

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 order denying, limiting, conditioning, regulating, extending, or modifying the use of any enforcement procedure under this chapter.

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

§ 3014. Exempt property

(a) ELECTION TO EXEMPT PROPERTY.—An individual debtor may, in an action or proceeding under this chapter, elect to exempt property listed in either paragraph (1) or, in the alternative, paragraph (2). If such action or proceeding is against debtors who are husband and wife, one debtor may not elect to exempt property listed in paragraph (1) and the other debtor elect to exempt property listed in paragraph (2). If the debtors cannot agree on the alternative to be elected, they shall be deemed to elect paragraph (1). Such property is either—

(1) property that is specified in section 522(d) of title 11, as amended from time to time; or

(2)(A) any property that is exempt under Federal law, other than paragraph (1), or State or local law that is applicable on the date of the filing of the application for a remedy under this chapter at the place in which the debtor’s domicile has been located for the 180 days immediately preceding the date of the filing of such application, or for a longer portion of such 180-day period than in any other place; and

(B) any interest in property in which the debtor had, immediately before the filing of such application, an interest as a tenant by the entirety or joint tenant, or an interest in a community estate, to the extent that such interest is exempt from process under applicable nonbankruptcy law.

(b) EFFECT ON ASSERTION AND MANNER OF DETERMINATION.—

(1) STATEMENT.—A court may order the debtor to file a statement with regard to any claimed exemption. A copy of such statement shall be served on counsel for the United