

Pub. L. 102-16 substituted "sections 1685(e) and 3102" for "section 3102" in introductory provisions.

Subsecs. (b), (c), Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

#### EFFECTIVE DATE

Section effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96-466, set out as a note under section 5314 of this title.

#### § 5316. Authority to sue to collect certain debts

(a)(1) The Secretary shall take appropriate steps to authorize attorneys employed by the Department to exercise, subject to paragraphs (2) and (3) of this subsection, the right of the United States to bring suit in any court of competent jurisdiction to recover any indebtedness owed to the United States by a person by virtue of such person's participation in a benefits program administered by the Secretary.

(2) No suit may be filed under this section to recover any indebtedness owed by any person to the United States unless the Secretary has determined, under regulations which the Secretary shall prescribe, that such person has failed to respond appropriately to reasonable administrative efforts to collect such indebtedness.

(3) The activities of attorneys employed by the Department in bringing suit under this section shall be subject to the direction and supervision of the Attorney General of the United States and to such terms and conditions as the Attorney General may prescribe.

(b) Nothing in this section shall derogate from the authority of the Attorney General of the United States under sections 516 and 519 of title 28 to direct and supervise all litigation to which the United States or an agency or officer of the United States is a party.

(Added Pub. L. 96-466, title VI, §605(a)(1), Oct. 17, 1980, 94 Stat. 2211, §3116; renumbered §5316, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102-54, §14(d)(3), June 13, 1991, 105 Stat. 285; Pub. L. 102-83, §4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

#### AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3116 of this title as this section.

Subsec. (a)(1). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

Pub. L. 102-54, §14(d)(3)(A), amended subsec. (a)(1) as in effect immediately before the enactment of Pub. L. 102-40 by substituting "The" for "Within ninety days after the date of the enactment of this section, the".

Subsec. (a)(2). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

Subsec. (a)(3). Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Subsecs. (b), (c). Pub. L. 102-54, §14(d)(3)(B), amended section as in effect immediately before the enactment of Pub. L. 102-40 by redesignating subsec. (c) as (b) and striking out former subsec. (b) which read as follows: "Not later than ninety days after the date of the enactment of this section, the Administrator and the Attorney General of the United States shall submit to the

appropriate committees of the Congress a joint report that describes and explains the actions taken by the Administrator and the Attorney General to implement subsection (a) of this section."

#### EFFECTIVE DATE

Section effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96-466, set out as a note under section 5314 of this title.

#### § 5317. Use of income information from other agencies: notice and verification

(a) The Secretary shall notify each applicant for a benefit or service described in subsection (c) of this section that income information furnished by the applicant to the Secretary may be compared with information obtained by the Secretary from the Commissioner of Social Security or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986. The Secretary shall periodically transmit to recipients of such benefits and services additional notifications of such matters.

(b) The Secretary may not, by reason of information obtained from the Commissioner of Social Security or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986, terminate, deny, suspend, or reduce any benefit or service described in subsection (c) of this section until the Secretary takes appropriate steps to verify independently information relating to the following:

(1) The amount of the asset or income involved.

(2) Whether such individual actually has (or had) access to such asset or income for the individual's own use.

(3) The period or periods when the individual actually had such asset or income.

(c) The benefits and services described in this subsection are the following:

(1) Needs-based pension benefits provided under chapter 15 of this title or under any other law administered by the Secretary.

(2) Parents' dependency and indemnity compensation provided under section 1315 of this title.

(3) Health-care services furnished under subsections (a)(2)(G), (a)(3), and (b) of section 1710 of this title.

(4) Compensation paid under chapter 11 of this title at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule.

(d) In the case of compensation described in subsection (c)(4) of this section, the Secretary may independently verify or otherwise act upon wage or self-employment information referred to in subsection (b) of this section only if the Secretary finds that the amount and duration of the earnings reported in that information clearly indicate that the individual may no longer be qualified for a rating of total disability.

(e) The Secretary shall inform the individual of the findings made by the Secretary on the basis of verified information under subsection (b) of this section, and shall give the individual an opportunity to contest such findings, in the same manner as applies to other information

and findings relating to eligibility for the benefit or service involved.

(f) The Secretary shall pay the expenses of carrying out this section from amounts available to the Department for the payment of compensation and pension.

(g) The authority of the Secretary to obtain information from the Secretary of the Treasury or the Commissioner of Social Security under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 expires on September 30, 2016.

(Added Pub. L. 101-508, title VIII, §8051(b)(1), Nov. 5, 1990, 104 Stat. 1388-350, §3117; renumbered §5317, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102-83, §5(c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-568, title VI, §602(a), Oct. 29, 1992, 106 Stat. 4342; Pub. L. 103-66, title XII, §12004, Aug. 10, 1993, 107 Stat. 414; Pub. L. 104-262, title I, §101(e)(3), Oct. 9, 1996, 110 Stat. 3181; Pub. L. 105-33, title VIII, §8014, Aug. 5, 1997, 111 Stat. 664; Pub. L. 106-419, title IV, §402(d), Nov. 1, 2000, 114 Stat. 1863; Pub. L. 108-183, title VII, §708(c)(3), Dec. 16, 2003, 117 Stat. 2674; Pub. L. 110-389, title VIII, §802, Oct. 10, 2008, 122 Stat. 4185; Pub. L. 112-37, §16, Oct. 5, 2011, 125 Stat. 398; Pub. L. 112-56, title II, §264, Nov. 21, 2011, 125 Stat. 732.)

#### REFERENCES IN TEXT

Section 6103(l)(7)(D)(viii) of the Internal Revenue Code, referred to in subsecs. (a), (b), and (g), is classified to section 6103(l)(7)(D)(viii) of Title 26, Internal Revenue Code.

#### AMENDMENTS

2011—Subsec. (g). Pub. L. 112-56, which directed substitution of “September 30, 2016” for “September 30, 2011”, was executed by making the substitution for “November 18, 2011” to reflect the probable intent of Congress and the amendment by Pub. L. 112-37. See below.

Pub. L. 112-37 substituted “November 18, 2011” for “September 30, 2011”.

2008—Subsec. (g). Pub. L. 110-389 substituted “September 30, 2011” for “September 30, 2008”.

2003—Subsecs. (a), (b), (g). Pub. L. 108-183 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”.

2000—Subsec. (g). Pub. L. 106-419 substituted “September 30, 2008” for “September 30, 2002”.

1997—Subsec. (g). Pub. L. 105-33 substituted “September 30, 2002” for “September 30, 1998”.

1996—Subsec. (c)(3). Pub. L. 104-262 substituted “subsections (a)(2)(G), (a)(3), and (b) of section 1710” for “sections 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)”.

1993—Subsec. (g). Pub. L. 103-66 substituted “1998” for “1997”.

1992—Subsec. (g). Pub. L. 102-568 substituted “1997” for “1992”.

1991—Pub. L. 102-40 renumbered section 3117 of this title as this section.

Subsec. (c)(2). Pub. L. 102-83 substituted “1315” for “415”.

Subsec. (c)(3). Pub. L. 102-83 substituted “1710(a)(1)(I)”, “1710(a)(2)”, “1710(b)”, and “1712(a)(2)(B)” for “610(a)(1)(I)”, “610(a)(2)”, “610(b)”, and “612(a)(2)(B)”, respectively.

#### NOTIFICATION PRIOR TO USE OF INCOME INFORMATION FROM OTHER FEDERAL AGENCIES

Section 8051(c) of Pub. L. 101-508 provided that:

“(1) The Secretary of Veterans Affairs shall notify individuals who (as of the date of the enactment of this Act [Nov. 5, 1990]) are applicants for or recipients of the

benefits described in subsection (c) (other than paragraph (3)) of section 3117 [now 5317] of title 38, United States Code (as added by subsection (b)), that income information furnished to the Secretary by such applicants and recipients may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under clause (viii) of section 6103(l)(7)(D) of the Internal Revenue Code of 1986 [26 U.S.C. 6103(l)(7)(D)] (as added by subsection (a)).

“(2) Notification under paragraph (1) shall be made not later than 90 days after the date of the enactment of this Act.

“(3) The Secretary of Veterans Affairs may not obtain information from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)) until notification under paragraph (1) is made.”

#### STUDY BY COMPTROLLER GENERAL ON EFFECTIVENESS OF AMENDMENTS BY PUB. L. 101-508

Section 8051(d) of Pub. L. 101-508 provided that: “The Comptroller General of the United States shall conduct a study of the effectiveness of the amendments made by this section [enacting this section] and shall submit a report on such study to the Committees on Veterans' Affairs and Ways and Means of the House of Representatives and the Committees on Veterans' Affairs and Finance of the Senate not later than January 1, 1992.”

#### § 5317A. Use of income information from other agencies: independent verification required before termination or reduction of certain benefits and services

(a) INDEPENDENT VERIFICATION REQUIRED.—The Secretary may terminate, deny, suspend, or reduce any benefit or service specified in section 5317(c), with respect to an individual under age 65 who is an applicant for or recipient of such a benefit or service, by reason of information obtained from the Secretary of Health and Human Services under section 453(j)(11) of the Social Security Act, only if the Secretary takes appropriate steps to verify independently information relating to the individual's employment and income from employment.

(b) OPPORTUNITY TO CONTEST FINDINGS.—The Secretary shall inform each individual for whom the Secretary terminates, denies, suspends, or reduces any benefit or service under subsection (a) of the findings made by the Secretary under such subsection on the basis of verified information and shall provide to the individual an opportunity to contest such findings in the same manner as applies to other information and findings relating to eligibility for the benefit or service involved.

(c) SOURCE OF FUNDS FOR REIMBURSEMENT TO SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary shall pay the expense of reimbursing the Secretary of Health and Human Services in accordance with section 453(j)(11)(E) of the Social Security Act, for the cost incurred by the Secretary of Health and Human Services in furnishing information requested by the Secretary under section 453(j)(11) of such Act, from amounts available to the Department for the payment of compensation and pensions.

(d) EXPIRATION OF AUTHORITY.—The authority under this section shall expire on November 18, 2011.

(Added Pub. L. 110-157, title III, §301(b)(1), Dec. 26, 2007, 121 Stat. 1835; amended Pub. L. 112-37, §17(a), Oct. 5, 2011, 125 Stat. 398.)