

(Added Pub. L. 101-647, title XXXVI, §3611, Nov. 29, 1990, 104 Stat. 4933.)

REFERENCES IN TEXT

Section 303 of the Consumer Credit Protection Act, referred to in par. (9), is classified to section 1673 of Title 15, Commerce and Trade.

**§ 3003. Rules of construction**

(a) **TERMS.**—For purposes of this chapter—

(1) the terms “includes” and “including” are not limiting;

(2) the term “or” is not exclusive; and

(3) the singular includes the plural.

(b) **EFFECT ON RIGHTS OF THE UNITED STATES.**—This chapter shall not be construed to curtail or limit the right of the United States under any other Federal law or any State law—

(1) to collect taxes or to collect any other amount collectible in the same manner as a tax;

(2) to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case;

(3) to appoint or seek the appointment of a receiver; or

(4) to enforce a security agreement.

(c) **EFFECT ON OTHER LAWS.**—This chapter shall not be construed to supersede or modify the operation of—

(1) title 11;

(2) admiralty law;

(3) section 3713 of title 31;

(4) section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673);

(5) a statute of limitation applicable to a criminal proceeding;

(6) the common law or statutory rights to set-off or recoupment;

(7) any Federal law authorizing, or any inherent authority of a court to provide, injunctive relief;

(8) the authority of a court—

(A) to impose a sanction under the Federal Rules of Civil Procedure;

(B) to appoint a receiver to effectuate its order; or

(C) to exercise the power of contempt under any Federal law;

(9) any law authorizing the United States to obtain partition, or to recover possession, of property in which the United States holds title; or

(10) any provision of any other chapter of this title, except to the extent such provision is inconsistent with this chapter.

(d) **PREEMPTION.**—This chapter shall preempt State law to the extent such law is inconsistent with a provision of this chapter.

(e) **EFFECT ON RIGHTS OF THE UNITED STATES UNDER FOREIGN AND INTERNATIONAL LAW.**—This chapter shall not be construed to curtail or limit the rights of the United States under foreign law, under a treaty or an international agreement, or otherwise under international law.

(f) **APPLICABILITY OF FEDERAL RULES OF CIVIL PROCEDURE.**—Except as provided otherwise in this chapter, the Federal Rules of Civil Proce-

dures shall apply with respect to actions and proceedings under this chapter.

(Added Pub. L. 101-647, title XXXVI, §3611, Nov. 29, 1990, 104 Stat. 4935.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsecs. (c)(8)(A) and (f), are set out in the Appendix to this title.

**§ 3004. Service of process; enforcement; notice**

(a) **MANNER OF SERVICE.**—A complaint, notice, writ, or other process required to be served in an action or proceeding under this chapter shall be served in accordance with the Federal Rules of Civil Procedure unless otherwise provided in this chapter.

(b) **NATIONWIDE ENFORCEMENT.**—(1) Except as provided in paragraph (2)—

(A) any writ, order, judgment, or other process, including a summons and complaint, filed under this chapter may be served in any State; and

(B) such writ, order, or judgment may be enforced by the court issuing the writ, order, or process, regardless of where the person is served with the writ, order, or process.

(2) If the debtor so requests, within 20 days after receiving the notice described in section 3101(d) or 3202(b), the action or proceeding in which the writ, order, or judgment was issued shall be transferred to the district court for the district in which the debtor resides.

(c) **NOTICE AND OTHER PROCESS.**—At such time as counsel for the United States considers appropriate, but not later than the time a prejudgment or postjudgment remedy is put into effect under this chapter, counsel for the United States shall exercise reasonable diligence to serve on the debtor and any person who the United States believes, after exercising due diligence, has possession, custody, or control of the property, a copy of the application for such remedy, the order granting such remedy, and the notice required by section 3101(d) or 3202(b).

(Added Pub. L. 101-647, title XXXVI, §3611, Nov. 29, 1990, 104 Stat. 4936.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (a), are set out in the Appendix to this title.

**§ 3005. Application of chapter to judgments**

This chapter shall not apply with respect to a judgment on a debt if such judgment is entered more than 10 years before the effective date of this chapter.

(Added Pub. L. 101-647, title XXXVI, §3611, Nov. 29, 1990, 104 Stat. 4936.)

REFERENCES IN TEXT

For effective date of this chapter, referred to in text, see section 3631 of Pub. L. 101-647, set out as an Effective Date note under section 3001 of this title.

**§ 3006. Affidavit requirements**

Any affidavit required of the United States by this chapter may be made on information and belief, if reliable and reasonably necessary, es-

tablishing with particularity, to the court's satisfaction, facts supporting the claim of the United States.

(Added Pub. L. 101-647, title XXXVI, §3611, Nov. 29, 1990, 104 Stat. 4936.)

### § 3007. Perishable personal property

(a) **AUTHORITY TO SELL.**—If at any time during any action or proceeding under this chapter the court determines on its own initiative or upon motion of any party, that any seized or detained personal property is likely to perish, waste, or be destroyed, or otherwise substantially depreciate in value during the pendency of the proceeding, the court shall order a commercially reasonable sale of such property.

(b) **DEPOSIT OF SALE PROCEEDS.**—Within 5 days after such sale, the proceeds shall be deposited with the clerk of the court, accompanied by a statement in writing and signed by the United States marshal, to be filed in the action or proceeding, stating the time and place of sale, the name of the purchaser, the amount received, and an itemized account of expenses.

(c) **PRESUMPTION.**—For purposes of liability on the part of the United States, there shall be a presumption that the price paid at a sale under subsection (a) is the fair market value of the property or portion.

(Added Pub. L. 101-647, title XXXVI, §3611, Nov. 29, 1990, 104 Stat. 4937.)

### § 3008. Proceedings before United States magistrate judges

A district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate judge to the extent not inconsistent with the Constitution and laws of the United States.

(Added Pub. L. 101-647, title XXXVI, §3611, Nov. 29, 1990, 104 Stat. 4937; amended Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

#### CHANGE OF NAME

“United States magistrate judges” substituted for “United States magistrates” in catchline and “United States magistrate judge” substituted for “United States magistrate” in text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

### § 3009. United States marshals' authority to designate keeper

Whenever a United States marshal is authorized to seize property pursuant to this chapter, the United States marshal may designate another person or Federal agency to hold for safekeeping such property seized.

(Added Pub. L. 101-647, title XXXVI, §3611, Nov. 29, 1990, 104 Stat. 4937.)

### § 3010. Co-owned property

(a) **LIMITATION.**—The remedies available to the United States under this chapter may be enforced against property which is co-owned by a debtor and any other person only to the extent allowed by the law of the State where the property is located. This section shall not be construed to limit any right or interest of a debtor

or co-owner in a retirement system for Federal military or civilian personnel established by the United States or any agency thereof or in a qualified retirement arrangement.

(b) **DEFINITIONS.**—For purposes of subsection (a)—

(1) the term “retirement system for Federal military or civilian personnel” means a pension or annuity system for Federal military or civilian personnel of more than one agency, or for some or all of such personnel of a single agency, established by statute or by regulation pursuant to statutory authority; and

(2) the term “qualified retirement arrangement” means a plan qualified under section 401(a), 403(a), or 409 of the Internal Revenue Code of 1986 or a plan that is subject to the requirements of section 205 of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 101-647, title XXXVI, §3611, Nov. 29, 1990, 104 Stat. 4937.)

#### REFERENCES IN TEXT

Sections 401(a), 403(a), and 409 of the Internal Revenue Code of 1986, referred to in subsec. (b)(2), are classified to sections 401(a), 403(a), and 409, respectively, of Title 26, Internal Revenue Code.

Section 205 of the Employee Retirement Income Security Act of 1974, referred to in subsec. (b)(2), is classified to section 1055 of Title 29, Labor.

### § 3011. Assessment of surcharge on a debt

(a) **SURCHARGE AUTHORIZED.**—In an action or proceeding under subchapter B or C, and subject to subsection (b), the United States is entitled to recover a surcharge of 10 percent of the amount of the debt in connection with the recovery of the debt, to cover the cost of processing and handling the litigation and enforcement under this chapter of the claim for such debt.

(b) **LIMITATION.**—Subsection (a) shall not apply if—

(1) the United States receives an attorney's fee in connection with the enforcement of the claim; or

(2) the law pursuant to which the action on the claim is based provides any other amount to cover such costs.

(Added Pub. L. 101-647, title XXXVI, §3611, Nov. 29, 1990, 104 Stat. 4937.)

### § 3012. Joinder of additional defendant

The United States or the debtor may join as an additional defendant in an action or proceeding under this chapter any person reasonably believed to owe money (including money owed on account of a requirement to provide goods or services pursuant to a loan or loan guarantee extended under Federal law) to the debtor arising out of the transaction or occurrence giving rise to a debt.

(Added Pub. L. 101-647, title XXXVI, §3611, Nov. 29, 1990, 104 Stat. 4938.)

### § 3013. Modification or protective order; supervision of enforcement

The court may at any time on its own initiative or the motion of any interested person, and after such notice as it may require, make an