

AMENDMENTS

1996—Subsec. (d). Pub. L. 104-316 substituted “Secretary of the Treasury” for “Comptroller General”.

1984—Subsec. (a). Pub. L. 98-564, §4(1), substituted “\$100,000” for “\$25,000”.

Subsec. (d). Pub. L. 98-564, §4(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “If the Secretary of the military department concerned considers that a claim in excess of \$25,000 is meritorious and would otherwise be covered by this section, he may pay the claimant \$25,000 and report the excess to Congress for its consideration”.

Subsec. (f). Pub. L. 98-564, §4(3), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “In any case where the amount to be paid is not more than \$5,000, the authority contained in subsection (a) may be delegated to any officer of the Army or the Air Force, as the case may be, who has been delegated authority under section 2733(g) of title 10, to settle similar claims, subject to appeal to the Secretary concerned, or his designee for that purpose”.

1974—Subsecs. (a), (d). Pub. L. 93-336, §3(1), (2), substituted “\$25,000” for “\$15,000”.

Subsec. (f). Pub. L. 93-336, §3(3), substituted “\$5,000” for “\$2,500”.

1972—Subsec. (b)(4). Pub. L. 92-445 inserted provision that claim may be allowed to extent that law of place where act or omission complained of occurred would permit recovery from a private individual under similar circumstances, when damage to or loss of property, or personal injury or death was caused wholly or partly by a negligent or wrongful act of claimant, his agent, or his employee.

1970—Subsecs. (a), (d). Pub. L. 91-312 substituted “\$15,000” for “\$5,000”.

1968—Subsec. (a). Pub. L. 90-486 struck out “caused by a person employed under section 709 of this title acting within the scope of his employment;” after “acting within the scope of his employment;”.

Subsec. (f). Pub. L. 90-525 increased limitation on amount of settlement from \$1,000 to \$2,500 and provided for appeals to Secretary concerned, or his designee, from determinations delegating authority to settle claims to an officer of the Army or the Air Force.

1962—Subsec. (a)(3). Pub. L. 87-649 substituted “section 206 of title 37” for “section 301 of title 37”.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-486 effective Jan. 1, 1968, except that no deductions or withholding from salary which result therefrom shall commence before the first day of the first pay period that begins on or after Jan. 1, 1968, see section 11 of Pub. L. 90-486, set out as a note under section 709 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

SAVINGS PROVISION FOR CLAIMS ARISING BEFORE
JANUARY 1, 1969

Settlement and payment of claims arising under this section before January 1, 1969, see section 3(a) of Pub. L. 90-486, set out as a note under section 709 of this title.

§ 716. Claims for overpayment of pay and allowances, and travel and transportation allowances

(a) A claim of the United States against a person arising out of an erroneous payment of any pay or allowances made before, on, or after October 2, 1972, or arising out of an erroneous payment of travel and transportation allowances, to or on behalf of a member or former member of

the National Guard, the collection of which would be against equity and good conscience and not in the best interest of the United States, may be waived in whole or in part by—

(1) the Director of the Office of Management and Budget; or

(2) the Secretary concerned, as defined in section 101(5) of title 37, when—

(A) the claim is in an amount aggregating not more than \$10,000; and

(B) the waiver is made in accordance with standards which the Director of the Office of Management and Budget shall prescribe.

(b) The Director of the Office of Management and Budget or the Secretary concerned, as the case may be, may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the member or any other person having an interest in obtaining a waiver of the claim; or

(2) if application for waiver is received in his office after the expiration of five years immediately following the date on which the erroneous payment was discovered.

(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the department concerned at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that department for that refund within two years following the effective date of the waiver. The Secretary concerned shall pay from current applicable appropriations that refund in accordance with this section.

(d) In the audit and settlement of accounts of any accountable officer or official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

(e) An erroneous payment, the collection of which is waived under this section, is considered a valid payment for all purposes.

(f) This section does not affect any authority under any other law to litigate, settle, compromise, or waive any claim of the United States.

(Added Pub. L. 92-453, §2(1), Oct. 2, 1972, 86 Stat. 759; amended Pub. L. 96-513, title V, §515(9), Dec. 12, 1980, 94 Stat. 2937; Pub. L. 99-224, §3(a), Dec. 28, 1985, 99 Stat. 1742; Pub. L. 102-190, div. A, title VI, §657(c), Dec. 5, 1991, 105 Stat. 1393; Pub. L. 104-316, title I, §116, Oct. 19, 1996, 110 Stat. 3835; Pub. L. 109-364, div. A, title VI, §671(b), Oct. 17, 2006, 120 Stat. 2270.)

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2006—Subsec. (a)(2)(A). Pub. L. 109-364, §671(b)(1), substituted “\$10,000” for “\$1,500”.

Subsec. (b)(2). Pub. L. 109-364, §671(b)(2), substituted “five” for “three”.

1996—Subsec. (a)(1). Pub. L. 104-316, §116(1)(A), substituted “Director of the Office of Management and Budget” for “Comptroller General”.

Subsec. (a)(2). Pub. L. 104-316, §116(1)(B), inserted “and” at end of subpar. (A), redesignated subpar. (C) as (B) and substituted “Director of the Office of Manage-

ment and Budget” for “Comptroller General”, and struck out former subpar. (B) which read as follows: “the claim is not the subject of an exception made by the Comptroller General in the account of any accountable officer or official; and”.

Subsec. (b). Pub. L. 104-316, §116(2), substituted “The Director of the Office of Management and Budget” for “Comptroller General” in introductory provisions.

1991—Subsec. (a)(2)(A). Pub. L. 102-190 substituted “\$1,500” for “\$500”.

1985—Pub. L. 99-224, §3(a)(1), substituted “and travel” for “other than travel” in section catchline.

Subsec. (a). Pub. L. 99-224, §3(a)(2), substituted “made before, on, or after October 2, 1972, or arising out of an erroneous payment of travel and transportation allowances” for “, other than travel and transportation allowances, made before or after October 2, 1972”.

Subsec. (b)(2). Pub. L. 99-224, §3(a)(3), struck out “of pay or allowances, other than travel and transportation allowances,” before “was discovered”.

1980—Subsec. (a). Pub. L. 96-513 substituted “October 2, 1972” for “the effective date of this section”.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-364 effective Mar. 1, 2007, see section 671(c) of Pub. L. 109-364, set out as a note under section 2774 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-316 effective 60 days after Oct. 19, 1996, see section 101(e) of Pub. L. 104-316, set out as a note under section 4593 of Title 2, The Congress.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-224 applicable to any claim arising out of an erroneous payment of travel and transportation allowances made on or after Dec. 28, 1985, see section 4 of Pub. L. 99-224, set out as a note under section 5584 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

[§ 717. Repealed. Pub. L. 109-163, div. A, title V, § 589(b)(2), Jan. 6, 2006, 119 Stat. 3279]

Section, added Pub. L. 108-375, div. A, title V, § 520(b)(1), Oct. 28, 2004, 118 Stat. 1886, related to presentation of recognition items for retention purposes.

CHAPTER 9—HOMELAND DEFENSE ACTIVITIES

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§ 901. Definitions

In this chapter:

(1) The term “homeland defense activity” means an activity undertaken for the military protection of the territory or domestic population of the United States, or of infrastructure or other assets of the United States determined by the Secretary of Defense as being critical to national security, from a threat or aggression against the United States.

(2) The term “State” means each of the several States, the District of Columbia, the

Commonwealth of Puerto Rico, or a territory or possession of the United States.

(Added Pub. L. 108-375, div. A, title V, § 512(a)(1), Oct. 28, 2004, 118 Stat. 1878.)

§ 902. Homeland defense activities: funds

The Secretary of Defense may provide funds to a Governor to employ National Guard units or members to conduct homeland defense activities that the Secretary determines to be necessary and appropriate for participation by the National Guard units or members, as the case may be.

(Added Pub. L. 108-375, div. A, title V, § 512(a)(1), Oct. 28, 2004, 118 Stat. 1878; amended Pub. L. 109-364, div. A, title X, § 1071(b)(1), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 115-232, div. A, title X, § 1081(b), Aug. 13, 2018, 132 Stat. 1985.)

AMENDMENTS

2018—Pub. L. 115-232 substituted “the Secretary determines” for “the Secretary, determines”.

2006—Pub. L. 109-364 struck out “(a)” before “The Secretary”.

§ 903. Regulations

The Secretary of Defense shall prescribe regulations to implement this chapter.

(Added Pub. L. 108-375, div. A, title V, § 512(a)(1), Oct. 28, 2004, 118 Stat. 1878.)

§ 904. Homeland defense duty

(a) FULL-TIME NATIONAL GUARD DUTY.—All duty performed under this chapter shall be considered to be full-time National Guard duty under section 502(f) of this title. Members of the National Guard performing full-time National Guard duty in the Active Guard and Reserve Program may support or execute homeland defense activities performed by the National Guard under this chapter.

(b) DURATION.—The period for which a member of the National Guard performs duty under this chapter shall be limited to 180 days. The Governor of the State may, with the concurrence of the Secretary of Defense, extend the period one time for an additional 90 days to meet extraordinary circumstances.

(c) RELATIONSHIP TO REQUIRED TRAINING.—A member of the National Guard performing duty under this chapter shall, in addition to performing such duty, participate in the training required under section 502(a) of this title. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing the duty under this chapter. The member is not entitled to additional pay, allowances, or other benefits for participation in training required under section 502(a)(1) of this title.

(d) READINESS.—To ensure that the use of units and personnel of the National Guard of a State for homeland defense activities does not degrade the training and readiness of such units and personnel, the following requirements shall apply in determining the homeland defense activities that units and personnel of the National Guard of a State may perform: