

LOST WAGES ASSISTANCE RECOUPMENT FAIRNESS

Pub. L. 116-260, div. N, title II, §262, Dec. 27, 2020, 134 Stat. 1962, provided that:

“(a) DEFINITIONS.—In this section—

“(1) the term ‘covered assistance’ means assistance provided for supplemental lost wages payments under subsections (e)(2) and (f) of section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174), as authorized under the emergency declaration issued by the President on March 13, 2020, pursuant to section 501(b) of such Act (42 U.S.C. 5191(b)) and under any subsequent major disaster declaration under section 401 of such Act (42 U.S.C. 5170) that supersedes such emergency declaration; and

“(2) the term ‘State’ has the meaning given the term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

“(b) WAIVER AUTHORITY FOR STATE LIABILITY.—In the case of any individual who has received amounts of covered assistance to which the individual is not entitled, the State shall require the individual to repay the amounts of such assistance to the State agency, except that the State agency may waive such repayment if the State agency determines that—

“(1) the payment of such covered assistance was without fault on the part of the individual; and

“(2) such repayment would be contrary to equity and good conscience.

“(c) WAIVER AUTHORITY FOR FEDERAL LIABILITY.—Any waiver of debt issued by a State under subsection (b) shall also waive the debt owed to the United States.

“(d) REPORTING.—

“(1) STATE REPORTING.—If a State issues a waiver of debt under subsection (b), the State shall report such waiver to the Administrator of the Federal Emergency Management Agency.

“(2) OIG REPORTING.—Not later than 6 months after the date of enactment of this Act [Dec. 27, 2020], the Inspector General of the Department of Homeland Security shall submit a report that assesses the efforts of the States to waive recoupment related to lost wages assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) to—

“(A) the Committee on Homeland Security and Governmental Affairs, the Committee on Finance, and the Subcommittee on Homeland Security of the Committee on Appropriations of the Senate; and

“(B) the Committee on Transportation and Infrastructure, Committee on Ways and Means, and the Subcommittee on Homeland Security of the Committee on Appropriations of the House of Representatives.”

REIMBURSEMENT

Pub. L. 115-254, div. D, §1211(b), Oct. 5, 2018, 132 Stat. 3447, provided that: “The Federal Emergency Management Agency (FEMA) shall reimburse State and local units of government (for requests received within a period of 3 years after the declaration of a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170)) upon determination that a locally implemented housing solution, implemented by State or local units of government—

“(1) costs 50 percent of comparable FEMA solution or whatever the locally implemented solution costs, whichever is lower;

“(2) complies with local housing regulations and ordinances; and

“(3) the housing solution was implemented within 90 days of the disaster.”

[For definition of “State” as used in section 1211(b) of Pub. L. 115-254, set out above, see section 1203 of Pub. L. 115-254, set out as a note under section 5122 of this title.]

§ 5174a. Flexibility

(a) Waiver authority

(1) Definition

In this subsection, the term “covered assistance” means assistance provided—

(A) under section 5174 of this title; and

(B) in relation to a major disaster or emergency declared by the President under section 5170 or 5191, respectively, of this title on or after October 28, 2012.

(2) Authority

Notwithstanding section 3716(e) of title 31, the Administrator—

(A) except as provided in subparagraph (B), shall—

(i) waive a debt owed to the United States related to covered assistance provided to an individual or household if the covered assistance was distributed based on an error by the Agency and such debt shall be construed as a hardship; and

(ii) waive a debt owed to the United States related to covered assistance provided to an individual or household if such assistance is subject to a claim or legal action, including in accordance with section¹ of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5160); and

(B) may not waive a debt under subparagraph (A) if the debt involves fraud, the presentation of a false claim, or misrepresentation by the debtor or any party having an interest in the claim.

(3) Monitoring of covered assistance distributed based on error

(A) In general

The Inspector General of the Department of Homeland Security shall monitor the distribution of covered assistance to individuals and households to determine the percentage of such assistance distributed based on an error.

(B) Report on waiver authority based on excessive error rate

If the Inspector General of the Department of Homeland Security determines, with respect to any 12-month period, that the amount of covered assistance distributed based on an error by the Agency exceeds 4 percent of the total amount of covered assistance distributed—

(i) the Inspector General shall notify the Administrator and publish the determination in the Federal Register; and

(ii) with respect to any major disaster or emergency declared by the President under section 5170 or section 5191, respectively, of this title after the date on which the determination is published under subparagraph (A), the Administrator shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Home-

¹So in original. Probably should be a reference to section 317 of the Act.

land Security and Governmental Affairs of the Senate actions that the Administrator will take to reduce the error rate.

(b) Recoupment of certain assistance prohibited
(1) In general

Notwithstanding section 3716(e) of title 31, and unless there is evidence of civil or criminal fraud, the Agency may not take any action to recoup covered assistance from the recipient of such assistance if the receipt of such assistance occurred on a date that is more than 3 years before the date on which the Agency first provides to the recipient written notification of an intent to recoup.

(2) Covered assistance defined

In this subsection, the term “covered assistance” means assistance provided—

(A) under section 5174 of this title; and

(B) in relation to a major disaster or emergency declared by the President under section 5170 or 5191 of this title, respectively, on or after January 1, 2012.

(c) Statute of limitations

(1) Omitted

(2) Applicability

(A) In general

With respect to disaster or emergency assistance provided to a State or local government on or after January 1, 2004—

(i) no administrative action may be taken to recover a payment of such assistance after October 5, 2018, if the action is prohibited under section 5205(a)(1) of this title, as amended by paragraph (1); and

(ii) any administrative action to recover a payment of such assistance that is pending on such date of enactment shall be terminated if the action is prohibited under section 5205(a)(1) of this title, as amended by paragraph (1).

(B) Limitation

This section, including the amendments made by this section, may not be construed to invalidate or otherwise affect any administration action completed before October 5, 2018.

(Pub. L. 115-254, div. D, §1216, Oct. 5, 2018, 132 Stat. 3449; Pub. L. 117-263, div. E, title LVI, §5602(a), Dec. 23, 2022, 136 Stat. 3404.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Disaster Recovery Reform Act of 2018 and as part of the FAA Reauthorization Act of 2018, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

Section is comprised of section 1216 of Pub. L. 115-254. Subsec. (c)(1) of section 1216 of Pub. L. 115-254 amended section 5205 of this title.

AMENDMENTS

2022—Subsec. (a)(2)(A). Pub. L. 117-263, §5602(a)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows:

“(A) subject to subparagraph (B), may waive a debt owed to the United States related to covered assistance provided to an individual or household if—

“(i) the covered assistance was distributed based on an error by the Agency;

“(ii) there was no fault on behalf of the debtor; and

“(iii) the collection of the debt would be against equity and good conscience; and”.

Subsec. (a)(3)(B). Pub. L. 117-263, §5602(a)(2)(A), substituted “Report on” for “Removal of” in heading.

Subsec. (a)(3)(B)(ii). Pub. L. 117-263, §5602(a)(2)(B), substituted “the Administrator shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate actions that the Administrator will take to reduce the error rate” for “the authority of the Administrator to waive debt under paragraph (2) shall no longer be effective”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Authorities provided under div. D of Pub. L. 115-254, which enacted this section, applicable to each major disaster and emergency declared by the President under Pub. L. 93-288 on or after Jan. 1, 2016, except as otherwise provided, see section 1202(b) of Pub. L. 115-254, set out in an Effective Date of 2018 Amendment note under section 5121 of this title.

DEFINITIONS

For definitions of terms used in this section, see section 1203 of Pub. L. 115-254, set out as a note under section 5122 of this title.

§ 5174b. Critical document fee waiver

(1) In general

Notwithstanding section 214 of title 22 or any other provision of law, the President, in consultation with the Governor of a State, may provide a waiver under this subsection to an individual or household described in section 5174(e)(1) of this title for the following document replacement fees:

(A) The passport application fee for individuals who lost their United States passport in a major disaster within the preceding three calendar years.

(B) The file search fee for a United States passport.

(C) The Application for Waiver of Passport and/or Visa form (Form I-193) fee.

(D) The Permanent Resident Card replacement form (Form I-90) filing fee.

(E) The Declaration of Intention form (Form N-300) filing fee.

(F) The Naturalization/Citizenship Document replacement form (Form N-565) filing fee.

(G) The Employment Authorization form (Form I-765) filing fee.

(H) The biometric service fee.

(2) Exemption from form requirement

The authority of the President to waive fees under subparagraphs (C) through (H) of paragraph (1) applies regardless of whether the individual or household qualifies for a Form I-912 Request for Fee Waiver, or any successor thereto.

(3) Exemption from assistance maximum

The assistance limit in section 5174(h) of this title shall not apply to any fee waived under this subsection.

(4) Report

Not later than 365 days after October 5, 2018, the Administrator and the head of any other