

tions prescribed effective June 23, 2008, see 73 F.R. 29851] required by the amendments made by this section [amending this section and sections 5902, 5903, and 5905 of this title]."

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105-368, set out as a note under section 7251 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-446, title V, § 504(b), Nov. 2, 1994, 108 Stat. 4664, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to fee agreements entered into on or after the date of the enactment of this Act [Nov. 2, 1994]."

#### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-405, title III, § 303(b), Oct. 9, 1992, 106 Stat. 1985, provided that: "Paragraph (3) [now (4)] of section 5904(c) of title 38, United States Code, as added by subsection (a), shall apply with respect to services of agents and attorneys provided after the date of the enactment of this Act [Oct. 9, 1992]."

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-687 effective Sept. 1, 1989, see section 401(a) of Pub. L. 100-687, set out as an Effective Date note under section 7251 of this title.

#### FEE AGREEMENTS

Subsec. (d) of this section not to prevent award of fees and expenses under section 2412(d) of Title 28, Judiciary and Judicial Procedure, but subsec. (d) of this section inapplicable to such award where fees for the same work are received under both sections and claimant's attorney refunds to claimant amount of smaller fee, see section 506(c) of Pub. L. 102-572, set out as a note under section 2412 of Title 28.

#### APPLICABILITY TO ATTORNEYS' FEES

Pub. L. 100-687, title IV, § 403, Nov. 18, 1988, 102 Stat. 4122, which provided that the amendment to subsec. (c) of this section by section 104(a) of Pub. L. 100-687 applied only to services of agents and attorneys in cases in which a notice of disagreement was filed with the Department of Veterans Affairs on or after Nov. 18, 1988, was repealed by Pub. L. 107-103, title VI, § 603(b), Dec. 27, 2001, 115 Stat. 999.

[Repeal of section 403 of Pub. L. 100-687, formerly set out above, applicable to any appeal filed with the United States Court of Appeals for Veterans Claims on or after Dec. 27, 2001, or before that date but in which a final decision has not been made under section 7291 of this title as of that date, see section 603(d) of Pub. L. 107-103, set out as a note under section 7251 of this title.]

### § 5905. Penalty for certain acts

Whoever wrongfully withholds from any claimant or beneficiary any part of a benefit or claim allowed and due to the claimant or beneficiary, shall be fined as provided in title 18, or imprisoned not more than one year, or both.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1239, § 3405; Pub. L. 99-576, title VII, § 701(81), Oct. 28, 1986, 100 Stat. 3298; Pub. L. 100-687, div. A, title I, § 104(b), Nov. 18, 1988, 102 Stat. 4109; renumbered § 5905 and amended Pub. L. 102-40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, § 5(c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 109-461, title I, § 101(g), Dec. 22, 2006, 120 Stat. 3408.)

#### AMENDMENTS

2006—Pub. L. 109-461 struck out "(1) directly or indirectly solicits, contracts for, charges, or receives, or at-

tempts to solicit, contract for, charge, or receive, any fee or compensation except as provided in sections 5904 or 1984 of this title, or (2)" after "Whoever".

1991—Pub. L. 102-40 renumbered section 3405 of this title as this section and substituted "5904" for "3404".

Pub. L. 102-83 substituted "1984" for "784".

1988—Pub. L. 100-687 substituted "shall be fined as provided in title 18, or imprisoned not more than one year, or both" for "shall be fined not more than \$500 or imprisoned at hard labor for not more than two years, or both".

1986—Pub. L. 99-576 substituted "to the claimant or beneficiary" for "him".

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-687 effective Sept. 1, 1989, see section 401(a) of Pub. L. 100-687, set out as an Effective Date note under section 7251 of this title.

## CHAPTER 61—PENAL AND FORFEITURE PROVISIONS

#### Sec.

6101.	Misappropriation by fiduciaries.
6102.	Fraudulent acceptance of payments.
6103.	Forfeiture for fraud.
6104.	Forfeiture for treason.
6105.	Forfeiture for subversive activities.
6106.	Misuse of benefits by fiduciaries.
6107.	Reissuance of benefits.
6108.	Authority for judicial orders of restitution.

#### AMENDMENTS

2004—Pub. L. 108-454, title V, §§ 503(b), 504(b)(2), Dec. 10, 2004, 118 Stat. 3620, 3621, added items 6106 to 6108.

1991—Pub. L. 102-40, title IV, § 402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 3501 to 3505 as 6101 to 6105, respectively.

1959—Pub. L. 86-222, § 3(b), Sept. 1, 1959, 73 Stat. 453, added item 3505.

### § 6101. Misappropriation by fiduciaries

(a) Whoever, being a fiduciary (as defined in section 5506 of this title) for the benefit of a minor, incompetent, or other beneficiary under laws administered by the Secretary, shall lend, borrow, pledge, hypothecate, use, or exchange for other funds or property, except as authorized by law, or embezzle or in any manner misappropriate any such money or property derived therefrom in whole or in part and coming into such fiduciary's control in any manner whatever in the execution of such fiduciary's trust, or under color of such fiduciary's office or service as such fiduciary, shall be fined in accordance with title 18, or imprisoned not more than five years, or both.

(b) Any willful neglect or refusal to make and file proper accountings or reports concerning such money or property as required by law shall be taken to be sufficient evidence prima facie of such embezzlement or misappropriation.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1239, § 3501; Pub. L. 99-576, title VII, § 701(82), Oct. 28, 1986, 100 Stat. 3298; renumbered § 6101, Pub. L. 102-40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-54, § 14(d)(7), June 13, 1991, 105 Stat. 286; Pub. L. 102-83, § 4(a)(1), Aug. 6, 1991, 105 Stat. 403; Pub. L. 103-446, title XII, § 1201(e)(17), Nov. 2, 1994, 108 Stat. 4686; Pub. L. 108-454, title V, § 501(c), Dec. 10, 2004, 118 Stat. 3618.)

#### AMENDMENTS

2004—Subsec. (a). Pub. L. 108-454, § 501(c), substituted "fiduciary (as defined in section 5506 of this title) for