions are made: “under this section” for “asserted under section 224i-3 of this title”; “the dispute” for “such disputed question or questions”; “under” for “in accordance with the terms of”; and the last sentence for the last sentence of 31:224i-4. The following omissions as surplusage are made: “of a civilian employee or military personnel of a foreign country” and “of the armed forces for such party”.

In subsection (c), the word “act” is substituted for the word “action”.

In subsection (d), the words “under this section” are substituted for the words “by the United States with respect to a settlement, award, or compromise made pursuant to section 224i-2 to 224i-5 of this title”. The words “which appropriations are authorized” are omitted as unnecessary.

#### AMENDMENTS

1990—Subsec. (d). Pub. L. 101-510 substituted “as provided in section 2732 of this title” for “for that purpose”.

1976—Subsec. (a). Pub. L. 94-390 substituted provisions authorizing claims, for which another armed force is legally responsible under applicable United States law, to be prosecuted against the United States or settled by the United States in accordance with an international agreement providing for the settlement or adjudication by the United States under its laws and regulations as if the acts or omissions upon which the claims are based were of a member or a civilian employee of an armed force of the United States, for provisions authorizing claims to be prosecuted against the United States or settled by the United States by adjudication by the United States under its laws and regulations as if the acts or omissions upon which the claims are based were the acts or omissions in the performance of official duty of a civilian employee or a member of an armed force.

#### § 2735. Settlement: final and conclusive

Notwithstanding any other provision of law, the settlement of a claim under section 2733, 2734, 2734a, 2734b, or 2737 of this title is final and conclusive.

(Aug. 10, 1956, ch. 1041, 70A Stat. 155; Pub. L. 88-558, §5(1), Aug. 31, 1964, 78 Stat. 768; Pub. L. 92-413, Aug. 29, 1972, 86 Stat. 649.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2735 .....	31:222c (1st sentence of (e)). 31:223b (4th sentence). 31:224d (last proviso).	May 29, 1945, ch. 135, §1 (e) (1st sentence); restated July 3, 1952, ch. 548, §1 (1st sentence of last par.), 66 Stat. 323. July 3, 1943, ch. 189, §1 (4th sentence), 57 Stat. 373. Jan. 2, 1942, ch. 645, §1 (last proviso); restated Apr. 22, 1943, ch. 67, §1 (last proviso), 57 Stat. 67.

The words “for all purposes” and “to the contrary”, in each source credit; “by the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of Defense, or their designees” and “such regulations as they, respectively, may prescribe hereunder”, in 31:222c(e); “by the Secretary of the Army, or his designee” and “such regulations as he may prescribe hereunder”, in 31:223b; and “by such Commissions”, in 31:224d; are omitted as surplusage.

#### AMENDMENTS

1972—Pub. L. 92-413 inserted reference to sections 2734a, 2734b, and 2737 of this title.

1964—Pub. L. 88-558 struck out reference to section 2732.

#### EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-558, §5, Aug. 31, 1964, 78 Stat. 768, provided that the amendment made by that section is effective two years from Aug. 31, 1964.

#### REPEALS

The directory language of, but not the amendment made by, Pub. L. 88-558, Aug. 31, 1964, 78 Stat. 767, cited as a credit to this section and in the Effective Date of 1964 Amendment note above, was repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068.

#### § 2736. Property loss; personal injury or death: advance payment

(a)(1) In the case of a person who is injured or killed, or whose property is damaged or lost, under circumstances for which the Secretary of a military department is authorized by law to allow a claim, the Secretary of the military department concerned may make a payment to or for the person, or the legal representatives of the person, in advance of the submission of such a claim or, if such a claim is submitted, in advance of the final settlement of the claim. The amount of such a payment may not exceed \$100,000.

(2) Payments under this subsection are limited to payments which would otherwise be payable under section 2733 or 2734 of this title or section 715 of title 32.

(3) The Secretary of a military department may delegate the authority to make payments under this subsection to the Judge Advocate General of an armed force under the jurisdiction of the Secretary. The Secretary may delegate such authority to any other officer or employee under the jurisdiction of the Secretary, but only with respect to the payment of amounts of \$25,000 or less.

(4) Payments under this subsection shall be made under regulations prescribed by the Secretary of the military department concerned.

(b) Any amount paid under subsection (a) shall be deducted from any amount that may be al-

lowed under any other provision of law to the person, or his legal representative, for injury, death, damage, or loss attributable to the accident concerned.

(c) So far as practicable, regulations prescribed under this section shall be uniform for the military departments.

(d) Payment of an amount under subsection (a) is not an admission by the United States of liability for the accident concerned.

(Added Pub. L. 87-212, §1(1), Sept. 8, 1961, 75 Stat. 488; amended Pub. L. 90-521, §2, Sept. 26, 1968, 82 Stat. 874; Pub. L. 98-564, §3, Oct. 30, 1984, 98 Stat. 2919; Pub. L. 100-456, div. A, title VII, §735(a), Sept. 29, 1988, 102 Stat. 2005.)

#### AMENDMENTS

1988—Subsec. (a). Pub. L. 100-456 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Under such regulations as the Secretary of a military department may prescribe, payment of an amount not in excess of \$10,000 may be made in advance of the submission of a claim to or for any person, or his legal representatives, who was injured or killed, or whose property was damaged or lost, under circumstances for which allowance of a claim is authorized by law. Payments under this subsection are limited to those which would otherwise be payable under section 2733 or 2734 of this title or section 715 of title 32.”

1984—Subsec. (a). Pub. L. 98-564 substituted “\$10,000” for “\$1,000”.

1968—Pub. L. 90-521 substituted “advance payment” for “incident to aircraft or missile operation” in section catchline.

Subsec. (a). Pub. L. 90-521 substituted “under circumstances” for “as the result of an accident involving an aircraft or missile under the control of that department”.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-456, div. A, title VII, §735(b), Sept. 29, 1988, 102 Stat. 2006, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any claim which would otherwise be payable under section 2733 or 2734 of title 10, United States Code, or under section 715 of title 32, United States Code, and which has not been finally settled on or before the date of the enactment of this Act [Sept. 29, 1988].”

#### § 2737. Property loss; personal injury or death: incident to use of property of the United States and not cognizable under other law

(a) Under such regulations as the Secretary concerned may prescribe, he or his designee may settle and pay, in an amount not more than \$1,000, a claim against the United States, not cognizable under any other provision of law, for—

- (1) damage to, or loss of, property; or
- (2) personal injury or death;

caused by a civilian official or employee of a military department or the Coast Guard, or a member of the armed forces, incident to the use of a vehicle of the United States at any place, or any other property of the United States on a Government installation.

(b) 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 with respect to a claim, not cognizable under any other provision of law, for—

- (1) damage to, or loss of, property; or

- (2) personal injury or death;

caused by a civilian official or employee of the Department of Defense not covered by subsection (a), incident to the use of a vehicle of the United States at any place, or any other property of the United States on a Government installation.

(c) A claim may not be allowed under subsection (a) or (b) if the damage to, or loss of, property, or the personal injury or death was caused wholly or partly by a negligent or wrongful act of the claimant, his agent, or his employee.

(d) A claim for personal injury or death under this section may not be allowed for more than the cost of reasonable medical, hospital, and burial expenses actually incurred, and not otherwise furnished or paid by the United States.

(e) No claim may be allowed under this section unless it is presented in writing within two years after it accrues.

(f) A claim may not be paid under subsection (a) or (b) unless the amount tendered is accepted by the claimant in full satisfaction.

(g) No claim or any part thereof, the amount of which is legally recoverable by the claimant under an indemnifying law or indemnity contract, may be paid under this section. No subrogated claim may be paid under this section.

(h) So far as practicable, regulations prescribed under this section shall be uniform. Regulations prescribed under this section by the Secretaries of the military departments must be approved by the Secretary of Defense.

(Added Pub. L. 87-769, §1(1)(A), Oct. 9, 1962, 76 Stat. 767, §2736; renumbered §2737, Pub. L. 89-718, §21(a), Nov. 2, 1966, 80 Stat. 1118.)

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### § 2738. Property loss: reimbursement of members for certain losses of household effects caused by hostile action

(a) **AUTHORITY TO REIMBURSE.**—The Secretary concerned may reimburse a member of the armed forces in an amount not more than \$100,000 for a loss described in subsection (b).

(b) **COVERED LOSSES.**—This section applies with respect to a loss of household effects sustained during a move made incident to a change of permanent station when, as determined by the Secretary, the loss was caused by a hostile action incident to war or a warlike action by a military force.

(c) **LIMITATION.**—The Secretary may provide reimbursement under this section for a loss described in subsection (b) only to the extent that the loss is not reimbursed under insurance or under the authority of another provision of law.

(d) **APPLICABILITY OF OTHER AUTHORITIES AND REQUIREMENTS.**—Subsections (b), (d), (e), (f), and