

FIRST INSPECTION

Pub. L. 105-261, div. A, title X, §1042(b), Oct. 17, 1998, 112 Stat. 2125, provided that: "The first inspection under section 1518 of the Armed Forces Retirement Home Act of 1991 [24 U.S.C. 418], as amended by subsection (a), shall be carried out during fiscal year 1999."

§ 419. Armed Forces Retirement Home Trust Fund

(a) Establishment

There is hereby established in the Treasury of the United States a trust fund to be known as the Armed Forces Retirement Home Trust Fund. The Fund shall consist of the following:

(1) Such amounts as may be transferred to the Fund.

(2) Moneys deposited in the Fund by the Chief Operating Officer realized from gifts or from the disposition of property and facilities.

(3) Amounts deposited in the Fund as monthly fees paid by residents of the Retirement Home under section 414 of this title.

(4) Amounts of fines and forfeitures deposited in the Fund under section 2772 of title 10.

(5) Amounts deposited in the Fund as deductions from the pay of enlisted members, warrant officers, and limited duty officers under section 1007(i) of title 37.

(6) Interest from investments made under subsection (c) of this section.

(b) Availability and use of Fund

Amounts in the Fund shall be available solely for the operation of the Retirement Home.

(c) Investments

The Secretary of the Treasury may invest in obligations issued or guaranteed by the United States any monies in the Fund that the Chief Operating Officer determines are not currently needed to pay for the operation of the Retirement Home.

(d) Reporting requirements

The Chief Financial Officer of the Armed Forces Retirement Home shall comply with the reporting requirements of subchapter II of chapter 35 of title 31.

(Pub. L. 101-510, div. A, title XV, §1519, Nov. 5, 1990, 104 Stat. 1730; Pub. L. 107-107, div. A, title XIV, §§1404(b)(2), 1410(a)(2), (b)(2), Dec. 28, 2001, 115 Stat. 1260, 1266; Pub. L. 110-181, div. A, title XIV, §1422(g), Jan. 28, 2008, 122 Stat. 423; Pub. L. 112-81, div. A, title V, §567(b)(1), Dec. 31, 2011, 125 Stat. 1425.)

AMENDMENTS

2011—Subsec. (a)(2). Pub. L. 112-81 substituted "Chief Operating Officer" for "Retirement Home Board".

2008—Subsec. (d). Pub. L. 110-181 added subsec. (d).

2001—Pub. L. 107-107, §1410(a)(2), inserted "Armed Forces" before "Retirement Home Trust Fund" in section catchline.

Subsec. (c). Pub. L. 107-107, §1404(b)(2), substituted "Chief Operating Officer" for "Director".

Subsec. (d). Pub. L. 107-107, §1410(b)(2), struck out heading and text of subsec. (d). Text read as follows:

"(1) During the period beginning on November 5, 1990, and ending on September 30, 1994, the Fund shall contain a separate account for each establishment of the Retirement Home. During that period, contributions shall be collected under subsection (a) of this section for the account of the Naval Home for the purpose of

achieving a trust fund five times the estimated annual operating budget of the Naval Home.

"(2) Beginning on November 5, 1990, funds required for the operation of the United States Soldiers' and Airmen's Home shall be drawn from the appropriate account. Beginning on October 1, 1991, funds required for the operation of the Naval Home shall be drawn from the account of the Naval Home.

"(3) During the period beginning on November 5, 1990, and ending on September 30, 1994—

"(A) amounts collected as monthly fees paid by residents of the Naval Home and amounts referred to in subsections (a)(4) and (a)(5) of this section derived from enlisted members, warrant officers, and limited duty officers of the Navy, Marine Corps, and Coast Guard shall be credited to the account relating to that establishment; and

"(B) amounts collected as monthly fees paid by residents of the United States Soldiers' and Airmen's Home and amounts referred to in subsections (a)(4) and (a)(5) of this section derived from members and warrant officers of the Army and Air Force shall be credited to the account relating to that establishment."

EFFECTIVE DATE

Section effective Nov. 5, 1990, see section 1541(b) of Pub. L. 101-510, formerly set out as a note under section 401 of this title.

§ 420. Disposition of effects of deceased persons; unclaimed property

(a) Disposition of effects of deceased persons

The Administrator of a facility of the Retirement Home shall safeguard and dispose of the estate and personal effects of deceased residents, including effects delivered to such facility under sections 4712(f) and 9712(f) of title 10, and shall ensure the following:

(1) A will or other instrument of a testamentary nature involving property rights executed by a resident shall be promptly delivered, upon the death of the resident, to the proper court of record.

(2) If a resident dies intestate and the heirs or legal representative of the deceased cannot be immediately ascertained, the Administrator shall retain all property left by the decedent for a three-year period beginning on the date of the death. If entitlement to such property is established to the satisfaction of the Administrator at any time during the three-year period, the Administrator shall distribute the decedent's property, in equal prorate shares when multiple beneficiaries have been identified, to the highest following categories of identified survivors (listed in the order of precedence indicated):

(A) The surviving spouse or legal representative.

(B) The children of the deceased.

(C) The parents of the deceased.

(D) The siblings of the deceased.

(E) The next-of-kin of the deceased.

(b) Sale of effects

(1)(A) If the disposition of the estate of a resident of the Retirement Home cannot be accomplished under subsection (a)(2) of this section or if a resident dies testate and the nominated fiduciary, legatees, or heirs of the resident cannot be immediately ascertained, the entirety of the deceased resident's domiciliary estate and the entirety of any ancillary estate that is un-

claimed at the end of the three-year period beginning on the date of the death of the resident shall escheat to the Retirement Home.

(B) Upon the sale of any such unclaimed estate property, the proceeds of the sale shall be deposited in the Armed Forces Retirement Home Trust Fund.

(C) If a personal representative or other fiduciary is appointed to administer a deceased resident's estate and the administration is completed before the end of such three-year period, the balance of the entire net proceeds of the estate, less expenses, shall be deposited directly in the Armed Forces Retirement Home Trust Fund. The heirs or legatees of the deceased resident may file a claim made with the Secretary of Defense to reclaim such proceeds. A determination of the claim by the Secretary shall be subject to judicial review exclusively by the United States Court of Federal Claims.

(2)(A) The Administrator of a facility of the Retirement Home may designate an attorney who is a full-time officer or employee of the United States or a member of the Armed Forces on active duty to serve as attorney or agent for the facility in any probate proceeding in which the Retirement Home may have a legal interest as nominated fiduciary, testamentary legatee, escheat legatee, or in any other capacity.

(B) An attorney designated under this paragraph may, in the domiciliary jurisdiction of the deceased resident and in any ancillary jurisdiction, petition for appointment as fiduciary. The attorney shall have priority over any petitioners (other than the deceased resident's nominated fiduciary, named legatees, or heirs) to serve as fiduciary. In a probate proceeding in which the heirs of an intestate deceased resident cannot be located and in a probate proceeding in which the nominated fiduciary, legatees, or heirs of a testate deceased resident cannot be located, the attorney shall be appointed as the fiduciary of the deceased resident's estate.

(3) The designation of an employee or representative of a facility of the Retirement Home as personal representative of the estate of a resident of the Retirement Home or as a legatee under the will or codicil of the resident shall not disqualify an employee or staff member of that facility from serving as a competent witness to a will or codicil of the resident.

(4) After the end of the three-year period beginning on the date of the death of a resident of a facility, the Administrator of the facility shall dispose of all property of the deceased resident that is not otherwise disposed of under this subsection, including personal effects such as decorations, medals, and citations to which a right has not been established under subsection (a) of this section. Disposal may be made within the discretion of the Administrator by—

(A) retaining such property or effects for the facility;

(B) offering such items to the Secretary of Veterans Affairs, a State, another military home, a museum, or any other institution having an interest in such items; or

(C) destroying any items determined by the Administrator to be valueless.

(c) Transfer of proceeds to Fund

The net proceeds received by the Administrators from the sale of effects under subsection (b) of this section shall be deposited in the Fund.

(d) Subsequent claim

(1) A claim for the net proceeds of the sale under subsection (b) of this section of the effects of a deceased may be filed with the Secretary of Defense at any time within six years after the death of the deceased, for action under section 2771 of title 10.

(2) A claim referred to in paragraph (1) may not be considered by a court or the Secretary unless the claim is filed within the time period prescribed in such paragraph.

(3) A claim allowed by the Secretary under paragraph (1) shall be certified to the Secretary of the Treasury for payment from the Fund in the amount found due, including any interest relating to the amount. No claim may be allowed or paid in excess of the net proceeds of the estate deposited in the Fund under subsection (c) of this section plus interest.

(e) Unclaimed property

In the case of property delivered to the Retirement Home under section 2575 of title 10, the Administrator of the facility shall deliver the property to the owner, the heirs or next of kin of the owner, or the legal representative of the owner, if a right to the property is established to the satisfaction of the Administrator of the facility within two years after the delivery.

(Pub. L. 101-510, div. A, title XV, §1520, Nov. 5, 1990, 104 Stat. 1731; Pub. L. 103-160, div. A, title III, §366(d), (e), Nov. 30, 1993, 107 Stat. 1631; Pub. L. 104-316, title II, §202(j), Oct. 19, 1996, 110 Stat. 3843; Pub. L. 107-107, div. A, title XIV, §§1408, 1410(a)(3), Dec. 28, 2001, 115 Stat. 1265, 1266; Pub. L. 107-314, div. A, title X, §1062(f)(3), Dec. 2, 2002, 116 Stat. 2651; Pub. L. 108-136, div. A, title X, §1045(g), Nov. 24, 2003, 117 Stat. 1613; Pub. L. 112-81, div. A, title V, §564(b), 567(c)(6), Dec. 31, 2011, 125 Stat. 1424, 1426.)

AMENDMENTS

2011—Pub. L. 112-81, §567(c)(6), made technical amendment to section catchline.

Pub. L. 112-81, §564(b)(1), substituted "Administrator" for "Director" wherever appearing.

Subsec. (c). Pub. L. 112-81, §564(b)(2), substituted "Administrators" for "Directors".

2003—Subsec. (b)(1)(C). Pub. L. 108-136 inserted "Armed Forces" before "Retirement Home Trust Fund".

2002—Subsec. (e). Pub. L. 107-314 made technical correction to directory language of Pub. L. 107-107, §1410(a)(3)(C). See 2001 Amendment note below.

2001—Subsec. (a). Pub. L. 107-107, §1410(a)(3)(A), substituted "a facility" for "each facility that is maintained as a separate establishment" in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 107-107, §1408(b), inserted "Armed Forces" before "Retirement Home Trust Fund".

Subsec. (b)(2)(A). Pub. L. 107-107, §§1408(a), 1410(a)(3)(B), struck out "maintained as a separate establishment" before "of the Retirement Home" and inserted "who is a full-time officer or employee of the United States or a member of the Armed Forces on active duty" after "may designate an attorney".

Subsec. (e). Pub. L. 107-107, §1410(a)(3)(C), as amended by Pub. L. 107-314, substituted "Director of the facility" for "Directors" in two places.

1996—Subsec. (b)(1)(C). Pub. L. 104-316, §202(j)(1), substituted “Secretary of Defense” for “Comptroller General of the United States” and “Secretary” for “Comptroller General”.

Subsec. (d). Pub. L. 104-316, §202(j)(2), substituted “Secretary of Defense” for “Comptroller General of the United States” in par. (1), “Secretary” for “Comptroller General” in par. (2), and “allowed by the Secretary” for “allowed by the Comptroller General” in par. (3).

1993—Subsec. (a). Pub. L. 103-160, §366(d), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The Directors of the establishments of the Retirement Home shall safeguard and dispose of the effects of a deceased person delivered to the Retirement Home under section 4712(f) or 9712(f) of title 10 and the estate and effects of a deceased resident of the Armed Forces Retirement Home as follows:

“(1) A will or other paper involving property rights shall be promptly delivered to the proper court of record.

“(2) If the heirs or legal representative of the deceased cannot sooner be ascertained, the Directors shall retain the remaining effects until three years after the death of the deceased, and then, if a right to the effects is established to the satisfaction of the Directors, shall deliver the effects to the living person highest on the following list who can be found:

“(A) The surviving spouse or legal representative.

“(B) A child of the deceased.

“(C) A parent of the deceased.

“(D) A brother or sister of the deceased.

“(E) The next-of-kin of the deceased.

“(F) A beneficiary named in the will of the deceased.”

Subsec. (b). Pub. L. 103-160, §366(e), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows:

“(1) After three years from the date of death of the deceased, the Directors may sell the effects to which a right has not been established under subsection (a) of this section (except decorations, medals, and citations) by public or private sale, as the Directors consider most advantageous.

“(2) After five years from the date of death of the deceased, the Directors shall dispose of effects that were not sold under paragraph (1) (including decorations, medals, and citations) and to which a right has not been established under subsection (a) of this section. The sale shall be made in the manner that the Directors consider most appropriate in the public interest. Disposal may include—

“(A) retaining the effects for the use of the Retirement Home;

“(B) delivering the effects to the Secretary of Veterans Affairs, to a State or other military home, to a museum, or to any other appropriate institution; or

“(C) destroying the effects if the Retirement Home Board determines that they are valueless.”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-314, div. A, title X, §1062(f), Dec. 2, 2002, 116 Stat. 2651, provided that the amendment made by section 1062(f)(3) is effective as of Dec. 28, 2001, and as if included in Pub. L. 107-107 as enacted.

EFFECTIVE DATE

Section applicable to estate of each resident of Armed Forces Retirement Home, including United States Soldiers' and Airmen's Home and Naval Home, who dies after Nov. 29, 1989, see section 1541(d) of Pub. L. 101-510, formerly set out as a note under section 401 of this title.

§ 421. Payment of residents for services

(a) Authority

The Chief Operating Officer is authorized to accept for the Armed Forces Retirement Home the part-time or intermittent services of a resi-

dent of the Retirement Home, to pay the resident for such services, and to fix the rate of such pay.

(b) Employment status

A resident receiving pay for services authorized under subsection (a) of this section shall not, by reason of performing such services and receiving pay for such services, be considered as—

(1) receiving the pay of a position or being employed in a position for the purposes of section 5532¹ of title 5; or

(2) being an employee of the United States for any purpose other than—

(A) subchapter I of chapter 81 of title 5 (relating to compensation for work-related injuries); and

(B) chapter 171 of title 28 (relating to claims for damages or loss).

(c) “Position” defined

In subsection (b)(1) of this section, the term “position” has the meaning given that term in section 5531 of title 5.

(Pub. L. 101-510, div. A, title XV, §1521, as added Pub. L. 102-484, div. A, title III, §385(a), Oct. 23, 1992, 106 Stat. 2394; amended Pub. L. 104-201, div. A, title X, §1052(b), Sept. 23, 1996, 110 Stat. 2650; Pub. L. 107-107, div. A, title XIV, §1404(b)(3), Dec. 28, 2001, 115 Stat. 1260.)

REFERENCES IN TEXT

Section 5532 of title 5, referred to in subsec. (b)(1), was repealed by Pub. L. 106-65, div. A, title VI, §651(a)(1), Oct. 5, 1999, 113 Stat. 664.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107-107 substituted “Chief Operating Officer” for “Chairman of the Armed Forces Retirement Board”.

1996—Subsec. (b)(2). Pub. L. 104-201 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “being an employee of the United States for any other purpose.”

FORGIVENESS OF INDEBTEDNESS

Section 385(b) of Pub. L. 102-484 provided that: “The Chairman of the Armed Forces Retirement Board is authorized to cancel the indebtedness of any resident of the Armed Forces Retirement Home for repayment to the United States of amounts paid the resident for services provided to the Retirement Home before the date of the enactment of this Act [Oct. 23, 1992] if the Chairman determines that it would be in the interest of the United States to do so and against equity and good conscience to require the repayment.”

§ 422. Authority to accept certain uncompensated services

(a) Authority to accept services

Subject to subsection (b) of this section and notwithstanding section 1342 of title 31, the Chief Operating Officer or the Administrator of a facility of the Retirement Home may accept from any person voluntary personal services or gratuitous services.

(b) Requirements and limitations

(1) The Chief Operating Officer or the Administrator of a facility accepting the services shall

¹ See References in Text note below.