

amount owing that is not a debt or to a claim for an amount owing that is not a debt.

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

EFFECTIVE DATE

Section 3631 of title XXXVI of Pub. L. 101-647 provided that:

“(a) Except as provided in subsection (b), this Act [probably should be “title”, meaning title XXXVI of Pub. L. 101-647, which enacted this chapter and section 2044 of this title, amended sections 550, 1962, 1963, and 2410 of this title, section 523 of Title 11, Bankruptcy, and sections 3142 and 3552 of Title 18, Crimes and Criminal Procedure, and enacted provisions set out as a note under section 1 of this title] and the amendments made by this Act [title] shall take effect 180 days after the date of the enactment of this Act [Nov. 29, 1990].

“(b)(1) The amendments made by title I of this Act [probably should be “subtitle A of this title”, meaning subtitle A (§§3611, 3302 [3612]) of title XXXVI of Pub. L. 101-647, which enacted this chapter] shall apply with respect to actions pending on the effective date of this Act [probably should be title XXXVI of Pub. L. 101-647] in any court on—

“(A) a claim for a debt; or

“(B) a judgment for a debt.

“(2) All notices, writs, orders, and judgments in effect in such actions shall continue in effect until superseded or modified in an action under chapter 176 of title 28 of the United States Code, as added by title I of this Act [subtitle A of this title].

“(3) For purposes of this subsection—

“(A) the term ‘court’ means a Federal, State, or local court, and

“(B) the term ‘debt’ has the meaning given such term in section and [sic] 3002(3) of such chapter.”

§ 3002. Definitions

As used in this chapter:

(1) “Counsel for the United States” means—

(A) a United States attorney, an assistant United States attorney designated to act on behalf of the United States attorney, or an attorney with the United States Department of Justice or with a Federal agency who has litigation authority; and

(B) any private attorney authorized by contract made in accordance with section 3718 of title 31 to conduct litigation for collection of debts on behalf of the United States.

(2) “Court” means any court created by the Congress of the United States, excluding the United States Tax Court.

(3) “Debt” means—

(A) an amount that is owing to the United States on account of a direct loan, or loan insured or guaranteed, by the United States; or

(B) an amount that is owing to the United States on account of a fee, duty, lease, rent, service, sale of real or personal property, overpayment, fine, assessment, penalty, restitution, damages, interest, tax, bail bond forfeiture, reimbursement, recovery of a cost incurred by the United States, or other source of indebtedness to the United States, but that is not owing under the terms of a contract originally entered into by only persons other than the United States;

and includes any amount owing to the United States for the benefit of an Indian tribe or in-

dividual Indian, but excludes any amount to which the United States is entitled under section 3011(a).

(4) “Debtor” means a person who is liable for a debt or against whom there is a claim for a debt.

(5) “Disposable earnings” means that part of earnings remaining after all deductions required by law have been withheld.

(6) “Earnings” means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

(7) “Garnishee” means a person (other than the debtor) who has, or is reasonably thought to have, possession, custody, or control of any property in which the debtor has a substantial nonexempt interest, including any obligation due the debtor or to become due the debtor, and against whom a garnishment under section 3104 or 3205 is issued by a court.

(8) “Judgment” means a judgment, order, or decree entered in favor of the United States in a court and arising from a civil or criminal proceeding regarding a debt.

(9) “Nonexempt disposable earnings” means 25 percent of disposable earnings, subject to section 303 of the Consumer Credit Protection Act.

(10) “Person” includes a natural person (including an individual Indian), a corporation, a partnership, an unincorporated association, a trust, or an estate, or any other public or private entity, including a State or local government or an Indian tribe.

(11) “Prejudgment remedy” means the remedy of attachment, receivership, garnishment, or sequestration authorized by this chapter to be granted before judgment on the merits of a claim for a debt.

(12) “Property” includes any present or future interest, whether legal or equitable, in real, personal (including choses in action), or mixed property, tangible or intangible, vested or contingent, wherever located and however held (including community property and property held in trust (including spendthrift and pension trusts)), but excludes—

(A) property held in trust by the United States for the benefit of an Indian tribe or individual Indian; and

(B) Indian lands subject to restrictions against alienation imposed by the United States.

(13) “Security agreement” means an agreement that creates or provides for a lien.

(14) “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, or any territory or possession of the United States.

(15) “United States” means—

(A) a Federal corporation;

(B) an agency, department, commission, board, or other entity of the United States; or

(C) an instrumentality of the United States.

(16) “United States marshal” means a United States marshal, a deputy marshal, or

an official of the United States Marshals Service designated under section 564.

(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 Procedure 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