

## Editorial Notes

## REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(2)(C)(i) to (vi), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles II, XVI, XVIII, and XX of the Act are classified generally to subchapters II (§401 et seq.), XVI (§1381 et seq.), XVIII (§1395 et seq.), and XX (§1397 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42. Section 1902(a) of the Act is classified to section 1396a(a) of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 3 of the Food and Nutrition Act of 2008, referred to in subsec. (c)(2)(C)(vii), is classified to section 2012 of Title 7, Agriculture.

The Black Lung Benefits Act, referred to in subsec. (c)(2)(C)(ix), is title IV of Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 792, which is classified generally to subchapter IV (§901 et seq.) 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.

Section 17 of the Child Nutrition Act of 1966, referred to in subsec. (c)(2)(C)(x), is classified to section 1786 of Title 42, The Public Health and Welfare.

Section 336 of the Older Americans Act, referred to in subsec. (c)(2)(C)(xi), probably means section 336 of the Older Americans Act of 1965, which is classified to section 3030f of Title 42.

The Railroad Retirement Act of 1974, referred to in subsec. (c)(2)(C)(xii), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Richard B. Russell National School Lunch Act, referred to in subsec. (c)(2)(C)(xiii), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Low-Income Home Energy Assistance Act of 1981, referred to in subsec. (c)(2)(C)(xv), is title XXVI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 893, which is classified generally to subchapter II (§8621 et seq.) of chapter 94 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 8621 of Title 42 and Tables.

The Energy Conservation in Existing Buildings Act of 1976, referred to in subsec. (c)(2)(C)(xvi), is title IV of Pub. L. 94-385, Aug. 14, 1976, 90 Stat. 1150. Part A of the Energy Conservation in Existing Buildings Act of 1976 is classified generally to Part A (§6861 et seq.) of subchapter III of chapter 81 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of Title 42 and Tables.

## 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)(2)(C)(vii). Pub. L. 113-79 substituted “section 3” for “section 3(l)”.

2008—Subsec. (c)(2)(C)(vii). Pub. L. 110-246, §4115(c)(2)(E), substituted “section 3(l)” for “section 3(h)”.

Pub. L. 110-246, §4002(b)(1)(A), (B), (2)(S), substituted “supplemental nutrition assistance program” for “food stamp program” and “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

1999—Subsec. (c)(2)(C)(xiii). Pub. L. 106-78 substituted “Richard B. Russell National School Lunch Act” for “National School Lunch Act”.

1996—Subsec. (c)(2)(C)(iv). Pub. L. 104-193 amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: “aid to families with dependent children under a State plan approved under section 402(a) of the Social Security Act;”.

1994—Subsec. (c)(2)(C)(x). Pub. L. 103-448 substituted “special supplemental nutrition program” for “special supplemental food program”.

## Statutory Notes and Related Subsidiaries

## EFFECTIVE DATE OF 2008 AMENDMENT

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.

Amendment by sections 4002(b)(1)(A), (B), (2)(S), and 4115(c)(2)(E) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

## EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-448 effective Oct. 1, 1994, see section 401 of Pub. L. 103-448, set out as a note under section 1755 of Title 42, The Public Health and Welfare.

## § 3804. Subpoena authority

(a) For the purposes of an investigation under section 3803(a)(1) of this title, an investigating official is authorized to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and data not otherwise reasonably available to the authority.

(b) For the purposes of conducting a hearing under section 3803(f) of this title, a presiding officer is authorized—

- (1) to administer oaths or affirmations; and
- (2) to require by subpoena the attendance and testimony of witnesses and the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence which the presiding officer considers relevant and material to the hearing.

(c) In the case of contumacy or refusal to obey a subpoena issued pursuant to subsection (a) or (b) of this section, the district courts of the United States shall have jurisdiction to issue an appropriate order for the enforcement of any such subpoena. Any failure to obey such order of the court is punishable by such court as contempt. In any case in which an authority seeks the enforcement of a subpoena issued pursuant to subsection (a) or (b) of this section, the au-

thority shall request the Attorney General to petition any district court in which a hearing under this chapter is being conducted, or in which the person receiving the subpoena resides or conducts business, to issue such an order.

(Added Pub. L. 99-509, title VI, §6103(a), Oct. 21, 1986, 100 Stat. 1944.)

#### § 3805. Judicial review

(a)(1) A determination by a reviewing official under section 3803 of this title shall be final and shall not be subject to judicial review.

(2) Unless a petition is filed under this section, a determination under section 3803 of this title that a person is liable under section 3802 of this title shall be final and shall not be subject to judicial review.

(b)(1)(A) Any person who has been determined to be liable under section 3802 of this title pursuant to section 3803 of this title may obtain review of such determination in—

(i) the United States district court for the district in which such person resides or transacts business;

(ii) the United States district court for the district in which the claim or statement upon which the determination of liability is based was made, presented, or submitted; or

(iii) the United States District Court for the District of Columbia.

(B) Such review may be obtained by filing in any such court a written petition that such determination be modified or set aside. Such petition shall be filed—

(i) only after such person has exhausted all administrative remedies under this chapter; and

(ii) within 60 days after the date on which the authority head sends such person a copy of the decision of such authority head under section 3803(i)(2) of this title.

(2) The clerk of the court shall transmit a copy of a petition filed under paragraph (1) of this subsection to the authority and to the Attorney General. Upon receipt of the copy of such petition, the authority shall transmit to the Attorney General the record in the proceeding resulting in the determination of liability under section 3802 of this title. Except as otherwise provided in this section, the district courts of the United States shall have jurisdiction to review the decision, findings, and determinations in issue and to affirm, modify, remand for further consideration, or set aside, in whole or in part, the decision, findings, and determinations of the authority, and to enforce such decision, findings, and determinations to the extent that such decision, findings, and determinations are affirmed or modified.

(c) The decisions, findings, and determinations of the authority with respect to questions of fact shall be final and conclusive, and shall not be set aside unless such decisions, findings, and determinations are found by the court to be unsupported by substantial evidence. In concluding whether the decisions, findings, and determinations of an authority are unsupported by substantial evidence, the court shall review the whole record or those parts of it cited by a

party, and due account shall be taken of the rule of prejudicial error.

(d) Any district court reviewing under this section the decision, findings, and determinations of an authority shall not consider any objection that was not raised in the hearing conducted pursuant to section 3803(f) of this title unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the court shall remand the matter to the authority for consideration of such additional evidence.

(e) Upon a final determination by the district court that a person is liable under section 3802 of this title, the court shall enter a final judgment for the appropriate amount in favor of the United States.

(Added Pub. L. 99-509, title VI, §6103(a), Oct. 21, 1986, 100 Stat. 1944.)

#### § 3806. Collection of civil penalties and assessments

(a) The Attorney General shall be responsible for judicial enforcement of any civil penalty or assessment imposed pursuant to the provisions of this chapter.

(b) Any penalty or assessment imposed in a determination which has become final pursuant to this chapter may be recovered in a civil action brought by the Attorney General. In any such action, no matter that was raised or that could have been raised in a hearing conducted under section 3803(f) of this title or pursuant to judicial review under section 3805 of this title may be raised as a defense, and the determination of liability and the determination of amounts of penalties and assessments shall not be subject to review.

(c) The district courts of the United States shall have jurisdiction of any action commenced by the United States under subsection (b) of this section.

(d) Any action under subsection (b) of this section may, without regard to venue requirements, be joined and consolidated with or asserted as a counterclaim, cross-claim, or setoff by the United States in any other civil action which includes as parties the United States and the person against whom such action may be brought.

(e) The United States Court of Federal Claims shall have jurisdiction of any action under subsection (b) of this section to recover any penalty or assessment if the cause of action is asserted by the United States as a counterclaim in a matter pending in such court.

(f) The Attorney General shall have exclusive authority to compromise or settle any penalty or assessment the determination of which is the subject of a pending petition pursuant to section 3805 of this title or a pending action to recover such penalty or assessment pursuant to this section.

(g)(1) Except as provided in paragraph (2) of this subsection, any amount of penalty or as-