

amount of the indebtedness of any person who has been determined to be indebted to the United States by virtue of such person's participation in a benefits program administered by the Secretary from future payments made to such person under any law administered by the Secretary.

(b) Deductions may not be made under subsection (a) of this section with respect to the indebtedness of a person described in such subsection unless the Secretary—

(1) has made reasonable efforts to notify such person of such person's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and of such person's right to request a waiver of such indebtedness under section 5302 of this title;

(2) has made a determination with respect to any such dispute or request or has determined that the time required to make such a determination before making deductions would jeopardize the Secretary's ability to recover the full amount of such indebtedness through deductions from such payments; and

(3) has made reasonable efforts to notify such person about the proposed deductions from such payments.

(c) Notwithstanding any other provision of this title or of any other law, the authority of the Secretary to make deductions under this section or to take other administrative action authorized by law for the purpose of collecting an indebtedness described in subsection (a) of this section, or for the purpose of determining the creditworthiness of a person who owes such an indebtedness, shall not be subject to any limitation with respect to the time for bringing civil actions or for commencing administrative proceedings.

(d) The Secretary shall prescribe regulations for the administration of this section.

(Added Pub. L. 96-466, title VI, § 605(a)(1), Oct. 17, 1980, 94 Stat. 2209, § 3114; amended Pub. L. 102-16, § 6(b)(3), Mar. 22, 1991, 105 Stat. 51; renumbered § 5314 and amended Pub. L. 102-40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, §§ 4(a)(1), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 403-406.)

AMENDMENTS

1991—Pub. L. 102-40, § 402(b)(1), renumbered section 3114 of this title as this section.

Subsec. (a). Pub. L. 102-83, § 5(c)(1), substituted "3485(e)" for "1685(e)".

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

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

Pub. L. 102-40, § 402(d)(1), substituted "5302" for "3102".

Pub. L. 102-16 inserted "and section 1685(e) of this title" after "Subject to subsections (b) and (d) of this section".

Subsec. (b). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in introductory provisions and "Secretary's" for "Administrator's" in par. (2).

Pub. L. 102-40, § 402(d)(1), substituted "5302" for "3102" in par. (1).

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

EFFECTIVE DATE

Pub. L. 96-466, title VIII, § 802(f), Oct. 17, 1980, 94 Stat. 2218, provided that:

"(1) Except as provided in paragraph (2), the amendments made by title VI [see Tables for classification] shall become effective on October 1, 1980.

"(2) The amendments made by sections 603 [amending sections 1677 and 1798 [now 3698] of this title] and 604 [amending section 1786 [now 3686] of this title] shall not apply to any person receiving educational assistance under chapter 34 or 35 of title 38, United States Code, on September 1, 1980, for the pursuit of a program of education, as defined in section 1652(b) [now 3452(b)] of such title, in which such person is enrolled on that date, for as long as such person continuously thereafter is so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under the provisions of such chapter and chapter 36 of such title as in effect on that date."

RULES AND REGULATIONS

Pub. L. 96-466, title VI, § 605(b), Oct. 17, 1980, 94 Stat. 2211, provided that: "The Administrator of Veterans' Affairs [now Secretary of Veterans Affairs] shall, not later than January 1, 1981, prescribe the regulations required to be prescribed under sections 3114 and 3115 [now 5314 and 5315] of title 38, United States Code, as added by subsection (a)."

§ 5315. Interest and administrative cost charges on delinquent payments of certain amounts due the United States

(a) Notwithstanding any other provision of this title or of any other law and subject to sections 3485(e) and 5302 of this title, interest and administrative costs (as described in subsections (b) and (c) of this section) shall be charged, under regulations which the Secretary shall prescribe, on any amount owed to the United States—

(1) for an indebtedness resulting from a person's participation in a benefits program administered by the Secretary other than a loan, loan-guaranty, or loan-insurance program;

(2) for an indebtedness resulting from the provision of care or services under chapter 17 of this title; or

(3) to the extent not precluded by the terms of the loan instruments concerned, for an indebtedness resulting from a person's participation in a program of loans, loan guaranties, or loan insurance administered by the Secretary under this title.

(b)(1) Interest on the amount of any indebtedness described in subsection (a) of this section shall accrue from the day on which the initial notification of the amount due is mailed to the person who owes such amount (using the most current address of such person that is available to the Secretary), but interest under this section shall not be charged (A) for any period before October 17, 1980, or (B) if the amount due is paid within a reasonable period of time. The Secretary shall, in the regulations prescribed pursuant to subsection (a) of this section, prescribe what constitutes a reasonable period of time for payment of an indebtedness after the initial notification of indebtedness has been mailed.

(2) The rate of interest to be charged under this section shall be based on the rate of interest paid by the United States for its borrowing and shall be determined by the Secretary under such regulations.

(c) The administrative costs to be charged under this section with respect to an amount owed to the United States shall be so much of the costs incurred by the United States in collecting such amount as the Secretary determines, under such regulations, to be reasonable and appropriate.

(Added Pub. L. 96-466, title VI, § 605(a)(1), Oct. 17, 1980, 94 Stat. 2210, § 3115; amended Pub. L. 102-16, § 6(b)(4), Mar. 22, 1991, 105 Stat. 51; renumbered § 5315 and amended Pub. L. 102-40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, §§ 4(a)(1), (b)(1), (2)(E), 5(C)(1), Aug. 6, 1991, 105 Stat. 403-406; Pub. L. 105-368, title X, § 1005(b)(17), Nov. 11, 1998, 112 Stat. 3365.)

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105-368 substituted "October 17, 1980," for "the date of the enactment of this section."

1991—Pub. L. 102-40, § 402(b)(1), renumbered section 3115 of this title as this section.

Subsec. (a). Pub. L. 102-83, § 5(c)(1), substituted "3485(e)" for "1685(e)" in introductory provisions.

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

Pub. L. 102-83, § 4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration" in pars. (1) and (3).

Pub. L. 102-40, § 402(d)(1), substituted "5302" for "3102" in introductory provisions.

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: