

AMENDMENT TO H.R. 5687
OFFERED BY MISS GONZÁLEZ-COLÓN OF PUERTO
RICO

Page 48, after line 22 , insert the following (and re-designate succeeding divisions and conform the table of contents accordingly):

1 **DIVISION C—VIEQUES RECOV-**
2 **ERY AND REDEVELOPMENT**
3 **ACT OF 2020**

4 **SEC. 1. SHORT TITLE.**

5 This division may be cited as the “Vieques Recovery
6 and Redevelopment Act of 2020”.

7 **SEC. 2. FINDINGS.**

8 The Congress find the following:

9 (1) Vieques is an island municipality of Puerto
10 Rico, measuring approximately 21 miles long by 4
11 miles wide, and located approximately 8 miles east
12 of the main island of Puerto Rico.

13 (2) Prior to Hurricane Maria, residents of
14 Vieques were served by an urgent medical care facil-
15 ity, the Susana Centeno Family Health Center, and
16 residents had to travel off-island to obtain medical
17 services, including most types of emergency care be-

1 cause the facility did not have the basic use of x-ray
2 machines, CT machines, EKG machines,
3 ultrasounds, or PET scans.

4 (3) The predominant means of transporting
5 passengers and goods between Vieques and the main
6 island of Puerto Rico is by ferry boat service, and
7 over the years, the efficiency of this service has fre-
8 quently been disrupted, unreliable, and difficult for
9 cancer patients, and patients experiencing other se-
10 vere conditions, to endure to receive treatment.

11 (4) The United States Military maintained a
12 presence on the eastern and western portions of
13 Vieques for close to 60 years, and used parts of the
14 island as a training range during those years, drop-
15 ping over 80 million tons of ordnance and other
16 weaponry available to the United States military
17 since World War II.

18 (5) The unintended, unknown, and unavoidable
19 consequences of these exercises were to expose resi-
20 dents to the residue of that weaponry which includes
21 heavy metals and many other chemicals now known
22 to harm human health.

23 (6) There has repeatedly been brought up by
24 residents and independent organizations that the is-
25 land of Vieques has high levels of heavy metals and

1 toxic chemicals. Since the military activity in
2 Vieques, island residents have suffered from many
3 health impacts that have been attributed to exposure
4 to environmental contamination have been claimed
5 to experience higher rates of certain diseases among
6 residents, including cancer, cirrhosis, hypertension,
7 diabetes, heavy metal diseases, along with many
8 unnamed and uncategorized illnesses. These toxic
9 residues may be one of the factors that have caused
10 the American residents of Vieques to develop ill-
11 nesses due to ongoing exposure.

12 (7) In 2017, Vieques was hit by Hurricane
13 Maria, an unusually destructive storm that dev-
14 astated Puerto Rico and intensified the existing hu-
15 manitarian crisis on the island by destroying existing
16 medical facilities.

17 (8) The medical systems in place prior to Hur-
18 ricane Maria were unable to properly handle the
19 health needs of Vieques residents.

20 (9) After Maria, the medical facility was closed
21 due to damage and continues to be unable to per-
22 form even the few basic services that it did provide.
23 Vieques needs a medical facility that can treat and
24 address the critical and urgent need to get life-sav-
25 ing medical services to its residents.

1 (10) Every American has benefitted from the
2 sacrifices of those Americans who have lived and are
3 living on Vieques and it is our intent to acknowledge
4 that sacrifice and to treat those Americans with the
5 same respect and appreciation that other Americans
6 enjoy.

7 (11) In 2012, the residents of Vieques were de-
8 nied the ability to address their needs in Court due
9 to sovereign immunity, *Sánchez v. United States*,
10 No. 3:09-cv-01260-DRD (D.P.R.).

11 **SEC. 3. SETTLEMENT OF CLAIMS AGAINST THE UNITED**
12 **STATES FOR CERTAIN RESIDENTS OF THE IS-**
13 **LAND OF VIEQUES, PUERTO RICO.**

14 (a) IN GENERAL.—An individual claimant who files
15 a claim for compensation under this section with the Spe-
16 cial Master, appointed pursuant to subsection (c), shall be
17 awarded monetary compensation as described in sub-
18 section (b) if—

19 (1) the Special Master determines that the
20 claimant is or was a resident, or the child of a resi-
21 dent, or immediate family member of a deceased in-
22 dividual claimant on the island of Vieques, Puerto
23 Rico, during or after the United States Government
24 used the island of Vieques, Puerto Rico, for military
25 readiness;

1 (2) the claimant previously filed a lawsuit or an
2 administrative claim, or files a claim not later than
3 120 days after the date of the enactment of this Act
4 against the United States Government for personal
5 injury, including illness or death arising from use by
6 the Unites States Government of the island of
7 Vieques for military readiness; and

8 (3) the claimant submits to the Special Master
9 written medical documentation that indicates the
10 claimant contracted a chronic, life threatening, or
11 physical or mental disease or illness, including can-
12 cer, hypertension, cirrhosis, kidney disease, diabetes,
13 or a heavy metal poisoning, during or after the
14 United States Government used the island of
15 Vieques, Puerto Rico, for military readiness.

16 (b) AMOUNTS OF AWARD.—

17 (1) IN GENERAL.—A claimant who meets the
18 requirements of subsection (a) shall be awarded
19 compensation as follows:

20 (A) \$10,000 for exposure in the case of a
21 claimant who provides proof—

22 (i) of a previously filed lawsuit or ad-
23 ministrative claim and 5 years of residency
24 on the island of Vieques, Puerto Rico dur-

1 ing or immediately after the time of oper-
2 ation of the Vieques range; or

3 (ii) that the claimant is the child of a
4 resident of Vieques, Puerto Rico if the par-
5 ent meets the 5 year residency require-
6 ment.

7 (B) \$50,000 for 1 disease described in sub-
8 section (a)(3).

9 (C) \$80,000 for 2 diseases described in
10 subsection (a)(3).

11 (D) \$110,000 for 3 or more diseases de-
12 scribed in subsection (a)(3).

13 (2) INCREASE IN AWARD.—In the case that an
14 individual receiving an award under paragraph (1)
15 of this subsection contracts another disease under
16 subsection (1)(3) and files a new claim with the Spe-
17 cial Master for an additional award not later than
18 10 years after the date of the enactment of this Act,
19 the Special Master may award the individual an
20 amount that is equal to the difference between—

21 (A) the amount that the individual would
22 have been eligible to receive had the disease
23 been contracted before the individual filed an
24 initial claim under subsection (a); and

1 (B) the amount received by the individual
2 pursuant to paragraph (1).

3 (3) DECEASED CLAIMANTS.—A deceased claim-
4 ant who filed a claim or whose immediate family
5 member filed a claim after the claimant's death is el-
6 igible to—

7 (A) receive compensation in accordance
8 with paragraph (1); or

9 (B) receive compensation based on the age
10 of the deceased as follows:

11 (i) \$110,000 if the claimant died be-
12 fore 20 years old.

13 (ii) \$80,000 if claimant died before 40
14 years old.

15 (iii) \$50,000 if claimant died before
16 60 years old.

17 (4) DECEASED INDIVIDUALS.—In the case of
18 an individual who was deceased at the time of the
19 initial claim or who has died before receiving pay-
20 ment under this section, such payment shall be made
21 to the heirs as determined by Puerto Rican law.

22 (c) APPOINTMENT OF SPECIAL MASTER.—

23 (1) IN GENERAL.—The Attorney General shall
24 appoint a Special Master not later than 90 days

1 after the date of the enactment of this Act to con-
2 sider claims by individuals and the Municipality.

3 (2) QUALIFICATIONS.—The Attorney General
4 shall consider the following in choosing the Special
5 Master:

6 (A) The individual’s experience in the proc-
7 essing of victims’ claims in relation to govern-
8 ment activities.

9 (B) The individual’s demonstrated abilities
10 in investigation and fact findings in complex
11 factual matters.

12 (C) Any experience the individual has had
13 advising the United States Government.

14 (d) AWARD AMOUNTS RELATED TO CLAIMS BY THE
15 MUNICIPALITY OF VIEQUES.—

16 (1) AWARD.—The Special Master, in exchange
17 for its Administrative Claims, shall provide the fol-
18 lowing as compensation to the Municipality of
19 Vieques:

20 (A) STAFF.—The Special Master shall pro-
21 vide medical staff, and other resources nec-
22 essary to build and operate a level three trauma
23 center (in this section, referred to as “medical
24 facility”) with cancer center and renal dialysis
25 unit and its equipment. The medical facility

1 shall be able to treat life threatening, chronic,
2 heavy metal, and physical and mental diseases.
3 The medical facility shall be able to provide
4 basic x-ray, EKG, internal medicine expertise,
5 medical coordination personnel and case man-
6 agers, ultrasound, and resources necessary to
7 screen residents for cancer and the other pre-
8 vailing health problems.

9 (B) OPERATIONS.—The Special Master
10 shall fund the operations of the medical facility
11 to provide medical care for pediatric and adult
12 patients who reside on the island of Vieques, al-
13 lowing the patients to be referred for tertiary
14 and quaternary health care facilities when nec-
15 essary, and providing the transportation and
16 medical costs when traveling off the island of
17 Vieques, until such time as medical testing es-
18 tablishes that the disease levels are reduced to
19 the average in the United States.

20 (C) INTERIM SERVICES.—Before the hos-
21 pital on the island of Vieques is operational, the
22 Special Master shall provide—

23 (i) urgent healthcare air transport to
24 and from hospitals on the mainland of

1 Puerto Rico and island of Vieques for resi-
2 dents;

3 (ii) medical coordination personnel
4 and case managers;

5 (iii) telemedicine communication abili-
6 ties; and

7 (iv) any other services that are nec-
8 essary to alleviate the health crisis on the
9 island of Vieques.

10 (D) SCREENING.—The Special Master
11 shall make available, at no cost to the patient,
12 medical screening for cancer, cirrhosis, diabetes,
13 and heavy metal contamination on the island of
14 Vieques.

15 (E) PROCUREMENT.—The Special Master
16 shall provide amounts necessary to compensate
17 the Municipality of Vieques for—

18 (i) contractual procurement obliga-
19 tions and additional expenses incurred by
20 the Municipality as a result of the enact-
21 ment of this section and settlement of its
22 claim; and

23 (ii) any other damages and costs to be
24 incurred by the Municipality, if the Special

1 Master determines that it is necessary to
2 carry out the purpose of this section.

3 (F) CONSULTING FIRMS.—The Special
4 Master shall provide amounts necessary for the
5 Special Master to contract with consulting
6 firms for technical advice on any aspect of his/
7 her duties.

8 (G) ENERGY GRID.—The Special Master
9 shall assist the territorial and local authorities
10 in determining the best strategy for ensuring a
11 reliable power source and transmission and dis-
12 tribution grid on Vieques, which is hurricane
13 resilient and can effectively sustain the needs of
14 Vieques and shall authorize such construction
15 as an award to the Municipality.

16 (2) SOURCE.—Amounts awarded under this di-
17 vision shall be made from amounts appropriated
18 under section 1304 of title 31, United States Code,
19 commonly known as the “Judgment Fund”, as if
20 claims were adjudicated by a United States District
21 Court under section 1346(b) of title 28, United
22 States Code.

23 (3) DETERMINATION AND PAYMENT OF
24 CLAIMS.—

1 (A) ESTABLISHMENT OF FILING PROCE-
2 DURES.—The Attorney General shall establish
3 procedures whereby individuals and the Municipi-
4 pality may submit claims for payments under
5 this section to the Special Master.

6 (B) DETERMINATION OF CLAIMS.—The
7 Special Master shall, in accordance with this
8 subsection, determine whether each claim meets
9 the requirements of this section. Vieques claims
10 already disposed of by a court under chapter
11 171 of title 28, United States Code, shall be
12 treated as if they are currently filed.

13 (e) ACTION ON CLAIMS.—The Special Master shall
14 make a determination on any claim filed under the proce-
15 dures established under this section not later than 150
16 days after the date on which the claim is filed.

17 (f) PAYMENT IN FULL SETTLEMENT OF CLAIMS BY
18 INDIVIDUALS AND THE MUNICIPALITY OF VIEQUES
19 AGAINST THE UNITED STATES.—The acceptance by an
20 individual or the Municipality of Vieques a payment of an
21 award under this section shall—

22 (1) be final and conclusive;

23 (2) be deemed to be in full satisfaction of all
24 claims under chapter 171 of title 28, United States
25 Code; and

1 (3) constitute a complete release by the indi-
2 vidual or Municipality of such claim against the
3 United States and against any employee of the
4 United States acting in the scope of employment
5 who is involved in the matter giving rise to the
6 claim.

7 (g) CERTIFICATION OF TREATMENT OF PAYMENTS
8 UNDER OTHER LAWS.—Amounts paid to an individual
9 under this section

10 (1) shall be treated for purposes of the laws of
11 the United States as damages for human suffering;
12 and

13 (2) may not be included as income or resources
14 for purposes of determining eligibility to receive ben-
15 efits described in section 3803(c)(2)(C) of title 31,
16 United States Code, or the amount of such benefits.

