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Editorial Notes

AMENDMENTS

1996—Pub. L. 104–316, title II, §202(n)(2), Oct. 19, 1996, 110 Stat. 3844, substituted ''Authority to settle claims'' for ''Authority of the Comptroller General to settle claims'' in item 3702.

Pub. L. 104–134, title III, §31001(j)(2), (*o*)(2), (r)(2), (t)(2), Apr. 26, 1996, 110 Stat. 1321–365, 1321–371, 1321–373, 1321–375, added items 3720B to 3720E.

1989—Pub. L. 101–203, §1(b)(2), Dec. 7, 1989, 103 Stat. 1805, substituted ''investigative or law enforcement officers of the Department of Justice'' for ''the Federal Bureau of Investigation'' in item 3724.

1986—Pub. L. 99–562, §6(b), Oct. 27, 1986, 100 Stat. 3168, added items 3732 and 3733.

1984—Pub. L. 98–369, div. B, title VI, §§2652(a)(2), 2653(a)(2), July 18, 1984, 98 Stat. 1152, 1154, added items 3720 and 3720A.

1983—Pub. L. 97–452, §1(13)(B), (16)(B), Jan. 12, 1983, 96 Stat. 2470, 2474, inserted ''and application'' in item 3701 and added items 3716–3719.

SUBCHAPTER I—GENERAL

§ 3701. Definitions and application

(a) In this chapter—

(1) ''administrative offset'' means withholding funds payable by the United States (including funds payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.

(2) ''calendar quarter'' means a 3-month period beginning on January 1, April 1, July 1, or October 1.

(3) ''consumer reporting agency'' means—

(A) a consumer reporting agency as that term is defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)); or

(B) a person that, for money or on a cooperative basis, regularly—

(i) gets information on consumers to give the information to a consumer reporting agency; or

(ii) serves as a marketing agent under an arrangement allowing a third party to get the information from a consumer reporting agency.

(4) ''executive, judicial, or legislative agency'' means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of Government, including government corporations.

(5) ''military department'' means the Departments of the Army, Navy, and Air Force.

(6) ''system of records'' has the same meaning given that term in section 552a(a)(5) of title 5.

(7) ''uniformed services'' means the Army, Navy, Air Force, Marine Corps, Space Force, Coast Guard, Commissioned Corps of the National Oceanic and Atmospheric Administration, and Commissioned Corps of the Public Health Service.

(8) ''nontax'' means, with respect to any debt or claim, any debt or claim other than a debt or claim under the Internal Revenue Code of 1986.

(b)(1) In subchapter II of this chapter and subsection (a)(8) of this section, the term ''claim'' or ''debt'' means any amount of funds or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization, or entity other than another Federal agency. A claim includes, without limitation—

(A) funds owed on account of loans made, insured, or guaranteed by the Government, including any deficiency or any difference between the price obtained by the Government in the sale of a property and the amount owed to the Government on a mortgage on the property,

(B) expenditures of nonappropriated funds, including actual and administrative costs related to shoplifting, theft detection, and theft prevention,

(C) over-payments, including payments disallowed by audits performed by the Inspector General of the agency administering the program,

(D) any amount the United States is authorized by statute to collect for the benefit of any person,

(E) the unpaid share of any non-Federal partner in a program involving a Federal pay-

ment and a matching, or cost-sharing, payment by the non-Federal partner,

(F) any fines or penalties assessed by an agency;[1] and

(G) other amounts of money or property owed to the Government.

(2) For purposes of section 3716 of this title, each of the terms ''claim'' and ''debt'' includes an amount of funds or property owed by a person to a State (including any past-due support being enforced by the State), the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico.

(c) In sections 3716 and 3717 of this title, the term ''person'' does not include an agency of the United States Government.

(d) Sections 3711(e) and 3716–3719 of this title do not apply to a claim or debt under, or to an amount payable under—

(1) the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.),

(2) the Social Security Act (42 U.S.C. 301 et seq.), except to the extent provided under sections 204(f) and 1631(b)(4) of such Act and section 3716(c) of this title, or

(3) the tariff laws of the United States.

(e) In section 3716 of this title—

(1) ''creditor agency'' means any agency owed a claim that seeks to collect that claim through administrative offset; and

(2) ''payment certifying agency'' means any agency that has transmitted a voucher to a disbursing official for disbursement.

(f) In section 3711 of this title, ''private collection contractor'' means private debt collectors under contract with an agency to collect a nontax debt or claim owed the United States. The term includes private debt collectors, collection agencies, and commercial attorneys.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 970; Pub. L. 97–452, §1(13)(A), Jan. 12, 1983, 96 Stat. 2469; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103–387, §5(b), Oct. 22, 1994, 108 Stat. 4077; Pub. L. 104–134, title III, §31001(c)(2), (d)(1), (3), (z)(1), Apr. 26, 1996, 110 Stat. 1321–359, 1321–361, 1321–378; Pub. L. 104–316, title I, §115(g)(2)(A), Oct. 19, 1996, 110 Stat. 3835; Pub. L. 106–169, title II, §203(b), Dec. 14, 1999, 113 Stat. 1832; Pub. L. 107–107, div. A, title III, §335, Dec. 28, 2001, 115 Stat. 1060; Pub. L. 116–283, div. A, title IX, §927(d)(1), Jan. 1, 2021, 134 Stat. 3831.)

HISTORICAL AND REVISION NOTES

1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3701(1)	31:951.	July 19, 1966, Pub. L. 89–508, §2, 80 Stat. 308.
3701(2)	31:240(1), (4).	Aug. 31, 1964, Pub. L. 88–558, §2(1), (2), (4), 78 Stat. 767; restated Sept. 15, 1965, Pub. L. 89–185, §3(a), 79 Stat. 789.
3701(3)	31:240(2).	

Clause (1) is substituted for 31:951(a) for consistency. The text of 31:951(b) is omitted as unnecessary because of laws vesting authority in the commission, board, or other group of individuals and for consistency in the revised title and with other titles of the United States Code.

In clause (2), the text of 31:240(1) is omitted as unnecessary because of the restatement.

1983 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3701(a)(1)	31 App.:954(e)(1).	July 19, 1966, Pub. L. 89–508, 80 Stat. 308, §5(e); added Oct. 25, 1982, Pub. L. 97–365, §10(2), 96 Stat. 1755.
3701(a)(2)	31 App.:952(e)(1) (last sentence).	July 19, 1966, Pub. L. 89–508, 80 Stat. 308, §3(e)(1)(last sentence), (8); added Oct. 25, 1982, Pub. L. 97–365, §11, 96 Stat. 1755, 1756.
3701(a)(3)	31 App.:952(d)(4) (A).	July 19, 1966, Pub. L. 89–508, 80 Stat. 308, §3(d)(4); added Oct. 25, 1982, Pub. L. 97–365, §3, 96 Stat. 1750.
3701(a)(4), (5).	31:3701(1), (2).	
3701(a)(6)	31 App.:952(d)(4) (B), (C).	
3701(a)(7)	31:3701(3).	
3701(b)	31 App.:952(g).	July 19, 1966, Pub. L. 89–508, 80 Stat. 308, §3(g); added Oct. 25, 1982, Pub. L. 97–365, §13(b), 96 Stat. 1758.
3701(c)	31 App.:952(e)(8). 31 App.:954(e)(2).	
3701(d)	31 App.:954(note) (related to 31 App.:952(d)–(f), 954, 955).	Oct. 25, 1982, Pub. L. 97–365, §8(e)(related to §§3, 10(2)–12, 13(b)), 96 Stat. 1754.

In subsections (a)(1), (b), and (c), the word ''Government'' is added for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(3)(B), before clause (i), the word ''money'' is substituted for ''monetary fees, dues'' to eliminate unnecessary words. The words ''engages in whole or in part in the practice of'' are omitted as surplus. In clause (i), the words ''credit or other'' and ''(as defined in clause (i) of this subparagraph)'' are omitted as surplus.

In subsection (a)(6), 31 App.:952(d)(4)(C) is omitted as unnecessary.

In subsection (b), the words ''all . . . from fees, duties, leases, rents, royalties, services, sales of real or personal property, overpayments, fines, penalties, damages, interest, taxes, forfeitures, and other sources'' are omitted as surplus.

In subsection (c), the words ''unit of general'' are added for consistency in the revised title.

In subsection (d), the word ''arising'' is omitted as surplus.

Editorial Notes

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsecs. (a)(8) and (d)(1), is classified to Title 26, Internal Revenue Code.

The Social Security Act, referred to in subsec. (d)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. Sections 204(f) and 1631(b)(4) of the Act are classified to sections 404(f) and 1383(b)(4), respectively, of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The tariff laws of the United States, referred to in subsec. (d)(3), are classified generally to Title 19, Customs Duties.

AMENDMENTS

2021—Subsec. (a)(7). Pub. L. 116–283 inserted ''Space Force,'' after ''Marine Corps,''.

2001—Subsec. (b)(1)(B). Pub. L. 107–107 inserted '', including actual and administrative costs related to shoplifting, theft detection, and theft prevention'' before comma at end.

[1] So in original. The semicolon probably should be a comma.

1999—Subsec. (d)(2). Pub. L. 106–169 substituted ''sections 204(f) and 1631(b)(4)'' for ''section 204(f)''.

1996—Subsec. (a)(1). Pub. L. 104–134, §31001(z)(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: '' 'administrative offset' means withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the Government.''

Subsec. (a)(4). Pub. L. 104–134, §31001(c)(2), amended par. (4) generally. Prior to amendment, par. (4) read as follows: '' 'executive or legislative agency' means a department, agency, or instrumentality in the executive or legislative branch of the Government.''

Subsec. (a)(8). Pub. L. 104–134, §31001(d)(3), added par. (8).

Subsec. (b). Pub. L. 104–134, §31001(z)(1)(B), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''In subchapter II of this chapter, 'claim' includes amounts owing on account of loans insured or guaranteed by the Government and other amounts due the Government.''

Subsec. (c). Pub. L. 104–134, §31001(d)(1), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''In sections 3716 and 3717 of this title, 'person' does not include an agency of the United States Government, of a State government, or of a unit of general local government.''

Subsec. (d). Pub. L. 104–316 substituted ''Sections 3711(e)'' for ''Sections 3711(f)'' in introductory provisions.

Pub. L. 104–134, §31001(z)(1)(D), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Sections 3711(f) and 3716–3719 of this title do not apply to a claim or debt under, or to an amount payable under, the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.), the Social Security Act (42 U.S.C. 301 et seq.), except to the extent provided under section 204(f) of such Act (42 U.S.C. 404(f)),, or the tariff laws of the United States.''

Subsecs. (e), (f). Pub. L. 104–134, §31001(z)(1)(C), added subsecs. (e) and (f).

1994—Subsec. (d). Pub. L. 103–387 inserted '', except to the extent provided under section 204(f) of such Act (42 U.S.C. 404(f)),'' after ''the Social Security Act (42 U.S.C. 301 et seq.)''.

1986—Subsec. (d). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

1983—Pub. L. 97–452 designated existing provisions as subsec. (a), added pars. (1), (2), and (3), redesignated former par. (1) as (4) and substituted ''Government'' for ''United States Government'', redesignated former par. (2) as (5), added par. (6), redesignated former par. (3) as (7) and struck out ''the'' before ''Commissioned Corps'' in two places, and added subsecs. (b) to (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–169, title II, §203(d), Dec. 14, 1999, 113 Stat. 1832, provided that: ''The amendments made by this section [amending this section and sections 404 and 1383 of Title 42, The Public Health and Welfare] shall apply to debt outstanding on or after the date of the enactment of this Act [Dec. 14, 1999].''

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–387, §5(c), Oct. 22, 1994, 108 Stat. 4077, as amended by Pub. L. 104–134, title III, §31001(z)(2)(B), Apr. 26, 1996, 110 Stat. 1321–379, provided that: ''The amendments made by this section [amending this section and section 404 of Title 42, The Public Health and Welfare] shall apply to collection activities begun on or after the date of the enactment of this Act [Oct. 22, 1994].''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–134, title III, §31001(a)(1), Apr. 26, 1996, 110 Stat. 1321–358, provided that: ''This section [enacting sections 3720B to 3720E of this title, amending this section, sections 3322, 3325, 3331, 3332, 3343, 3711, 3712, 3716 to 3719, 3720A, and 7701 of this title, section 5514 of Title 5, Government Organization and Employees, sections 6050P, 6103, and 6402 of Title 26, Internal Revenue Code, and sections 404 and 664 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under this section, sections 3322, 3711, 3716, and 3719 of this title, and section 2461 of Title 28, Judiciary and Judicial Procedure, amending provisions set out as notes under this section and section 2461 of Title 28, and repealing provisions set out as notes under section 3718 of this title] may be cited as the 'Debt Collection Improvement Act of 1996'.''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–562, §1, Oct. 27, 1986, 100 Stat. 3153, provided that: ''This Act [enacting sections 3732 and 3733 of this title and amending sections 3729 to 3731 of this title and section 287 of Title 18, Crimes and Criminal Procedure] may be cited as the 'False Claims Amendments Act of 1986'.''

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.

PURPOSES OF 1996 AMENDMENT

Pub. L. 104–134, title III, §31001(b), Apr. 26, 1996, 110 Stat. 1321–358, provided that: ''The purposes of this section [see Short Title of 1996 Amendment note above] are the following:

''(1) To maximize collections of delinquent debts owed to the Government by ensuring quick action to enforce recovery of debts and the use of all appropriate collection tools.

''(2) To minimize the costs of debt collection by consolidating related functions and activities and utilizing interagency teams.

''(3) To reduce losses arising from debt management activities by requiring proper screening of potential borrowers, aggressive monitoring of all accounts, and sharing of information within and among Federal agencies.

''(4) To ensure that the public is fully informed of the Federal Government's debt collection policies and that debtors are cognizant of their financial obligations to repay amounts owed to the Federal Government.

''(5) To ensure that debtors have all appropriate due process rights, including the ability to verify, challenge, and compromise claims, and access to administrative appeals procedures which are both reasonable and protect the interests of the United States.

''(6) To encourage agencies, when appropriate, to sell delinquent debt, particularly debts with underlying collateral.

''(7) To rely on the experience and expertise of private sector professionals to provide debt collection services to Federal agencies.''

UNITED STATES SENATE AS LEGISLATIVE AGENCY; REGULATIONS PROMULGATED BY SECRETARY OF SENATE

Pub. L. 101–163, title I, §11, Nov. 21, 1989, 103 Stat. 1046, provided that:

''(a) For purposes of subchapters I and II of chapter 37 of title 31, United States Code (relating to claims of or against the United States Government), the United States Senate shall be considered to be a legislative agency (as defined in section 3701(a)(4) of such title), and the Secretary of the Senate shall be deemed to be the head of such legislative agency.

''(b) Regulations prescribed by the Secretary of the Senate pursuant to section 3716 of title 31, United States Code, shall not become effective until they are approved by the Senate Committee on Rules and Administration.''

§ 3702. Authority to settle claims

(a) Except as provided in this chapter or another law, all claims of or against the United States Government shall be settled as follows:

(1) The Secretary of Defense shall settle—

(A) claims involving uniformed service members' pay, allowances, travel, transportation, payments for unused accrued leave, retired pay, and survivor benefits; and

(B) claims by transportation carriers involving amounts collected from them for loss or damage incurred to property incident to shipment at Government expense.

(2) The Director of the Office of Personnel Management shall settle claims involving Federal civilian employees' compensation and leave.

(3) The Administrator of General Services shall settle claims involving expenses incurred by Federal civilian employees for official travel and transportation, and for relocation expenses incident to transfers of official duty station.

(4) The Director of the Office of Management and Budget shall settle claims not otherwise provided for by this subsection or another provision of law.

(b)(1) A claim against the Government presented under this section must contain the signature and address of the claimant or an authorized representative. The claim must be received by the official responsible under subsection (a) for settling the claim or by the agency that conducts the activity from which the claim arises within 6 years after the claim accrues except—

(A) as provided in this chapter or another law; or

(B) a claim of a State, the District of Columbia, or a territory or possession of the United States.

(2) When the claim of a member of the armed forces accrues during war or within 5 years before war begins, the claim must be received within 5 years after peace is established or within the period provided in paragraph (1) of this subsection, whichever is later.

(3) A claim that is not received in the time required under this subsection shall be returned with a copy of this subsection, and no further communication is required.

(c) ONE-YEAR LIMIT FOR CHECK CLAIMS.—(1) Any claim on account of a Treasury check shall be barred unless it is presented to the agency that authorized the issuance of such check within 1 year after the date of issuance of the check or the effective date of this subsection, whichever is later.

(2) Nothing in this subsection affects the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued.

(d) The official responsible under subsection (a) for settling the claim shall report to Congress on a claim against the Government that is timely presented under this section that may not be adjusted by using an existing appropriation, and that the official believes Congress should consider for legal or equitable reasons. The report shall include recommendations of the official.

(e)(1) The Secretary of Defense may waive the time limitations set forth in subsection (b) or (c) in the case of a claim referred to in subsection (a)(1)(A). In the case of a claim by or with respect to a member of the uniformed services who is not under the jurisdiction of the Secretary of a military department, such a waiver may be made only upon the request of the Secretary concerned (as defined in section 101 of title 37).

(2) Payment of a claim settled under subsection (a)(1)(A) shall be made from an appropriation that is available, for the fiscal year in which the payment is made, for the same purpose as the appropriation to which the obligation claimed would have been charged if the obligation had been timely paid, except that in the case of a claim for retired pay or survivor benefits, if the obligation claimed would have been paid from a trust fund if timely paid, the payment of the claim shall be made from that trust fund.

(3) This subsection does not apply to a claim in excess of $25,000.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 970; Pub. L. 97–452, § 1(14), Jan. 12, 1983, 96 Stat. 2470; Pub. L. 100–86, title X, § 1004(b), Aug. 10, 1987, 101 Stat. 659; Pub. L. 104–201, div. A, title VI, § 608, Sept. 23, 1996, 110 Stat. 2542; Pub. L. 104–316, title II, § 202(n)(1), Oct. 19, 1996, 110 Stat. 3843; Pub. L. 105–85, div. A, title X, § 1012, Nov. 18, 1997, 111 Stat. 1874; Pub. L. 106–398, § 1 [[div. A], title VI, § 664], Oct. 30, 2000, 114 Stat. 1654, 1654A–168; Pub. L. 107–314, div. A, title VI, § 635(a), (b), Dec. 2, 2002, 116 Stat. 2574; Pub. L. 109–163, div. A, title X, § 1056(e)(2), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES
1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3702(a)	31:44(1st sentence).	June 10, 1921, ch. 18, § 304(1st par. 1st sentence), 42 Stat. 24.
	31:71(related to claims).	R.S. § 236(related to claims); June 10, 1921, ch. 18, § 305, 42 Stat. 24.
	31:86.	July 31, 1894, ch. 174, § 14, 28 Stat. 210.
3702(b)(1)	31:71a(1)(less proviso).	Oct. 9, 1940, ch. 788, 54 Stat. 1061; Jan. 2, 1975, Pub. L. 93–604, § 801, 88 Stat. 1965.
	31:237(1)(less proviso).	
3702(b)(2)	31:71a(1)(proviso). 31:237(1)(proviso).	
3702(b)(3)	31:71a(2). 31:237(2).	
3702(c)	31:122.	June 22, 1926, ch. 650, § 2, 44 Stat. 761; Aug. 28, 1957, Pub. L. 85–183, § 3(a), 71 Stat. 465.
3702(d)	31:236.	Apr. 10, 1928, ch. 334, 45 Stat. 413.

In the section, the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency.

In subsection (a), the words ''Except as provided in this chapter or another law'' are added for clarity. The words ''and demands whatever'' and ''and adjusted'' are omitted as surplus. The words ''officers or employees of the General Accounting Office'' are substituted for ''of his subordinates'' for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), before clause (A), the words ''or demand'' are omitted as surplus. The word ''Government'' is substituted for ''United States'' for consistency in the revised title and with other titles of the Code. The word ''representative'' is substituted for ''agent or attorney'' to eliminate unnecessary words. The words ''received by the Comptroller General'' are substituted for ''received in said office'' for clarity and consistency. The words ''the date'' are omitted as surplus. Clause (A) is added for clarity. In clause (B), the words ''cognizable by the General Accounting Office under sections 71 and 236 of this title'' are omitted as unnecessary because of the restatement.

In subsection (b)(2), the words ''member of the armed forces'' are substituted for ''person serving in the military or naval forces of the United States'' for consistency with title 10. The words ''to the Comptroller General'' are added for clarity.

In subsection (b)(3), the words ''to the claimant'' are omitted as surplus. The words ''not received in the time required'' are substituted for ''barred by'' because of the restatement. The words ''no further communication is required'' are substituted for ''such action shall be a complete response without further communication'' to eliminate unnecessary words.

In subsection (c), the text of 31:122(1st sentence words before 2d comma and last sentence) is omitted as executed. The words ''Secretary of the Treasury'' are substituted for ''Treasury Department'' for consistency. The word ''Secretary'' is substituted for ''Treasurer of the United States'' because of Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280).

In subsection (d), the words ''report . . . on'' are substituted for ''submit the same . . . by a special report . . . the material facts'' to eliminate unnecessary words. The words ''or demand'' are omitted as surplus. The word ''Government'' is substituted for ''United States'', and the words ''presented under this section'' are substituted for ''filed in the General Accounting Office'' for consistency. The words ''lawfully'', ''the use of'', and ''thereon'' are omitted as surplus.

1983 ACT

This amends 31:3702(b)(2) by inserting a word inadvertently omitted in the codification of title 31.

Editorial Notes

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (c)(1), probably means the effective date of subsec. (c) of this section as amended by section 1004(b) of Pub. L. 100–86, which is effective 6 months after Aug. 10, 1987, or on such later date as the Secretary of the Treasury may prescribe in regulations. See Effective Date of 1987 Amendment note below.

AMENDMENTS

2006—Subsec. (e)(1). Pub. L. 109–163 amended directory language of Pub. L. 107–314, §635(a). See 2002 Amendment note below.

2002—Subsec. (e)(1). Pub. L. 107–314, §635(b)(1), substituted ''The Secretary of Defense'' for ''Upon the request of the Secretary concerned (as defined in section 101 of title 37, United States Code), the Secretary of Defense'', struck out ''and, subject to paragraph (2), settle the claim'' before period at end of first sentence, and inserted at end ''In the case of a claim by or with respect to a member of the uniformed services who is not under the jurisdiction of the Secretary of a military department, such a waiver may be made only upon the request of the Secretary concerned (as defined in section 101 of title 37).''

Pub. L. 107–314, §635(a), as amended by Pub. L. 109–163, substituted ''a claim referred to in subsection (a)(1)(A)'' for ''a claim for pay, allowances, or payment for unused accrued leave under title 37 or a claim for retired pay under title 10''.

Subsec. (e)(2). Pub. L. 107–314, §635(b)(2), substituted ''under subsection (a)(1)(A)'' for ''under paragraph (1)'' and inserted before period at end '', except that in the case of a claim for retired pay or survivor benefits, if the obligation claimed would have been paid from a trust fund if timely paid, the payment of the claim shall be made from that trust fund''.

2000—Subsec. (a)(1)(A). Pub. L. 106–398, §1 [[div. A], title VI, §664(a)], inserted ''payments for unused accrued leave,'' after ''transportation,''.

Subsec. (e)(1). Pub. L. 106–398, §1 [[div. A], title VI, §664(b)], substituted ''claim for pay, allowances, or payment for unused accrued leave under title 37 or a claim for retired pay under title 10'' for ''claim for pay or allowances provided under title 37''.

1997—Subsec. (e)(1). Pub. L. 105–85, §1012(1), substituted ''Secretary of Defense'' for ''Comptroller General''.

Subsec. (e)(2). Pub. L. 105–85, §1012(2), added par. (2) and struck out former par. (2) which read as follows: ''Payment of a claim settled under paragraph (1) shall be subject to the availability of appropriations for payment of that particular claim.''

1996—Pub. L. 104–316, §202(n)(1)(A), struck out ''of the Comptroller General'' after ''Authority'' in section catchline.

Subsec. (a). Pub. L. 104–316, §202(n)(1)(B), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Except as provided in this chapter or another law, the Comptroller General shall settle all claims of or against the United States Government. A claim that was not administratively examined before submission to the Comptroller General shall be examined by 2 officers or employees of the General Accounting Office independently of each other.''

Subsec. (b)(1). Pub. L. 104–316, §202(n)(1)(C), in introductory provisions substituted ''The claim must be received by the official responsible under subsection (a) for settling the claim or by the agency that conducts the activity from which the claim arises within 6 years after the claim accrues except—'' for ''The claim must be received by the Comptroller General within 6 years after the claim accrues except—''.

Subsec. (b)(2). Pub. L. 104–316, §202(n)(1)(D), substituted ''received'' for ''presented to the Comptroller General'' and ''in paragraph'' for ''in clause''.

Subsec. (b)(3). Pub. L. 104–316, §202(n)(1)(E), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The Comptroller General shall return a claim not received in the time required under this subsection with a copy of this subsection and no further communication is required.''

Subsec. (d). Pub. L. 104–316, §202(n)(1)(F), substituted ''official responsible under subsection (a) for settling the claim'' for ''Comptroller General'' before ''shall report to Congress'' and ''official'' for ''Comptroller General'' before ''believes'' and before period at end.

Subsec. (e). Pub. L. 104–201 added subsec. (e).

1987—Subsec. (c). Pub. L. 100–86 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''A claim on a check or warrant that the records of the Comptroller General or the Secretary of the Treasury show as being paid must be presented to the Comptroller General or the Secretary within 6 years after the check or warrant was issued.''

1983—Subsec. (b)(2). Pub. L. 97–452 inserted ''this'' before ''subsection''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title X, §1056(e)(2), Jan. 6, 2006, 119 Stat. 3440, as amended by Pub. L. 111–383, div. A, title X, §1075(h)(3), Jan. 7, 2011, 124 Stat. 4377, provided that the amendment by section 1056(e)(2) is effective as of Dec. 2, 2002, and as if included in Pub. L. 107–314 as enacted.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title VI, §635(c), Dec. 2, 2002, 116 Stat. 2574, provided that: ''The amendment made by

subsection (a) [amending this section] shall apply with respect to claims against the United States presented to the Secretary of Defense under section 3702 of title 31, United States Code, on or after the date of the enactment of this Act [Dec. 2, 2002].''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–86 effective 6 months after Aug. 10, 1987, or on such later date as the Secretary of the Treasury may prescribe in regulations, see section 1006 of Pub. L. 100–86, set out as a note under section 3328 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment effective Sept. 13, 1982, see section 2(i) of Pub. L. 97–452, set out as a note under section 3331 of this title.

REGULATIONS

For provision permitting Secretary of the Treasury to prescribe rules, regulations, and procedures as necessary to implement amendment by section 1004(b) of Pub. L. 100–86, including recertification of Treasury checks which have been canceled or for which a claim has been asserted or barred, see section 1005 of Pub. L. 100–86, set out as a note under section 3328 of this title.

SUBCHAPTER II—CLAIMS OF THE UNITED STATES GOVERNMENT

§ 3711. Collection and compromise

(a) The head of an executive, judicial, or legislative agency—

(1) shall try to collect a claim of the United States Government for money or property arising out of the activities of, or referred to, the agency;

(2) may compromise a claim of the Government of not more than $100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe that has not been referred to another executive or legislative agency for further collection action, except that only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official; and

(3) may suspend or end collection action on a claim referred to in clause (2) of this subsection when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim or the cost of collecting the claim is likely to be more than the amount recovered.

(b)(1) The head of an executive, judicial, or legislative agency may not act under subsection (a)(2) or (3) of this section on a claim that appears to be fraudulent, false, or misrepresented by a party with an interest in the claim, or that is based on conduct in violation of the antitrust laws.

(2) The Secretary of Transportation may not compromise for less than $500 a penalty under section 21302 of title 49 for a violation of chapter 203, 205, or 207 of title 49 or a regulation or requirement prescribed or order issued under any of those chapters.

(c) A compromise under this section is final and conclusive unless gotten by fraud, misrepresentation, presenting a false claim, or mutual mistake of fact. An accountable official is not liable for an amount paid or for the value of property lost or damaged if the amount or value is not recovered because of a compromise under this section.

(d) The head of an executive, judicial, or legislative agency acts under—

(1) regulations prescribed by the head of the agency; and

(2) standards that the Attorney General, the Secretary of the Treasury, may prescribe.[1]

(e)(1) When trying to collect a claim of the Government under a law except the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.), the head of an executive, judicial, or legislative agency shall disclose to a consumer reporting agency information from a system of records that a person is responsible for a claim if—

(A) notice required by section 552a(e)(4) of title 5 indicates that information in the system may be disclosed to a consumer reporting agency;

(B) the head of the agency has reviewed the claim and decided that the claim is valid and overdue;

(C) the head of the agency has notified the person in writing—

(i) that payment of the claim is overdue;

(ii) that, within not less than 60 days after sending the notice, the head of the agency intends to disclose to a consumer reporting agency that the person is responsible for the claim;

(iii) of the specific information to be disclosed to the consumer reporting agency; and

(iv) of the rights the person has to a complete explanation of the claim, to dispute information in the records of the agency about the claim, and to administrative repeal or review of the claim;

(D) the person has not—

(i) repaid or agreed to repay the claim under a written repayment plan that the person has signed and the head of the agency has agreed to; or

(ii) filed for review of the claim under paragraph (2) of this subsection;

(E) the head of the agency has established procedures to—

(i) disclose promptly, to each consumer reporting agency to which the original disclosure was made, a substantial change in the condition or amount of the claim;

(ii) verify or correct promptly information about the claim on request of a consumer reporting agency for verification of information disclosed; and

(iii) get satisfactory assurances from each consumer reporting agency that the agency is complying with all laws of the United States related to providing consumer credit information; and

(F) the information disclosed to the consumer reporting agency is limited to—

(i) information necessary to establish the identity of the person, including name, address, and taxpayer identification number;

(ii) the amount, status, and history of the claim; and

[1] So in original. Probably should be ''Attorney General and the Secretary of the Treasury may prescribe jointly.''

(iii) the agency or program under which the claim arose.

(2) Before disclosing information to a consumer reporting agency under paragraph (1) of this subsection and at other times allowed by law, the head of an executive, judicial, or legislative agency shall provide, on request of a person alleged by the agency to be responsible for the claim, for a review of the obligation of the person, including an opportunity for reconsideration of the initial decision on the claim.

(3) Before disclosing information to a consumer reporting agency under paragraph (1) of this subsection, the head of an executive, judicial, or legislative agency shall take reasonable action to locate a person for whom the head of the agency does not have a current address to send the notice under paragraph (1)(C).

(4) The head of each executive agency shall require, as a condition for insuring or guaranteeing any loan, financing, or other extension of credit under any law to a person, that the lender provide information relating to the extension of credit to consumer reporting agencies or commercial reporting agencies, as appropriate.

(5) The head of each executive agency may provide to a consumer reporting agency or commercial reporting agency information from a system of records that a person is responsible for a claim which is current, if notice required by section 552a(e)(4) of title 5 indicates that information in the system may be disclosed to a consumer reporting agency or commercial reporting agency, respectively.

(f)(1) The Secretary of Defense may suspend or terminate an action by the Secretary or by the Secretary of a military department under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

(2) The Secretary of Homeland Security may suspend or terminate an action by the Secretary under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Coast Guard if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

(3) The Secretary of Veterans Affairs may suspend or terminate an action by the Secretary under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

(4) In this subsection, the term ''active duty'' has the meaning given that term in section 101 of title 10.

(g)(1) If a nontax debt or claim owed to the United States has been delinquent for a period of 180 days—

(A) the head of the executive, judicial, or legislative agency that administers the program that gave rise to the debt or claim shall transfer the debt or claim to the Secretary of the Treasury; and

(B) upon such transfer the Secretary of the Treasury shall take appropriate action to collect or terminate collection actions on the debt or claim.

(2) Paragraph (1) shall not apply—

(A) to any debt or claim that—

(i) is in litigation or foreclosure;

(ii) will be disposed of under an asset sales program within 1 year after becoming eligible for sale, or later than 1 year if consistent with an asset sales program and a schedule established by the agency and approved by the Director of the Office of Management and Budget;

(iii) has been referred to a private collection contractor for collection for a period of time determined by the Secretary of the Treasury;

(iv) has been referred by, or with the consent of, the Secretary of the Treasury to a debt collection center for a period of time determined by the Secretary of the Treasury; or

(v) will be collected under internal offset, if such offset is sufficient to collect the claim within 3 years after the date the debt or claim is first delinquent; and

(B) to any other specific class of debt or claim, as determined by the Secretary of the Treasury at the request of the head of an executive, judicial, or legislative agency or otherwise.

(3) For purposes of this section, the Secretary of the Treasury may designate, and withdraw such designation of debt collection centers operated by other Federal agencies. The Secretary of the Treasury shall designate such centers on the basis of their performance in collecting delinquent claims owed to the Government.

(4) At the discretion of the Secretary of the Treasury, referral of a nontax claim may be made to—

(A) any executive department or agency operating a debt collection center for servicing, collection, compromise, or suspension or termination of collection action;

(B) a private collection contractor operating under a contract for servicing or collection action; or

(C) the Department of Justice for litigation.

(5) Nontax claims referred or transferred under this section shall be serviced, collected, or compromised, or collection action thereon suspended or terminated, in accordance with otherwise applicable statutory requirements and authorities. Executive departments and agencies operating debt collection centers may enter into agreements with the Secretary of the Treasury to carry out the purposes of this subsection. The Secretary of the Treasury shall—

(A) maintain competition in carrying out this subsection;

(B) maximize collections of delinquent debts by placing delinquent debts quickly;

(C) maintain a schedule of private collection contractors and debt collection centers eligible for referral of claims; and

(D) refer delinquent debts to the person most appropriate to collect the type or amount of claim involved.

(6) Any agency operating a debt collection center to which nontax claims are referred or transferred under this subsection may charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the nontax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund an activity from another account or from revenue received from the procedure described under section 3720C of this title. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

(7) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (in this subsection referred to in this section[2] as the ''Account''). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of Governmentwide debt collection activities. Costs properly chargeable to the Account include—

(A) the costs of computer hardware and software, word processing and telecommunications equipment, and other equipment, supplies, and furniture;

(B) personnel training and travel costs;

(C) other personnel and administrative costs;

(D) the costs of any contract for identification, billing, or collection services; and

(E) reasonable costs incurred by the Secretary of the Treasury, including services and utilities provided by the Secretary, and administration of the Account.

(8) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year, minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

(9) Before discharging any delinquent debt owed to any executive, judicial, or legislative agency, the head of such agency shall take all appropriate steps to collect such debt, including (as applicable)—

(A) administrative offset,

(B) tax refund offset,

(C) Federal salary offset,

(D) referral to private collection contractors,

(E) referral to agencies operating a debt collection center,

(F) reporting delinquencies to credit reporting bureaus,

(G) garnishing the wages of delinquent debtors, and

(H) litigation or foreclosure.

(10) To carry out the purposes of this subsection, the Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary considers necessary and transfer such funds from funds appropriated to the Department of the Treasury as may be necessary to meet existing liabilities and obligations incurred prior to the receipt of revenues that result from debt collections.

(h)(1) The head of an executive, judicial, or legislative agency acting under subsection (a)(1), (2), or (3) of this section to collect a claim, compromise a claim, or terminate collection action on a claim may obtain a consumer report (as that term is defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)) or comparable credit information on any person who is liable for the claim.

(2) The obtaining of a consumer report under this subsection is deemed to be a circumstance or purpose authorized or listed under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).

(i)(1) The head of an executive, judicial, or legislative agency may sell, subject to section 504(b) of the Federal Credit Reform Act of 1990 and using competitive procedures, any nontax debt owed to the United States that is delinquent for more than 90 days. Appropriate fees charged by a contractor to assist in the conduct of a sale under this subsection may be payable from the proceeds of the sale.

(2) After terminating collection action, the head of an executive, judicial, or legislative agency shall sell, using competitive procedures, any nontax debt or class of nontax debts owed to the United States, if the Secretary of the Treasury determines the sale is in the best interests of the United States.

(3) Sales of nontax debt under this subsection—

(A) shall be for—

(i) cash, or

(ii) cash and a residuary equity or profit participation, if the head of the agency reasonably determines that the proceeds will be greater than sale solely for cash,

(B) shall be without recourse, but may include the use of guarantees if otherwise authorized, and

(C) shall transfer to the purchaser all rights of the Government to demand payment of the nontax debt, other than with respect to a residuary equity or profit participation under subparagraph (A)(ii).

(4)(A) Within one year after the date of enactment of the Debt Collection Improvement Act of 1996, each executive agency with current and de-

[2] So in original.

linquent collateralized nontax debts shall report to the Congress on the valuation of its existing portfolio of loans, notes and guarantees, and other collateralized debts based on standards developed by the Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury.

(B) The Director of the Office of Management and Budget shall determine what information is required to be reported to comply with subparagraph (A). At a minimum, for each financing account and for each liquidating account (as those terms are defined in sections 502(7) and 502(8), respectively, of the Federal Credit Reform Act of 1990) the following information shall be reported:

(i) The cumulative balance of current debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

(ii) The cumulative balance of delinquent debts, debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

(iii) The cumulative balance of guaranteed loans outstanding, the estimated net present value of such guarantees, the annual administrative expenses of such guarantees (including the portion of salaries and expenses that are directly related to such guaranteed loans), and the estimated net proceeds that would be received by the Government if such loan guarantees were sold.

(iv) The cumulative balance of defaulted loans that were previously guaranteed and have resulted in loans receivables, the estimated net present value of such loan assets, the annual administrative expenses of such loan assets (including the portion of salaries and expenses that are directly related to such loan assets), and the estimated net proceeds that would be received by the Government if such loan assets were sold.

(v) The marketability of all debts.

(5) This subsection is not intended to limit existing statutory authority of agencies to sell loans, debts, or other assets.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 971; Pub. L. 97–452, §1(15), Jan. 12, 1983, 96 Stat. 2470; Pub. L. 98–216, §1(5), Feb. 14, 1984, 98 Stat. 4; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101–552, §8(b), Nov. 15, 1990, 104 Stat. 2746; Pub. L. 102–365, §4(a)(4), Sept. 3, 1992, 106 Stat. 973; Pub. L. 103–272, §5(i)(1), July 5, 1994, 108 Stat. 1375; Pub. L. 104–106, div. A, title X, §1089, Feb. 10, 1996, 110 Stat. 459; Pub. L. 104–134, title III, §31001(c)(1), (g)(1)(C), (k), (m)(1), (p), Apr. 26, 1996, 110 Stat. 1321–359, 1321–363, 1321–365, 1321–366, 1321–371; Pub. L. 104–201, div. A, title X, §1010, Sept. 23, 1996, 110 Stat. 2635; Pub. L. 104–316, title I, §115(g)(1), Oct. 19, 1996, 110 Stat. 3834; Pub. L. 109–241, title IX, §902(b)(4), July 11, 2006, 120 Stat. 566; Pub. L. 110–389, title VIII, §801(a), Oct. 10, 2008, 122 Stat. 4185; Pub. L. 116–283, div. A, title IX, §927(d)(2), Jan. 1, 2021, 134 Stat. 3831.)

HISTORICAL AND REVISION NOTES

1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3711(a)	31:952(a)(less words between 1st and 2d commas), (b)(1st sentence less words between 6th and 7th commas).	July 19, 1966, Pub. L. 89–508, §3, 80 Stat. 309.
3711(b)	31:952(b)(2d sentence, last sentence words after semicolon).	
3711(c)(1)	31:952(b)(last sentence words before semicolon).	
3711(c)(2)	31:952(note).	July 8, 1976, Pub. L. 94–348, §3(e), 90 Stat. 818.
3711(d)	31:952(c).	
3711(e)	31:952(a)(words between 1st and 2d commas), (b)(1st sentence words between 6th and 7th commas).	

In the section, the words ''executive or legislative agency'' are substituted for ''agency'' because of the restatement. The words ''or his designee'' are omitted as unnecessary.

In subsection (a), the word ''Government'' is added for consistency. In clause (2), the words ''including the General Accounting Office'' are omitted as surplus. In clause (3), the word ''financial'' is omitted as surplus.

In subsections (b) and (d), the word ''official'' is substituted for ''officer'' for consistency.

In subsection (b), the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency. The words ''has the same authority that the head of the agency has'' are substituted for ''have the foregoing authority'' for clarity. The words ''by another agency'' are omitted as surplus. The words ''only . . . may compromise'' are substituted for ''nor shall the head of an agency, other than . . . have authority to compromise'' to eliminate unnecessary words.

In subsection (c)(1), the words ''that appears to be fraudulent, false, or misrepresented by'' are substituted for ''as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of'' to eliminate unnecessary words. The words ''the debtor or . . . other'' and ''in whole or in part'' are omitted as surplus.

In subsection (c)(2), the words ''Notwithstanding any provision of the Federal Claims Collection Act of 1966'' are omitted as unnecessary. The words ''arising'' and ''an amount'' are omitted as surplus.

In subsection (d), the words ''effected . . . authority conferred by'', ''on the debtor and on all officials, agencies, and courts of the United States'', ''destroyed'', and ''with a person primarily responsible'' are omitted as surplus.

In subsection (e), the words ''in conformity with'' are omitted as surplus.

1983 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3711(f)(1)	31 App.:952(d)(1).	July 19, 1966, Pub. L. 89–508, 80 Stat. 308, §3(d)(1)–(3); added Oct. 25, 1982, Pub. L. 97–365, §3, 96 Stat. 1749.
3711(f)(2)	31 App.:952(d)(2).	
3711(f)(3)	31 App.:952(d)(3).	

In subsection (f)(1), before clause (A), the word ''Government'' is substituted for ''United States'' for consistency in the revised title and with other titles of the United States Code. The words ''subsection (a) of this

section, or under any other'' are omitted as surplus. The word ''law'' is substituted for ''statutory authority'' to eliminate unnecessary words. In clause (A), the words ''for the system of records'' are omitted as surplus. In clause (C)(iii), the word ''intended'' is omitted as surplus. In clause (E)(ii), the words ''as appropriate'' and ''any or all'' are omitted as surplus. In clause (E)(iii), the words ''all laws of the United States'' are coextensive with and substituted for ''the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and any other Federal law''.

1984 ACT

This is necessary to reflect the transfer of the nonpositive law provisions of title 49 to title 49 appendix.

Editorial Notes

REFERENCES IN TEXT

Sections 502(7), 502(8), and 504(b) of the Federal Credit Reform Act of 1990, referred to in subsec. (i)(1), (4)(B), are classified to sections 661a(7), 661a(8), and 661c(b), respectively, of Title 2, The Congress.

The date of enactment of the Debt Collection Improvement Act of 1996, referred to in subsec. (i)(4)(A), is the date of enactment of section 31001 of Pub. L. 104–134, which was approved Apr. 26, 1996.

AMENDMENTS

2021—Subsec. (f)(1), (3). Pub. L. 116–283 inserted ''Space Force,'' after ''Marine Corps,''.

2008—Subsec. (f)(3), (4). Pub. L. 110–389 added par. (3) and redesignated former par. (3) as (4).

2006—Subsec. (f)(2). Pub. L. 109–241 substituted ''Secretary of Homeland Security'' for ''Secretary of Transportation''.

1996—Subsec. (a). Pub. L. 104–134, § 31001(c)(1), which directed that this section be amended by substituting ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' wherever appearing, was executed in introductory provisions by substituting ''The head of an executive, judicial, or legislative agency'' for ''The head of an executive or legislative agency'', to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 104–316, § 115(g)(1)(A), inserted '', except that only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official'' before ''; and'' at end.

Subsec. (b). Pub. L. 104–316, § 115(g)(1)(B), (C), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''The Comptroller General has the same authority that the head of the agency has under subsection (a) of this section when the claim is referred to the Comptroller General for further collection action. Only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official.''

Subsec. (c). Pub. L. 104–316, § 115(g)(1)(C), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 104–134, § 31001(c)(1), which directed that this section be amended by substituting ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' wherever appearing, was executed by substituting ''The head of an executive, judicial, or legislative agency'' for ''The head of an executive or legislative agency'', to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 104–316, § 115(g)(1)(C), (D), redesignated subsec. (e) as (d) and in par. (2) struck out ''and the Comptroller General'' before ''may prescribe'' and ''jointly'' after ''prescribe''. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 104–316, § 115(g)(1)(C), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Pub. L. 104–134, § 31001(c)(1), which directed that this section be amended by substituting ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' wherever appearing, was executed in introductory provisions by substituting ''The head of an executive, judicial, or legislative agency'' for ''The head of an executive or legislative agency'', to reflect the probable intent of Congress.

Subsec. (e)(2). Pub. L. 104–134, § 31001(g)(1)(C), inserted '', the Secretary of the Treasury,'' after ''Attorney General''.

Subsec. (f). Pub. L. 104–316, § 115(g)(1)(C), redesignated the subsec. (g), relating to authority to suspend or terminate collection actions against deceased members, as (f). Former subsec. (f) redesignated (e).

Subsec. (f)(1). Pub. L. 104–134, § 31001(c)(1), (k)(1), (2), in introductory provisions substituted ''the head of an executive, judicial, or legislative agency shall'' for ''the head of an executive or legislative agency may'' and ''a person'' for ''an individual''.

Subsec. (f)(1)(C), (D), (F). Pub. L. 104–134, § 31001(k)(3), substituted ''the person'' for ''the individual'' wherever appearing.

Subsec. (f)(2). Pub. L. 104–134, § 31001(c)(1), (k)(2), (3), substituted ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'', ''a person'' for ''an individual'', and ''the person'' for ''the individual''.

Subsec. (f)(3). Pub. L. 104–134, § 31001(c)(1), (k)(2), substituted ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' and ''a person'' for ''an individual''.

Subsec. (f)(4), (5). Pub. L. 104–134, § 31001(k)(4), added pars. (4) and (5).

Subsec. (g). Pub. L. 104–316, § 115(g)(1)(C), redesignated the subsec. (g), relating to authority to suspend or terminate collection actions against deceased members, as (f).

Pub. L. 104–134, § 31001(m)(1), added subsec. (g) relating to transfer of debt or claim to Secretary of the Treasury in case of delinquency.

Pub. L. 104–106 added subsec. (g) relating to authority to suspend or terminate collection actions against deceased members.

Subsec. (g)(1). Pub. L. 104–201, § 1010(1), substituted ''Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy'' for ''or Marine Corps''.

Subsec. (g)(2), (3). Pub. L. 104–201, § 1010(2), (3), added par. (2) and redesignated former par. (2) as (3).

Subsec. (h). Pub. L. 104–134, § 31001(m)(1), added subsec. (h).

Subsec. (i). Pub. L. 104–134, § 31001(p), added subsec. (i).

1994—Subsec. (c)(2). Pub. L. 103–272 substituted ''section 21302 of title 49 for a violation of chapter 203, 205, or 207 of title 49 or a regulation or requirement prescribed or order issued under any of those chapters'' for ''section 6 of the Act of March 2, 1893 (45 U.S.C. 6), section 4 of the Act of April 14, 1910 (45 U.S.C. 13), section 9 of the Act of February 17, 1911 (45 U.S.C. 34), and section 25(h) of the Interstate Commerce Act (49 App. U.S.C. 26(h))''.

1992—Subsec. (c)(2). Pub. L. 102–365 substituted ''$500'' for ''$250''.

1990—Subsec. (a)(2). Pub. L. 101–552 substituted ''$100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe'' for ''$20,000 (excluding interest)''.

1986—Subsec. (f)(1). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

1984—Subsec. (c)(2). Pub. L. 98–216 substituted ''(49 App. U.S.C. 26(h))'' for ''(49 U.S.C. 26(h))''.

1983—Subsec. (f). Pub. L. 97–452 added subsec. (f).

Statutory Notes and Related Subsidiaries

SAVINGS PROVISION

Pub. L. 104–134, title III, § 31001(n), Apr. 26, 1996, 110 Stat. 1321–369, provided that: ''Effective October 1, 1995,

section 11 of the Administrative Dispute Resolution Act (Public Law 101–552, [former] 5 U.S.C. 571 note) shall not apply to the amendment made by section 8(b) of such Act [amending this section].''

GUIDELINES

Pub. L. 104–134, title III, §31001(aa)(1), Apr. 26, 1996, 110 Stat. 1321–379, provided that: ''The Secretary of the Treasury, in consultation with concerned Federal agencies, may establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities.''

REPORT

Pub. L. 104–134, title III, §31001(aa)(2), Apr. 26, 1996, 110 Stat. 1321–379, required the Secretary of the Treasury, not later than 3 years after Apr. 26, 1996, to report to Congress on collection services provided by Federal agencies or entities collecting debt on behalf of other Federal agencies under the authorities contained in subsec. (g) of this section.

STANDARDS AND POLICIES FOR COMPROMISING, WRITING-DOWN, FORGIVING, OR DISCHARGING INDEBTEDNESS

Pub. L. 104–134, title III, §31001(bb), Apr. 26, 1996, 110 Stat. 1321–380, provided that: ''The Director of the Office of Management and Budget shall—

''(1) review the standards and policies of each Federal agency for compromising, writing-down, forgiving, or discharging indebtedness arising from programs of the agency;

''(2) determine whether those standards and policies are consistent and protect the interests of the United States;

''(3) in the case of any Federal agency standard or policy that the Director determines is not consistent or does not protect the interests of the United States, direct the head of the agency to make appropriate modifications to the standard or policy; and

''(4) report annually to the Congress on—

''(A) deficiencies in the standards and policies of Federal agencies for compromising, writing-down, forgiving, or discharging indebtedness; and

''(B) progress made in improving those standards and policies.''

EXISTING AGENCY AUTHORITY TO LITIGATE, SETTLE, COMPROMISE, OR CLOSE CLAIMS

Pub. L. 89–508, §4, July 19, 1966, 80 Stat. 309, provided that: ''Nothing in this Act [now this section] shall increase or diminish the existing authority of the head of an agency to litigate claims, or diminish his existing authority to settle, compromise, or close claims.''

§3712. Time limitations for presenting certain claims of the Government

(a) CLAIMS OVER FORGED OR UNAUTHORIZED ENDORSEMENTS.—

(1) PERIOD FOR CLAIMS.—If the Secretary of the Treasury determines that a Treasury check has been paid over a forged or unauthorized endorsement, the Secretary may reclaim the amount of such check from the presenting bank or any other endorser that has breached its guarantee of endorsements prior to—

(A) the end of the 1-year period beginning on the date of payment; or

(B) the expiration of the 180-day period beginning on the close of the period described in subparagraph (A) if a timely claim is received under section 3702.

(2) CIVIL ACTIONS.—(A) Except as provided in subparagraph (B), the United States may bring a civil action to enforce the liability of an endorser, transferor, depository, or fiscal agent on a forged or unauthorized signature or endorsement on, or a change in, a check or warrant issued by the Secretary of the Treasury, the United States Postal Service, or any disbursing official or agent not later than 1 year after a check or warrant is presented to the drawee for payment.

(B) If the United States has given an endorser written notice of a claim against the endorser within the time allowed by subparagraph (A), the 1-year period for bringing a civil action on that claim under subparagraph (A) shall be extended by 3 years.

(3) EFFECT ON AGENCY AUTHORITY.—Nothing in this subsection shall be construed to limit the authority of any agency under subchapter II of chapter 37 of this title.

(b) Notwithstanding subsection (a) of this section, a civil action may be brought within 2 years after the claim is discovered when an endorser, transferor, depositary, or fiscal agent fraudulently conceals the claim from an officer or employee of the Government entitled to bring the civil action.

(c) The Comptroller General shall credit the appropriate account of the Treasury for the amount of a check or warrant for which a civil action cannot be brought because notice was not given within the time required under subsection (a) of this section if the failure to give notice was not the result of negligence of the Secretary.

(d) The Government waives all claims against a person arising from dual pay from the Government if the dual pay is not reported to the Comptroller General for collection within 6 years from the last date of a period of dual pay.

(e) TREASURY CHECK OFFSET.—

(1) IN GENERAL.—To facilitate collection of amounts owed by presenting banks pursuant to subsection (a) or (b), upon the direction of the Secretary, a Federal reserve bank shall withhold credit from banks presenting Treasury checks for ultimate charge to the account of the United States Treasury. By presenting Treasury checks for payment a presenting bank is deemed to authorize this offset.

(2) ATTEMPT TO COLLECT REQUIRED.—Prior to directing offset under subsection (a)(1), the Secretary shall first attempt to collect amounts owed in the manner provided by sections 3711 and 3716.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 971; Pub. L. 100–86, title X, §1004(a), Aug. 10, 1987, 101 Stat. 659; Pub. L. 104–134, title III, §31001(d)(4), Apr. 26, 1996, 110 Stat. 1321–362.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3712(a)	31:129.	Mar. 6, 1946, ch. 48, §1, 60 Stat. 31; Aug. 28, 1957, Pub. L. 85–183, §3(b), 71 Stat. 465; Aug. 12, 1970, Pub. L. 91–375, §6(*l*)(2), 84 Stat. 782.
3712(b)	31:131.	Mar. 6, 1946, ch. 48, §§2, 3, 60 Stat. 31.
3712(c)	31:130.	
3712(d)	31:237a.	Aug. 28, 1954, ch. 1035, 68 Stat. 890.

In the section, the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency.

In subsection (a), the words ''civil action'' are substituted for ''proceeding in any court'', ''court proceeding'', and ''proceeding'', and the word ''fiscal'' is substituted for ''financial'', for consistency in the revised title and with other titles of the United States Code. The words ''Except as provided in this subsection'' are added for clarity. The words ''or by an agency or official of the United States'' are omitted as surplus. The words ''the Postmaster General'' are omitted because of section 4(a) of the Postal Reorganization Act (Pub. L. 91–375, 84 Stat. 773). The words ''the Treasurer and Assistant Treasurers of the United States'' are omitted because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280). The word ''official'' is substituted for ''officers'' for consistency in the revised title and with other titles of the Code. The words ''of the United States'', ''to the Treasurer of the United States or other drawee'', and ''of such check, checks, warrant, or warrants'' are omitted as surplus. The text of 31:129(last sentence less proviso) is omitted as unnecessary. The last sentence is substituted for 31:129(last sentence proviso) to eliminate unnecessary words.

In subsection (b), the words ''at any time'' in 31:131 are omitted as surplus. The words ''the claim is discovered'' are substituted for ''the United States or any agency or official of the United States who is entitled to bring the same shall discover that the United States or any agency or official of the United States had such cause of action'' to eliminate unnecessary words. The words ''who is liable to any of the actions mentioned in sections 129 to 131 of this title'' are omitted as surplus. The words ''officer or employee of the Government'' are substituted for ''United States or any agency or official of the United States'' before ''entitled'' for consistency in the revised title and with other titles of the Code. The words ''although such action would be otherwise barred by the provisions of sections 129 to 131 of this title'' are omitted as surplus.

In subsection (c), the words ''of the United States'' and ''allow . . . in'' are omitted as surplus. The word ''appropriate'' is added for clarity. The word ''Treasury'' is substituted for ''Treasurer of the United States'' before ''for the amount'' because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280). The words ''cannot be brought because notice was not given within the time required under this subsection'' are substituted for ''shall have been barred pursuant to the provisions of sections 129 to 131 of this title upon a showing that the barring of such proceedings . . . required by the provision of section 129 of this title'' for clarity. The word ''Secretary'' is substituted for ''Treasurer of the United States'' before ''in failing'' because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974.

In subsection (d), the words ''arising from dual pay'' are substituted for ''arising out of the receipt by such person of compensation . . . in violation of any provision of law prohibiting or restricting the receipt of dual compensation'' to eliminate unnecessary words and for consistency in the revised title and with other titles of the Code. The words ''including Government owned or controlled corporations'' are omitted as unnecessary. The words ''or from the government of the District of Columbia'' are omitted because of sections 102(a), 448, 449, and 761 of the District of Columbia Self-Government and Governmental Reorganization Act (Pub. L. 93–198, 87 Stat. 777, 801, 836).

Editorial Notes

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–134 added subsec. (e).

1987—Subsec. (a). Pub. L. 100–86 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Except as provided in this subsection, the United States Government must bring a civil action to enforce the liability of an endorser, transferor, depositary, or fiscal agent on a forged or unauthorized signature or endorsement on, or a change in, a check or warrant issued by the Secretary of the Treasury, the United States Postal Service, or a disbursing official or agent within 6 years after the check or warrant is presented to the drawee of the check or warrant for payment unless, within that period, written notice of the claim is given to the endorser, transferor, depositary, or fiscal agent. The period for bringing a civil action or giving notice is extended for 180 days if a claim is received under section 3702(c) of this title.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–86 effective 6 months after Aug. 10, 1987, or on such later date as the Secretary of the Treasury may prescribe in regulations, see section 1006 of Pub. L. 100–86, set out as a note under section 3328 of this title.

REGULATIONS

For provision permitting Secretary of the Treasury to prescribe rules, regulations, and procedures as necessary to implement amendment by section 1004(a) of Pub. L. 100–86, including recertification of Treasury checks which have been canceled or for which a claim has been asserted or barred, see section 1005 of Pub. L. 100–86, set out as a note under section 3328 of this title.

§ 3713. Priority of Government claims

(a)(1) A claim of the United States Government shall be paid first when—

(A) a person indebted to the Government is insolvent and—

(i) the debtor without enough property to pay all debts makes a voluntary assignment of property;

(ii) property of the debtor, if absent, is attached; or

(iii) an act of bankruptcy is committed; or

(B) the estate of a deceased debtor, in the custody of the executor or administrator, is not enough to pay all debts of the debtor.

(2) This subsection does not apply to a case under title 11.

(b) A representative of a person or an estate (except a trustee acting under title 11) paying any part of a debt of the person or estate before paying a claim of the Government is liable to the extent of the payment for unpaid claims of the Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 972.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3713(a)	31:191.	R.S. § 3466; Nov. 6, 1978, Pub. L. 95–598, § 322(a), 92 Stat. 2678.
3713(b)	31:192.	R.S. § 3467; restated May 10, 1934, ch. 277, § 518(a), 48 Stat. 760; Nov. 6, 1978, Pub. L. 95–598, § 322(b), 92 Stat. 2679.

In the section, the word ''claim'' is substituted for ''debts'' for consistency. The word ''due'' is omitted as unnecessary.

In subsection (a)(1), before clause (A), the word ''paid'' is substituted for ''satisfied'' for consistency. In clause (A)(i), the words ''and the priority established shall extend as well to cases in which'' are omitted because of the restatement. In clause (A)(ii), the word

''property'' is substituted for ''estate and effects'' to eliminate unnecessary words. The words ''absconding, concealed, or'' and ''by process of law'' are omitted as surplus.

In subsection (a)(2), the words ''The priority established under . . . however'' are omitted as surplus.

In subsection (b), the words ''A representative of a person or an estate'' are substituted for ''executor, administrator, or assignee, or other'' for clarity and to eliminate unnecessary words. The words ''for whom or for which he acts'', ''satisfies and'', and ''from such person or estate'' are omitted as surplus. The word ''liable'' is substituted for ''answerable in his own person and estate'' for consistency.

§ 3714. Keeping money due States in default

The Secretary of the Treasury shall keep the necessary amount of money the United States Government owes a State when the State defaults in paying principal or interest on investments in stocks or bonds the State issues or guarantees and that the Government holds in trust. The money shall be used to pay the principal or interest or reimburse, with interest, money the Government advanced for interest due on the stocks or bonds.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 972.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3714	31:207.	R.S. § 3481.

The word ''amount'' is substituted for ''whole, or so much thereof'' for clarity. The word ''owes'' is substituted for ''due on any account from the . . . to'' to eliminate unnecessary words. The words ''or either'' and ''thereon'' are omitted as surplus.

§ 3715. Buying real property of a debtor

The head of an agency for whom a civil action is brought against a debtor of the United States Government may buy real property of the debtor at a sale on execution of the real property of the debtor resulting from the action. The head of the agency may not bid more for the property than the amount of the judgment for which the property is being sold, and costs. The marshal of the district in which the sale is held shall transfer the property to the Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 972.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3715	31:195.	R.S. § 3470; June 2, 1965, Pub. L. 89–30, § 5, 79 Stat. 119.

The words ''by such agent as . . . shall appoint'' are omitted as unnecessary. The word ''agency'' is substituted for ''department or independent agency'' because of the restatement. The words ''for whom a civil action is brought'' are substituted for ''at whose instance suit was instituted'' for consistency. The words ''real property'' are substituted for ''lands or tenements'' for clarity and consistency. The words ''in behalf of the United States'' are omitted as surplus. The words ''for the property'' are added for clarity. The word ''property'' is substituted for ''such estate'' for consistency in the section. The words ''Whenever such purchase is made'' are omitted as surplus. The words ''transfer the property'' are substituted for ''make all needful conveyances, assignments, or transfers'' to eliminate unnecessary words and for clarity.

§ 3716. Administrative offset

(a) After trying to collect a claim from a person under section 3711(a) of this title, the head of an executive, judicial, or legislative agency may collect the claim by administrative offset. The head of the agency may collect by administrative offset only after giving the debtor—

(1) written notice of the type and amount of the claim, the intention of the head of the agency to collect the claim by administrative offset, and an explanation of the rights of the debtor under this section;

(2) an opportunity to inspect and copy the records of the agency related to the claim;

(3) an opportunity for a review within the agency of the decision of the agency related to the claim; and

(4) an opportunity to make a written agreement with the head of the agency to repay the amount of the claim.

(b) Before collecting a claim by administrative offset, the head of an executive, judicial, or legislative agency must either—

(1) adopt, without change, regulations on collecting by administrative offset promulgated by the Department of Justice, the Government Accountability Office, or the Department of the Treasury; or

(2) prescribe regulations on collecting by administrative offset consistent with the regulations referred to in paragraph (1).

(c)(1)(A) Except as otherwise provided in this subsection, a disbursing official of the Department of the Treasury, the Department of Defense, the United States Postal Service, the Department of Health and Human Services, or any other government corporation, or any disbursing official of the United States designated by the Secretary of the Treasury, shall offset at least annually the amount of a payment which a payment certifying agency has certified to the disbursing official for disbursement, by an amount equal to the amount of a claim which a creditor agency has certified to the Secretary of the Treasury pursuant to this subsection.

(B) An agency that designates disbursing officials pursuant to section 3321(c) of this title is not required to certify claims arising out of its operations to the Secretary of the Treasury before such agency's disbursing officials offset such claims.

(C) Payments certified by the Department of Education under a program administered by the Secretary of Education under title IV of the Higher Education Act of 1965 shall not be subject to administrative offset under this subsection.

(2) Neither the disbursing official nor the payment certifying agency shall be liable—

(A) for the amount of the administrative offset on the basis that the underlying obligation, represented by the payment before the administrative offset was taken, was not satisfied; or

(B) for failure to provide timely notice under paragraph (8).

(3)(A)(i) Notwithstanding any other provision of law (including sections 207 and 1631(d)(1) of the Social Security Act (42 U.S.C. 407 and 1383(d)(1)), section 413(b) of Public Law 91–173 (30

U.S.C. 923(b)), and section 14 of the Act of August 29, 1935 (45 U.S.C. 231m)), except as provided in clause (ii), all payments due to an individual under—

(I) the Social Security Act,

(II) part B of the Black Lung Benefits Act, or

(III) any law administered by the Railroad Retirement Board (other than payments that such Board determines to be tier 2 benefits),

shall be subject to offset under this section.

(ii) An amount of $9,000 which a debtor may receive under Federal benefit programs cited under clause (i) within a 12-month period shall be exempt from offset under this subsection. In applying the $9,000 exemption, the disbursing official shall—

(I) reduce the $9,000 exemption amount for the 12-month period by the amount of all Federal benefit payments made during such 12-month period which are not subject to offset under this subsection; and

(II) apply a prorated amount of the exemption to each periodic benefit payment to be made to the debtor during the applicable 12-month period.

For purposes of the preceding sentence, the amount of a periodic benefit payment shall be the amount after any reduction or deduction required under the laws authorizing the program under which such payment is authorized to be made (including any reduction or deduction to recover any overpayment under such program).

(B) The Secretary of the Treasury shall exempt from administrative offset under this subsection payments under means-tested programs when requested by the head of the respective agency. The Secretary may exempt other payments from administrative offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under standards prescribed by the Secretary. Such standards shall give due consideration to whether administrative offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program. The Secretary shall report to the Congress annually on exemptions granted under this section.

(C) The provisions of sections 205(b)(1), 809(a)(1), and 1631(c)(1) of the Social Security Act shall not apply to any administrative offset executed pursuant to this section against benefits authorized by title II, VIII, or title XVI of the Social Security Act, respectively.

(D) This section shall apply to payments made after the date which is 90 days after the enactment of this subparagraph (or such earlier date as designated by the Secretary of Health and Human Services) with respect to claims or debts, and to amounts payable, under title XVIII of the Social Security Act.

(4) The Secretary of the Treasury may charge a fee sufficient to cover the full cost of implementing this subsection. The fee may be collected either by the retention of a portion of amounts collected pursuant to this subsection, or by billing the agency referring or transferring a claim for those amounts. Fees charged to the agencies shall be based on actual administrative offsets completed. Amounts received by the United States as fees under this subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of this title, and shall be collected and accounted for in accordance with the provisions of that section.

(5) The Secretary of the Treasury in consultation with the Commissioner of Social Security and the Director of the Office of Management and Budget, may prescribe such rules, regulations, and procedures as the Secretary of the Treasury considers necessary to carry out this subsection. The Secretary shall consult with the heads of affected agencies in the development of such rules, regulations, and procedures.

(6)(A) Any Federal agency that is owed by a person a past due, legally enforceable nontax debt that is over 120 days delinquent, including nontax debt administered by a third party acting as an agent for the Federal Government, shall notify the Secretary of the Treasury of all such nontax debts for purposes of administrative offset under this subsection.

(B) The Secretary of the Treasury shall notify Congress of any instance in which an agency fails to notify the Secretary as required under subparagraph (A).

(7)(A) The disbursing official conducting an administrative offset with respect to a payment to a payee shall notify the payee in writing of—

(i) the occurrence of the administrative offset to satisfy a past due legally enforceable debt, including a description of the type and amount of the payment otherwise payable to the payee against which the offset was executed;

(ii) the identity of the creditor agency requesting the offset; and

(iii) a contact point within the creditor agency that will handle concerns regarding the offset.

(B) If the payment to be offset is a periodic benefit payment, the disbursing official shall take reasonable steps, as determined by the Secretary of the Treasury, to provide the notice to the payee not later than the date on which the payee is otherwise scheduled to receive the payment, or as soon as practical thereafter, but no later than the date of the administrative offset. Notwithstanding the preceding sentence, the failure of the debtor to receive such notice shall not impair the legality of such administrative offset.

(8) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for administrative offset pursuant to other laws.

(d) Nothing in this section is intended to prohibit the use of any other administrative offset authority existing under statute or common law.

(e)(1) Notwithstanding any other provision of law, regulation, or administrative limitation, no limitation on the period within which an offset may be initiated or taken pursuant to this section shall be effective.

(2) This section does not apply when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved.

(f) The Secretary may waive the requirements of sections 552a(*o*) and (p) of title 5 for adminis-

trative offset or claims collection upon written certification by the head of a State or an executive, judicial, or legislative agency seeking to collect the claim that the requirements of subsection (a) of this section have been met.

(g) The Data Integrity Board of the Department of the Treasury established under 552a(u) of title 5 shall review and include in reports under paragraph (3)(D) of that section a description of any matching activities conducted under this section. If the Secretary has granted a waiver under subsection (f) of this section, no other Data Integrity Board is required to take any action under section 552a(u) of title 5.

(h)(1) The Secretary may, in the discretion of the Secretary, apply subsection (a) with respect to any past-due, legally-enforceable debt owed to a State if—

(A) the appropriate State disbursing official requests that an offset be performed; and

(B) a reciprocal agreement with the State is in effect which contains, at a minimum—

(i) requirements substantially equivalent to subsection (b) of this section; and

(ii) any other requirements which the Secretary considers appropriate to facilitate the offset and prevent duplicative efforts.

(2) This subsection does not apply to—

(A) the collection of a debt or claim on which the administrative costs associated with the collection of the debt or claim exceed the amount of the debt or claim;

(B) any collection of any other type, class, or amount of claim, as the Secretary considers necessary to protect the interest of the United States; or

(C) the disbursement of any class or type of payment exempted by the Secretary of the Treasury at the request of a Federal agency.

(3) In applying this section with respect to any debt owed to a State, subsection (c)(3)(A) shall not apply.

(Added Pub. L. 97–452, §1(16)(A), Jan. 12, 1983, 96 Stat. 2471; amended Pub. L. 104–134, title III, §31001(c)(1), (d)(2), (e), (f), Apr. 26, 1996, 110 Stat. 1321–359, 1321–362; Pub. L. 106–169, title II, §251(b)(10), Dec. 14, 1999, 113 Stat. 1856; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–234, title XIV, §14219(a), May 22, 2008, 122 Stat. 1482; Pub. L. 110–246, §4(a), title XIV, §14219(a), June 18, 2008, 122 Stat. 1664, 2244; Pub. L. 110–275, title I, §189(b), July 15, 2008, 122 Stat. 2590; Pub. L. 113–101, §5, May 9, 2014, 128 Stat. 1153.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3716(a)	31 App.:954(a) (words before last comma), (c).	July 19, 1966, Pub. L. 89–508, 80 Stat. 308, §5(a)–(d); added Oct. 25, 1982, Pub. L. 97–365, §10(2), 96 Stat. 1754.
3716(b)	31 App.:954(b).	
3716(c)(1)	31 App.:954(a) (words after last comma).	
3716(c)(2)	31 App.:954(d).	

In the subchapter, the words ''or his designee'' are omitted as unnecessary.

In subsection (a)(1), the words ''head of the'' are added for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the word ''Government'' is added for consistency in the revised title and with other titles of the Code.

In subsection (b)(3), the word ''civil'' is added for consistency in the revised title and with other titles of the Code.

In subsection (c)(2), the word ''either'' is omitted as surplus.

Editorial Notes

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (c)(1)(C), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Social Security Act, referred to in subsec. (c)(3)(A)(i)(I), (C), (D), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. Titles II, VIII, XVI, and XVIII of the Act are classified generally to subchapters II (§401 et seq.), VIII (§1001 et seq.), XVI (§1381 et seq.), and XVIII (§1395 et seq.), respectively, of chapter 7 of Title 42. Sections 205(b)(1), 809(a)(1), and 1631(c)(1) of the Act are classified to sections 405(b)(1), 1009(a)(1), and 1383(c)(1), respectively, of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Black Lung Benefits Act, referred to in subsec. (c)(3)(A)(i)(II), is title IV of Pub. L. 91–173, Dec. 30, 1969, 83 Stat. 792. Part B of the Act is classified generally to part B (§921 et seq.) of subchapter IV of chapter 22 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see section 901(b) of Title 30 and Tables.

The enactment of this subparagraph, referred to in subsec. (c)(3)(D), refers to the date of enactment of Pub. L. 110–275, which was approved July 15, 2008.

The Internal Revenue Code of 1986, referred to in subsec. (c)(8), is classified to Title 26, Internal Revenue Code.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2014—Subsec. (c)(6). Pub. L. 113–101 designated existing provisions as subpar. (A), substituted ''120 days'' for ''180 days'', and added subpar. (B).

2008—Subsec. (c)(1)(A). Pub. L. 110–275, §189(b)(1), inserted ''the Department of Health and Human Services,'' after ''United States Postal Service,''.

Subsec. (c)(3)(D). Pub. L. 110–275, §189(b)(2), added subpar. (D).

Subsec. (e). Pub. L. 110–246, §14219(a), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''This section does not apply—

''(1) to a claim under this subchapter that has been outstanding for more than 10 years; or

''(2) when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved.''

2004—Subsec. (b)(1). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1999—Subsec. (c)(3)(C). Pub. L. 106–169 substituted ''sections 205(b)(1), 809(a)(1),'' for ''sections 205(b)(1)'' and ''title II, VIII,'' for ''either title II''.

1996—Subsec. (a). Pub. L. 104–134, §31001(c)(1), substituted ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' in introductory provisions.

Subsec. (b). Pub. L. 104–134, §31001(d)(2)(A), amended subsec. (b) generally. Prior to amendment, subsec. (b)

read as follows: ''Before collecting a claim by administrative offset under subsection (a) of this section, the head of an executive or legislative agency must prescribe regulations on collecting by administrative offset based on—

''(1) the best interests of the United States Government;

''(2) the likelihood of collecting a claim by administrative offset; and

''(3) for collecting a claim by administrative offset after the 6-year period for bringing a civil action on a claim under section 2415 of title 28 has expired, the cost effectiveness of leaving a claim unresolved for more than 6 years.''

Pub. L. 104–134, § 31001(c)(1), substituted ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' in introductory provisions.

Subsec. (c). Pub. L. 104–134, § 31001(d)(2)(D), added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (c)(2). Pub. L. 104–134, § 31001(d)(2)(B), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''when a statute explicitly provides for or prohibits using administrative offset to collect the claim or type of claim involved.''

Subsec. (d). Pub. L. 104–134, § 31001(d)(2)(D), added subsec. (d).

Subsec. (e). Pub. L. 104–134, § 31001(d)(2)(C), redesignated subsec. (c) as (e).

Subsecs. (f) to (h). Pub. L. 104–134, § 31001(e), (f), added subsecs. (f) to (h).

Statutory Notes and Related Subsidiaries

Effective Date of 2008 Amendment

Pub. L. 110–275, title I, § 189(c), July 15, 2008, 122 Stat. 2591, provided that: ''The amendments made by this section [amending this section and section 1395kk of Title 42, The Public Health and Welfare] shall take effect on the date of the enactment of this Act [July 15, 2008].''

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110–234, title XIV, § 14219(b), May 22, 2008, 122 Stat. 1483, and Pub. L. 110–246, § 4(a), title XIV, § 14219(b), June 18, 2008, 122 Stat. 1664, 2245, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to any debt outstanding on or after the date of the enactment of this Act [June 18, 2008].''

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

Offsets From Social Security Payments

Pub. L. 104–134, title III, § 31001(a)(2)(B), Apr. 26, 1996, 110 Stat. 1321–358, provided that: ''Subparagraph (A) of section 3716(c)(3) of title 31, United States Code (as added by subsection (d)(2) of this section), shall apply only to payments made after the date which is 4 months after the date of the enactment of this Act [Apr. 26, 1996].''

Executive Documents

Ex. Ord. No. 13019. Supporting Families: Collecting Delinquent Child Support Obligations

Ex. Ord. No. 13019, Sept. 28, 1996, 61 F.R. 51763, provided that:

The Debt Collection Improvement Act of 1996, Public Law 104–134 [§ 31001] (110 Stat. 1321–358 *et seq.*) [see Short Title of 1996 Amendment note set out under section 3701 of this title], was enacted into law on April 26, 1996, as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996. While the primary purpose of the Debt Collection Improvement Act is to increase the collection of nontax debts owed to the Federal Government, the Act also contains important provisions that can be used to assist families in collecting past-due child support obligations.

The failure of some parents to meet their child support obligations threatens the health, education, and well-being of their children. Compounding this problem, States have experienced difficulties enforcing child support obligations once a parent has moved to another State. With this Executive order, my Administration takes additional steps to support our children and strengthen American families by facilitating the collection of delinquent child support obligations from persons who may be entitled or eligible to receive certain Federal payments or Federal assistance.

Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Administrative Offsets.* (a)(1) The Secretary of the Treasury (''the Secretary''), in accordance with the provisions of the Debt Collection Improvement Act of 1996 and to the extent permitted by law, and in consultation with the Secretary of Health and Human Services and other affected agencies, shall promptly develop and implement procedures necessary for the Secretary to collect past-due child support debts by administrative offset, and shall issue such rules, regulations, and procedures as the Secretary, in consultation with the heads of affected agencies, deems appropriate to govern administrative offsets by the Department of the Treasury and other executive departments and agencies that disburse Federal payments.

(2) The Secretary may enter into reciprocal agreements with States concerning the collection by the Secretary of delinquent child support debts through administrative offsets.

(b) The Secretary of Health and Human Services shall, within 120 days of the date of this order, implement procedures necessary to report to the Secretary of the Treasury information on past-due child support claims referred by States (including claims enforced by States pursuant to cooperative agreements with or by Indian tribal governments) to the Department of Health and Human Services.

(c) The head of each executive department and agency that certifies payments to the Secretary or to another disbursing official shall review each class of payments that the department or agency certifies to determine if any such class should be exempt from offset and, if any class is so identified, submit to the Secretary a request for such an exemption together with the reasons therefor. With respect to classes of payments under means-tested programs existing on the date of this order, such submission shall be made within 30 days of the date of this order. With respect to classes of payments other than payments under means-tested programs existing on the date of this order, such submissions shall be made within 30 days of the date the Secretary establishes standards pursuant to section 3716(c)(3) of title 31, United States Code. With respect to a class of payments established after the date of this order, such submissions shall be made not later than 30 days after such class is established.

(d) The head of each executive department and agency that certifies payments to the Secretary shall promptly implement any rule, regulation, or procedure issued by the Secretary pursuant to this section.

(e) The head of each executive department and agency that is authorized by law to disburse payments shall promptly implement any rule, regulation, or procedure issued by the Secretary pursuant to this section and shall:

(1) match, consistent with computer privacy matching laws, the payment certification records of such department or agency with records of persons delinquent in child support payments as directed by the Secretary; and

(2) conduct administrative offsets to collect delinquent child support payments.

(f) The Secretary shall, to the extent permitted by law, share with the Secretary of Health and Human Services any information contained in payment certification records of persons who are delinquent in child support obligations that would assist in the collection of such debts, whether or not an administrative offset is conducted.

SEC. 2. *Denial of Federal Assistance.* (a) The Secretary shall, to the extent permitted by law, ensure that information concerning individuals whose payments are subject to administrative offset because of delinquent child support obligations is made available to the head of each executive department and agency that provides Federal financial assistance to individuals.

(b) In conformance with section 2(e) of this order, the head of each executive department and agency shall, with respect to any individuals whose payments are subject to administrative offset because of a delinquent child support obligation, promptly implement procedures to deny Federal financial assistance to such individuals.

(c) The Attorney General, in consultation with the Secretary of Health and Human Services and other affected agencies, shall promptly issue guidelines for departments and agencies concerning minimum due-process standards to be included in the procedures required by subsection (b) of this section.

(d) For purposes of this section, Federal financial assistance means any Federal loan (other than a disaster loan), loan guarantee, or loan insurance.

(e)(1) A class of Federal financial assistance shall not be subject to denial if the head of the concerned department or agency determines:

(A) in consultation with the Attorney General and the Secretary of Health and Human Services, that such action:

(i) is not permitted by law; or

(ii) would likely result in valid legal claims for damages against the United States;

(B) that such action would be inconsistent with the best interests of the child or children with respect to whom a child support obligation is owed; or

(C) that such action should be waived.

(2) The head of each executive department and agency shall provide written notification to the Secretary upon determining that the denial of a class of Federal financial assistance is not permitted by law or should be waived.

(f) The head of each executive department and agency shall:

(1) review all laws under the jurisdiction of the department or agency that do not permit the denial of Federal financial assistance to individuals and whose payments are subject to administrative offset because of a delinquent child support obligation and, where appropriate, transmit to the Director of the Office of Management and Budget recommendations for statutory changes; and

(2) to the extent practicable, review all rules, regulations, and procedures implementing laws under the jurisdiction of the department or agency governing the provision of any Federal financial assistance to individuals and, where appropriate, conform such rules, regulations, and procedures to the provisions of this order and the rules, regulations, and procedures issued by the Secretary pursuant to section 1 of this order.

SEC. 3. *Reports.* (a) The head of each executive department and agency shall provide to the Secretary such information as the Secretary may request concerning the implementation of this order, the provisions of the Debt Collection Improvement Act of 1996 applicable to delinquent child support obligations, and the rules, regulations, and procedures issued by the Secretary pursuant to section 1 of this order.

(b) The Secretary shall report annually to the President concerning the implementation by departments and agencies of this order and the provisions of the Debt Collection Improvement Act of 1996 applicable to delinquent child support obligations.

SEC. 4. *Judicial Review.* This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

§ 3717. Interest and penalty on claims

(a)(1) The head of an executive, judicial, or legislative agency shall charge a minimum annual rate of interest on an outstanding debt on a United States Government claim owed by a person that is equal to the average investment rate for the Treasury tax and loan accounts for the 12-month period ending on September 30 of each year, rounded to the nearest whole percentage point. The Secretary of the Treasury shall publish the rate before November 1 of that year. The rate is effective on the first day of the next calendar quarter.

(2) The Secretary may change the rate of interest for a calendar quarter if the average investment rate for the 12-month period ending at the close of the prior calendar quarter, rounded to the nearest whole percentage point, is more or less than the existing published rate by 2 percentage points.

(b) Interest under subsection (a) of this section accrues from the date—

(1) on which notice is mailed after October 25, 1982, if notice was first mailed before October 25, 1982; or

(2) notice of the amount due is first mailed to the debtor at the most current address of the debtor available to the head of the executive or[1] legislative agency, if notice is first mailed after October 24, 1982.

(c) The rate of interest charged under subsection (a) of this section—

(1) is the rate in effect on the date from which interest begins to accrue under subsection (b) of this section; and

(2) remains fixed at that rate for the duration of the indebtedness.

(d) Interest under subsection (a) of this section may not be charged if the amount due on the claim is paid within 30 days after the date from which interest accrues under subsection (b) of this section. The head of an executive, judicial, or legislative agency may extend the 30-day period.

(e) The head of an executive, judicial, or legislative agency shall assess on a claim owed by a person—

(1) a charge to cover the cost of processing and handling a delinquent claim; and

(2) a penalty charge of not more than 6 percent a year for failure to pay a part of a debt more than 90 days past due.

(f) Interest under subsection (a) of this section does not accrue on a charge assessed under subsection (e) of this section.

(g) This section does not apply—

(1) if a statute, regulation required by statute, loan agreement, or contract prohibits charging interest or assessing charges or explicitly fixes the interest or charges; and

(2) to a claim under a contract executed before October 25, 1982, that is in effect on October 25, 1982.

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[1] So in original. Probably should be ‘‘, judicial, or’’.

(h) In conformity with standards prescribed jointly by the Attorney General, the Secretary of the Treasury, and the Comptroller General, the head of an executive, judicial, or legislative agency may prescribe regulations identifying circumstances appropriate to waiving collection of interest and charges under subsections (a) and (e) of this section. A waiver under the regulations is deemed to be compliance with this section.

(i)(1) The head of an executive, judicial, or legislative agency may increase an administrative claim by the cost of living adjustment in lieu of charging interest and penalties under this section. Adjustments under this subsection will be computed annually.

(2) For the purpose of this subsection—

(A) the term ''cost of living adjustment'' means the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the claim was determined or last adjusted; and

(B) the term ''administrative claim'' includes all debt that is not based on an extension of Government credit through direct loans, loan guarantees, or insurance, including fines, penalties, and overpayments.

(Added Pub L. 97–452, § 1(16)(A), Jan. 12, 1983, 96 Stat. 2472; amended Pub. L. 104–134, title III, § 31001(c)(1), (g)(1)(C), (q), Apr. 26, 1996, 110 Stat. 1321–359, 1321–363, 1321–372.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3717(a)	31 App.:952(e)(1) (1st–3d sentences).	July 19, 1966, Pub. L. 89–508, 80 Stat. 308, §3(e)(1) (1st–3d sentences), (2)–(7); added Oct. 25, 1982, Pub. L. 97–365, §11, 96 Stat. 1755.
3717(b), (c).	31 App.:952(e)(5).	
3717(d)	31 App.:952(e)(6).	
3717(e)	31 App.:952(e)(2).	
3717(f)	31 App.:952(e)(7).	
3717(g)(1)	31 App.:952(e)(3) (1st sentence).	
3717(g)(2)	31 App.:952(e)(4).	
3717(h)	31 App.:952(e)(3) (2d, last sentences).	

In subsection (a), the words ''percentage point'' and ''percentage points'' are substituted for ''per centum'' for clarity.

In subsections (a)(1) and (e), the words ''Except as provided in paragraph (3)'' are omitted as surplus.

In subsection (a)(2), the words ''for a calendar quarter'' are substituted for ''quarterly'', and the words ''prior calendar quarter'' are substituted for ''that calendar quarter'', for clarity.

In subsection (b), before clause (1), the words ''Subject to paragraph (6)'' and ''except as provided in subparagraph (B)'' are omitted as surplus. In clause (2), the words ''on the claim'' are omitted as surplus. The words ''if notice is first mailed after October 24, 1982'' are added for clarity.

In subsection (c), the words ''on a claim'' are omitted as surplus.

In subsection (g)(1), the words ''applicable'' and ''either'' are omitted as surplus. The word ''assessing'' is added for clarity. The words ''that apply to claims involved'' are omitted as surplus.

In subsection (h), the words ''under this section'' are added for clarity.

Editorial Notes

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–134, § 31001(c)(1), which directed that this section be amended by substituting ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' wherever appearing, was executed by substituting ''The head of an executive, judicial, or legislative agency'' for ''The head of an executive or legislative agency'', to reflect the probable intent of Congress.

Subsecs. (d), (e). Pub. L. 104–134, § 31001(c)(1), which directed that this section be amended by substituting ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' wherever appearing, was executed by substituting ''The head of an executive, judicial, or legislative agency'' for ''The head of an executive or legislative agency'', to reflect the probable intent of Congress.

Subsec. (h). Pub. L. 104–134, § 31001(c)(1), (g)(1)(C), inserted '', the Secretary of the Treasury,'' after ''Attorney General'' and substituted ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency''.

Subsec. (i). Pub. L. 104–134, § 31001(q), added subsec. (i).

§ 3718. Contracts for collection services

(a) Under conditions the head of an executive, judicial, or legislative agency considers appropriate, the head of the agency may enter into a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. The head of an agency may not enter into a contract under the preceding sentence to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets. The contract shall provide that—

(1) the head of the agency retains the authority to resolve a dispute, compromise a claim, end collection action, and refer a matter to the Attorney General to bring a civil action; and

(2) the person is subject to—

(A) section 552a of title 5, to the extent provided in section 552a(m); and

(B) laws and regulations of the United States Government and State governments related to debt collection practices.

(b)(1)(A) The Attorney General may make contracts retaining private counsel to furnish legal services, including representation in negotiation, compromise, settlement, and litigation, in the case of any claim of indebtedness owed the United States. Each such contract shall include such terms and conditions as the Attorney General considers necessary and appropriate, including a provision specifying the amount of the fee to be paid to the private counsel under such contract or the method for calculating that fee. The amount of the fee payable for legal services furnished under any such contract may not exceed the fee that counsel engaged in the private practice of law in the area or areas where the legal services are furnished typically charge clients for furnishing legal services in the collection of claims of indebtedness, as determined by the Attorney General, considering the amount, age, and nature of the indebtedness and whether the

debtor is an individual or a business entity. Nothing in this subparagraph shall relieve the Attorney General of the competition requirements set forth in division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(B) The Attorney General shall use his best efforts to enter into contracts under this paragraph with law firms owned and controlled by socially and economically disadvantaged individuals and law firms that are qualified HUBZone small business concerns (as defined in section 31(b) of the Small Business Act), so as to enable each agency to comply with paragraph (3).

(2) The head of an executive, judicial, or legislative agency may, subject to the approval of the Attorney General, refer to a private counsel retained under paragraph (1) of this subsection claims of indebtedness owed the United States arising out of activities of that agency.

(3) Each agency shall use its best efforts to assure that not less than 10 percent of the amounts of all claims referred to private counsel by that agency under paragraph (2) are referred to law firms owned and controlled by socially and economically disadvantaged individuals and law firms that are qualified HUBZone small business concerns. For purposes of this paragraph—

(A) the term ''law firm owned and controlled by socially and economically disadvantaged individuals'' means a law firm that meets the requirements set forth in clauses (i) and (ii) of section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)(i) and (ii)) and regulations issued under those clauses;

(B) ''socially and economically disadvantaged individuals'' shall be presumed to include these[1] groups and individuals described in the last paragraph of section 8(d)(3)(C) of the Small Business Act; and

(C) the term ''qualified HUBZone small business concern'' has the meaning given that term in section 31(b) of the Small Business Act.

(4) Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, a private counsel retained under paragraph (1) of this subsection may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel under paragraph (1) of this subsection.

(5) A contract made with a private counsel under paragraph (1) of this subsection shall include—

(A) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is for the convenience of the Government;

(B) a provision stating that the head of the executive or[2] legislative agency which refers a claim under the contract retains the authority to resolve a dispute regarding the claim, to compromise the claim, or to terminate a collection action on the claim; and

(C) a provision requiring the private counsel to transmit monthly to the Attorney General and the head of the executive or[2] legislative agency referring a claim under the contract a report on the services relating to the claim rendered under the contract during the month and the progress made during the month in collecting the claim under the contract.

(6) Notwithstanding the fourth sentence of section 803(6) of the Fair Debt Collection Practices Act (15 U.S.C. 1692a(6)), a private counsel performing legal services pursuant to a contract made under paragraph (1) of this subsection shall be considered to be a debt collector for the purposes of such Act.

(7) Any counterclaim filed in any action to recover indebtedness owed the United States which is brought on behalf of the United States by private counsel retained under this subsection may not be asserted unless the counterclaim is served directly on the Attorney General or the United States Attorney for the judicial district in which, or embracing the place in which, the action is brought. Such service shall be made in accordance with the rules of procedure of the court in which the action is brought.

(c) The Attorney General shall transmit to the Congress an annual report on the activities of the Department of Justice to recover indebtedness owed the United States which was referred to the Department of Justice for collection. Each such report shall include a list, by agency, of—

(1) the total number and amounts of claims which were referred for legal services to the Department of Justice and to private counsel under subsection (b) during the 1-year period covered by the report;

(2) the total number and amount of those claims referred for legal services to the Department of Justice which were collected or were not collected or otherwise resolved during the 1-year period covered by the report; and

(3) the total number and amount of those claims referred for legal services to private counsel under subsection (b)—

(A) which were collected or were not collected or otherwise resolved during the 1-year period covered by the report;

(B) which were not collected or otherwise resolved under a contract terminated by the Attorney General during the 1-year period covered by the report; and

(C) on which the Attorney General terminated the private counsel's representation during the 1-year period covered by the report without terminating the contract with the private counsel under which the claims were referred.

(d) Notwithstanding section 3302(b) of this title, a contract under subsection (a) or (b) of this section may provide that a fee a person charges to recover indebtedness owed, or to locate or recover assets of, the United States Government is payable from the amount recovered.

(e) A contract under subsection (a) or (b) of this section is effective only to the extent and in

[1] So in original. Probably should be ''the''.

[2] So in original. Probably should be '', judicial, or''.

the amount provided in an appropriation law. This limitation does not apply in the case of a contract that authorizes a person to collect a fee as provided in subsection (d) of this section.

(f) This section does not apply to the collection of debts under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(g) In order to assist Congress in determining whether use of private counsel is a cost-effective method of collecting Government debts, the Attorney General shall, following consultation with the Government Accountability Office, maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating United States Attorneys' Offices and by private counsel.

(Added Pub. L. 97–452, §1(16)(A), Jan. 12, 1983, 96 Stat. 2473; amended Pub. L. 98–167, Nov. 29, 1983, 97 Stat. 1104; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–578, §1, Oct. 28, 1986, 100 Stat. 3305; Pub. L. 102–589, §6, Nov. 10, 1992, 106 Stat. 5135; Pub. L. 103–272, §4(f)(1)(M), July 5, 1994, 108 Stat. 1362; Pub. L. 104–134, title III, §31001(c)(1), (*l*), (cc)(1), Apr. 26, 1996, 110 Stat. 1321–359, 1321–366, 1321–380; Pub. L. 105–135, title VI, §604(e)(1), Dec. 2, 1997, 111 Stat. 2633; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 111–350, §5(h)(6), Jan. 4, 2011, 124 Stat. 3849; Pub. L. 115–91, div. A, title XVII, §1701(a)(4)(E), Dec. 12, 2017, 131 Stat. 1796.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3718(a)	31 App.:952(f)(1) (1st sentence words after 2d comma, last sentence).	July 19, 1966, Pub. L. 89–508, 80 Stat. 308, §3(f); added Oct. 25, 1982, Pub. L. 97–365, §13(b), 96 Stat. 1757.
3718(b)	31 App.:952(f)(2).	
3718(c)	31 App.:952(f)(3).	
3718(d)	31 App.:952(f)(1) (1st sentence words before 2d comma).	

In subsections (a) and (b), the word ''Government'' is added for consistency in the revised title and with other titles of the United States Code.

In subsection (a), before clause (1), the words ''terms and'' are omitted as surplus. The words ''or organization'' are omitted because of 1:1. In clause (1), the words ''bring a civil action'' are substituted for ''initiate legal action'' for consistency in the revised title and with other titles of the Code. In clause (2)(B), the words ''including the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.)'' are omitted as being included in ''laws and regulations of the United States Government''.

In subsection (b), the words ''the head of an agency'' are omitted as surplus.

In subsection (c), the word ''advanced'' is omitted as surplus.

In subsection (d), the words ''Notwithstanding the provisions of any other law governing the collection of claims owed the United States'' and ''unpaid or underpaid'' are omitted as surplus.

Editorial Notes

REFERENCES IN TEXT

Section 31(b) of the Small Business Act, referred to in subsec. (b)(1)(B), (3)(C), is classified to section 657a(b) of Title 15, Commerce and Trade.

The Fair Debt Collection Practices Act, referred to in subsec. (b)(6), is title VIII of Pub. L. 90–321, as added by Pub. L. 95–109 Sept. 20, 1977, 91 Stat. 874, which is classified generally to subchapter V (§1692 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

AMENDMENTS

2017—Subsec. (b)(1)(B), (3)(C). Pub. L. 115–91 substituted ''section 31(b) of the Small Business Act'' for ''section 3(p) of the Small Business Act''.

2011—Subsec. (b)(1)(A). Pub. L. 111–350 substituted ''division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' for ''title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following)''.

2004—Subsec. (g). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1997—Subsec. (b)(1)(B). Pub. L. 105–135, §604(e)(1)(A), inserted ''and law firms that are qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act)'' after ''disadvantaged individuals''.

Subsec. (b)(3). Pub. L. 105–135, §604(e)(1)(B)(i), inserted ''and law firms that are qualified HUBZone small business concerns'' after ''economically disadvantaged individuals'' in introductory provisions.

Subsec. (b)(3)(C). Pub. L. 105–135, §604(e)(1)(B)(ii)–(iv), added subpar. (C).

1996—Subsec. (a). Pub. L. 104–134, §31001(*l*)(1), in introductory provisions substituted ''Under conditions the head of an executive, judicial, or legislative agency considers appropriate, the head of the agency may enter into a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. The head of an agency may not enter into a contract under the preceding sentence to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets.'' for ''Under conditions the head of an executive or legislative agency considers appropriate, the head of the agency may make a contract with a person for collection services to recover indebtedness owed the United States Government.''

Subsec. (b)(1)(A). Pub. L. 104–134, §31001(cc)(1), struck out ''If the Attorney General makes a contract for legal services to be furnished in any judicial district of the United States under the first sentence of this paragraph, the Attorney General shall use his best efforts to obtain, from among attorneys regularly engaged in the private practice of law in such district, at least four such contracts for legal services with private individuals or firms in such district.'' before ''Nothing in this subparagraph shall''.

Subsec. (b)(2). Pub. L. 104–134, §31001(c)(1), which directed the amendment of this section by substituting ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' wherever appearing, was executed by substituting ''The head of an executive, judicial, or legislative agency'' for ''The head of an executive or legislative agency'', to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 104–134, §31001(*l*)(2), inserted '', or to locate or recover assets of,'' after ''owed''.

1994—Subsec. (b)(3)(A). Pub. L. 103–272 substituted ''15 U.S.C. 637(d)(3)(C)(i)'' for ''15 U.S.C. 6376(d)(3)(C)(i)''.

1992—Subsec. (g). Pub. L. 102–589 added subsec. (g).

1986—Subsecs. (b), (c). Pub. L. 99–578, §1(1), (4), added subsecs. (b) and (c) and redesignated former subsecs. (b) and (c) as (d) and (e), respectively.

Subsec. (d). Pub. L. 99–578, §1(1), (2), redesignated former subsec. (b) as (d) and inserted ''or (b)'' after ''subsection (a)''. Former subsec. (d) redesignated (f).

Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

Subsec. (e). Pub. L. 99–578, §1(1), (3), redesignated former subsec. (c) as (e), inserted ''or (b)'' after ''(a)'', and substituted ''subsection (d)'' for ''subsection (b)''.

Subsec. (f). Pub. L. 99–578, §1(1), redesignated former subsec. (d) as (f).

1983—Subsec. (c). Pub. L. 98–167 inserted ''This limitation does not apply in the case of a contract that authorizes a person to collect a fee as provided in subsection (b) of this section.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–91 effective Jan. 1, 2020, see section 1701(j) of Pub. L. 115–91, set out as a note under section 657a of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–135 effective Oct. 1, 1997, see section 3 of Pub. L. 105–135, set out as a note under section 631 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–589, §7, Nov. 10, 1992, 106 Stat. 5135, provided that: ''The provisions of this Act [amending this section and section 3720A of this title, enacting provisions set out as notes under this section and section 6501 of this title, and amending provisions set out as notes under this section and sections 3335 and 6503 of this title] and amendments made by this Act shall take effect on the date of enactment of this Act [Nov. 10, 1992], except if such date of enactment is on or after October 1, 1992, such provisions and amendments shall be effective as if enacted on September 30, 1992.''

EFFECTIVE AND TERMINATION DATES OF 1986 AMENDMENT

Pub. L. 99–578, §5, Oct. 28, 1986, 100 Stat. 3307, as amended by Pub. L. 102–589, §4(c), Nov. 10, 1992, 106 Stat. 5134, which provided that Pub. L. 99–578 and the amendments made by section 1 of Pub. L. 99–578 (amending this section and enacting provisions set out as notes under this section) were to be in effect until Sept. 30, 1996, was repealed by Pub. L. 104–134, title III, §31001(cc)(2), Apr. 26, 1996, 110 Stat. 1321–380.

REGULATIONS

Pub. L. 99–578, §4, Oct. 28, 1986, 100 Stat. 3307, provided that: ''The Attorney General shall issue regulations to carry out this Act and the amendments made by section 1 of this Act [amending this section and enacting provisions set out as notes under this section]. The Attorney General shall submit the regulations to the Congress at least 60 days before they become effective.''

EXTENSION OF CONTRACTS WITH PRIVATE COUNSEL

Pub. L. 102–589, §4(d), Nov. 10, 1992, 106 Stat. 5134, provided that: ''The Attorney General may extend or modify any or all of the contracts entered into with private counsel prior to October 1, 1992, for such time as is necessary to conduct a full and open competition in accordance with section 3718(b) of title 31, United States Code.''

AUDIT BY INSPECTOR GENERAL

Pub. L. 102–589, §5, Nov. 10, 1992, 106 Stat. 5134, provided that:

''(a) CONTENTS OF AUDIT.—The Inspector General of the Department of Justice shall conduct an audit, for the period beginning on October 1, 1991, and ending on September 30, 1994, of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code, under the pilot program referred to in section 3 of the Act entitled 'An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.', approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99–578 [set out below]). The Inspector General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, the results of the debt collection efforts of private counsel retained under such contracts, and the cost-effectiveness of the pilot project compared with the use of United States Attorneys' Offices for debt collection.

''(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Inspector General shall transmit to the Congress, not later than June 30, 1995, a report on the findings, conclusions, and recommendations resulting from the audit.''

PILOT PROGRAM; EXTENSION

Pub. L. 99–578, §3, Oct. 28, 1986, 100 Stat. 3307, as amended by Pub. L. 102–589, §4(b), Nov. 10, 1992, 106 Stat. 5134, which directed Attorney General to carry out subsections (b) and (c) of this section through a pilot program in each of at least 5 and not more than 15 judicial districts selected by the Attorney General, was repealed by Pub. L. 104–134, title III, §31001(cc)(2), Apr. 26, 1996, 110 Stat. 1321–380.

Pub. L. 104–134, title I, §101[(a)] [title I, §120], Apr. 26, 1996, 110 Stat. 1321, 1321–22; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, provided that the pilot debt collection project authorized by Public Law 99–578 (formerly set out above) was extended through September 30, 1997.

Prior extensions of the pilot program for legal services were contained in the following acts:

Pub. L. 102–589, §4(a), Nov. 10, 1992, 106 Stat. 5134.

Pub. L. 102–395, title I, Oct. 6, 1992, 106 Stat. 1832.

Pub. L. 101–302, title II, May 25, 1990, 104 Stat. 216.

REPORT BY ATTORNEY GENERAL

Pub. L. 99–578, §2, Oct. 28, 1986, 100 Stat. 3307, directed Attorney General, not later than 180 days after Oct. 28, 1986, to transmit to Congress a report on actions taken under subsec. (b) of this section, as added by Pub. L. 99–578.

AUDIT BY COMPTROLLER GENERAL

Pub. L. 99–578, §6, Oct. 28, 1986, 100 Stat. 3307, provided that:

''(a) CONTENTS OF AUDIT.—The Comptroller General of the United States shall, at the end of the 3-year period referred to in section 5 [set out above], conduct an audit of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code (as added by section 1 of this Act), under the pilot program referred to in section 3 [set out above]. The Comptroller General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, and the results of the debt collection efforts of private counsel retained under such contracts.

''(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Comptroller General shall transmit to the Congress a report on the findings and conclusions resulting from the audit.''

§ 3719. Reports on debt collection activities

(a) In consultation with the Comptroller General of the United States, the Secretary of the Treasury shall prescribe regulations requiring the head of each agency with outstanding nontax claims to prepare and submit to the Secretary at least once each year a report summarizing the status of loans and accounts receivable that are managed by the head of the agency. The report shall contain—

(1) information on—

(A) the total amount of loans and accounts receivable owed the agency and when

amounts owed the agency are due to be repaid;

(B) the total amount of receivables and number of claims at least 30 days past due;

(C) the total amount written off as actually uncollectible and the total amount allowed for uncollectible loans and accounts receivable;

(D) the rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

(E) the total number of claims and the total amount collected; and

(F) the number and total amount of claims referred to the Attorney General for settlement and the number and total amount of claims the Attorney General settles;

(2) the information described in clause (1) of this subsection for each program or activity the head of the agency carries out; and

(3) other information the Secretary considers necessary to decide whether the head of the agency is acting aggressively to collect the claims of the agency.

(b) The Secretary shall analyze the reports submitted under subsection (a) of this section and shall report annually to Congress on the management of debt collection activities by the head of each agency, including the information provided the Secretary under subsection (a).

(Added Pub. L. 97–452, § 1(16)(A), Jan. 12, 1983, 96 Stat. 2473; amended Pub. L. 104–134, title III, § 31001(aa)(3), Apr. 26, 1996, 110 Stat. 1321–380.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3719(a)	31 App.:955(a).	Oct. 25, 1982, Pub. L. 97–365, § 12, 96 Stat. 1756.
3719(b)	31 App.:955(b).	

In subsection (a), before clause (1), the words ''of the United States'' are omitted as surplus. The words ''the head of'' are added for consistency in the revised title and with other titles of the United States Code. In clause (1)(C), the words ''uncollectible loans and accounts receivable'' are added for clarity. In clause (1)(F), the words ''Attorney General'' are substituted for ''Department of Justice'' for consistency in the revised title and with other titles of the Code, including 28:503, 509.

In subsection (b), the word ''submitted'' is substituted for ''received by each agency'' for clarity.

Editorial Notes

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–134, § 31001(aa)(3)(A)(i), amended first sentence generally. Prior to amendment, first sentence read as follows: ''In consultation with the Secretary of the Treasury and the Comptroller General, the Director of the Office of Management and Budget shall prescribe regulations requiring the head of each agency with outstanding debts to prepare and submit to the Director and the Secretary at least once each year a report summarizing the status of loans and accounts receivable managed by the head of the agency.''

Subsec. (a)(3). Pub. L. 104–134, § 31001(aa)(3)(A)(ii), substituted ''Secretary'' for ''Director''.

Subsec. (b). Pub. L. 104–134, § 31001(aa)(3)(B), which directed that subsec. (b) be amended by substituting ''Secretary'' for ''Director'', was executed by making the substitution to both places where ''Director'' appeared.

Statutory Notes and Related Subsidiaries

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the reporting requirement under subsec. (b) of this section is listed on page 42), see section 3003 of Pub. L. 104–66, as amended, and section 1(a)(4) [div. A, § 1402(1)] of Pub. L. 106–554, set out as notes under section 1113 of this title.

CONSOLIDATION OF REPORTS

Pub. L. 104–134, title III, § 31001(aa)(4), Apr. 26, 1996, 110 Stat. 1321–380, provided that: ''Notwithstanding any other provision of law, the Secretary of the Treasury may consolidate reports concerning debt collection otherwise required to be submitted by the Secretary into one annual report.''

§ 3720. Collection of payments

(a) Each head of an executive agency (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)) shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely deposit of money by officials and agents of such agency in accordance with section 3302, and for the collection and timely deposit of sums owed to such agency by the use of such procedures as withdrawals and deposits by electronic transfer of funds, automatic withdrawals from accounts at financial institutions, and a system under which financial institutions receive and deposit, on behalf of the executive agency, payments transmitted to post office lockboxes. The Secretary is authorized to collect from any agency not complying with the requirements imposed pursuant to the preceding sentence a charge in an amount the Secretary determines to be the cost to the general fund caused by such noncompliance.

(b) The head of an executive agency shall pay to the Secretary of the Treasury charges imposed pursuant to subsection (a). Payments shall be made out of amounts appropriated or otherwise made available to carry out the program to which the collections relate. The amounts of the charges paid under this subsection shall be deposited in the Cash Management Improvements Fund established by subsection (c).

(c) There is established in the Treasury of the United States a revolving fund to be known as the ''Cash Management Improvements Fund''. Sums in the fund shall be available without fiscal year limitation for the payment of expenses incurred in developing the methods of collection and deposit described in subsection (a) of this section and the expenses incurred in carrying out collections and deposits using such methods, including the costs of personal services and the costs of the lease or purchase of equipment and operating facilities.

(Added Pub. L. 98–369, div. B, title VI, § 2652(a)(1), July 18, 1984, 98 Stat. 1152.)

Statutory Notes and Related Subsidiaries

REGULATIONS

Pub. L. 98–369, div. B, title VI, § 2652(a)(3), July 18, 1984, 98 Stat. 1152, provided that: ''The Secretary of the Treasury shall prescribe regulations, including regulations under section 3720 of title 31, United States Code, designed to achieve by October 1, 1986, full implementation of the purposes of this subsection.''

§ 3720A. Reduction of tax refund by amount of debt

(a) Any Federal agency that is owed by a person a past-due, legally enforceable debt (including debt administered by a third party acting as an agent for the Federal Government) shall, and any agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), owed such a debt may, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once each year of the amount of such debt.

(b) No Federal agency may take action pursuant to subsection (a) with respect to any debt until such agency—

(1) notifies the person incurring such debt that such agency proposes to take action pursuant to such paragraph with respect to such debt;

(2) gives such person at least 60 days to present evidence that all or part of such debt is not past-due or not legally enforceable;

(3) considers any evidence presented by such person and determines that an amount of such debt is past due and legally enforceable;

(4) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under paragraph (3) with respect to such debt is valid and that the agency has made reasonable efforts (determined on a government-wide basis) to obtain payment of such debt; and

(5) certifies that reasonable efforts have been made by the agency (pursuant to regulations) to obtain payment of such debt.

(c) Upon receiving notice from any Federal agency that a named person owes to such agency a past-due legally enforceable debt, the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such person. If the Secretary of the Treasury finds that any such amount is payable, he shall reduce such refunds by an amount equal to the amount of such debt, pay the amount of such reduction to such agency, and notify such agency of the individual's home address.

(d) The Secretary of the Treasury shall issue regulations prescribing the time or times at which agencies must submit notices of past-due legally enforceable debts, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices. The regulations shall specify the minimum amount of debt to which the reduction procedure established by subsection (c) may be applied and the fee that an agency must pay to reimburse the Secretary of the Treasury for the full cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence may be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

(e) Any Federal agency receiving notice from the Secretary of the Treasury that an erroneous payment has been made to such agency under subsection (c) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such agency under such subsection have been paid to such agency).

(f)(1) Subsection (a) shall apply with respect to an OASDI overpayment made to any individual only if such individual is not currently entitled to monthly insurance benefits under title II of the Social Security Act.

(2)(A) The requirements of subsection (b) shall not be treated as met in the case of the recovery of an OASDI overpayment from any individual under this section unless the notification under subsection (b)(1) describes the conditions under which the Commissioner of Social Security is required to waive recovery of an overpayment, as provided under section 204(b) of the Social Security Act.

(B) In any case in which an individual files for a waiver under section 204(b) of the Social Security Act within the 60-day period referred to in subsection (b)(2), the Commissioner of Social Security shall not certify to the Secretary of the Treasury that the debt is valid under subsection (b)(4) before rendering a decision on the waiver request under such section 204(b). In lieu of payment, pursuant to subsection (c), to the Commissioner of Social Security of the amount of any reduction under this subsection based on an OASDI overpayment, the Secretary of the Treasury shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary of the Treasury as appropriate by the Commissioner of Social Security.

(g) In the case of refunds of business associations, this section shall apply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.

(h)(1)[1] The disbursing official of the Department of the Treasury—

(1)[1] shall notify a taxpayer in writing of—

(A) the occurrence of an offset to satisfy a past-due legally enforceable nontax debt;

(B) the identity of the creditor agency requesting the offset; and

(C) a contact point within the creditor agency that will handle concerns regarding the offset;

(2)[1] shall notify the Internal Revenue Service on a weekly basis of—

(A) the occurrence of an offset to satisfy a past-due legally enforceable non-tax[2] debt;

[1] So in original. Subsec. (h) contains two pars. designated (1) and (2).

[2] So in original. Probably should not be hyphenated.

(B) the amount of such offset; and

(C) any other information required by regulations; and

(3) shall match payment records with requests for offset by using a name control, taxpayer identifying number (as that term is used in section 6109 of the Internal Revenue Code of 1986), and any other necessary identifiers.

(h)(2)[1] The term ''disbursing official'' of the Department of the Treasury means the Secretary or his designee.

(i) An agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), may implement this section at its discretion.

(Added Pub. L. 98–369, div. B, title VI, § 2653(a)(1), July 18, 1984, 98 Stat. 1153; amended Pub. L. 101–508, title V, § 5129(b), Nov. 5, 1990, 104 Stat. 1388–287; Pub. L. 102–589, § 3, Nov. 10, 1992, 106 Stat. 5133; Pub. L. 103–296, title I, § 108(j)(2), Aug. 15, 1994, 108 Stat. 1488; Pub. L. 104–134, title III, § 31001(u)(1), (v)(1), (w), Apr. 26, 1996, 110 Stat. 1321–375.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (f)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title II of the Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Section 204 of the Act is classified to section 404 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The date of enactment of this subsection, referred to in subsec. (g), is the date of enactment of Pub. L. 102–589, which was approved Nov. 10, 1992.

Section 6109 of the Internal Revenue Code of 1986, referred to in subsec. (h)(3), is classified to section 6109 of Title 26, Internal Revenue Code.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–134, § 31001(v)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.''

Subsec. (h). Pub. L. 104–134, § 31001(w), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''For purposes of this section—

''(1) the term 'Federal agency' means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code);

''(2) the term 'past-due support' means any delinquency subject to section 464 of the Social Security Act;

''(3) the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act; and

''(4) the term 'person' means an individual; or a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association.''

Subsec. (i). Pub. L. 104–134, § 31001(u)(1), added subsec. (i).

1994—Subsec. (f)(2). Pub. L. 103–296 substituted ''Commissioner of Social Security'' for ''Secretary of Health and Human Services'' wherever appearing.

1992—Subsec. (a). Pub. L. 102–589, § 3(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support) by a named person shall, in accordance with regulations issued pursuant to subsection (d), notify the Secretary of the Treasury of the amount of such debt.''

Subsec. (b)(3) to (5). Pub. L. 102–589, § 3(2), struck out ''and'' at end of par. (3), substituted ''(determined on a government-wide basis) to obtain payment of such debt; and'' for ''to obtain payment of such debt.'' in par. (4), and added par. (5).

Subsec. (g). Pub. L. 102–589, § 3(5), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 102–589, § 3(3), (4), redesignated subsec. (g) as (h) and added par. (4).

1990—Subsec. (a). Pub. L. 101–508, § 5129(b)(1), struck out ''OASDI overpayment and'' after ''other than any''.

Subsecs. (f), (g). Pub. L. 101–508, § 5129(b)(2), (3), added subsec. (f) and redesignated former subsec. (f) as (g).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–589 effective as if enacted on Sept. 30, 1992, see section 7 of Pub. L. 102–589, set out as a note under section 3718 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective Jan. 1, 1991, and inapplicable to refunds to which amendments by section 2653 of the Deficit Reduction Act of 1984, Pub. L. 98–369, do not apply, see section 5129(d) of Pub. L. 101–508, set out as a note under section 6402 of Title 26, Internal Revenue Code.

EFFECTIVE DATE

Section applicable with respect to refunds payable under section 6402 of Title 26, Internal Revenue Code, after Dec. 31, 1985, see section 2653(c) of Pub. L. 98–369, as amended, set out as an Effective Date of 1984 Amendment note under section 6402 of Title 26.

CLARIFICATION OF CONGRESSIONAL INTENT AS TO SCOPE OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98–369

For provisions that nothing in amendments by section 2653 of Pub. L. 98–369, enacting this section, be construed as exempting debts of corporations or any other category of persons from application of such amendments, with such amendments to extend to all Federal agencies (as defined in such amendments), see section 9402(b) of Pub. L. 100–203, set out as a note under section 6402 of Title 26, Internal Revenue Code.

§ 3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan insurance guarantees

(a) Unless this subsection is waived by the head of a Federal agency, a person may not obtain any Federal financial assistance in the form of a loan (other than a disaster loan or a marketing assistance loan or loan deficiency payment under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.)) or loan insurance or guarantee administered by the agency if the person has an outstanding debt (other than a debt under the Internal Revenue Code of 1986) with any Federal agency which is in a delinquent status, as determined under

standards prescribed by the Secretary of the Treasury. Such a person may obtain additional loans or loan guarantees only after such delinquency is resolved in accordance with those standards. The Secretary of the Treasury may exempt, at the request of an agency, any class of claims.

(b) The head of a Federal agency may delegate the waiver authority under subsection (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency.

(Added Pub. L. 104–134, title III, § 31001(j)(1), Apr. 26, 1996, 110 Stat. 1321–365; amended Pub. L. 106–387, § 1(a) [title VIII, § 845(a)], Oct. 28, 2000, 114 Stat. 1549, 1549A–65.)

Editorial Notes

REFERENCES IN TEXT

The Agricultural Market Transition Act, referred to in subsec. (a), is title I of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 896. Subtitle C of the Act is classified generally to subchapter III (§ 7231 et seq.) of chapter 100 of Title 7, Agriculture. For complete classification of this Act to the Code, see References in Text note set out under section 7201 of Title 7 and Tables.

The Internal Revenue Code of 1986, referred to in subsec. (a), is classified to Title 26, Internal Revenue Code.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–387 inserted ''or a marketing assistance loan or loan deficiency payment under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.)'' after ''disaster loan''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–387, § 1(a) [title VIII, § 845(c)], Oct. 28, 2000, 114 Stat. 1549, 1549A–65, provided that:

''(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] takes effect on the date of enactment of this Act [Oct. 28, 2000].

''(2) TRANSITION LOAN DEFICIENCY PAYMENTS.—If the producers on a farm lost beneficial interest in a crop during the period beginning March 21, 2000, and ending on the day before the date of enactment of this Act and were ineligible for a marketing assistance loan under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.) because of section 3720B(a) of title 31, United States Code, as in effect before the amendment made by subsection (a), the producers shall be eligible for any loan deficiency payment under subtitle C of that Act that was available on the date on which the producers lost beneficial interest in the crop.''

PAYMENTS

Pub. L. 106–387, § 1(a) [title VIII, § 845(b)], Oct. 28, 2000, 114 Stat. 1549, 1549A–65, provided that: ''Any payment made by the Commodity Credit Corporation to a producer as a result of the amendment made by section (a) [amending this section] shall be credited toward any delinquent debt owed by the producer to the Farm Service Agency.''

§ 3720C. Debt Collection Improvement Account

(a)(1) There is hereby established in the Treasury a special fund to be known as the ''Debt Collection Improvement Account'' (hereinafter in this section referred to as the ''Account'').

(2) The Account shall be maintained and managed by the Secretary of the Treasury, who shall ensure that agency programs are credited with amounts transferred under subsection (b)(1).

(b)(1) Not later than 30 days after the end of a fiscal year, an agency may transfer to the Account the amount described in paragraph (3), as adjusted under paragraph (4).

(2) Agency transfers to the Account may include collections from—

(A) salary, administrative, and tax refund offsets;

(B) the Department of Justice;

(C) private collection agencies;

(D) sales of delinquent loans; and

(E) contracts to locate or recover assets.

(3) The amount referred to in paragraph (1) shall be 5 percent of the amount of delinquent debt collected by an agency in a fiscal year, minus the greater of—

(A) 5 percent of the amount of delinquent nontax debt collected by the agency in the previous fiscal year, or

(B) 5 percent of the average annual amount of delinquent nontax debt collected by the agency in the previous 4 fiscal years.

(4) In consultation with the Secretary of the Treasury, the Office of Management and Budget may adjust the amount described in paragraph (3) for an agency to reflect the level of effort in credit management programs by the agency. As an indicator of the level of effort in credit management, the Office of Management and Budget shall consider the following:

(A) The number of days between the date a claim or debt became delinquent and the date which an agency referred the debt or claim to the Secretary of the Treasury or obtained an exemption from this referral under section 3711(g)(2) of this title.

(B) The ratio of delinquent debts or claims to total receivables for a given program, and the change in this ratio over a period of time.

(c)(1) The Secretary of the Treasury may make payments from the Account solely to reimburse agencies for qualified expenses. For agencies with franchise funds, such payments may be credited to subaccounts designated for debt collection.

(2) For purposes of this section, the term ''qualified expenses'' means expenditures for the improvement of credit management, debt collection, and debt recovery activities, including—

(A) account servicing (including cross-servicing under section 3711(g) of this title),

(B) automatic data processing equipment acquisitions,

(C) delinquent debt collection,

(D) measures to minimize delinquent debt,

(E) sales of delinquent debt,

(F) asset disposition, and

(G) training of personnel involved in credit and debt management.

(3)(A) Amounts transferred to the Account shall be available to the Secretary of the Treasury for purposes of this section to the extent and in amounts provided in advance in appropriations Acts.

(B) As soon as practicable after the end of the third fiscal year after which amounts transferred are first available pursuant to this section, and every 3 years thereafter, any uncommitted balance in the Account shall be trans-

ferred to the general fund of the Treasury as miscellaneous receipts.

(d) For direct loans and loan guarantee programs subject to title V of the Congressional Budget Act of 1974, amounts credited in accordance with subsection (c) shall be considered administrative costs.

(e) The Secretary of the Treasury shall prescribe such rules, regulations, and procedures as the Secretary considers necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 104–134, title III, § 31001(t)(1), Apr. 26, 1996, 110 Stat. 1321–373.)

Editorial Notes

REFERENCES IN TEXT

The Congressional Budget Act of 1974, referred to in subsec. (d), is titles I through IX of Pub. L. 93–344, July 12, 1974, 88 Stat. 297. Title V of the Act, known as the Federal Credit Reform Act of 1990, is classified generally to subchapter III (§ 661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

§ 3720D. Garnishment

(a) Notwithstanding any provision of State law, the head of an executive, judicial, or legislative agency that administers a program that gives rise to a delinquent nontax debt owed to the United States by an individual may in accordance with this section garnish the disposable pay of the individual to collect the amount owed, if the individual is not currently making required repayment in accordance with any agreement between the agency head and the individual.

(b) In carrying out any garnishment of disposable pay of an individual under subsection (a), the head of an executive, judicial, or legislative agency shall comply with the following requirements:

(1) The amount deducted under this section for any pay period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual.

(2) The individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the head of the executive, judicial, or legislative agency, informing the individual of—

(A) the nature and amount of the debt to be collected;

(B) the intention of the agency to initiate proceedings to collect the debt through deductions from pay; and

(C) an explanation of the rights of the individual under this section.

(3) The individual shall be provided an opportunity to inspect and copy records relating to the debt.

(4) The individual shall be provided an opportunity to enter into a written agreement with the executive, judicial, or legislative agency, under terms agreeable to the head of the agency, to establish a schedule for repayment of the debt.

(5) The individual shall be provided an opportunity for a hearing in accordance with subsection (c) on the determination of the head of the executive, judicial, or legislative agency concerning—

(A) the existence or the amount of the debt, and

(B) in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), the terms of the repayment schedule.

(6) If the individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of the individual until the individual has been reemployed continuously for at least 12 months.

(c)(1) A hearing under subsection (b)(5) shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (b)(2), and in accordance with such procedures as the head of the executive, judicial, or legislative agency may prescribe, files a petition requesting such a hearing.

(2) If the individual does not file a petition requesting a hearing prior to such date, the head of the agency shall provide the individual a hearing under subsection (a)(5)[1] upon request, but such hearing need not be provided prior to issuance of a garnishment order.

(3) The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

(d) The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

(e)(1) An employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action.

(2) The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

(f)(1) The employer of an individual—

(A) shall pay to the head of an executive, judicial, or legislative agency as directed in a withholding order issued in an action under this section with respect to the individual, and

(B) shall be liable for any amount that the employer fails to withhold from wages due an employee following receipt by such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages.

(2)(A) The head of an executive, judicial, or legislative agency may sue an employer in a State or Federal court of competent jurisdiction to recover amounts for which the employer is liable under paragraph (1)(B).

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[1] So in original. Probably should be subsection ''(b)(5)''.

(B) A suit under this paragraph may not be filed before the termination of the collection action, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period.

(3) Notwithstanding paragraphs (1) and (2), an employer shall not be required to vary its normal pay and disbursement cycles in order to comply with this subsection.

(g) For the purpose of this section, the term ''disposable pay'' means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by any other law to be withheld.

(h) The Secretary of the Treasury shall issue regulations to implement this section.

(Added Pub. L. 104–134, title III, § 31001(*o*)(1), Apr. 26, 1996, 110 Stat. 1321–369.)

§ 3720E. Dissemination of information regarding identity of delinquent debtors

(a) The head of any agency may, with the review of the Secretary of the Treasury, for the purpose of collecting any delinquent nontax debt owed by any person, publish or otherwise publicly disseminate information regarding the identity of the person and the existence of the nontax debt.

(b)(1) The Secretary of the Treasury, in consultation with the Director of the Office of Management and Budget and the heads of other appropriate Federal agencies, shall issue regulations establishing procedures and requirements the Secretary considers appropriate to carry out this section.

(2) Regulations under this subsection shall include—

(A) standards for disseminating information that maximize collections of delinquent nontax debts, by directing actions under this section toward delinquent debtors that have assets or income sufficient to pay their delinquent nontax debt;

(B) procedures and requirements that prevent dissemination of information under this section regarding persons who have not had an opportunity to verify, contest, and compromise their nontax debt in accordance with this subchapter; and

(C) procedures to ensure that persons are not incorrectly identified pursuant to this section.

(Added Pub. L. 104–134, title III, § 31001(r)(1), Apr. 26, 1996, 110 Stat. 1321–372.)

SUBCHAPTER III—CLAIMS AGAINST THE UNITED STATES GOVERNMENT

§ 3721. Claims of personnel of agencies and the District of Columbia government for personal property damage or loss

(a) In this section—

(1) ''agency'' does not include a nonappropriated fund activity or a contractor with the United States Government.

(2) ''head of an agency'' means—

(A) for a military department, the Secretary of the military department;

(B) for the Department of Defense (except the military departments), the Secretary of Defense; and

(C) for another agency, the head of the agency.

(3) ''settle'' means consider, determine, adjust, and dispose of a claim by disallowance or by complete or partial allowance.

(b)(1) The head of an agency may settle and pay not more than $40,000 for a claim against the Government made by a member of the uniformed services under the jurisdiction of the agency or by an officer or employee of the agency for damage to, or loss of, personal property incident to service. If, however, the claim arose from an emergency evacuation or from extraordinary circumstances, the amount settled and paid under the authority of the preceding sentence may exceed $40,000, but may not exceed $100,000. A claim allowed under this subsection may be paid in money or the personal property replaced in kind.

(2) The Secretary of State may waive the settlement and payment limitation referred to in paragraph (1) for claims for damage or loss by United States Government personnel under the jurisdiction of a chief of mission in a foreign country if such claims arise in circumstances where there is in effect a departure from the country authorized or ordered under circumstances described in section 5522(a) of title 5, if the Secretary determines that there exists exceptional circumstances that warrant such a waiver.

(c) On paying a claim under this section, the Government is subrogated for the amount of the payment to a right or claim that the claimant may have against a foreign country for the damage or loss for which the Government made the payment.

(d) The Mayor of the District of Columbia may settle and pay a claim against the District of Columbia government made by an officer or employee of the District of Columbia government to the same extent the head of an agency may settle and pay a claim under this section.

(e) A claim may not be allowed under this section if the personal property damage or loss occurred at quarters occupied by the claimant in a State or the District of Columbia that were not assigned or provided in kind by the United States Government or the District of Columbia government.

(f) A claim may be allowed under this section only if—

(1) the claim is substantiated;

(2) the head of the agency decides that possession of the property was reasonable or useful under the circumstances; and

(3) no part of the loss was caused by any negligent or wrongful act of the claimant or an agent or employee of the claimant.

(g) A claim may be allowed under this section only if it is presented in writing within 2 years after the claim accrues. However, if a claim under subsection (b) of this section accrues during war or an armed conflict in which an armed force of the United States is involved, or has accrued within 2 years before war or an armed conflict begins, and for cause shown, the claim must be presented within 2 years after the cause no longer exists or after the war or armed conflict ends, whichever is earlier. An armed con-

flict begins and ends as stated in a concurrent resolution of Congress or a decision of the President.

(h) The head of the agency—

(1) may settle and pay a claim made by the surviving spouse, child, parent, or brother or sister of a dead member, officer, or employee if the claim is otherwise payable under this section; and

(2) may settle and pay the claims by the survivors only in the following order:

(A) the spouse's claim.

(B) a child's claim.

(C) a parent's claim.

(D) a brother's or sister's claim.

(i) Notwithstanding a contract, the representative of a claimant may not receive more than 10 percent of a payment of a claim made under this section for services related to the claim. A person violating this subsection shall be fined not more than $1,000.

(j) The President may prescribe policies to carry out this section (except subsection (b) to the extent that subsection (b) applies to the military departments, the Department of Defense, and the Coast Guard). Subject to those policies, the head of each agency shall prescribe regulations to carry out this section.

(k) Settlement of a claim under this section is final and conclusive.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 973; Pub. L. 97–452, §1(17), Jan. 12, 1983, 96 Stat. 2474; Pub. L. 100–565, §1, Oct. 31, 1988, 102 Stat. 2833; Pub. L. 103–236, title I, §172(a), Apr. 30, 1994, 108 Stat. 412; Pub. L. 104–106, div. A, title X, §1088(a), Feb. 10, 1996, 110 Stat. 458.)

HISTORICAL AND REVISION NOTES
1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3721(a), (b).	31:240(3).	Aug. 31, 1964, Pub. L. 88–558, §§2(3), 4, 78 Stat. 767, 768.
	31:241(a)(1)(1st sentence words after 3d comma, 2d sentence words after last comma, last sentence).	Aug. 31, 1964, Pub. L. 88–558, §3(a)(1), 78 Stat. 767; restated Sept. 15, 1965, Pub. L. 89–185, §3(b), 79 Stat. 789; Oct. 18, 1974, Pub. L. 93–455, §1(a), 88 Stat. 1381.
	31:241(a)(2)(words after 1st comma).	Aug. 31, 1964, Pub. L. 88–558, §3(a)(2), (3), (b)(2)–(d), 78 Stat. 767; restated Sept. 15, 1965, Pub. L. 89–185, §3(b)–(d), 79 Stat. 789, 790.
	31:241(b)(1)(1st sentence words after 5th comma, 2d sentence words after last comma, last sentence).	Aug. 31, 1964, Pub. L. 88–558, §3(b)(1), 78 Stat. 767; Sept. 15, 1965, Pub. L. 89–185, §3(b), 79 Stat. 790; July 13, 1972, Pub. L. 92–352, §106(a), 86 Stat. 491; restated Oct. 18, 1974, Pub. L. 93–455, §1(b), 88 Stat. 1381.
	31:243a(d)(2d sentence related to payment).	Aug. 31, 1964, Pub. L. 88–558, 78 Stat. 767, §9; added Dec. 12, 1980, Pub. L. 96–519, §1, 94 Stat. 3031.
3721(c)(1)	31:243a(a)(words after 1st comma).	
3721(c)(2)	31:243a(e).	
3721(c)(3)	31:243a(note).	Dec. 12, 1980, Pub. L. 96–519, §2, 94 Stat. 3032.
3721(d)	31:241(f).	Aug. 31, 1964, Pub. L. 88–558, 78 Stat. 767, §3(f); added Oct. 12, 1968, Pub. L. 90–561, 82 Stat. 998.
3721(e)	31:241(c)(2).	
3721(f)	31:241(a)(1)(2d sentence words before last comma), (b)(1)(2d sentence words before last comma), (c)(3).	
	31:243a(d)(2d sentence less payment, last sentence).	
3721(g)	31:241(c)(1), (d). 31:243a(c).	
3721(h)	31:241(a)(3), (b)(2). 31:243a(b).	
3721(i)	31:243.	Aug. 31, 1964, Pub. L. 88–558, 78 Stat. 767, §8; added Sept. 15, 1965, Pub. L. 89–185, §5, 79 Stat. 791.
3721(j)	31:241(a)(1)(1st sentence words before 3d comma), (2)(words before 1st comma), (b)(1)(1st sentence words before 5th comma). 31:243a(a)(words before 1st comma), (d)(1st sentence).	
3721(k)	31:242.	

In the section, the words ''or his designee'' are omitted as unnecessary.

In subsections (b) and (c), the word ''civilian'' is omitted as surplus.

In subsection (b), the words ''arising after August 31, 1964'' and ''arising after October 18, 1974'' and 31:241(a)(1)(last sentence) and (b)(1)(last sentence) are omitted as executed.

In subsection (c)(1)(B), the words ''mob violence, terrorist attacks, or other'' are omitted as surplus. The word ''members'' is added for consistency.

In subsection (c)(2), the words ''in which that damage or loss occurred'' are omitted as surplus.

In subsection (c)(3), the text of section 2(last sentence) of the Act of December 12, 1980 (Pub. L. 96–519, 94 Stat. 3032) is omitted as obsolete.

Subsection (d) is substituted for 31:241(f) because of the restatement.

In subsection (e), the words ''assigned to him or otherwise'' in 31:241(c)(2) are omitted as surplus. The words ''or the District of Columbia government'' are added because of the restatement.

In subsection (f), the words ''the head of the agency decides'' are substituted for ''determined to be'' in 31:241(b)(1) for clarity.

In subsection (g), the text of 31:243a(c)(words after 1st comma) are omitted as executed. The words ''in writing'' and ''of the United States'' in 31:241(c)(1) are omitted as unnecessary.

In subsection (h)(1), the words ''the surviving . . . of a dead member, officer, or employee'' are substituted for ''If a person named in this subsection is dead'' and ''the decedent's surviving'' in 31:241(a)(3) and (b)(2) and ''if such person is deceased'' and ''the decedent's surviving'' in 31:243a(b) to omit surplus words. The words ''that arose before, concurrently with, or after the decedent's death'' in 31:241(a)(3) and (b)(2) and 31:243a(b) are omitted as surplus. The words ''child, parent, or brother or sister'' are substituted for ''(2) children, (3) father or mother, or both, or (4) brothers or sisters, or both'' to eliminate surplus words and because of 1:1. The words ''otherwise payable'' are substituted for ''otherwise covered'' for clarity.

Subsection (h)(2) is substituted for ''Claims of survivors shall be settled and paid in the order named'' in 31:241(a)(3) and (b)(2) and ''Claims of survivors shall be settled and paid in the order set forth in the preceding sentence'' in 31:243a(b) for clarity.

In subsection (i), the words ''to the contrary'' are omitted as surplus. The words ''representative of a claimant'' are substituted for ''agent or attorney'' for clarity and consistency. The words ''be paid or delivered to or'' are omitted as surplus. The word ''payment'' is substituted for ''amount paid in settlement'' to eliminate unnecessary words. The words ''individual

. . . submitted and settled . . . the authority of'' are omitted as surplus. The words ''and the same shall be unlawful'' are omitted because of the restatement. The words ''shall be deemed guilty of a misdemeanor and upon conviction thereof . . . in any sum'' are omitted as surplus.

In subsection (j), the words ''the purposes of'' in 31:241(b)(1)(1st sentence words before 5th comma) are omitted as surplus. The words ''(except subsection (b) to the extent that subsection (b) applies to the military departments, the Department of Defense, and the Coast Guard)'' are substituted for the source provisions because of the restatement. The words ''to carry out this section'' after ''regulations'' are added for clarity.

In subsection (k), the words ''Notwithstanding any other provision of law'' are omitted as unnecessary.

1983 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3721(b)	31 App.:241(a)(1), (b)(1).	July 28, 1982, Pub. L. 97–226, §1(a), 96 Stat. 245.

Editorial Notes

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–106 inserted after first sentence ''If, however, the claim arose from an emergency evacuation or from extraordinary circumstances, the amount settled and paid under the authority of the preceding sentence may exceed $40,000, but may not exceed $100,000.''

1994—Subsec. (b). Pub. L. 103–236 designated existing provisions as par. (1) and added par. (2).

1988—Subsec. (b). Pub. L. 100–565, §1(1), substituted ''$40,000'' for ''$25,000''.

Subsec. (c). Pub. L. 100–565, §1(2), in amending subsec. (c) generally, redesignated former subsec. (c)(2) as (c) and substituted ''section'' for ''subsection'', struck out par. (1) which authorized agency head to pay claim against Government for not more than $40,000 to member of uniformed services, or officer or employee of agency, for damage to, or loss of, personal property in foreign country, incurred after December 30, 1978, incident to service, after evacuation from foreign country, and struck out par. (3) which limited amounts to be obligated or expended for claims to extent provided in advance in appropriation laws.

1983—Subsec. (b). Pub. L. 97–452 substituted ''$25,000'' for ''$15,000''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title X, §1088(b), Feb. 10, 1996, 110 Stat. 459, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to claims arising before, on, or after the date of the enactment of this Act [Feb. 10, 1996].''

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–236, title I, §172(b), Apr. 30, 1994, 108 Stat. 412, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to claims arising on or after October 31, 1988.''

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–565, §2, Oct. 31, 1988, 102 Stat. 2833, provided that: ''The amendments made by this Act [amending this section] shall apply only to claims arising on or after the date of the enactment of this Act [Oct. 31, 1988].''

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97–452, §2(g), Jan. 12, 1983, 96 Stat. 2479, provided that: ''The amendment made by section 1(17) of this Act [amending this section] applies only to claims arising after July 27, 1982.''

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.

REPRESENTMENTS OF PREVIOUSLY PRESENTED CLAIMS

Pub. L. 104–106, div. A, title X, §1088(c), Feb. 10, 1996, 110 Stat. 459, provided that:

''(1) A claim under subsection (b) of section 3721 of title 31, United States Code, that was settled under such section before the date of the enactment of this Act [Feb. 10, 1996] may be represented under such section, as amended by subsection (a), to the head of the agency concerned to recover the amount equal to the difference between the actual amount of the damage or loss and the amount settled and paid under the authority of such section before the date of the enactment of this Act, except that—

''(A) the claim shall be represented in writing within two years after the date of the enactment of this Act;

''(B) a determination of the actual amount of the damage or loss shall have been made by the head of the agency concerned pursuant to settlement of the claim under the authority of such section before the date of the enactment of this Act;

''(C) the claimant shall have proof of the determination referred to in subparagraph (B); and

''(D) the total of all amounts paid in settlement of the claim under the authority of such section may not exceed $100,000.

''(2) Subsection (k) of such section shall not apply to bar representment of a claim described in paragraph (1), but shall apply to such a claim that is represented and settled under that section after the date of the enactment of this Act.''

§ 3722. Claims of officers and employees at Government penal and correctional institutions

(a) The Attorney General may settle and pay not more than $1,000 in any one case for a claim made by an officer or employee at a United States Government penal or correctional institution for damage to, or loss of, personal property incident to employment.

(b) A claim may not be allowed under this section if the loss occurred at quarters occupied by the claimant that were not assigned or provided in kind by the Government.

(c) A claim may be allowed only if—

(1) no part of the loss was caused by any negligent or wrongful act of the claimant or an agent or employee of the claimant;

(2) the Attorney General decides that possession of the property was reasonable or useful under the circumstances; and

(3) it is presented in writing within one year after it accrues.

(d) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim.

(e) Necessary amounts are authorized to be appropriated to carry out this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 974.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3722(a)	31:238(1st sentence).	June 10, 1949, ch. 187, 63 Stat. 167.
3722(b)	31:238(2d sentence last 25 words before last semicolon).	
3722(c)	31:238(2d sentence less last 25 words before last semicolon).	
3722(d)	31:238(last sentence).	
3722(e)	31:238(note).	

In subsection (a), the words ''and such other officer or officers as he may designate for such purpose'' are omitted as unnecessary because of 28:509. The word ''settle'' is substituted for ''consider, determine, adjust'' for consistency. The words ''the sum of'' are omitted as surplus. The words ''officer or employee'' are substituted for ''persons employed'' for consistency in the revised title and with other titles of the United States Code. The words ''or destruction'' are omitted as surplus.

In subsection (b), the words ''assigned to him . . . otherwise'' are omitted as surplus.

In subsection (c)(1), the words ''no part'' are substituted for ''not . . . in whole or in part'' because of the restatement.

In subsection (c)(2), the words ''the Attorney General decides that possession of'' are substituted for ''is determined'' for clarity. The words ''claimed to be damaged, lost, or destroyed'' and ''necessary, or proper . . . attendant'' are omitted as surplus.

In subsection (c)(3), the word ''accrues'' is substituted for ''the occurrence of the accident or incident out of which such claim arises'' to eliminate unnecessary words.

In subsection (d), the words ''A claim may be paid under this section'' are added for clarity. The words ''the amount of the settlement'' are substituted for ''an award hereunder'' for consistency. The words ''in complete satisfaction of the claim'' are substituted for ''shall release the United States, its agents or employees, from any further claim by such claimant arising out of the same incident'' to eliminate unnecessary words.

§ 3723. Small claims for privately owned property damage or loss

(a) The head of an agency (except a military department of the Department of Defense or the Coast Guard) may settle a claim for not more than $1,000 for damage to, or loss of, privately owned property that—

(1) is caused by the negligence of an officer or employee of the United States Government acting within the scope of employment; and

(2) may not be settled under chapter 171 of title 28.

(b) A claim under this section may be allowed only if it is presented to the head of the agency within one year after it accrues.

(c) A claim under this section may be paid as provided in section 1304 of this title only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 975.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3723(a)	31:215(1st sentence), 216.	Dec. 28, 1922, ch. 17, §§1–3, 42 Stat. 1066.
	31:216(note).	July 3, 1943, ch. 189, §4, 57 Stat. 373.
	31:216(note).	Dec. 28, 1945, ch. 597, §4(words before 3d comma), 59 Stat. 662.
	31:216(note).	Dec. 28, 1945, ch. 597, 59 Stat. 662, §5(last sentence); added Mar. 20, 1946, ch. 104, 60 Stat. 56.
		Aug. 2, 1946, ch. 753, §424(a)(last par. on p. 846), 60 Stat. 846.
3723(b)	31:215(last sentence proviso).	
3723(c)	31:215(last sentence less proviso), 217.	

In subsection (a), before clause (1), the text of 31:216(words before semicolon) is omitted as unnecessary because of section 102 of the revised title. The words ''acting on behalf of the Government of the United States'' in 31:215 are omitted as unnecessary. The word ''settle'' is substituted for ''consider, ascertain, adjust, and determine'' for consistency. The words ''after April 6, 1917'' are omitted as executed.

In subsection (c), the words ''A claim under this section may be paid'' are added for clarity. The words ''as provided in section 1304 of this title'' are substituted for 31:215(last sentence less proviso) because 31:215(last sentence less proviso) is superseded by section 201 of the Supplemental Appropriations Act, 1978 (Pub. L. 95–240, 92 Stat. 116). The words ''of the settlement'' are substituted for ''determined under the provisions of sections 215 and 216 of this title'' in 31:217 for consistency and to eliminate unnecessary words. The word ''complete'' is substituted for ''full'' for consistency. The word ''satisfaction'' is substituted for ''settlement'' for clarity.

Statutory Notes and Related Subsidiaries

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.

§ 3724. Claims for damages caused by investigative or law enforcement officers of the Department of Justice

(a) The Attorney General may settle, for not more than $50,000 in any one case, a claim for personal injury, death, or damage to, or loss of, privately owned property, caused by an investigative or law enforcement officer as defined in section 2680(h) of title 28 who is employed by the Department of Justice acting within the scope of employment that may not be settled under chapter 171 of title 28. An officer or employee of the United States Government may not present a claim arising during the scope of employment. A claim may be allowed only if it is presented to the Attorney General within one year after it accrues.

(b) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 975; Pub. L. 101–203, §1(a), (b)(1), Dec. 7, 1989, 103 Stat. 1805;

Pub. L. 105–362, title X, §1001(c), Nov. 10, 1998, 112 Stat. 3291.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3724(a)	31:224b(words before 9th comma and between 10th and 11th commas, 1st, 2d provisos).	Mar. 20, 1936, ch. 159, 49 Stat. 1184.
	31:224b(note).	Aug. 2, 1946, ch. 753, §424(a)(2d par. on p. 847), (b)(related to 2d par. of (a) on p. 847), 60 Stat. 847.
3724(b)	31:224b(words between 9th and 10th commas and between 11th comma and 1st proviso).	
3724(c)	31:224b(last proviso).	

In subsection (a), the words ''of the United States'' are omitted as unnecessary. The word ''settle'' is substituted for ''consider, adjust, and determine'' for consistency. The words ''after January 1, 1934'' are omitted as executed. The words ''personal injury, death'' are substituted for ''damages to any person'' for clarity. The words ''of the Department of Justice'' are omitted as unnecessary. The words ''that may not be settled under chapter 171 of title 28'' are substituted for section 424(a)(2d par. on p. 847) and (b)(related to 2d par. of (a) on p. 847) of the Legislative Reorganization Act of 1946 (31:224b(note)) because of the restatement. The words ''An officer or employee of the United States Government may not present a claim arising during the scope of employment'' are substituted for 31:224b(1st proviso) to eliminate unnecessary words. The text of 31:224b(2d proviso words after semicolon) is omitted as executed.

In subsection (b), the word ''settlement'' is substituted for ''amount as may be found due to any claimant . . . as a legal claim'' for clarity and consistency. The words ''by Congress'' are omitted as surplus.

In subsection (c), the words ''A claim may be paid under this section'' are added for clarity. The words ''of the settlement'' are substituted for ''determined to be due him under the provisions of this section'' for consistency and to eliminate unnecessary words. The word ''complete'' is substituted for ''full and final'' to eliminate unnecessary words. The word ''satisfaction'' is substituted for ''settlement'' for clarity.

Editorial Notes

AMENDMENTS

1998—Subsecs. (b), (c). Pub. L. 105–362 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''The Attorney General shall report annually to the Congress on all settlements made under this section. With respect to each such settlement, the Attorney General shall include a brief statement on the type of the claim, the amount claimed, and the amount of the settlement.''

1989—Pub. L. 101–203, §1(b)(1), amended section catchline generally, substituting ''investigative or law enforcement officers of the Department of Justice'' for ''the Federal Bureau of Investigation''.

Subsec. (a). Pub. L. 101–203, §1(a)(1), substituted ''$50,000'' for ''$500'' and ''an investigative or law enforcement officer as defined in section 2680(h) of title 28 who is employed by the Department of Justice'' for ''the Director or an Assistant Director, inspector, or special agent of the Federal Bureau of Investigation''.

Subsec. (b). Pub. L. 101–203, §1(a)(2), substituted ''report annually to the Congress on all settlements made under this section. With respect to each such settlement, the'' for ''certify to Congress a settlement under this section for payment out of an appropriation that may be made to pay the settlement. The''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–203, §2, Dec. 7, 1989, 103 Stat. 1805, provided that: ''The amendments made by section 1 [amending this section] shall apply to—

''(1) any claim arising on or after the date of the enactment of this Act [Dec. 7, 1989],

''(2) any claim pending on such date, and

''(3) any claim arising before such date which has not been settled if the time for presenting the claim to the Attorney General under the last sentence of section 3724(a) of title 31, United States Code, has not expired.''

SETTLEMENT OF CLAIMS FOR DAMAGE TO OR LOSS OF PRIVATELY OWNED PROPERTY

Pub. L. 106–185, §3(b), Apr. 25, 2000, 114 Stat. 211, provided that:

''(1) IN GENERAL.—With respect to a claim that cannot be settled under chapter 171 of title 28, United States Code, the Attorney General may settle, for not more than $50,000 in any case, a claim for damage to, or loss of, privately owned property caused by an investigative or law enforcement officer (as defined in section 2680(h) of title 28, United States Code) who is employed by the Department of Justice acting within the scope of his or her employment.

''(2) LIMITATIONS.—The Attorney General may not pay a claim under paragraph (1) that—

''(A) is presented to the Attorney General more than 1 year after it accrues; or

''(B) is presented by an officer or employee of the Federal Government and arose within the scope of employment.''

§ 3725. Claims of non-nationals for personal injury or death in a foreign country

(a) The Secretary of State may settle, for not more than $1,500 in any one case, a claim for personal injury or death of an individual not a national of the United States in a foreign country in which the United States exercises privileges of extraterritoriality when the injury or death is caused by an officer, employee, or agent of the United States Government (except of a military department of the Department of Defense or the Coast Guard). An officer or employee of the Government may not present a claim. A claim under this section may be allowed only if it is presented to the Secretary within one year after it accrues.

(b) The Secretary shall certify to Congress a settlement under this section for payment out of an appropriation that may be made to pay the settlement. The Secretary shall include a brief statement on the type of the claim, the amount claimed, and the amount of the settlement.

(c) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 975.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3725(a)	31:224a(words before 2lst comma, 1st, 2d provisos).	Feb. 13, 1936, ch. 67, 49 Stat. 1138.
	31:224a(note).	July 3, 1943, ch. 189, §7, 57 Stat. 374.
		Dec. 28, 1945, ch. 597, §1, 59 Stat. 662.
		Dec. 28, 1945, ch. 597, 59 Stat. 662, §5(1st sentence); added Mar. 20, 1946, ch. 104, 60 Stat. 56.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3725(b)	31:224a(words between 21st comma and 1st proviso).	
3725(c)	31:224a(last proviso).	

In subsection (a), the word ''settle'' is substituted for ''consider, adjust, and determine'' for consistency. The words ''United States currency'' are omitted as surplus. The words ''after February 13, 1936'' are omitted as executed. The words ''act of omission of any'' are omitted as surplus. The words ''(except of a military department of the Department of Defense or the Coast Guard)'' are substituted for ''including all officers, enlisted men, and employees of the Army, Air Force, Navy, and Marine Corps'' because of 10:2734, section 7 of the Act of July 3, 1943 (ch. 189, 57 Stat. 374), and sections 1 and 5(1st sentence) of the Act of December 28, 1945 (ch. 597, 59 Stat. 662). The words ''An officer or employee of the Government may not present a claim'' are substituted for 31:224a(1st proviso) for consistency and to eliminate unnecessary words. The words ''by the Secretary of State'' are omitted as surplus.

In subsection (b), the word ''settlement'' is substituted for ''amount as may be found to be due to any claimant . . . as a legal claim'' for clarity and consistency. The words ''by Congress'' are omitted as surplus.

In subsection (c), the words ''A claim may be paid under this section'' are added for clarity. The words ''of the settlement'' are substituted for ''determined under the provisions of this section'' for consistency and to eliminate unnecessary words. The word ''complete'' is substituted for ''full'' for consistency. The word ''satisfaction'' is substituted for ''settlement'' for clarity.

Statutory Notes and Related Subsidiaries

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.

§ 3726. Payment for transportation

(a)(1) Each agency that receives a bill from a carrier or freight forwarder for transporting an individual or property for the United States Government shall verify its correctness (to include transportation rates, freight classifications, or proper combinations thereof), using prepayment audit, prior to payment in accordance with the requirements of this section and regulations prescribed by the Administrator of General Services.

(2) The Administrator of General Services may exempt bills, a particular mode or modes of transportation, or an agency or subagency from a prepayment audit and verification and in lieu thereof require a postpayment audit, based on cost effectiveness, public interest, or other factors the Administrator considers appropriate.

(3) Expenses for prepayment audits shall be funded by the agency's appropriations used for the transportation services.

(4) The audit authority provided to agencies by this section is subject to oversight by the Administrator.

(b) The Administrator may conduct pre- or post-payment audits of transportation bills of any Federal agency. The number and types of bills audited shall be based on the Administrator's judgment.

(c)(1) The Administrator shall adjudicate transportation claims which cannot be resolved by the agency procuring the transportation services, or the carrier or freight-forwarder presenting the bill.

(2) A claim under this section shall be allowed only if it is received by the Administrator not later than 3 years (excluding time of war) after the later of the following dates:

(A) The date of accrual of the claim.

(B) The date payment for the transportation is made.

(C) The date a refund for an overpayment for the transportation is made.

(D) The date a deduction under subsection (d) of this section is made.

(d) Not later than 3 years (excluding time of war) after the time a bill is paid, the Government may deduct from an amount subsequently due a carrier or freight forwarder an amount paid on the bill that was greater than the rate allowed under—

(1) a lawful tariff under title 49 or on file with the Secretary of Transportation with respect to foreign air transportation (as defined in section 40102(a) of title 49), the Federal Maritime Commission, or a State transportation authority;

(2) a lawfully quoted rate subject to the jurisdiction of the Surface Transportation Board; or

(3) sections 10721, 13712, and 15504 of title 49 or an equivalent arrangement or an exemption.

(e) Expenses of transportation audit postpayment contracts and contract administration, and the expenses of all other transportation audit and audit-related functions conferred upon the Administrator of General Services, shall be financed from overpayments collected from carriers on transportation bills paid by the Government and other similar type refunds, not to exceed collections. Payment to any contractor for audit services shall not exceed 50 percent of the overpayment identified by contract audit.

(f) At least annually, and as determined by the Administrator, after making adequate provision for expense of refunds to carriers, transportation audit postpayment contracts, contract administration, and other expenses authorized in subsection (e), overpayments collected by the General Services Administration shall be transferred to miscellaneous receipts of the Treasury. A report of receipts, disbursements, and transfers (to miscellaneous receipts) pursuant to this section shall be made annually in connection with the budget estimates to the Director of the Office of Management and Budget and to the Congress. This reporting requirement expires December 31, 1998.

(g) The Administrator may delegate any authority conferred by this section to another agency or agencies if the Administrator determines that such a delegation would be cost-effective or otherwise in the public interest.

(h) Under regulations the head of an agency prescribes that conform with standards the Sec-

retary of the Treasury prescribes, a bill under this section may be paid before the transportation is completed notwithstanding section 3324 of this title when a carrier or freight forwarder issues the usual document for the transportation. Payment for transportation ordered but not provided may be recovered by deduction or other means.

(i)(1) A carrier or freight forwarder may request the Administrator of General Services to review the action of the Administrator if the request is received not later than 6 months (excluding time of war) after the Administrator acts or within the time stated in subsection (c) of this section, whichever is later.

(2) This section does not prevent the Comptroller General from conducting an audit under chapter 35 of this title.

(j) The Administrator of General Services may provide transportation audit and related technical assistance services, on a reimbursable basis, to any other agency. Such reimbursements may be credited to the appropriate revolving fund or appropriation from which the expenses were incurred.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 976; Pub. L. 98–443, §9(f), Oct. 4, 1984, 98 Stat. 1707; Pub. L. 99–627, §1, Nov. 7, 1986, 100 Stat. 3508; Pub. L. 103–123, title VI, §620A, Oct. 28, 1993, 107 Stat. 1265; Pub. L. 103–272, §§4(f)(1)(N), 5(i)(2), July 5, 1994, 108 Stat. 1362, 1375; Pub. L. 103–429, §7(a)(3)(B), Oct. 31, 1994, 108 Stat. 4388; Pub. L. 104–88, title III, §306, Dec. 29, 1995, 109 Stat. 945; Pub. L. 104–316, title II, §202(*o*), Oct. 19, 1996, 110 Stat. 3844; Pub. L. 105–264, §3(a)(3), Oct. 19, 1998, 112 Stat. 2353.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3726(a)	31:244(a)(1st sentence, last sentence last proviso).	Sept. 18, 1940, ch. 722, §322(a), 54 Stat. 955; Aug. 26, 1958, Pub. L. 85–762, §2, 72 Stat. 860; Oct. 25, 1972, Pub. L. 92–550, §1(a), 86 Stat. 1163; Jan. 2, 1975, Pub. L. 93–604, §201(1), (2), 88 Stat. 1960.
3726(b)	31:244(a)(2d sentence, last sentence less last proviso).	
3726(c)	31:244(c), (d).	Sept. 18, 1940, ch. 722, 54 Stat. 898, §322(c), (d); added Oct. 25, 1972, Pub. L. 92–550, §1(b), 86 Stat. 1164; Jan. 2, 1975, Pub. L. 93–604, §201(3), 88 Stat. 1960.
3726(d)(1)	31:244(b).	Sept. 18, 1940, ch. 722, 54 Stat. 898, §322(b); added Jan. 2, 1975, Pub. L. 93–604, §201(3), 88 Stat. 1960.
3726(d)(2)	31:244(a)(3d sentence).	

In the section, the words ''Administrator of General Services'' are substituted for ''General Services Administration, or his designee'' for consistency. The word ''freight'' is added for clarity and consistency with 49:10101 et seq.

In subsection (a), before clause (1), the word ''individual'' is substituted for ''persons'' for consistency. The words ''or on behalf of'' are omitted as unnecessary. The words ''for charges for transportation . . . the purview of'' are omitted as surplus. In clause (1), the word ''claim'' is substituted for ''cause of action thereon'' for consistency. In clauses (2) and (3), the words ''is made'' are substituted for ''of charges . . . involved'' and ''subsequent . . . of such charges'' to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''*Provided, however*, That such deductions shall be made'' are omitted because of the restatement. The words ''found to be'' are omitted as surplus. The words ''of any overcharge by any carrier or forwarder'' and ''The term 'overcharges' shall be deemed to mean . . . those applicable thereto'' are omitted because of the restatement. The word ''rate'' is substituted for ''charges for transportation services'' and ''rates, fares, and charges'' for consistency with title 49. In clause (1), the word ''authority'' is substituted for ''regulatory agency'' for consistency. In clause (2), the words ''established'' and ''contract . . . from regulation'' are omitted as surplus.

In subsection (c), the text of 31:244(d) and the words ''Government'', ''or his designee'', and ''of the United States'' are omitted as unnecessary. The words ''under this section'' are substituted for ''for passenger or freight transportation services to be furnished the United States by any carrier or forwarder'' to eliminate unnecessary words. The word ''transportation'' is substituted for ''services'' for consistency. The words ''ticket, receipt, bill of lading, or equivalent . . . involved'' and ''as ordered by the United States'' are omitted as surplus.

In subsection (d)(1), the words ''may request'' are substituted for ''Nothing in subsection (a) of this section hereof shall be deemed to prevent . . . from requesting'' to eliminate unnecessary words. The words ''of limitation'' are omitted as surplus.

In subsection (d)(2), the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency.

Editorial Notes

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–264, §3(a)(3)(A), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''A carrier or freight forwarder presenting a bill for transporting an individual or property for the United States Government may be paid before the Administrator of General Services conducts an audit, in accordance with regulations that the Administrator shall prescribe. A claim under this section shall be allowed only if it is received by the Administrator not later than 3 years (excluding time of war) after the later of the following dates:

''(1) accrual of the claim;

''(2) payment for the transportation is made;

''(3) refund for an overpayment for the transportation is made; or

''(4) a deduction under subsection (b) of this section is made.''

Subsecs. (b) to (e). Pub. L. 105–264, §3(a)(3)(B), (C), added subsecs. (b) and (c) and redesignated former subsecs. (b) and (c) as (d) and (e), respectively. Former subsecs. (d) and (e) redesignated (f) and (g), respectively.

Subsec. (f). Pub. L. 105–264, §3(a)(3)(B), (D), redesignated subsec. (d) as (f), substituted ''subsection (e)'' for ''subsection (c)'', and inserted at end ''This reporting requirement expires December 31, 1998.'' Former subsec. (f) redesignated (h).

Subsecs. (g), (h). Pub. L. 105–264, §3(a)(3)(B), redesignated subsecs. (e) and (f) as (g) and (h), respectively. Former subsec. (g) redesignated (i).

Subsec. (i). Pub. L. 105–264, §3(a)(3)(B), redesignated subsec. (g) as (i).

Subsec. (i)(1). Pub. L. 105–264, §3(a)(3)(E), substituted ''subsection (c)'' for ''subsection (a)''.

Subsec. (j). Pub. L. 105–264, §3(a)(3)(F), added subsec. (j).

1996—Subsec. (f). Pub. L. 104–316, §202(*o*)(1), substituted ''Treasury prescribes'' for ''Treasury and the Comptroller General prescribe jointly''.

Subsec. (g)(1). Pub. L. 104–316, §202(*o*)(2), substituted ''Administrator of General Services'' for ''Comptroller General''.

1995—Subsec. (b)(1). Pub. L. 104–88, §306(1), (2), substituted ''under title 49 or on file with'' for ''on file with the Interstate Commerce Commission,'' and struck out ''or'' after the semicolon at end.

Subsec. (b)(2). Pub. L. 104–88, §306(4), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 104–88, §306(3), (5), redesignated par. (2) as (3) and substituted ''sections 10721, 13712, and 15504'' for ''sections 10721–10724''.

1994—Subsec. (b)(1). Pub. L. 103–272, §5(i)(2), substituted ''section 40102(a) of title 49'' for ''the Federal Aviation Act of 1958''.

Subsec. (d). Pub. L. 103–272, §4(f)(1)(N), which directed the substitution of ''miscellaneous receipts'' for ''miscellaneous receipt'', was repealed by Pub. L. 103–429.

1993—Subsecs. (c) and (d). Pub. L. 103–123 amended subsecs. (c) and (d) generally. Prior to amendment, subsecs. (c) and (d) read as follows:

''(c) Expenses of transportation audit contracts and contract administration shall be financed from overpayments collected from carriers on transportation bills paid by the Government and other similar type refunds at not to exceed 40 percent of such collections annually. Payment to any contractor shall not exceed 50 percent of the overpayments identified by any contract audit.

''(d) At least annually, and as determined by the Administrator, after making adequate provision for expenses of refunds to carriers, transportation audit contracts, and contract administration authorized in subsection (c), the balance of the overpayments collected by the General Services Administration shall be transferred to miscellaneous receipt of the Treasury. A report of receipts, disbursements, and transfers (to miscellaneous receipts) pursuant to this section shall be made annually in connection with the budget estimates to the Director of the Office of Management and Budget and to the Congress.''

1986—Subsec. (a). Pub. L. 99–627, §1(1), amended first sentence generally, substituting ''may be paid before the Administrator of General Services conducts an audit, in accordance with regulations that the Administrator shall prescribe'' for ''shall be paid before the Administrator of General Services conducts an audit''.

Subsecs. (c) to (g). Pub. L. 99–627, §1(2), (3), added subsecs. (c) to (e) and redesignated former subsecs. (c) and (d) as (f) and (g), respectively.

1984—Subsec. (b)(1). Pub. L. 98–443 substituted ''Secretary of Transportation with respect to foreign air transportation (as defined in the Federal Aviation Act of 1958)'' for ''Civil Aeronautics Board''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–264 effective 18 months after Oct. 19, 1998, see section 3(b) of Pub. L. 105–264, set out as a note under section 3322 of this title.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–429, §7(a), Oct. 31, 1994, 108 Stat. 4388, provided that the amendment made by that section is effective July 5, 1994.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98–443, set out as a note under section 5314 of Title 5, Government Organization and Employees.

TASK FORCE

Pub. L. 99–627, §2, Nov. 7, 1986, 100 Stat. 3508, provided that:

''(a) Within 60 days after the date of enactment of this Act [Nov. 7, 1986], the Administrator of General Services shall establish a task force to study and investigate the feasibility, desirability, and economy of an integrated, automated system that Federal agencies may use in managing the transportation of property for the United States.

''(b) The task force established under subsection (a) shall—

''(1) be chaired by a representative of the Administrator;

''(2) include representatives of the Department of Defense and other Federal agencies significantly involved in the transportation of property for the United States; and

''(3) solicit the views of private businesses with expertise in the matters being considered by the task force.

''(c) In studying and investigating the integrated, automated system, the task force shall consider including in that system such elements as automated routing, rating, documentation, payment, and auditing.

''(d) Each department, agency, and instrumentality of the Federal Government shall furnish to the task force, upon its request, such data, reports, and other information (not otherwise prohibited by law) as the task force deems necessary to carry out its functions under this section.

''(e) The head of each such department, agency, and instrumentality may provide to the task force such services and personnel as the task force requests on such basis (reimbursable or otherwise) as may be agreed upon between such department, agency, or instrumentality and the task force.

''(f) The task force shall submit a final report on the results of its study and investigation to the Congress not later than July 1, 1988.''

§ 3727. Assignments of claims

(a) In this section, ''assignment'' means—

(1) a transfer or assignment of any part of a claim against the United States Government or of an interest in the claim; or

(2) the authorization to receive payment for any part of the claim.

(b) An assignment may be made only after a claim is allowed, the amount of the claim is decided, and a warrant for payment of the claim has been issued. The assignment shall specify the warrant, must be made freely, and must be attested to by 2 witnesses. The person making the assignment shall acknowledge it before an official who may acknowledge a deed, and the official shall certify the assignment. The certificate shall state that the official completely explained the assignment when it was acknowledged. An assignment under this subsection is valid for any purpose.

(c) Subsection (b) of this section does not apply to an assignment to a financing institution of money due or to become due under a contract providing for payments totaling at least $1,000 when—

(1) the contract does not forbid an assignment;

(2) unless the contract expressly provides otherwise, the assignment—

(A) is for the entire amount not already paid;

(B) is made to only one party, except that it may be made to a party as agent or trustee for more than one party participating in the financing; and

(C) may not be reassigned; and

(3) the assignee files a written notice of the assignment and a copy of the assignment with the contracting official or the head of the

agency, the surety on a bond on the contract, and any disbursing official for the contract.

(d) During a war or national emergency proclaimed by the President or declared by law and ended by proclamation or law, a contract with the Department of Defense, the General Services Administration, the Department of Energy (when carrying out duties and powers formerly carried out by the Atomic Energy Commission), or other agency the President designates may provide, or may be changed without consideration to provide, that a future payment under the contract to an assignee is not subject to reduction or setoff. A payment subsequently due under the contract (even after the war or emergency is ended) shall be paid to the assignee without a reduction or setoff for liability of the assignor—

(1) to the Government independent of the contract; or

(2) because of renegotiation, fine, penalty (except an amount that may be collected or withheld under, or because the assignor does not comply with, the contract), taxes, social security contributions, or withholding or failing to withhold taxes or social security contributions, arising from, or independent of, the contract.

(e)(1) An assignee under this section does not have to make restitution of, refund, or repay the amount received because of the liability of the assignor to the Government that arises from or is independent of the contract.

(2) The Government may not collect or reclaim money paid to a person receiving an amount under an assignment or allotment of pay or allowances authorized by law when liability may exist because of the death of the person making the assignment or allotment.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 976.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3727(a)	31:203(1st par. words before 9th comma).	R.S. §3477; May 27, 1908, ch. 206(last par. on p. 411), 35 Stat. 411; Oct. 9, 1940, ch. 779, §1(related to §3477), 54 Stat. 1029; May 15, 1951, ch. 75, §1(related to §1 related to §3477), 65 Stat. 41.
3727(b)	31:203(1st par. words after 9th comma, 3d, last pars.).	
3727(c)	31:203(2d par.).	
3727(d)	31:203(5th par.).	
3727(e)(1)	31:203(4th par.).	
3727(e)(2)	31:239.	Aug. 10, 1956, ch. 1041, §45, 70A Stat. 638.

In subsection (a)(1), the words ''or share thereof'' and ''whether absolute or conditional, and whatever may be the consideration therefor'' are omitted as surplus. In clause (2), the word ''authorization'' is substituted for ''powers of attorney, orders, or other authorities'' to eliminate unnecessary words.

In subsections (b) and (c), the word ''official'' is substituted for ''officer'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words ''Except as hereinafter provided'' are omitted as unnecessary. The words ''read and'' are omitted as surplus. The words ''to the person acknowledging the same'' are omitted as unnecessary. The text of 31:203(1st par. last sentence) is omitted as superseded by 39:410. The words ''Notwithstanding any law to the contrary governing the validity of assignments'' and the text of 31:203(last par.) are omitted as unnecessary.

In subsection (c), before clause (1), the words ''bank, trust company, or other . . . including any Federal lending agency'' are omitted as surplus. The words ''of money due or to become due under a contract providing for payments totaling at least $1,000'' are substituted for ''in any case in which the moneys due or to become due from the United States or from any agency or department thereof, under a contract providing for payments aggregating $1,000 or more'' to eliminate unnecessary words. The text of 31:203(2d par. proviso cl. 1) is omitted as executed. In clause (1), the words ''in the case of any contract entered into after October 9, 1940'' are omitted as executed. In clause (2)(A), the words ''payable under such contract'' are omitted as surplus. In clause (3), the words ''true'' and ''instrument of'' are omitted as surplus. The words ''department or'' are omitted because of the restatement. The words ''if any'' and ''to make payment'' are omitted as surplus.

In subsection (d), before clause (1), the words ''During a war or national emergency proclaimed by the President or declared by law and ended by proclamation or law'' are substituted for ''in time of war or national emergency proclaimed by the President (including the national emergency proclaimed December 16, 1950) or by Act or joint resolution of the Congress and until such war or national emergency has been terminated in such manner'' to eliminate unnecessary words. The words ''Department of Energy (when carrying out duties and powers formerly carried out by the Atomic Energy Commission)'' are substituted for ''Atomic Energy Commission'' (which was reconstituted as the Energy Research and Development Administration by 42:5813 and 5814) because of 42:7151(a) and 7293. The words ''other department or . . . of the United States . . . except any such contract under which full payment has been made'' and ''of any moneys due or to become due under such contract'' before ''shall not be subject'' are omitted as surplus. The words ''A payment subsequently due under the contract (even after the war or emergency is ended) shall be paid to the assignee without'' are substituted for ''and if such provision or one to the same general effect has been at any time heretofore or is hereafter included or inserted in any such contract, payments to be made thereafter to an assignee of any moneys due or to become due under such contract, whether during or after such war or emergency . . . hereafter'' to eliminate unnecessary words. The words ''of any nature'' are omitted as surplus. In clause (1), the words ''or any department or agency thereof'' are omitted as unnecessary. In clause (2), the words ''under any renegotiation statute or under any statutory renegotiation article in the contract'' are omitted as surplus.

Subsection (e)(1) is substituted for 31:203(4th par.) to eliminate unnecessary words.

In subsection (e)(2), the words ''person receiving an amount under an assignment or allotment'' are substituted for ''assignees, transferees, or allottees'' for clarity and consistency. The words ''or to others for them'' and ''with respect to such assignments, transfers, or allotments or the use of such moneys'' are omitted as surplus. The words ''person making the assignment or allotment'' are substituted for ''assignors, transferors, or allotters'' for clarity and consistency.

§ 3728. Setoff against judgment

(a) The Secretary of the Treasury shall withhold paying that part of a judgment against the United States Government presented to the Secretary that is equal to a debt the plaintiff owes the Government.

(b) The Secretary shall—

(1) discharge the debt if the plaintiff agrees to the setoff and discharges a part of the judgment equal to the debt; or

(2)(A) withhold payment of an additional amount the Secretary decides will cover legal

costs of bringing a civil action for the debt if the plaintiff denies the debt or does not agree to the setoff; and

(B) have a civil action brought if one has not already been brought.

(c) If the Government loses a civil action to recover a debt or recovers less than the amount the Secretary withholds under this section, the Secretary shall pay the plaintiff the balance and interest of 6 percent for the time the money is withheld.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 977; Pub. L. 104–316, title II, § 202(p), Oct. 19, 1996, 110 Stat. 3844.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3728(a)	31:227(1st sentence words before semicolon).	Mar. 3, 1875, ch. 149, 18 Stat. 481; restated Mar. 3, 1933, ch. 212, § 13, 47 Stat. 1516.
3728(b)	31:227(1st sentence words after semicolon, 2d, 3d sentences).	
3728(c)	31:227(last sentence).	

In the section, the words ''of the United States'' are omitted as unnecessary.

In subsection (a), the words ''final . . . recovered . . . duly allowed by legal authority'', ''for payment'', and ''in any manner, whether as principal or surety'' are omitted as surplus.

In subsection (b)(1), the words ''due from the plaintiff to the United States'' are omitted as surplus.

In subsection (b)(2)(A), the words ''of such judgment'', ''be sufficient to'', and ''charges and'' are omitted as surplus. The words ''of bringing a civil action'' are substituted for ''in prosecuting the debt'' for consistency in the revised title and with other titles of the United States Code. The words ''of the United States to final judgment'' and ''to the United States'' are omitted as surplus.

Subsection (b)(2)(B) is substituted for 31:227(3d sentence) for consistency and to eliminate unnecessary words.

In subsection (c), the words ''for debt and costs'', ''thereon'', and ''from the plaintiff'' are omitted as surplus.

Editorial Notes

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–316, § 202(p)(1), (2), substituted ''Secretary of the Treasury'' for ''Comptroller General'' before ''shall withhold'' and ''Secretary'' for ''Comptroller General'' after ''presented to the''.

Subsecs. (b), (c). Pub. L. 104–316, § 202(p)(2), substituted ''Secretary'' for ''Comptroller General'' wherever appearing.

§ 3729. False claims

(a) LIABILITY FOR CERTAIN ACTS.—

(1) IN GENERAL.—Subject to paragraph (2), any person who—

(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

(B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

(C) conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G);

(D) has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;

(E) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or

(G) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government,

is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 104–410[1]), plus 3 times the amount of damages which the Government sustains because of the act of that person.

(2) REDUCED DAMAGES.—If the court finds that—

(A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;

(B) such person fully cooperated with any Government investigation of such violation; and

(C) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation,

the court may assess not less than 2 times the amount of damages which the Government sustains because of the act of that person.

(3) COSTS OF CIVIL ACTIONS.—A person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.

(b) DEFINITIONS.—For purposes of this section—

(1) the terms ''knowing'' and ''knowingly''—

(A) mean that a person, with respect to information—

(i) has actual knowledge of the information;

(ii) acts in deliberate ignorance of the truth or falsity of the information; or

[1] So in original. Probably should be ''101–410''.

(iii) acts in reckless disregard of the truth or falsity of the information; and

(B) require no proof of specific intent to defraud;

(2) the term ''claim''—

(A) means any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that—

(i) is presented to an officer, employee, or agent of the United States; or

(ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government's behalf or to advance a Government program or interest, and if the United States Government—

(I) provides or has provided any portion of the money or property requested or demanded; or

(II) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and

(B) does not include requests or demands for money or property that the Government has paid to an individual as compensation for Federal employment or as an income subsidy with no restrictions on that individual's use of the money or property;

(3) the term ''obligation'' means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment; and

(4) the term ''material'' means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

(c) EXEMPTION FROM DISCLOSURE.—Any information furnished pursuant to subsection (a)(2) shall be exempt from disclosure under section 552 of title 5.

(d) EXCLUSION.—This section does not apply to claims, records, or statements made under the Internal Revenue Code of 1986.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 978; Pub. L. 99–562, §2, Oct. 27, 1986, 100 Stat. 3153; Pub. L. 103–272, §4(f)(1)(O), July 5, 1994, 108 Stat. 1362; Pub. L. 111–21, §4(a), May 20, 2009, 123 Stat. 1621.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3729	31:231.	R.S. §3490.

In the section, before clause (1), the words ''a member of an armed force of the United States'' are substituted for ''in the military or naval forces of the United States, or in the militia called into or actually employed in the service of the United States'' and ''military or naval service'' for consistency with title 10. The words ''is liable'' are substituted for ''shall forfeit and pay'' for consistency. The words ''civil action'' are substituted for ''suit'' for consistency in the revised title and with other titles of the United States Code. The words ''and such forfeiture and damages shall be sued for in the same suit'' are omitted as unnecessary because of rules 8 and 10 of the Federal Rules of Civil Procedure (28 App. U.S.C.). In clauses (1)–(3), the words ''false or fraudulent'' are substituted for ''false, fictitious, or fraudulent'' and ''Fraudulent or fictitious'' to eliminate unnecessary words and for consistency. In clause (1), the words ''presents, or causes to be presented'' are substituted for ''shall make or cause to be made, or present or cause to be presented'' for clarity and consistency and to eliminate unnecessary words. The words ''officer or employee of the Government or a member of an armed force'' are substituted for ''officer in the civil, military, or naval service of the United States'' for consistency in the revised title and with other titles of the Code. The words ''upon or against the Government of the United States, or any department of the United States, or any department or officer thereof'' are omitted as surplus. In clause (2), the word ''knowingly'' is substituted for ''knowing the same to contain any fraudulent or fictitious statement or entry'' to eliminate unnecessary words. The words ''record or statement'' are substituted for ''bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition'' for consistency in the revised title and with other titles of the Code. In clause (3), the words ''conspires to'' are substituted for ''enters into any agreement, combination, or conspiracy'' to eliminate unnecessary words. The words ''of the United States, or any department or officer thereof'' are omitted as surplus. In clause (4), the words ''charge'', ''or other'', and ''to any other person having authority to receive the same'' are omitted as surplus. In clause (5), the words ''document certifying receipt'' are substituted for ''certificate, voucher, receipt, or other paper certifying the receipt'' to eliminate unnecessary words. The words ''arms, ammunition, provisions, clothing, or other'', ''to any other person'', and ''the truth of'' are omitted as surplus. In clause (6), the words ''arms, equipments, ammunition, clothes, military stores, or other'' are omitted as surplus. The words ''member of an armed force'' are substituted for ''soldier, officer, sailor, or other person called into or employed in the military or naval service'' for consistency with title 10. The words ''such soldier, sailor, officer, or other person'' are omitted as surplus.

Editorial Notes

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (d), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

2009—Subsecs. (a), (b). Pub. L. 111–21, §4(a)(1), (2), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which related to liability for certain acts and defined ''knowing'' and ''knowingly'', respectively.

Subsec. (c). Pub. L. 111–21, §4(a)(4), substituted ''subsection (a)(2)'' for ''subparagraphs (A) through (C) of subsection (a)''.

Pub. L. 111–21, §4(a)(2), (3), redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Prior to amendment, text read as follows: ''For purposes of this section, 'claim' includes any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded, or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.''

Subsecs. (d), (e). Pub. L. 111–21, §4(a)(3), redesignated subsecs. (d) and (e) as (c) and (d), respectively.

1994—Subsec. (e). Pub. L. 103–272 substituted ''1986'' for ''1954''.

1986—Subsec. (a). Pub. L. 99–562, §2(1), designated existing provisions as subsec. (a), inserted subsec. heading, and substituted ''Any person who'' for ''A person not a member of an armed force of the United States is liable to the United States Government for a civil penalty of $2,000, an amount equal to 2 times the amount of damages the Government sustains because of the act of that person, and costs of the civil action, if the person'' in introductory provisions.

Subsec. (a)(1). Pub. L. 99–562, §2(2), substituted ''United States Government or a member of the Armed Forces of the United States'' for ''Government or a member of an armed force''.

Subsec. (a)(2). Pub. L. 99–562, §2(3), inserted ''by the Government'' after ''approved''.

Subsec. (a)(4). Pub. L. 99–562, §2(4), substituted ''control of property'' for ''control of public property'' and ''by the Government'' for ''in an armed force''.

Subsec. (a)(5). Pub. L. 99–562, §2(5), substituted ''by the Government'' for ''in an armed force'' and ''true;'' for ''true; or''.

Subsec. (a)(6). Pub. L. 99–562, §2(6), substituted ''an officer or employee of the Government, or a member of the Armed Forces,'' for ''a member of an armed force'' and ''property; or'' for ''property.''

Subsec. (a)(7). Pub. L. 99–562, §2(7), added par. (7).

Subsecs. (b) to (e). Pub. L. 99–562, §2(7), added subsecs. (b) to (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–21, §4(f), May 20, 2009, 123 Stat. 1625, provided that: ''The amendments made by this section [amending this section and sections 3730 to 3733 of this title] shall take effect on the date of enactment of this Act [May 20, 2009] and shall apply to conduct on or after the date of enactment, except that—

''(1) subparagraph (B) of section 3729(a)(1) of title 31, United States Code, as added by subsection (a)(1), shall take effect as if enacted on June 7, 2008, and apply to all claims under the False Claims Act (31 U.S.C. 3729 et seq.) that are pending on or after that date; and

''(2) section 3731(b) [probably should be section 3731] of title 31, as amended by subsection (b); section 3733, of title 31, as amended by subsection (c); and section 3732 of title 31, as amended by subsection (e); shall apply to cases pending on the date of enactment.''

INCREASED PENALTIES FOR FALSE CLAIMS IN DEFENSE PROCUREMENT

Pub. L. 99–145, title IX, §931(b), Nov. 8, 1985, 99 Stat. 699, provided that: ''Notwithstanding section 3729 of title 31, United States Code, the amount of the liability under that section in the case of a person who makes a false claim related to a contract with the Department of Defense shall be a civil penalty of $2,000, an amount equal to three times the amount of the damages the Government sustains because of the act of the person, and costs of the civil action.''

[Section 931(c) of Pub. L. 99–145 provided that section 931(b) is applicable to claims made or presented on or after Nov. 8, 1985.]

§ 3730. Civil actions for false claims

(a) RESPONSIBILITIES OF THE ATTORNEY GENERAL.—The Attorney General diligently shall investigate a violation under section 3729. If the Attorney General finds that a person has violated or is violating section 3729, the Attorney General may bring a civil action under this section against the person.

(b) ACTIONS BY PRIVATE PERSONS.—(1) A person may bring a civil action for a violation of section 3729 for the person and for the United States Government. The action shall be brought in the name of the Government. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to Rule 4(d)(4)[1] of the Federal Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.

(3) The Government may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure.

(4) Before the expiration of the 60-day period or any extensions obtained under paragraph (3), the Government shall—

(A) proceed with the action, in which case the action shall be conducted by the Government; or

(B) notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

(5) When a person brings an action under this subsection, no person other than the Government may intervene or bring a related action based on the facts underlying the pending action.

(c) RIGHTS OF THE PARTIES TO QUI TAM ACTIONS.—(1) If the Government proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (2).

(2)(A) The Government may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the Government of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.

(B) The Government may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.

(C) Upon a showing by the Government that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the Gov-

[1] So in original. Probably should be a reference to Rule 4(i).

ernment's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as—

(i) limiting the number of witnesses the person may call;

(ii) limiting the length of the testimony of such witnesses;

(iii) limiting the person's cross-examination of witnesses; or

(iv) otherwise limiting the participation by the person in the litigation.

(D) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

(3) If the Government elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the Government so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the Government's expense). When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the Government to intervene at a later date upon a showing of good cause.

(4) Whether or not the Government proceeds with the action, upon a showing by the Government that certain actions of discovery by the person initiating the action would interfere with the Government's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the Government has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

(5) Notwithstanding subsection (b), the Government may elect to pursue its claim through any alternate remedy available to the Government, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the preceding sentence, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the United States, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

(d) AWARD TO QUI TAM PLAINTIFF.—(1) If the Government proceeds with an action brought by a person under subsection (b), such person shall, subject to the second sentence of this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one which the court finds to be based primarily on disclosures of specific information (other than information provided by the person bringing the action) relating to allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government[2] Accounting Office report, hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person under the first or second sentence of this paragraph shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(2) If the Government does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(3) Whether or not the Government proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of section 3729 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of section 3729, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the United States to continue the action, represented by the Department of Justice.

(4) If the Government does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clear-

[2] So in original. Probably should be ''General''.

ly vexatious, or brought primarily for purposes of harassment.

(e) CERTAIN ACTIONS BARRED.—(1) No court shall have jurisdiction over an action brought by a former or present member of the armed forces under subsection (b) of this section against a member of the armed forces arising out of such person's service in the armed forces.

(2)(A) No court shall have jurisdiction over an action brought under subsection (b) against a Member of Congress, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the Government when the action was brought.

(B) For purposes of this paragraph, ''senior executive branch official'' means any officer or employee listed in paragraphs (1) through (8) of section 13103(f) of title 5.

(3) In no event may a person bring an action under subsection (b) which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the Government is already a party.

(4)(A) The court shall dismiss an action or claim under this section, unless opposed by the Government, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed—

(i) in a Federal criminal, civil, or administrative hearing in which the Government or its agent is a party;

(ii) in a congressional, Government Accountability Office, or other Federal report, hearing, audit, or investigation; or

(iii) from the news media,

unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.

(B) For purposes of this paragraph, ''original source'' means an individual who either (i) prior to a public disclosure under subsection (e)(4)(a), has voluntarily disclosed to the Government the information on which allegations or transactions in a claim are based, or (2) who has[3] knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and who has voluntarily provided the information to the Government before filing an action under this section.

(f) GOVERNMENT NOT LIABLE FOR CERTAIN EXPENSES.—The Government is not liable for expenses which a person incurs in bringing an action under this section.

(g) FEES AND EXPENSES TO PREVAILING DEFENDANT.—In civil actions brought under this section by the United States, the provisions of section 2412(d) of title 28 shall apply.

(h) RELIEF FROM RETALIATORY ACTIONS.—

(1) IN GENERAL.—Any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent or associated others in furtherance of an action under this section or other efforts to stop 1 or more violations of this subchapter.

(2) RELIEF.—Relief under paragraph (1) shall include reinstatement with the same seniority status that employee, contractor, or agent would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An action under this subsection may be brought in the appropriate district court of the United States for the relief provided in this subsection.

(3) LIMITATION ON BRINGING CIVIL ACTION.—A civil action under this subsection may not be brought more than 3 years after the date when the retaliation occurred.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 978; Pub. L. 99–562, §§3, 4, Oct. 27, 1986, 100 Stat. 3154, 3157; Pub. L. 100–700, §9, Nov. 19, 1988, 102 Stat. 4638; Pub. L. 101–280, §10(a), May 4, 1990, 104 Stat. 162; Pub. L. 103–272, §4(f)(1)(P), July 5, 1994, 108 Stat. 1362; Pub. L. 111–21, §4(d), May 20, 2009, 123 Stat. 1624; Pub. L. 111–148, title X, §10104(j)(2), Mar. 23, 2010, 124 Stat. 901; Pub. L. 111–203, title X, §1079A(c), July 21, 2010, 124 Stat. 2079; Pub. L. 117–286, §4(c)(36), Dec. 27, 2022, 136 Stat. 4358.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3730(a)	31:233.	R.S. §3492.
3730(b)(1)	31:232(A), (B)(less words between 3d and 4th commas).	R.S. §3491(A)–(E); restated Dec. 23, 1943, ch. 377, §1, 57 Stat. 608; June 11, 1960, Pub. L. 86–507, §1(28), (29), 74 Stat. 202.
3730(b)(2)	31:232(C)(1st–3d sentences, 5th sentence proviso).	
3730(b)(3)	31:232(C)(4th sentence, 5th sentence less proviso).	
3730(b)(4)	31:232(C)(last sentence), (D).	
3730(c)(1)	31:232(E)(1).	
3730(c)(2)	31:232(E)(2)(less proviso).	
3730(d)	31:232(B)(words between 3d and 4th commas), (E)(2)(proviso).	

In the section, the words ''civil action'' are substituted for ''suit'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words ''Attorney General'' are substituted for ''several district attorneys of the United States [subsequently changed to 'United States attorneys' because of section 1 of the Act of June 25, 1948 (ch. 646, 62 Stat. 909)] for the respective districts, for the District of Columbia, and for the several Territories'' because of 28:509. The words ''by persons liable to such suit'' are omitted as surplus. The words ''and found within their respective districts or Territories'' are omitted because of the restatement. The words ''If the Attorney General finds that a person has violated or is violating section 3729, the Attorney General may bring a civil action under this section against the person'' are substituted for ''and to cause them to be proceeded against in due form of law for the recovery of such forfeiture and damages'' for clarity and consistency. The words ''as the district judge may order'' are omitted as surplus. The words ''of the Attorney General'' are substituted for ''the person bringing the suit'' for consistency in the section.

[3] So in original. Probably should be ''or (ii) has''.

In subsection (b)(1), the words ''Except as hereinafter provided'' are omitted as unnecessary. The words ''for a violation of section 3729 of this title'' are added because of the restatement. The words ''and carried on'', ''several'' and ''full power and'' are omitted as surplus. The words ''of the action'' are substituted for ''to hear, try, and determine such suit'' to eliminate unnecessary words. The words ''Trial is in the judicial district within whose jurisdictional limits the person charged with a violation is found or the violation occurs'' are substituted for ''within whose jurisdictional limits the person doing or committing such act shall be found, shall wheresoever such act may have been done or committed'' for consistency in the revised title and with other titles of the Code. The words ''withdrawn or'' and ''judge of the'' are omitted as surplus. The words ''Attorney General'' are substituted for ''district attorney [subsequently changed to 'United States attorneys' because of section 1 of the Act of June 25, 1948 (ch. 646, 62 Stat. 909)], first filed in the case'' because of 28:509.

In subsection (b)(2), before clause (A), the words ''bill of'', ''Whenever any such suit shall be brought by any person under clause (B) of this section'' and ''to the effective prosecution of such suit or'' are omitted as surplus. The words ''served on the Government under rule 4 of the Federal Rules of Civil Procedure (28 App. U.S.C.)'' are substituted for ''notice . . . shall be given to the United States by serving upon the United States Attorney for the district in which such suit shall have been brought . . . and by sending, by registered mail, or by certified mail, to the Attorney General of the United States at Washington, District of Columbia'' because of 28:509 and to eliminate unnecessary words. The words ''proceed with the action'' are added for clarity. Clause (A) is substituted for ''shall fail, or decline in writing to the court, during said period of sixty days to enter any such suit'' for clarity and consistency. In clause (B), the words ''a period of'' and ''therein'' are omitted as surplus.

In subsection (b)(3), the words ''within said period'' are omitted as surplus. The words ''proceeds with the action'' are substituted for ''shall enter appearance in such suit'' for consistency. The words ''In carrying on such suit'' and ''and may proceed in all respects as if it were instituting the suit'' are omitted as surplus.

In subsection (b)(4), the words ''Unless the Government proceeds with the action'' are added because of the restatement. The words ''shall dismiss an action brought by the person on discovering'' are substituted for ''shall have no jurisdiction to proceed with any such suit . . . or pending suit . . . whenever it shall be made to appear that'' to eliminate unnecessary words. The words ''or any agency, officer, or employee thereof'' are omitted as unnecessary. The text of 31:232(C)(last sentence proviso) and (D) is omitted as executed.

In subsection (c), the words ''herein provided'', ''fair and . . . compensation to such person'', and ''involved therein, which shall be collected'' are omitted as surplus.

In subsection (c)(2), the words ''whether heretofore or hereafter brought'' are omitted as unnecessary. The words ''bringing the action or settling the claim'' are substituted for ''who brought such suit and prosecuted it to final judgment, or to settlement'' for clarity and consistency. The words ''as provided in clause (B) of this section'' are omitted as unnecessary. The words ''the civil penalty'' are substituted for ''forfeiture'' for clarity and consistency. The words ''to his own use'', ''the court may'', and ''to be allowed and taxed according to any provision of law or rule of court in force, or that shall be in force in suits between private parties in said court'' are omitted as surplus.

Subsection (d) is substituted for 31:232(B)(words between 3d and 4th commas) and (E)(2)(proviso) to eliminate unnecessary words.

Editorial Notes

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), (3), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

2022—Subsec. (e)(2)(B). Pub. L. 117–286 substituted ''section 13103(f) of title 5.'' for ''section 101(f) of the Ethics in Government Act of 1978 (5 U.S.C. App.).''

2010—Subsec. (e)(4). Pub. L. 111–148 added par. (4) and struck out former par. (4) which read as follows:

''(4)(A) No court shall have jurisdiction over an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.

''(B) For purposes of this paragraph, 'original source' means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government before filing an action under this section which is based on the information.''

Subsec. (h)(1). Pub. L. 111–203, §1079A(c)(1), substituted ''agent or associated others in furtherance of an action under this section or other efforts to stop 1 or more violations of this subchapter'' for ''or agent on behalf of the employee, contractor, or agent or associated others in furtherance of other efforts to stop 1 or more violations of this subchapter''.

Subsec. (h)(3). Pub. L. 111–203, §1079A(c)(2), added par. (3).

2009—Subsec. (h). Pub. L. 111–21 amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate district court of the United States for the relief provided in this subsection.''

1994—Subsec. (e)(2)(B). Pub. L. 103–272 substituted ''paragraphs (1) through (8)'' for ''section paragraphs (1) through (8)''.

1990—Subsec. (e)(2)(B). Pub. L. 101–280 substituted ''paragraphs (1) through (8) of section 101(f)'' for ''201(f)''.

1988—Subsec. (c)(4). Pub. L. 100–700, §9(b)(1), which directed amendment of section 3730 of title 28 by substituting ''with the action'' for ''with action'' in subsec. (c)(4), was executed to subsec. (c)(4) of this section as the probable intent of Congress.

Subsec. (d)(3). Pub. L. 100–700, §9(a)(1), (2), added par. (3). Former par. (3) redesignated (4).

Subsec. (d)(4). Pub. L. 100–700, §9(b)(2), which directed amendment of section 3730 of title 28 by substituting ''claim of the person bringing the action'' for ''claim of the person bringing the actions'' in subsec. (d)(4), was executed to subsec. (d)(4) of this section as the probable intent of Congress.

Pub. L. 100–700, §9(a)(1), redesignated former par. (3) as (4).

1986—Pub. L. 99–562, §3, amended section generally, revising and expanding provisions of subsecs. (a) to (c), adding subsecs. (d) and (e), redesignating former subsec. (d) as (f), and adding subsec. (g).

Subsec. (h). Pub. L. 99–562, §4, added subsec. (h).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–21 effective May 20, 2009, and applicable to conduct on or after May 20, 2009, see section 4(f) of Pub. L. 111–21, set out as a note under section 3729 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–280, §10(c), May 4, 1990, 104 Stat. 162, provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 2397a of Title 10, Armed Forces] shall take effect on January 1, 1991.''

§ 3731. False claims procedure

(a) A subpena requiring the attendance of a witness at a trial or hearing conducted under section 3730 of this title may be served at any place in the United States.

(b) A civil action under section 3730 may not be brought—

(1) more than 6 years after the date on which the violation of section 3729 is committed, or

(2) more than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the official of the United States charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed,

whichever occurs last.

(c) If the Government elects to intervene and proceed with an action brought under 3730(b),[1] the Government may file its own complaint or amend the complaint of a person who has brought an action under section 3730(b) to clarify or add detail to the claims in which the Government is intervening and to add any additional claims with respect to which the Government contends it is entitled to relief. For statute of limitations purposes, any such Government pleading shall relate back to the filing date of the complaint of the person who originally brought the action, to the extent that the claim of the Government arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the prior complaint of that person.

(d) In any action brought under section 3730, the United States shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(e) Notwithstanding any other provision of law, the Federal Rules of Criminal Procedure, or the Federal Rules of Evidence, a final judgment rendered in favor of the United States in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under subsection (a) or (b) of section 3730.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 979; Pub. L. 99–562, §5, Oct. 27, 1986, 100 Stat. 3158; Pub. L. 111–21, §4(b), May 20, 2009, 123 Stat. 1623.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3731(a)	31:232(F).	R.S. §3491(F); added Nov. 2, 1978, Pub. L. 95–582, §1, 92 Stat. 2479.
3731(b)	31:235.	R.S. §3494.

In subsection (b), the words ''A civil action under section 3730 of this title'' are substituted for ''Every such suit'' for clarity.

Editorial Notes

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (e), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

The Federal Rules of Evidence, referred to in subsec. (e), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

2009—Subsecs. (c) to (e). Pub. L. 111–21, which directed amendment of section ''3731(b)'' of this title by adding subsec. (c) and redesignating former subsecs. (c) and (d) as (d) and (e), respectively, was executed by making the amendment to this section, to reflect the probable intent of Congress.

1986—Subsecs. (b) to (d). Pub. L. 99–562 added subsecs. (b) to (d) and struck out former subsec. (b) which read as follows: ''A civil action under section 3730 of this title must be brought within 6 years from the date the violation is committed.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–21 effective May 20, 2009, and applicable to conduct on or after May 20, 2009, except that this section, as amended by Pub. L. 111–21, applicable to cases pending on May 20, 2009, see section 4(f) of Pub. L. 111–21, set out as a note under section 3729 of this title.

§ 3732. False claims jurisdiction

(a) ACTIONS UNDER SECTION 3730.—Any action under section 3730 may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in which any act proscribed by section 3729 occurred. A summons as required by the Federal Rules of Civil Procedure shall be issued by the appropriate district court and served at any place within or outside the United States.

(b) CLAIMS UNDER STATE LAW.—The district courts shall have jurisdiction over any action brought under the laws of any State for the recovery of funds paid by a State or local government if the action arises from the same trans-

[1] So in original. Probably should be preceded by ''section''.

action or occurrence as an action brought under section 3730.

(c) SERVICE ON STATE OR LOCAL AUTHORITIES.—With respect to any State or local government that is named as a co-plaintiff with the United States in an action brought under subsection (b), a seal on the action ordered by the court under section 3730(b) shall not preclude the Government or the person bringing the action from serving the complaint, any other pleadings, or the written disclosure of substantially all material evidence and information possessed by the person bringing the action on the law enforcement authorities that are authorized under the law of that State or local government to investigate and prosecute such actions on behalf of such governments, except that such seal applies to the law enforcement authorities so served to the same extent as the seal applies to other parties in the action.

(Added Pub. L. 99–562, §6(a), Oct. 21, 1986, 100 Stat. 3158; amended Pub. L. 111–21, §4(e), May 20, 2009, 123 Stat. 1625.)

Editorial Notes

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (a), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

2009—Subsec. (c). Pub. L. 111–21 added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–21 effective May 20, 2009, and applicable to conduct on or after May 20, 2009, except that this section, as amended by Pub. L. 111–21, applicable to cases pending on May 20, 2009, see section 4(f) of Pub. L. 111–21, set out as a note under section 3729 of this title.

§ 3733. Civil investigative demands

(a) IN GENERAL.—

(1) ISSUANCE AND SERVICE.—Whenever the Attorney General, or a designee (for purposes of this section), has reason to believe that any person may be in possession, custody, or control of any documentary material or information relevant to a false claims law investigation, the Attorney General, or a designee, may, before commencing a civil proceeding under section 3730(a) or other false claims law, or making an election under section 3730(b), issue in writing and cause to be served upon such person, a civil investigative demand requiring such person—

(A) to produce such documentary material for inspection and copying,

(B) to answer in writing written interrogatories with respect to such documentary material or information,

(C) to give oral testimony concerning such documentary material or information, or

(D) to furnish any combination of such material, answers, or testimony.

The Attorney General may delegate the authority to issue civil investigative demands under this subsection. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served. Any information obtained by the Attorney General or a designee of the Attorney General under this section may be shared with any qui tam relator if the Attorney General or designee determine it is necessary as part of any false claims act[1] investigation.

(2) CONTENTS AND DEADLINES.—

(A) Each civil investigative demand issued under paragraph (1) shall state the nature of the conduct constituting the alleged violation of a false claims law which is under investigation, and the applicable provision of law alleged to be violated.

(B) If such demand is for the production of documentary material, the demand shall—

(i) describe each class of documentary material to be produced with such definiteness and certainty as to permit such material to be fairly identified;

(ii) prescribe a return date for each such class which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying; and

(iii) identify the false claims law investigator to whom such material shall be made available.

(C) If such demand is for answers to written interrogatories, the demand shall—

(i) set forth with specificity the written interrogatories to be answered;

(ii) prescribe dates at which time answers to written interrogatories shall be submitted; and

(iii) identify the false claims law investigator to whom such answers shall be submitted.

(D) If such demand is for the giving of oral testimony, the demand shall—

(i) prescribe a date, time, and place at which oral testimony shall be commenced;

(ii) identify a false claims law investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted;

(iii) specify that such attendance and testimony are necessary to the conduct of the investigation;

(iv) notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and

(v) describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, which will be taken pursuant to the demand.

(E) Any civil investigative demand issued under this section which is an express demand for any product of discovery shall not

[1] So in original. Probably should be ''law''.

be returned or returnable until 20 days after a copy of such demand has been served upon the person from whom the discovery was obtained.

(F) The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand issued under this section shall be a date which is not less than seven days after the date on which demand is received, unless the Attorney General or an Assistant Attorney General designated by the Attorney General determines that exceptional circumstances are present which warrant the commencement of such testimony within a lesser period of time.

(G) The Attorney General shall not authorize the issuance under this section of more than one civil investigative demand for oral testimony by the same person unless the person requests otherwise or unless the Attorney General, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary.

(b) PROTECTED MATERIAL OR INFORMATION.—

(1) IN GENERAL.—A civil investigative demand issued under subsection (a) may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such material, answers, or testimony would be protected from disclosure under—

(A) the standards applicable to subpoenas or subpoenas duces tecum issued by a court of the United States to aid in a grand jury investigation; or

(B) the standards applicable to discovery requests under the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this section.

(2) EFFECT ON OTHER ORDERS, RULES, AND LAWS.—Any such demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law (other than this section) preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such express demand does not constitute a waiver of any right or privilege which the person making such disclosure may be entitled to invoke to resist discovery of trial preparation materials.

(c) SERVICE; JURISDICTION.—

(1) BY WHOM SERVED.—Any civil investigative demand issued under subsection (a) may be served by a false claims law investigator, or by a United States marshal or a deputy marshal, at any place within the territorial jurisdiction of any court of the United States.

(2) SERVICE IN FOREIGN COUNTRIES.—Any such demand or any petition filed under subsection (j) may be served upon any person who is not found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States can assert jurisdiction over any such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by any such person that such court would have if such person were personally within the jurisdiction of such court.

(d) SERVICE UPON LEGAL ENTITIES AND NATURAL PERSONS.—

(1) LEGAL ENTITIES.—Service of any civil investigative demand issued under subsection (a) or of any petition filed under subsection (j) may be made upon a partnership, corporation, association, or other legal entity by—

(A) delivering an executed copy of such demand or petition to any partner, executive officer, managing agent, or general agent of the partnership, corporation, association, or entity, or to any agent authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

(B) delivering an executed copy of such demand or petition to the principal office or place of business of the partnership, corporation, association, or entity; or

(C) depositing an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt requested, addressed to such partnership, corporation, association, or entity at its principal office or place of business.

(2) NATURAL PERSONS.—Service of any such demand or petition may be made upon any natural person by—

(A) delivering an executed copy of such demand or petition to the person; or

(B) depositing an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt requested, addressed to the person at the person's residence or principal office or place of business.

(e) PROOF OF SERVICE.—A verified return by the individual serving any civil investigative demand issued under subsection (a) or any petition filed under subsection (j) setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

(f) DOCUMENTARY MATERIAL.—

(1) SWORN CERTIFICATES.—The production of documentary material in response to a civil investigative demand served under this section shall be made under a sworn certificate, in such form as the demand designates, by—

(A) in the case of a natural person, the person to whom the demand is directed, or

(B) in the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to such production and authorized to act on behalf of such person.

The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has

been produced and made available to the false claims law investigator identified in the demand.

(2) PRODUCTION OF MATERIALS.—Any person upon whom any civil investigative demand for the production of documentary material has been served under this section shall make such material available for inspection and copying to the false claims law investigator identified in such demand at the principal place of business of such person, or at such other place as the false claims law investigator and the person thereafter may agree and prescribe in writing, or as the court may direct under subsection (j)(1). Such material shall be made so available on the return date specified in such demand, or on such later date as the false claims law investigator may prescribe in writing. Such person may, upon written agreement between the person and the false claims law investigator, substitute copies for originals of all or any part of such material.

(g) INTERROGATORIES.—Each interrogatory in a civil investigative demand served under this section shall be answered separately and fully in writing under oath and shall be submitted under a sworn certificate, in such form as the demand designates, by—

(1) in the case of a natural person, the person to whom the demand is directed, or

(2) in the case of a person other than a natural person, the person or persons responsible for answering each interrogatory.

If any interrogatory is objected to, the reasons for the objection shall be stated in the certificate instead of an answer. The certificate shall state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.

(h) ORAL EXAMINATIONS.—

(1) PROCEDURES.—The examination of any person pursuant to a civil investigative demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall, personally or by someone acting under the direction of the officer and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and shall be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian. This subsection shall not preclude the taking of testimony by any means authorized by, and in a manner consistent with, the Federal Rules of Civil Procedure.

(2) PERSONS PRESENT.—The false claims law investigator conducting the examination shall exclude from the place where the examination is held all persons except the person giving the testimony, the attorney for and any other representative of the person giving the testimony, the attorney for the Government, any person who may be agreed upon by the attorney for the Government and the person giving the testimony, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.

(3) WHERE TESTIMONY TAKEN.—The oral testimony of any person taken pursuant to a civil investigative demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the false claims law investigator conducting the examination and such person.

(4) TRANSCRIPT OF TESTIMONY.—When the testimony is fully transcribed, the false claims law investigator or the officer before whom the testimony is taken shall afford the witness, who may be accompanied by counsel, a reasonable opportunity to examine and read the transcript, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the officer or the false claims law investigator, with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within 30 days after being afforded a reasonable opportunity to examine it, the officer or the false claims law investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reasons, if any, given therefor.

(5) CERTIFICATION AND DELIVERY TO CUSTODIAN.—The officer before whom the testimony is taken shall certify on the transcript that the witness was sworn by the officer and that the transcript is a true record of the testimony given by the witness, and the officer or false claims law investigator shall promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian.

(6) FURNISHING OR INSPECTION OF TRANSCRIPT BY WITNESS.—Upon payment of reasonable charges therefor, the false claims law investigator shall furnish a copy of the transcript to the witness only, except that the Attorney General, the Deputy Attorney General, or an Assistant Attorney General may, for good cause, limit such witness to inspection of the official transcript of the witness' testimony.

(7) CONDUCT OF ORAL TESTIMONY.—(A) Any person compelled to appear for oral testimony under a civil investigative demand issued under subsection (a) may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall

briefly state for the record the reason for the objection. An objection may be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on the grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person may not otherwise object to or refuse to answer any question, and may not directly or through counsel otherwise interrupt the oral examination. If such person refuses to answer any question, a petition may be filed in the district court of the United States under subsection (j)(1) for an order compelling such person to answer such question.

(B) If such person refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18.

(8) WITNESS FEES AND ALLOWANCES.—Any person appearing for oral testimony under a civil investigative demand issued under subsection (a) shall be entitled to the same fees and allowances which are paid to witnesses in the district courts of the United States.

(i) CUSTODIANS OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS.—

(1) DESIGNATION.—The Attorney General shall designate a false claims law investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this section, and shall designate such additional false claims law investigators as the Attorney General determines from time to time to be necessary to serve as deputies to the custodian.

(2) RESPONSIBILITY FOR MATERIALS; DISCLOSURE.—(A) A false claims law investigator who receives any documentary material, answers to interrogatories, or transcripts of oral testimony under this section shall transmit them to the custodian. The custodian shall take physical possession of such material, answers, or transcripts and shall be responsible for the use made of them and for the return of documentary material under paragraph (4).

(B) The custodian may cause the preparation of such copies of such documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any false claims law investigator, or other officer or employee of the Department of Justice. Such material, answers, and transcripts may be used by any such authorized false claims law investigator or other officer or employee in connection with the taking of oral testimony under this section.

(C) Except as otherwise provided in this subsection, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the custodian, shall be available for examination by any individual other than a false claims law investigator or other officer or employee of the Department of Justice authorized under subparagraph (B). The prohibition in the preceding sentence on the availability of material, answers, or transcripts shall not apply if consent is given by the person who produced such material, answers, or transcripts, or, in the case of any product of discovery produced pursuant to an express demand for such material, consent is given by the person from whom the discovery was obtained. Nothing in this subparagraph is intended to prevent disclosure to the Congress, including any committee or subcommittee of the Congress, or to any other agency of the United States for use by such agency in furtherance of its statutory responsibilities.

(D) While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General shall prescribe—

(i) documentary material and answers to interrogatories shall be available for examination by the person who produced such material or answers, or by a representative of that person authorized by that person to examine such material and answers; and

(ii) transcripts of oral testimony shall be available for examination by the person who produced such testimony, or by a representative of that person authorized by that person to examine such transcripts.

(3) USE OF MATERIAL, ANSWERS, OR TRANSCRIPTS IN OTHER PROCEEDINGS.—Whenever any attorney of the Department of Justice has been designated to appear before any court, grand jury, or Federal agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony received under this section may deliver to such attorney such material, answers, or transcripts for official use in connection with any such case or proceeding as such attorney determines to be required. Upon the completion of any such case or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts so delivered which have not passed into the control of such court, grand jury, or agency through introduction into the record of such case or proceeding.

(4) CONDITIONS FOR RETURN OF MATERIAL.—If any documentary material has been produced by any person in the course of any false claims law investigation pursuant to a civil investigative demand under this section, and—

(A) any case or proceeding before the court or grand jury arising out of such investigation, or any proceeding before any Federal agency involving such material, has been completed, or

(B) no case or proceeding in which such material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation,

the custodian shall, upon written request of the person who produced such material, return to such person any such material (other than copies furnished to the false claims law investigator under subsection (f)(2) or made for the Department of Justice under paragraph (2)(B)) which has not passed into the control of any court, grand jury, or agency through introduction into the record of such case or proceeding.

(5) APPOINTMENT OF SUCCESSOR CUSTODIANS.—In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to a civil investigative demand under this section, or in the event of the official relief of such custodian from responsibility for the custody and control of such material, answers, or transcripts, the Attorney General shall promptly—

(A) designate another false claims law investigator to serve as custodian of such material, answers, or transcripts, and

(B) transmit in writing to the person who produced such material, answers, or testimony notice of the identity and address of the successor so designated.

Any person who is designated to be a successor under this paragraph shall have, with regard to such material, answers, or transcripts, the same duties and responsibilities as were imposed by this section upon that person's predecessor in office, except that the successor shall not be held responsible for any default or dereliction which occurred before that designation.

(j) JUDICIAL PROCEEDINGS.—

(1) PETITION FOR ENFORCEMENT.—Whenever any person fails to comply with any civil investigative demand issued under subsection (a), or whenever satisfactory copying or reproduction of any material requested in such demand cannot be done and such person refuses to surrender such material, the Attorney General may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of the civil investigative demand.

(2) PETITION TO MODIFY OR SET ASIDE DEMAND.—(A) Any person who has received a civil investigative demand issued under subsection (a) may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon the false claims law investigator identified in such demand a petition for an order of the court to modify or set aside such demand. In the case of a petition addressed to an express demand for any product of discovery, a petition to modify or set aside such demand may be brought only in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending. Any petition under this subparagraph must be filed—

(i) within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or

(ii) within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.

(B) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (A), and may be based upon any failure of the demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside.

(3) PETITION TO MODIFY OR SET ASIDE DEMAND FOR PRODUCT OF DISCOVERY.—(A) In the case of any civil investigative demand issued under subsection (a) which is an express demand for any product of discovery, the person from whom such discovery was obtained may file, in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending, and serve upon any false claims law investigator identified in the demand and upon the recipient of the demand, a petition for an order of such court to modify or set aside those portions of the demand requiring production of any such product of discovery. Any petition under this subparagraph must be filed—

(i) within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or

(ii) within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.

(B) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (A), and may be based upon any failure of the portions of the demand from which relief is sought to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of the petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand.

(4) PETITION TO REQUIRE PERFORMANCE BY CUSTODIAN OF DUTIES.—At any time during which any custodian is in custody or control of any documentary material or answers to interrogatories produced, or transcripts of oral testimony given, by any person in compliance with any civil investigative demand issued under subsection (a), such person, and in the case of an express demand for any product of discovery, the person from whom such discovery was obtained, may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court to require the performance by the custodian of any duty imposed upon the custodian by this section.

(5) JURISDICTION.—Whenever any petition is filed in any district court of the United States under this subsection, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry out the provisions of this section. Any final order so entered shall be subject to appeal under section 1291 of title 28. Any disobedience of any final order

entered under this section by any court shall be punished as a contempt of the court.

(6) APPLICABILITY OF FEDERAL RULES OF CIVIL PROCEDURE.—The Federal Rules of Civil Procedure shall apply to any petition under this subsection, to the extent that such rules are not inconsistent with the provisions of this section.

(k) DISCLOSURE EXEMPTION.—Any documentary material, answers to written interrogatories, or oral testimony provided under any civil investigative demand issued under subsection (a) shall be exempt from disclosure under section 552 of title 5.

(*l*) DEFINITIONS.—For purposes of this section—

(1) the term ''false claims law'' means—

(A) this section and sections 3729 through 3732; and

(B) any Act of Congress enacted after the date of the enactment of this section which prohibits, or makes available to the United States in any court of the United States any civil remedy with respect to, any false claim against, bribery of, or corruption of any officer or employee of the United States;

(2) the term ''false claims law investigation'' means any inquiry conducted by any false claims law investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of a false claims law;

(3) the term ''false claims law investigator'' means any attorney or investigator employed by the Department of Justice who is charged with the duty of enforcing or carrying into effect any false claims law, or any officer or employee of the United States acting under the direction and supervision of such attorney or investigator in connection with a false claims law investigation;

(4) the term ''person'' means any natural person, partnership, corporation, association, or other legal entity, including any State or political subdivision of a State;

(5) the term ''documentary material'' includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret such data compilations, and any product of discovery;

(6) the term ''custodian'' means the custodian, or any deputy custodian, designated by the Attorney General under subsection (i)(1);

(7) the term ''product of discovery'' includes—

(A) the original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, which is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature;

(B) any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A); and

(C) any index or other manner of access to any item listed in subparagraph (A); and

(8) the term ''official use'' means any use that is consistent with the law, and the regulations and policies of the Department of Justice, including use in connection with internal Department of Justice memoranda and reports; communications between the Department of Justice and a Federal, State, or local government agency, or a contractor of a Federal, State, or local government agency, undertaken in furtherance of a Department of Justice investigation or prosecution of a case; interviews of any qui tam relator or other witness; oral examinations; depositions; preparation for and response to civil discovery requests; introduction into the record of a case or proceeding; applications, motions, memoranda and briefs submitted to a court or other tribunal; and communications with Government investigators, auditors, consultants and experts, the counsel of other parties, arbitrators and mediators, concerning an investigation, case or proceeding.

(Added Pub. L. 99–562, § 6(a), Oct. 27, 1986, 100 Stat. 3159; amended Pub. L. 111–21, § 4(c), May 20, 2009, 123 Stat. 1623.)

Editorial Notes

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsecs. (b)(1)(B), (c)(2), (h)(1), and (j)(6), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The date of enactment of this section, referred to in subsec. (*l*)(1)(B), is the date of enactment of Pub. L. 99–562, which was approved Oct. 27, 1986.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–21, § 4(c)(1)(A), in introductory provisions, inserted '', or a designee (for purposes of this section),'' after ''Whenever the Attorney General'' and substituted ''the Attorney General, or a designee, may, before commencing a civil proceeding under section 3730(a) or other false claims law, or making an election under section 3730(b),'' for ''the Attorney General may, before commencing a civil proceeding under section 3730 or other false claims law,'' and, in concluding provisions, substituted ''may delegate'' for ''may not delegate'' and inserted at end ''Any information obtained by the Attorney General or a designee of the Attorney General under this section may be shared with any qui tam relator if the Attorney General or designee determine it is necessary as part of any false claims act investigation.''

Subsec. (a)(2)(G). Pub. L. 111–21, § 4(c)(1)(B), struck out at end ''The Attorney General may not, notwithstanding section 510 of title 28, authorize the performance, by any other officer, employee, or agency, of any function vested in the Attorney General under this subparagraph.''

Subsec. (i)(2)(B). Pub. L. 111–21, § 4(c)(2)(A), struck out '', who is authorized for such use under regulations which the Attorney General shall issue'' after ''Justice''.

Subsec. (i)(2)(C). Pub. L. 111–21, § 4(c)(2)(B), struck out at end ''Disclosure of information to any such other agency shall be allowed only upon application, made by the Attorney General to a United States district court, showing substantial need for the use of the information by such agency in furtherance of its statutory responsibilities.''

Subsec. (*l*)(8). Pub. L. 111–21, § 4(c)(3), added par. (8).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–21 effective May 20, 2009, and applicable to conduct on or after May 20, 2009, except that this section, as amended by Pub. L. 111–21, applicable to cases pending on May 20, 2009, see section 4(f) of Pub. L. 111–21, set out as a note under section 3729 of this title.

CHAPTER 38—ADMINISTRATIVE REMEDIES FOR FALSE CLAIMS AND STATEMENTS

Sec.
3801. Definitions.
3802. False claims and statements; liability.
3803. Hearing and determinations.
3804. Subpoena authority.
3805. Judicial review.
3806. Collection of civil penalties and assessments.
3807. Right to administrative offset.
3808. Limitations.
3809. Regulations.
[3810. Repealed.]
3811. Effect on other law.
3812. Prohibition against delegation.

Editorial Notes

AMENDMENTS

1995—Pub. L. 104–66, title III, §3001(c)(2), Dec. 21, 1995, 109 Stat. 734, struck out item 3810 ''Reports''.

§ 3801. Definitions

(a) For purposes of this chapter—

(1) ''authority'' means—

(A) an executive department;

(B) a military department;

(C) an establishment (as such term is defined in section 401 of title 5) which is not an executive department;

(D) the United States Postal Service;

(E) the National Science Foundation; and

(F) a designated Federal entity (as such term is defined under section 415(a) of title 5);

(2) ''authority head'' means—

(A) the head of an authority; or

(B) an official or employee of the authority designated, in regulations promulgated by the head of the authority, to act on behalf of the head of the authority;

(3) ''claim'' means any request, demand, or submission—

(A) made to an authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(B) made to a recipient of property, services, or money from an authority or to a party to a contract with an authority—

(i) for property or services if the United States—

(I) provided such property or services;

(II) provided any portion of the funds for the purchase of such property or services; or

(III) will reimburse such recipient or party for the purchase of such property or services; or

(ii) for the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(I) provided any portion of the money requested or demanded; or

(II) will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(C) made to an authority which has the effect of concealing or improperly avoiding or decreasing an obligation to pay or transmit property, services, or money to the authority,

except that such term does not include any claim made in any return of tax imposed by the Internal Revenue Code of 1986;

(4) ''investigating official'' means an individual who—

(A)(i) in the case of an authority in which an Office of Inspector General is established by chapter 4 of title 5 or by any other Federal law, is the Inspector General of that authority or an officer or employee of such Office designated by the Inspector General;

(ii) in the case of an authority in which an Office of Inspector General is not established by chapter 4 of title 5 or by any other Federal law, is an officer or employee of the authority designated by the authority head to conduct investigations under section 3803(a)(1) of this title; or

(iii) in the case of a military department, is the Inspector General of the Department of Defense or an officer or employee of the Office of Inspector General of the Department of Defense who is designated by the Inspector General; and

(B) who, if a member of the Armed Forces of the United States on active duty, is serving in grade O–7 or above or, if a civilian employee, is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule;

(5) ''knows or has reason to know'', for purposes of establishing liability under section 3802, means that a person, with respect to a claim or statement—

(A) has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(B) acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(C) acts in reckless disregard of the truth or falsity of the claim or statement,

and no proof of specific intent to defraud is required;

(6) ''person'' means any individual, partnership, corporation, association, or private organization;

(7) ''presiding officer'' means—

(A) in the case of an authority to which the provisions of subchapter II of chapter 5 of title 5 apply, an administrative law judge appointed in the authority pursuant to section 3105 of such title or detailed to the authority pursuant to section 3344 of such title;

(B) in the case of an authority to which the provisions of such subchapter do not apply, an officer or employee of the authority who—

(i) is selected under chapter 33 of title 5 pursuant to the competitive examination