

[§ 8457. Renumbered § 8456]**SUBCHAPTER VI—GENERAL AND
ADMINISTRATIVE PROVISIONS****§ 8461. Authority of the Office of Personnel Management**

(a) The Office shall pay all benefits that are payable under subchapter II, IV, V, or VI of this chapter from the Fund.

(b) The Office shall administer all provisions of this chapter not specifically required to be administered by the Board, the Executive Director, the Secretary of Labor, or any other officer or agency.

(c) The Office shall adjudicate all claims under the provisions of this chapter administered by the Office.

(d) The Office shall determine questions of disability and dependency arising under the provisions of this chapter administered by the Office. Except to the extent provided under subsection (e), the decisions of the Office concerning these matters are final and conclusive and are not subject to review. The Office may direct at any time such medical or other examinations as it considers necessary to determine the facts concerning disability or dependency of an individual receiving or applying for annuity under the provisions of this chapter administered by the Office. The Office may suspend or deny annuity for failure to submit to examination.

(e)(1) Subject to paragraph (2), an administrative action or order affecting the rights or interests of an individual or of the United States under the provisions of this chapter administered by the Office may be appealed to the Merit Systems Protection Board under procedures prescribed by the Board.

(2) In the case of any individual found by the Office to be disabled in whole or in part on the basis of the individual's mental condition, and that finding was made pursuant to an application by an agency for purposes of disability retirement under section 8451, the procedures under section 7701 shall apply and the decision of the Board shall be subject to judicial review under section 7703.

(f) The Office shall fix the fees for examinations made under subchapter V of this chapter by physicians or surgeons who are not medical officers of the United States. The fees and reasonable traveling and other expenses incurred in connection with the examinations are paid from appropriations for the cost of administering the provisions of this chapter administered by the Office.

(g) The Office may prescribe regulations to carry out the provisions of this chapter administered by the Office.

(h)(1) Each Government agency shall furnish the Director with such information as the Director determines necessary in order to administer this chapter.

(2) The Director, in consultation with the officials from whom such information is requested, shall establish (by regulation or otherwise) such safeguards as are necessary to ensure that information made available under this subsection is used only for the purpose authorized.

(i) In making a determination of "actuarial equivalence" under this chapter, the economic

assumptions used shall be the same as the economic assumptions most recently used by the Office (before the determination of actuarial equivalence involved) in determining the normal-cost percentage of the System.

(j)(1) Notwithstanding any other provision of this chapter, the Director of Central Intelligence shall, in a manner consistent with the administration of this chapter by the Office, and to the extent considered appropriate by the Director of Central Intelligence—

(A) determine entitlement to benefits under this chapter based on the service of employees of the Central Intelligence Agency;

(B) maintain records relating to the service of such employees;

(C) compute benefits under this chapter based on the service of such employees;

(D) collect deposits to the Fund made by such employees, their spouses, their former spouses, and their survivors;

(E) authorize and direct disbursements from the Fund to the extent based on service of such employees; and

(F) perform such other functions under this chapter (other than under subchapters III and VII of this chapter) with respect to employees of the Central Intelligence Agency as the Director of Central Intelligence, in consultation with the Director of the Office of Personnel Management, determines to be appropriate.

(2) The Director of the Office of Personnel Management shall furnish such information and, on a reimbursable basis, such services to the Director of Central Intelligence as the Director of Central Intelligence requests to carry out paragraph (1).

(k)(1) The Director of Central Intelligence, in consultation with the Executive Director of the Federal Retirement Thrift Investment Board, may—

(A) maintain exclusive records relating to elections, contributions, and accounts under the Thrift Savings Plan provided in subchapter III of this chapter in the case of employees of the Central Intelligence Agency;

(B) provide that contributions by, or on behalf of, such employees to the Thrift Savings Plan be accounted for by such Executive Director in aggregate amounts;

(C) make the necessary disbursements from, and the necessary allocations of earnings, losses, and charges to, individual accounts of such employees under the Thrift Savings Plan; and

(D) perform such other functions under subchapters III and VII of this chapter (but not including investing sums in the Thrift Savings Fund) with respect to employees of the Central Intelligence Agency as the Director of Central Intelligence, in consultation with the Executive Director of the Federal Retirement Thrift Investment Board, determines to be appropriate.

(2) The Executive Director of the Federal Retirement Thrift Investment Board may not exercise authority under this chapter in the case of employees of the Central Intelligence Agency to the extent that the Director of Central Intelligence exercises authority provided in paragraph (1).

(3) The Executive Director of the Federal Retirement Thrift Investment Board shall furnish such information and, on a reimbursable basis, such services to the Director of Central Intelligence as the Director of Central Intelligence determines necessary to carry out this subsection.

(l) Subsection (h)(1), and sections 8439(b) and 8474(c)(4), shall be applied with respect to information relating to employees of the Central Intelligence Agency in a manner that protects intelligence sources, methods, and activities.

(m)(1) The Director of Central Intelligence, in consultation with the Director of the Office of Personnel Management and the Executive Director of the Federal Retirement Thrift Investment Board, shall by regulation prescribe appropriate procedures to carry out subsections (j), (k), and (l).

(2) The regulations shall provide procedures for the Director of the Office of Personnel Management to inspect and audit disbursements from the Fund under this chapter.

(3) The Director of Central Intelligence shall submit the regulations prescribed under paragraph (1) to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives before the regulations take effect.

(n)(1) Under regulations prescribed by the Office, an employee who—

(A) has not previously made an election under this subsection or had an opportunity to make an election under this paragraph; and

(B) moves, without a break in service of more than 1 year, to employment in a non-appropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered as an employee under this chapter during any employment described in section 2105(c) after such move.

(2) Under regulations prescribed by the Office, an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c), who—

(A) has not previously made an election under this subsection or had an opportunity to make an election under this paragraph;

(B) is a participant in a retirement system established for employees described in section 2105(c);

(C) moves, without a break in service of more than 1 year, to a position that is not described by section 2105(c); and

(D) is not eligible to make an election under section 8347(q),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered, during any subsequent employment as an employee as defined by section 2105(a) or section 2105(c), by the retirement system applicable to such employee's current or most recent employment described by section 2105(c) rather than be subject to this chapter.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 570; amended Pub. L. 99-556, title I, §102, Oct. 27, 1986, 100 Stat. 3131; Pub. L.

101-508, title VII, §7202(k)(2), Nov. 5, 1990, 104 Stat. 1388-339; Pub. L. 102-378, §2(71), Oct. 2, 1992, 106 Stat. 1355; Pub. L. 104-106, div. A, title X, §1043(a)(2), Feb. 10, 1996, 110 Stat. 434; Pub. L. 107-107, div. A, title XI, §1131(b), Dec. 28, 2001, 115 Stat. 1242.)

Editorial Notes

AMENDMENTS

2001—Subsec. (n)(1). Pub. L. 107-107, §1131(b)(1), inserted “and” at end of subpar. (A), redesignated subpar. (C) as (B), and struck out former subpar. (B) which read as follows: “has 5 or more years of civilian service creditable under this chapter; and”.

Subsec. (n)(2)(B). Pub. L. 107-107, §1131(b)(2), struck out “vested” before “participant in a retirement system” and struck out “, as the term ‘vested participant’ is defined by such system” before semicolon at end.

1996—Subsec. (n)(1). Pub. L. 104-106, §1043(a)(2)(A), struck out “of the Department of Defense or the Coast Guard” after “an employee” in introductory provisions and substituted “1 year” for “3 days” in subpar. (C).

Subsec. (n)(2)(C). Pub. L. 104-106, §1043(a)(2)(B), substituted “1 year” for “3 days” and struck out “in the Department of Defense or the Coast Guard, respectively,” after “to a position”.

1992—Subsec. (n)(1)(A), (2)(A). Pub. L. 102-378, §2(71)(A), amended subpars. (A) generally. Prior to amendment, subpars. (A) read as follows: “has not previously made or had an opportunity to make an election under this subsection;”.

Subsec. (n)(2)(D). Pub. L. 102-378, §2(71)(B), substituted “8347(q)” for “8347(p)”.

1990—Subsec. (n). Pub. L. 101-508 added subsec. (n).

1986—Subsec. (m)(2). Pub. L. 99-556 struck out “, and from the Thrift Savings Fund,” after “from the Fund”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 3001 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date of amendments by Pub. L. 104-106, see Regulations; Effective Date of 1996 Amendment note below.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-378 effective Nov. 5, 1990, see section 9(b)(6) of Pub. L. 102-378, set out as a note under section 6303 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable with respect to any individual who, on or after Jan. 1, 1987, moves from employment in nonappropriated fund instrumentality of Department of Defense or Coast Guard, that is described in section 2105(c) of this title, to employment in Department or Coast Guard, that is not described in section 2105(c), or who moves from employment in Department or Coast Guard, that is not described in section 2105(c), to employment in nonappropriated fund instrumentality of Department or Coast Guard, that is described in section 2105(c), see section 7202(m)(1) of Pub. L. 101-508, set out as a note under section 2105 of this title.

REGULATIONS; EFFECTIVE DATE OF 1996 AMENDMENT

For provisions relating to promulgation of regulations necessary to carry out amendment by Pub. L. 104-106, and effective date of such amendment in connection with those regulations, see section 1043(b), (c) of Pub. L. 104-106, set out as a note under section 8347 of this title.

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.

TREATMENT OF INDIVIDUALS ELECTING TO REMAIN SUBJECT TO THEIR FORMER RETIREMENT SYSTEM

For provisions relating to the deductions and contributions required with respect to individuals electing under section 8347(q) or 8461(n) of this title to remain covered under subchapter III of chapter 83 of this title, chapter 84 of this title, or a retirement system for employees described in section 2105(c) of this title, see section 7202(n) of Pub. L. 101-508, set out as a note under section 2105 of this title.

§ 8462. Cost-of-living adjustments

(a) For the purpose of this section—

(1) the term “base quarter”, as used with respect to a year, means the calendar quarter ending on September 30 of such year;

(2) the price index for a base quarter is the arithmetical mean of such index for the 3 months comprising such quarter; and

(3) the term “percent change in the price index”, as used with respect to a year, means the percentage derived by—

(A) reducing—

(i) the price index for the base quarter of such year, by

(ii) the price index for the base quarter of the preceding year in which an adjustment under this subsection was made;

(B) dividing the difference under subparagraph (A) by the price index referred to in subparagraph (A)(ii); and

(C) multiplying the quotient under subparagraph (B) by 100.

(b)(1) Except as provided in subsection (c), effective December 1 of any year in which an adjustment under this subsection is to be made, as determined under paragraph (2), each annuity payable from the Fund under this chapter (other than an annuity under section 8443) having a commencing date not later than such December 1 shall be adjusted as follows:

(A) If the percent change in the price index for the year does not exceed 3 percent, each annuity subject to adjustment under this subsection shall be increased by the lesser of—

(i) the percent change in the price index (rounded to the nearest one-tenth of 1 percent); or

(ii) 2 percent.

(B) If the percent change in the price index for the year exceeds 3 percent, each annuity subject to adjustment under this subsection shall be increased by the excess of—

(i) the percent change in the price index (rounded to the nearest one-tenth of 1 percent), over

(ii) 1 percent.

(2) An adjustment under this subsection shall be made in a year only if the price index for the base quarter of such year exceeds the price index for the base quarter of the preceding year in which an adjustment under this subsection was made.

(3) An annuity under this chapter shall not be subject to adjustment under section 8340. Nothing in the preceding sentence shall affect the computation of any amount under section 8443(a)(2).

(c) Eligibility for an annuity increase under this section is governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

(1) The first increase (if any) made under subsection (b) to an annuity which is payable from the Fund to an annuitant or survivor (other than a child under section 8443) whose annuity has not been increased under this subsection or subsection (b) shall be equal to the product (adjusted to the nearest one-tenth of 1 percent) of—

(A) one-twelfth of the applicable percent change computed under subsection (b), multiplied by

(B) the number of months (not to exceed 12 months, counting any portion of a month as a month)—

(i) for which the annuity was payable from the Fund before the effective date of the increase; or

(ii) in the case of a survivor of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant.

(2) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor (other than a widow or widower whose annuity is computed under section 8442(g) or a child under section 8443) shall be increased by the total percentage by which the deceased annuitant's annuity had been increased under this section during the period beginning on the date the deceased annuitant's annuity commenced and ending on the date of the deceased annuitant's death.

(3)(A) An adjustment under subsection (b) for any year shall not be effective with respect to the annuity of an annuitant who is under 62 years of age as of the date on which such adjustment would otherwise first take effect.

(B)(i) Except as provided in clause (ii), this paragraph applies only with respect to an annuitant under section 8412, 8413, or 8414.

(ii) This paragraph does not apply with respect to an annuitant under subsection (d)(1) or (e) of section 8412 or (in the case of an annuitant separated from service as a military reserve technician as a result of disability) under section 8414(c).

(4) The first increase (if any) made under subsection (b) to an annuity which is payable from the Fund to a widow or widower whose annuity is computed under section 8442(g) shall be equal to the product (adjusted to the nearest one-tenth of 1 percent) of—

(A) one-twelfth of the applicable percent change computed under subsection (b), multiplied by

(B) the number of months (not to exceed 12 months, counting any portion of a month as a month) since—

(i) the effective date of the adjustment last made under this section in the annuity of the annuitant on whose service on the widow's or widower's annuity is based; or

(ii) if the annuity of the annuitant (referred to in clause (i)) has not been increased under this section, the commencement date of such annuitant's annuity (determined subject to section 8452(a)(1)(B)).

(d) The monthly installment of an annuity after adjustment under this section shall be rounded to the next lowest dollar. However, the monthly installment shall, after adjustment, reflect an increase of at least \$1.

(e) The \$15,000 amount referred to in section 8442(b)(1)(A)(ii) shall be increased at the same time that, and by the same percent as the percentage by which, annuities under subchapter III of chapter 83 are increased.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 572; amended Pub. L. 99-556, title I, §117(b), Oct. 27, 1986, 100 Stat. 3134; Pub. L. 117-225, §3(b)(2)(A)(vi), Dec. 9, 2022, 136 Stat. 2296.)

APPLICABILITY OF AMENDMENT

For provisions relating to delayed applicability of amendment by Pub. L. 117-225, see Effective Date of 2022 Amendment note set out under section 8336 of this title.

Editorial Notes

AMENDMENTS

2022—Subsec. (c)(3)(B)(ii). Pub. L. 117-225 inserted “(1)” after “subsection (d)”.

1986—Subsec. (b)(3). Pub. L. 99-556 inserted provision relating to the computation of any amount under section 8443(a)(2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117-225 effective Dec. 9, 2022, and applicable to an individual who suffers an illness or injury described in certain Code provisions on or after the date that is 2 years after Dec. 9, 2022, see section 3(f) of Pub. L. 117-225, set out as a note under section 8336 of this title.

DELAY IN COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEARS 1994, 1995, AND 1996

Any cost-of-living increase scheduled to take effect during fiscal year 1994, 1995, or 1996 under subsec. (b) of this section delayed until first day of third calendar month after date such increase would otherwise take effect, see section 11001 of Pub. L. 103-66, set out as a note under section 8340 of this title.

§ 8463. Rate of benefits

Each annuity payable from the Fund is stated as an annual amount, one-twelfth of which, rounded to the next lower dollar, constitutes the monthly rate payable on the first business day of the first month beginning after the month for which it has accrued.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 574.)

§ 8464. Commencement and termination of annuities of employees and Members

(a)(1) Except as otherwise provided in this chapter—

(A) an annuity payable from the Fund commences on the first day of the month after—

(i) separation from the service, in the case of an employee or Member retiring under section 8412, or subsection (a), (b)(1)(B), or (d) of section 8414; or

(ii) pay ceases, and the applicable age and service requirements are met, in the case of an employee or Member retiring under section 8413;

(B) an annuity payable from the Fund commences on the day after separation from the service in the case of an employee retiring under subsection (b)(1)(A) or (c) of section 8414; and

(C) an annuity payable from the Fund commences on the day after separation from the service or the day after pay ceases and the requirements for title to an annuity are met in the case of an employee or Member retiring under section 8451.

(2) Notwithstanding paragraph (1)(A)(i), an annuity payable from the Fund commences on the day after separation from the service in the case of an employee or Member—

(A) who retires under section 8412; and

(B) whose separation occurs upon the expiration of a term (or other period) for which the individual was appointed or elected.

(b) Except as otherwise provided in this chapter, the annuity of an annuitant under subchapter II or V of this chapter terminates on the date death or other terminating event occurs.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 574; amended Pub. L. 105-261, div. A, title XI, §1109(c)(2), Oct. 17, 1998, 112 Stat. 2145; Pub. L. 106-58, title VI, §651(b), Sept. 29, 1999, 113 Stat. 480; Pub. L. 106-398, §1 [(div. A), title XI, §1152(c)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-323; Pub. L. 107-107, div. A, title X, §1048(f)(2), Dec. 28, 2001, 115 Stat. 1228.)

Editorial Notes

AMENDMENTS

2001—Subsec. (a)(1)(A)(i). Pub. L. 107-107 amended directory language of Pub. L. 106-398. See 2000 Amendment note below.

2000—Subsec. (a)(1)(A)(i). Pub. L. 106-398, as amended by Pub. L. 107-107, substituted “, (b)(1)(B), or (d)” for “or (b)(1)(B)”.

1999—Subsec. (a)(1)(A)(i). Pub. L. 106-58 repealed Pub. L. 105-261, §1109(c)(2). See 1998 Amendment note below.

1998—Subsec. (a)(1)(A)(i). Pub. L. 105-261, §1109(c)(2), which directed substitution of “, (b)(1)(B), or (d)” for “or (b)(1)(B)”, was repealed by Pub. L. 106-58.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-107, div. A, title X, §1048(f), Dec. 28, 2001, 115 Stat. 1228, provided that the amendment made by section 1048(f)(2) is effective as of Oct. 30, 2000, and as

if included in the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Pub. L. 106-398.

§ 8464a. Relationship between annuity and workers' compensation

- (a)(1) An individual is not entitled to receive—
 (A) an annuity under subchapter II or V, and
 (B) compensation for injury to, or disability of, such individual under subchapter I of chapter 81, other than compensation payable under section 8107,

covering the same period of time.

(2) An individual is not entitled to receive an annuity under subchapter IV and a concurrent benefit under subchapter I of chapter 81 on account of the death of the same person.

(3) Paragraphs (1) and (2) do not bar the right of a claimant to the greater benefit conferred by either this chapter or subchapter I of chapter 81.

(b) If an individual is entitled to an annuity under subchapter II, IV, or V, and the individual receives a lump-sum payment for compensation under section 8135 based on the disability or death of the same person, so much of the compensation as has been paid for a period extended beyond the date payment of the annuity commences, as determined by the Department of Labor, shall be refunded to that Department for credit to the Employees' Compensation Fund. Before the individual may receive the annuity, the individual shall—

(1) refund to the Department of Labor the amount representing the commuted compensation payments for the extended period; or

(2) authorize the deduction of the amount from the annuity.

Deductions from the annuity may be made from accrued or accruing payments. The amounts deducted and withheld from the annuity shall be transmitted to the Department of Labor for reimbursement to the Employees' Compensation Fund. When the Department of Labor finds that the financial circumstances of an individual entitled to an annuity under subchapter II, IV, or V warrant deferred refunding, deductions from the annuity may be prorated against and paid from accruing payments in such manner as the Department determines appropriate.

(Added Pub. L. 100-238, title I, § 124(a)(1)(B), Jan. 8, 1988, 101 Stat. 1755.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to this section were contained in section 8456 of this title prior to repeal by Pub. L. 100-238.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Jan. 1, 1987, and applicable with respect to benefits payable based on a death or disability occurring on or after that date, see section 124(c) of Pub. L. 100-238 set out as an Effective Date of 1988 Amendment note under section 8337 of this title.

§ 8465. Waiver, allotment, and assignment of benefits

(a) An individual entitled to an annuity payable from the Fund may decline to accept all or

any part of the amount of the annuity by a waiver signed and filed with the Office. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver is in effect.

(b) An individual entitled to an annuity payable from the Fund may make allotments or assignments of amounts from the annuity for such purposes as the Office considers appropriate.

(Added Pub. L. 99-335, title I, § 101(a), June 6, 1986, 100 Stat. 575.)

§ 8466. Application for benefits

(a) No payment of benefits based on the service of an employee or Member shall be made from the Fund unless an application for payment of the benefits is received by the Office before the one hundred and fifteenth anniversary of the birth of the employee or Member.

(b) Notwithstanding subsection (a), after the death of an employee, Member, or annuitant, or former employee or Member, a benefit based on the service of such employee, Member, or annuitant, or former employee or Member, shall not be paid under subchapter II or IV of this chapter unless an application therefor is received by the Office within 30 years after the death or other event which establishes the entitlement to the benefit.

(c)(1) Payment due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person (including an organization) who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person (including an organization) who, in the judgment of the Office, is responsible for the care of the claimant and may appropriately receive such payments on behalf of the claimant, and the payment bars recovery by any other person.

(2) If the Office determines that direct payment of a benefit to an individual mentally incompetent or under other legal disability would cause substantial harm to the individual, the Office may defer or suspend direct payment of the benefit until such time as the appointment of a representative payee is made. The Office shall resume payment as soon as practicable, including all amounts due.

(d) The Office may not authorize a person to receive payments on behalf of a minor or individual of legal disability under subsection (c) if that person has been convicted of a violation of—

(1) section 8345a or 8466a;

(2) section 208 or 1632 of the Social Security Act (42 U.S.C. 408, 1383a); or

(3) section 6101 of title 38.

(Added Pub. L. 99-335, title I, § 101(a), June 6, 1986, 100 Stat. 575; amended Pub. L. 116-126, § 2(c)(2), (d)(2), Mar. 18, 2020, 134 Stat. 176.)

Editorial Notes

AMENDMENTS

2020—Subsec. (c). Pub. L. 116–126, §2(c)(2), designated existing provisions as par. (1), inserted “(including an organization)” after “to the person” and after “to any person”, inserted “and may appropriately receive such payments on behalf of the claimant” after “care of the claimant”, and added par. (2).

Subsec. (d). Pub. L. 116–126, §2(d)(2), added subsec. (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116–126 effective on Mar. 18, 2020, and applicable on and after the effective date of regulations promulgated under section 3(b)(1) of Pub. L. 116–126, see sections 4 and 3(b) of Pub. L. 116–126, set out respectively as an Effective Date of 2020 Amendment note and a Regulations note under section 8331 of this title.

REGULATIONS

Regulations to carry out amendment by Pub. L. 116–126 to be promulgated by Office of Personnel Management no later than 1 year after Mar. 18, 2020, with allowance for additional regulations relating to administration of representative payee program, see section 3(b) of Pub. L. 116–126, set out as a note under section 8331 of this title.

§ 8466a. Embezzlement or conversion of payments

(a) EMBEZZLING AND CONVERSION GENERALLY.—

(1) IN GENERAL.—It shall be unlawful for a representative payee to embezzle or in any manner convert all or any part of the amounts received from payments received as a representative payee to a use other than for the use and benefit of the minor or individual on whose behalf such payments were received.

(2) REVOCATION.—If the Office determines that a representative payee has embezzled or converted payments as described in paragraph (1), the Office shall promptly—

(A) revoke the certification for payment of benefits to the representative payee; and

(B) certify payment—

(i) to another representative payee; or

(ii) if the interest of the individual under this title would be served thereby, to the individual.

(b) PENALTY.—Any person who violates subsection (a)(1) shall be fined under title 18, imprisoned for not more than 5 years, or both.

(Added Pub. L. 116–126, §2(b)(2), Mar. 18, 2020, 134 Stat. 175.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on Mar. 18, 2020, and applicable on and after the effective date of regulations promulgated under section 3(b)(1) of Pub. L. 116–126, see sections 4 and 3(b) of Pub. L. 116–126, set out respectively as an Effective Date of 2020 Amendment note and a Regulations note under section 8331 of this title.

REGULATIONS

Regulations to carry out this section to be promulgated by Office of Personnel Management no later than 1 year after Mar. 18, 2020, with allowance for additional regulations relating to administration of representa-

tive payee program, see section 3(b) of Pub. L. 116–126, set out as a note under section 8331 of this title.

§ 8467. Court orders

(a) Payments under this chapter which would otherwise be made to an employee, Member, or annuitant (including an employee, Member, or annuitant as defined in section 8331) based on service of that individual shall be paid (in whole or in part) by the Office or the Executive Director, as the case may be, to another person if and to the extent expressly provided for in the terms of—

(1) any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation; or

(2) any court order or other similar process in the nature of garnishment for the enforcement of a judgment rendered against such employee, Member, or annuitant, for physically, sexually, or emotionally abusing a child.

In the event that the Office or the Executive Director, as the case may be, is served with more than 1 decree, order, or other legal process with respect to the same moneys due or payable to any individual, such moneys shall be available to satisfy such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

(b) Subsection (a) shall apply only to payments made by the Office or the Executive Director under this chapter after the date on which the Office or the Executive Director (as the case may be) receives written notice of such decree, order, other legal process, or agreement, and such additional information and documentation as the Office or the Executive Director may require.

(c) For the purpose of this section—

(1) the term “judgment rendered for physically, sexually, or emotionally abusing a child” means any legal claim perfected through a final enforceable judgment, which claim is based in whole or in part upon the physical, sexual, or emotional abuse of a child, whether or not that abuse is accompanied by other actionable wrongdoing, such as sexual exploitation or gross negligence; and

(2) the term “child” means an individual under 18 years of age.

(Added Pub. L. 99–335, title I, §101(a), June 6, 1986, 100 Stat. 575; amended Pub. L. 103–358, §2(b)(1)–(3), Oct. 14, 1994, 108 Stat. 3421.)

Editorial Notes

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–358, §2(b)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Payments under this chapter which would otherwise be made to an employee, Member, or annuitant (including an employee, Member, or annuitant as defined under section 8331) based on the service of that individual shall be paid (in whole or in part) by the Office or the Executive Director (as the case may be), to another person if and to the extent that the terms of any court decree of divorce, annulment, or

legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation expressly provide. Any payment under this subsection to a person bars recovery by any other person."

Subsec. (b). Pub. L. 103-358, §2(b)(2), inserted "other legal process," after "order,".

Subsec. (c). Pub. L. 103-358, §2(b)(3), added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-358 effective Oct. 14, 1994, and applicable with respect to any decree, order, or other legal process, or notice of agreement received by Office of Personnel Management or Executive Director of Federal Retirement Thrift Investment Board on or after Oct. 14, 1994, see section 3 of Pub. L. 103-358, set out as a note under section 8345 of this title.

§ 8468. Annuities and pay on reemployment

(a) If an annuitant, except a disability annuitant whose annuity is terminated because of the annuitant's recovery or restoration of earning capacity, becomes employed in an appointive or elective position, an amount equal to the annuity allocable to the period of actual employment shall be deducted from the annuitant's pay, except for lump-sum leave payment purposes under section 5551. Unless the annuitant's appointment is on an intermittent basis or is to a position as a justice or judge (as defined by section 451 of title 28) or as an employee subject to another retirement system for Government employees, or unless the annuitant is serving as President, deductions for the Fund shall be withheld from the annuitant's pay under section 8422(a) and contributions under section 8423 shall be made. The deductions and contributions referred to in the preceding provisions of this subsection shall be deposited in the Treasury of the United States to the credit of the Fund. The annuitant's lump-sum credit may not be reduced by annuity paid during the reemployment.

(b)(1)(A) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, the annuitant's annuity on termination of reemployment shall be increased by an annuity computed under section 8415(a) through (i) as may apply based on the period of reemployment and the basic pay, before deduction, averaged during the reemployment.

(B)(i) If the annuitant is receiving a reduced annuity as provided in section 8419, the increase in annuity payable under subparagraph (A) is reduced by 10 percent and the survivor annuity or combination of survivor annuities payable under section 8442 or 8445 (or both) is increased by 50 percent of the increase in annuity payable under subparagraph (A), unless, at the time of claiming the increase payable under subparagraph (A), the annuitant notifies the Office in writing that the annuitant does not desire the survivor annuity to be increased.

(ii) If an annuitant who is subject to the deductions referred to in subparagraph (A) dies while still reemployed, after having been reemployed for not less than 1 year of full-time serv-

ice (or the equivalent thereof, in the case of full-time¹ employment), the survivor annuity payable is increased as though the reemployment had otherwise terminated.

(2)(A) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for at least 5 years, or on a part-time basis for periods equivalent to at least 5 years of full-time service, the annuitant may elect, instead of the benefit provided by paragraph (1), to have such annuitant's rights redetermined under this chapter.

(B) If an annuitant who is subject to the deductions referred to in subparagraph (A) dies while still reemployed, after having been reemployed for at least 5 years of full-time service (or the equivalent thereof in the case of part-time employment), any person entitled to a survivor annuity under section 8442 or 8445 based on the service of such annuitant shall be permitted to elect, in accordance with regulations prescribed by the Office of Personnel Management, to have such person's rights under subchapter IV redetermined. A redetermined survivor annuity elected under this subparagraph shall be in lieu of an increased annuity which would otherwise be payable in accordance with paragraph (1)(B)(ii).

(3) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for a period of less than 1 year, or on a part-time basis for periods equivalent to less than 1 year of full-time service, the total amount withheld under section 8422(a) from the annuitant's basic pay for the period or periods involved shall, upon written application to the Office, be payable to the annuitant (or the appropriate survivor or survivors, determined in the order set forth in section 8424(d)).

(c) This section does not apply to an individual appointed to serve as a Governor of the Board of Governors of the United States Postal Service.

(d) If an annuitant becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, the annuitant may, at any time prior to resignation or retirement from regular active service as such a justice or judge, apply for and be paid, in accordance with section 8424(a), the amount (if any) by which the lump-sum credit exceeds the total annuity paid, notwithstanding the time limitation contained in such section for filing an application for payment.

(e) A reference in this section to an "annuity" shall not be considered to include any amount payable from a source other than the Fund.

(f)(1) The Director of the Office of Personnel Management may, at the request of the head of an Executive agency—

(A) waive the application of the preceding provisions of this section on a case-by-case basis for employees in positions for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

(B) grant authority to the head of such agency to waive the application of the preceding provisions of this section, on a case-by-case basis, for an employee serving on a temporary

¹ So in original. Probably should be "part-time".

basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances.

(2) The Office shall prescribe regulations for the exercise of any authority under this subsection, including criteria for any exercise of authority and procedures for terminating a delegation of authority under paragraph (1)(B).

(g)(1) If warranted by circumstances described in subsection (f)(1)(A) or (B) (as applicable), the Director of the Administrative Office of the United States Courts shall, with respect to an employee in the judicial branch, have the same waiver authority as would be available to the Director of the Office of Personnel Management, or a duly authorized agency head, under subsection (f) with respect to an employee of an Executive agency.

(2) Authority under this subsection may not be exercised with respect to a justice or judge of the United States, as defined in section 451 of title 28.

(h)(1) If warranted by circumstances described in subsection (f)(1)(A) or (B) (as applicable), an official or committee designated in paragraph (2) shall, with respect to the employees specified in the applicable subparagraph of such paragraph, have the same waiver authority as would be available to the Director of the Office of Personnel Management, or a duly authorized agency head, under subsection (f) with respect to an employee of an Executive agency.

(2) Authority under this subsection may be exercised—

(A) with respect to an employee of an agency in the legislative branch, by the head of such agency;

(B) with respect to an employee of the House of Representatives, by the Committee on House Oversight of the House of Representatives; and

(C) with respect to an employee of the Senate, by the Committee on Rules and Administration of the Senate.

(3) Any exercise of authority under this subsection shall be in conformance with such written policies and procedures as the agency head, the Committee on House Oversight of the House of Representatives, or the Committee on Rules and Administration of the Senate (as applicable) shall prescribe, consistent with the provisions of this subsection.

(4) For the purpose of this subsection, “agency in the legislative branch”, “employee of the House of Representatives”, “employee of the Senate”, and “congressional employee” each has the meaning given to it in section 5531 of this title.

(i)(1) For purposes of this subsection—

(A) the term “head of an agency” means—

(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

(ii) the head of the United States Postal Service;

(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

(iv) any employing authority described under subsection (h)(2), other than the Government Accountability Office; and

(B) the term “limited time appointee” means an annuitant appointed under a temporary appointment limited to 1 year or less.

(2) The head of an agency may waive the application of subsection (a) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

(A) fulfill functions critical to the mission of the agency, or any component of that agency;

(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

(C) assist in the development, management, or oversight of agency procurement actions;

(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

(E) promote appropriate training or mentoring programs of employees;

(F) assist in the recruitment or retention of employees; or

(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

(3) The head of an agency may not waive the application of subsection (a) with respect to an annuitant—

(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual’s annuity commencing date;

(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

(C) for more than a total of 3120 hours of service performed by that annuitant.

(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

(B) Any regulations promulgated under subparagraph (A) may—

(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office or other employing agencies as necessary to ensure compliance with paragraph (3);

(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for effective operation of, or to ensure compliance with, this subsection; and

(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) shall terminate on December 31, 2024.

(j)(1) For the purpose of subsections (f) through (i), “Executive agency” shall not include the Government Accountability Office.

(2) An employee as to whom a waiver under subsection (f), (g), (h), or (i) is in effect shall not be considered an employee for purposes of this chapter or chapter 83 of this title.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 576; amended Pub. L. 100-238, title I, §134(a), Jan. 8, 1988, 101 Stat. 1762; Pub. L. 101-509, title V, §529 [title I, §108(c)], Nov. 5, 1990, 104 Stat. 1427, 1450; Pub. L. 101-510, div. A, title XII, §1206(j)(3), Nov. 5, 1990, 104 Stat. 1664; Pub. L. 102-190, div. A, title VI, §655(c), Dec. 5, 1991, 105 Stat. 1392; Pub. L. 102-378, §8(a), Oct. 2, 1992, 106 Stat. 1359; Pub. L. 105-55, title I, §107, Oct. 7, 1997, 111 Stat. 1184; Pub. L. 105-61, title V, §516(a)(9), Oct. 10, 1997, 111 Stat. 1307; Pub. L. 108-176, title II, §226(b)(2)(C), Dec. 12, 2003, 117 Stat. 2530; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 111-84, div. A, title XI, §1122(b), Oct. 28, 2009, 123 Stat. 2507; Pub. L. 112-96, title V, §5001(c)(2)(C), Feb. 22, 2012, 126 Stat. 200; Pub. L. 113-291, div. A, title XI, §1107(b), Dec. 19, 2014, 128 Stat. 3527; Pub. L. 116-92, div. A, title XI, §1117(b), Dec. 20, 2019, 133 Stat. 1605.)

Editorial Notes

REFERENCES IN TEXT

The American Recovery and Reinvestment Act of 2009, referred to in subsec. (i)(2)(B), is Pub. L. 111-5, Feb. 17, 2009, 123 Stat. 115. For complete classification

of this Act to the Code, see Short Title of 2009 Amendment note set out under section 1 of Title 26, Internal Revenue Code, and Tables.

The Emergency Economic Stabilization Act of 2008, referred to in subsec. (i)(2)(B), is div. A of Pub. L. 110-343, Oct. 3, 2008, 122 Stat. 3765. Title I of the Act is classified principally to subchapter I (§5211 et seq.) of chapter 52 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 5201 of Title 12 and Tables.

AMENDMENTS

2019—Subsec. (i)(7). Pub. L. 116-92 substituted “December 31, 2024” for “December 31, 2019”.

2014—Subsec. (i)(7). Pub. L. 113-291 substituted “on December 31, 2019” for “5 years after the date of enactment of the National Defense Authorization Act for Fiscal Year 2010”.

2012—Subsec. (b)(1)(A). Pub. L. 112-96 substituted “section 8415(a) through (i)” for “section 8415(a) through (h)”.

2009—Subsec. (i). Pub. L. 111-84, §1122(b)(2), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 111-84, §1122(b)(1), redesignated subsec. (i) as (j).

Subsec. (j)(1). Pub. L. 111-84, §1122(b)(3)(A), substituted “(i)” for “(h)”.

Subsec. (j)(2). Pub. L. 111-84, §1122(b)(3)(B), substituted “(h), or (i)” for “or (h)”.

2004—Subsec. (i)(1). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

2003—Subsec. (b)(1)(A). Pub. L. 108-176 substituted “through (h)” for “through (g)”.

1997—Subsec. (b)(1)(A). Pub. L. 105-61 substituted “through (g)” for “through (f)”.

Subsec. (h)(2)(B), (3). Pub. L. 105-55 substituted “the Committee on House Oversight of the House of Representatives” for “the Speaker of the House of Representatives”.

1992—Subsec. (f). Pub. L. 102-378 repealed Pub. L. 101-510, §1206(j)(3). See 1990 Amendment note below.

1991—Subsec. (f)(3). Pub. L. 102-190, §655(c)(2), struck out par. (3) which read as follows: “An employee to whom a waiver under subparagraph (A) or (B) of paragraph (1) applies shall not be deemed an employee for the purposes of chapter 83 or this chapter while such waiver is in effect.”

Subsecs. (g) to (i). Pub. L. 102-190, §655(c)(1), added subsecs. (g) to (i).

1990—Subsec. (f). Pub. L. 101-510, §1206(j)(3), added a subsec. (f) identical to that added by Pub. L. 101-509, see below. Pub. L. 102-378, §8(a), repealed Pub. L. 101-510, §1206(j)(3), and provided that this title shall read as if section 1206(j)(3) had not been enacted.

Pub. L. 101-509 added subsec. (f).

1988—Pub. L. 100-238 amended section generally, substituting subsecs. (a) to (e) for former subsecs. (a) to (c).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019. Committee on Oversight and Reform of House of Representatives changed to Committee on Oversight and Accountability of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

Committee on House Oversight of House of Representatives changed to Committee on House Administration of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-291 effective as of Oct. 28, 2014, see section 1107(c) of Pub. L. 113-291, set out as a note under section 8344 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 effective on 60th day after Dec. 12, 2003, and applicable with respect to any annuity entitlement based on an individual's separation from service occurring on or after such effective date, and any service performed by any such individual before, on, or after such effective date, subject to special rule relating to deposit requirement, see section 226(c) of Pub. L. 108-176, set out as a note under section 8401 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-61 applicable to any annuity commencing before, on, or after Oct. 10, 1997, and effective with regard to any payment made after the first month following Oct. 10, 1997, see section 516(b) of Pub. L. 105-61, set out as a note under section 8334 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-378 effective Nov. 5, 1990, see section 9(b)(6) of Pub. L. 102-378, set out as a note under section 6303 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as an Effective Date of 1990 Amendment note under section 5301 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-238, title I, §134(d), Jan. 8, 1988, 101 Stat. 1765, provided that:

“(1) GENERALLY.—The amendments made by this section [amending this section and provisions set out as notes under section 8331 of this title] shall take effect on the date of the enactment of this Act [Jan. 8, 1988], and as provided in paragraph (2), shall apply with respect to any individual who becomes a reemployed annuitant on or after such date.

“(2) EXCEPTION.—The amendment made by subsection (b) [amending provisions set out as a note under section 8331 of this title] shall apply with respect to any election made by a reemployed annuitant on or after the date of the enactment of this Act [Jan. 8, 1988].”

CONSTRUCTION OF 2009 AMENDMENT

Nothing in amendment by section 1122 of Pub. L. 111-84 to be construed to authorize the waiver of the hiring preferences under chapter 33 of this title in selecting annuitants to employ in an appointive or elective position, see section 1122(c) of Pub. L. 111-84, set out as a note under section 8344 of this title.

ANNUAL REPORT TO CONGRESS

Each agency in legislative branch to submit to Speaker of House of Representatives and Committee on Rules and Administration of Senate, for each calendar year, a written report on how authority made available as result of amendment by Pub. L. 102-190 was used by such agency during the period covered by such report, see section 655(d) of Pub. L. 102-190, set out as a note under section 8344 of this title.

§ 8469. Withholding of State income taxes

(a) The Office shall, in accordance with this section, enter into an agreement with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Office shall withhold State income tax in the case of the monthly annuity of any annuitant who voluntarily requests, in writing, such withholding. The amounts withheld during any calendar quarter shall be held in the

Fund and disbursed to the States during the month following that calendar quarter.

(b) An annuitant may have in effect at any time only one request for withholding under this section, and an annuitant may not have more than two such requests in effect during any one calendar year.

(c) Subject to subsection (b), an annuitant may change the State designated by that annuitant for purposes of having withholdings made, and may request that the withholdings be remitted in accordance with such change. An annuitant also may revoke any request of that annuitant for withholding. Any change in the State designated or revocation is effective on the first day of the month after the month in which the request or the revocation is processed by the Office, but in no event later than on the first day of the second month beginning after the day on which such request or revocation is received by the Office.

(d) This section does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on employers generally, or which subjects the United States or any annuitant to a penalty or liability because of this section. The Office may not accept pay from a State for services performed in withholding State income taxes from annuities. Any amount erroneously withheld from an annuity and paid to a State by the Office shall be repaid by the State in accordance with regulations issued by the Office.

(e) For the purpose of this section—

(1) the term “State” means a State, the District of Columbia, or any territory or possession of the United States; and

(2) the term “annuitant” includes a survivor who is receiving an annuity from the Fund.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 576.)

§ 8470. Exemption from legal process; recovery of payments

(a) An amount payable under subchapter II, IV, or V of this chapter is not assignable, either in law or equity, except under the provisions of section 8465 or 8467, or subject to execution, levy, attachment, garnishment or other legal process, except as otherwise may be provided by Federal laws.

(b) Recovery of payments under subchapter II, IV, or V of this chapter may not be made from an individual when, in the judgment of the Office, the individual is without fault and recovery would be against equity and good conscience. Withholding or recovery of money paid under subchapter II, IV, or V of this chapter on account of a certification or payment made by a former employee of the United States in the discharge of his official duties may be made only if the head of the agency on behalf of which the certification or payment was made certifies to the Office that the certification or payment involved fraud on the part of the former employee.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 577.)

SUBCHAPTER VII—FEDERAL RETIREMENT
THRIFT INVESTMENT MANAGEMENT
SYSTEM

§ 8471. Definitions

For the purposes of this subchapter—

(1) the term “beneficiary” means an individual (other than a participant) entitled to payment from the Thrift Savings Fund under subchapter III of this chapter;

(2) the term “Council” means the Employee Thrift Advisory Council established under section 8473 of this title;

(3) the term “participant” means an individual for whom an account has been established under section 8439 of this title;

(4) the term “person” means an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or labor organization; and

(5) the term “Thrift Savings Fund” means the Thrift Savings Fund established under section 8437 of this title.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 577.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Subchapter VII effective June 6, 1986, see section 702(b)(1) of Pub. L. 99-335, set out as a note under section 8401 of this title.

§ 8472. Federal Retirement Thrift Investment Board

(a) There is established in the Executive branch of the Government a Federal Retirement Thrift Investment Board.

(b) The Board shall be composed of—

(1) 3 members appointed by the President, of whom 1 shall be designated by the President as Chairman; and

(2) 2 members appointed by the President, of whom—

(A) 1 shall be appointed by the President after taking into consideration the recommendation made by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives; and

(B) 1 shall be appointed by the President after taking into consideration the recommendation made by the majority leader of the Senate in consultation with the minority leader of the Senate.

(c) Except as provided in section 311 of the Federal Employees’ Retirement System Act of 1986, appointments under subsection (a) shall be made by and with the advice and consent of the Senate.

(d) Members of the Board shall have substantial experience, training, and expertise in the management of financial investments and pension benefit plans.

(e)(1) Except as provided in section 311 of the Federal Employees’ Retirement System Act of 1986, a member of the Board shall be appointed for a term of 4 years, except that of the members first appointed (other than the members appointed under such section)—

(A) the Chairman shall be appointed for a term of 4 years;

(B) the members appointed under subsection (b)(2) shall be appointed for terms of 3 years; and

(C) the remaining members shall be appointed for terms of 2 years.

(2)(A) A vacancy on the Board shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

(B) An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(3) The term of any member shall not expire before the date on which the member’s successor takes office.

(f) The Board shall—

(1) establish policies for—

(A) the investment and management of the Thrift Savings Fund; and

(B) the administration of subchapter III of this chapter;

(2) review the performance of investments made for the Thrift Savings Fund; and

(3) review and approve the budget of the Board.

(g)(1) The Board may—

(A) adopt, alter, and use a seal;

(B) except as provided in paragraph (2), direct the Executive Director to take such action as the Board considers appropriate to carry out the provisions of this subchapter and subchapter III of this chapter and the policies of the Board;

(C) upon the concurring votes of four members, remove the Executive Director from office for good cause shown; and

(D) take such other actions as may be necessary to carry out the functions of the Board.

(2) Except in the case of investments under section 8438(c)(2)(B), the Board may not direct the Executive Director to invest or to cause to be invested any sums in the Thrift Savings Fund in a specific asset or to dispose of or cause to be disposed of any specific asset of such Fund.

(h) The members of the Board shall discharge their responsibilities solely in the interest of participants and beneficiaries under this subchapter and subchapter III of this chapter.

(i) The Board shall prepare and submit to the President, and, at the same time, to the appropriate committees of Congress, an annual budget of the expenses and other items relating to the Board which shall be included as a separate item in the budget required to be transmitted to the Congress under section 1105 of title 31.

(j) The Board may submit to the President, and, at the same time, shall submit to each House of the Congress, any legislative recommendations of the Board relating to any of its functions under this title or any other provision of law.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 578; amended Pub. L. 99-509, title VI, §6001(e), Oct. 21, 1986, 100 Stat. 1931; Pub. L. 113-255, §2(c), Dec. 18, 2014, 128 Stat. 2920.)