

(d) Recovery for conservation, preservation or maintenance of property

The designee of the President may retain or recover from any property, or the net proceeds thereof, returned pursuant to subsection (a) or (b) of this section an amount not exceeding that expended or incurred by him for the conservation, preservation, or maintenance of such property or proceeds.

(Mar. 10, 1950, ch. 54, title II, §207, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 564; amended Pub. L. 85-791, §33, Aug. 28, 1958, 72 Stat. 951; Pub. L. 90-421, §1(6), July 24, 1968, 82 Stat. 421.)

REFERENCES IN TEXT

Executive Order 8389 of April 10, 1940, referred to in subssecs. (a)(1) and (b)(1), is Ex. Ord. No. 8389, Apr. 10, 1940, 5 F.R. 1400, which is set out under section 4305 of Title 50, War and National Defense.

AMENDMENTS

1968—Subsec. (c). Pub. L. 90-421 inserted “, except a person claiming under section 1631o of this title,” after “pursuant to section 1631a(a) of this title”.

1958—Subsec. (b). Pub. L. 85-791, in fifth sentence, substituted “shall forthwith be transmitted to the said designee by the clerk of the court” for “must be served on the said designee”, and in sixth sentence, substituted “receipt” for “service” and substituted “file with the court the record of the proceedings with respect to such claim, as provided in section 2112 of title 28” for “certify and file with the court a transcript of the entire record of the proceedings with respect to such claim”.

§ 1631g. Payment of debts**(a) Claims allowable; defenses**

Any property vested in the designee of the President pursuant to section 1631a(a) of this title, or the net proceeds thereof, shall be equitably applied by such designee in accordance with this section to the payment of debts owed by the person who owned such property immediately prior to its vesting in such designee. No debt claim shall be allowed under this section—

(1) if it is asserted against Bulgaria, Hungary, or Rumania (including the government or any political subdivisions, agencies, or instrumentalities thereof); or

(2) if it is based upon an obligation expressed or payable in any currency other than the currency of the United States; or

(3) if it was not due and owing—

(A) on October 9, 1940, in the event the property in respect of which such debt claim is filed was owned immediately prior to vesting by a national of Rumania;

(B) on March 4, 1941, in the event the property in respect of which such debt claim is filed was owned immediately prior to vesting by a national of Bulgaria; or

(C) on March 13, 1941, in the event that the property in respect of which such debt claim is filed was owned immediately prior to vesting by a national of Hungary.

Any defense to the payment of such claim which would have been available to the debtor shall be available to the designee, except that the period from and after December 7, 1941, shall not be included for the purpose of determining the applicability of any statute of limitations. Debt

claims allowable under this section shall include only those of natural persons who were citizens of the United States at the dates their debtors became obligated to them; those of other natural persons who are and have been continuously since December 7, 1941, residents of the United States; those of corporations organized under the laws of the United States or any State, Territory, or possession thereof, or the District of Columbia; and those acquired by the designee of the President under this subchapter. Successors in interest by inheritance, devise, bequest, or operation of law of debt claimants, other than persons who would themselves be disqualified hereunder from allowance of a debt claim, shall be eligible for payment to the same extent as their principals or predecessors would have been.

(b) Time limit for filing claims; extension; notice

The designee of the President under this subchapter shall fix a date or dates after which the filing of debt claims in respect of any or all debtors shall be barred, and may extend the time so fixed, and shall give at least sixty days' notice thereof by publication in the Federal Register. In no event shall the time extend beyond the expiration of one year from the date of the last vesting in the designee of the President of any property of a debtor in respect to whose debts the date is fixed. No debt shall be paid prior to the expiration of one hundred and twenty days after publication of the first such notice in respect of the debtor, nor in any event shall any payment of a debt claim be made out of any property or proceeds in respect of which a suit or proceeding for return pursuant to this subchapter is pending.

(c) Examination of claims; finality of determination

The designee shall examine the claims, and such evidence in respect thereof as may be presented to him or as he may introduce into the record, and shall make a determination, with respect to each claim, of allowance or disallowance, in whole or in part. The determination of the designee that a claim is within either paragraph (1) or (2) of subsection (a) of this section shall be final and shall not be subject to judicial review, and such claim shall not be considered a debt claim for any purpose under this section.

(d) Fund for debt payments

Payment of debt claims shall be made only out of such money included in, or received as net proceeds from the sale, use, or other disposition of, any property owned by the debtor immediately prior to its vesting in the designee of the President, as shall remain after deduction of (1) the amount of the expenses of the designee (including both expenses in connection with such property or proceeds thereof, and such portion as the designee shall fix of his other expenses), and of taxes, as defined in section 1631k of this title, paid by the designee in respect of such property or proceeds; and (2) such amount, if any, as the designee may establish as a cash reserve for the future payment of such expenses and taxes. If the money available hereunder for the payment of debt claims against the debtor is insufficient for the satisfaction of all claims al-

lowed by the designee, ratable payments shall be made in accordance with subsection (g) of this section to the extent permitted by the money available and additional payments shall be made whenever the designee shall determine that substantial further money has become available, through liquidation of any such property or otherwise. The designee shall not be required, through any judgment of any court, levy of execution, or otherwise, to sell or liquidate any property vested in him, for the purpose of paying or satisfying any debt claim.

(e) Amount payable; disallowance; notice; review; additional evidence; judgment

If the aggregate of debt claims filed as prescribed does not exceed the money from which, in accordance with subsection (d) of this section, payment may be made, the designee shall pay each claim to the extent allowed, and shall serve by registered mail, on each claimant whose claim is disallowed in whole or in part, a notice of such disallowance. Within sixty days after the date of mailing of the designee's determination, any debt claimant whose claim has been disallowed in whole or in part may file in the District Court of the United States for the District of Columbia a complaint for review of such disallowance naming the designee as defendant. Such complaint shall be served on the designee. The designee, within forty-five days after service on him, shall certify and file in said court a transcript of the record of proceedings with respect to the claim in question. Upon good cause shown such time may be extended by the court. Such record shall include the claim as filed, such evidence with respect thereto as may have been presented to the designee or introduced into the record by him, and the determination of the designee with respect thereto, including any findings made by him. The court may, in its discretion, take additional evidence, upon a showing that such evidence was offered to and excluded by the designee, or could not reasonably have been adduced before him or was not available to him. The court shall enter judgment affirming, modifying, or reversing the designee's determination, and directing payment in the amount, if any, which it finds due.

(f) Schedule of debt claims allowed; notice; review; additional evidence; intervention; judgment

If the aggregate of debt claims filed as prescribed exceeds the money from which, in accordance with subsection (d) of this section, payment may be made, the designee shall prepare and serve by registered mail on all claimants a schedule of all debt claims allowed and the proposed payment to each claimant. In preparing such schedule, the designee shall assign priorities in accordance with subsection (g) of this section. Within sixty days after the date of mailing of such schedule, any claimant considering himself aggrieved may file in the District Court of the United States for the District of Columbia a complaint for review of such schedule, naming the designee as defendant. A copy of such complaint shall be served upon the designee and on each claimant named in the schedule. The designee within forty-five days after service on him, shall certify and file in said

court a transcript of the record of proceedings with respect to such schedule. Upon good cause shown such time may be extended by the court. Such record shall include the claims in question as filed, such evidence with respect thereto as may have been presented to the designee or introduced into the record by him, any findings or other determinations made by the designee with respect thereto, and the schedule prepared by the designee. The court may, in its discretion, take additional evidence, upon a showing that such evidence was offered to and excluded by the designee or could not reasonably have been adduced before him or was not available to him. Any interested debt claimant who has filed a claim with the designee pursuant to this section, upon timely application to the court, shall be permitted to intervene in such review proceedings. The court shall enter judgment affirming or modifying the schedule as prepared by the designee and directing payment, if any be found due, pursuant to the schedule as affirmed or modified and to the extent of the money from which, in accordance with subsection (d) of this section, payment may be made. Pending the decision of the court on such complaint for review, and pending final determination of any appeal from such decision, payment may be made only to an extent, if any, consistent with the contentions of all claimants for review.

(g) Priority of claims

Debt claims shall be paid in the following order of priority: (1) Wage and salary claims, not to exceed \$600; (2) claims entitled to priority under sections 3713(a) and 9309 of title 31, except as provided in subsection (h) of this section; (3) all other claims for services rendered; for expenses incurred in connection with such services, for rent, for goods and materials delivered to the debtor, and for payments made to the debtor for goods or services not received by the claimant; (4) all other debt claims. No payment shall be made to claimants within a subordinate class unless the money from which, in accordance with subsection (d) of this section, payment may be made permits payment in full of all allowed claims in every prior class.

(h) Priority as debt due United States

No debt of any kind shall be entitled to priority under any law of the United States or any State, Territory, or possession thereof, or the District of Columbia, solely by reason of becoming a debt due or owing to the United States as a result of its acquisition by the designee of the President under this subchapter.

(i) Exclusiveness of relief

The sole relief and remedy available to any person seeking satisfaction of a debt claim out of any property vested in the designee under section 1631a(a) of this title, or the proceeds thereof, shall be the relief and remedy provided in this section, and suits for the satisfaction of debt claims shall not be instituted, prosecuted, or further maintained except in conformity with this section. No person asserting any interest, right, or title in any property or proceeds acquired by the designee shall be barred from proceeding pursuant to this subchapter for the return thereof, by reason of any proceeding which

he may have brought pursuant to this section; nor shall any security interest asserted by the creditor in any such property or proceeds be deemed to have been waived solely by reason of such proceeding. Nothing contained in this section shall bar any person from the prosecution of any suit at law or in equity against the original debtor or against any other person who may be liable for the payment of any debt for which a claim might have been filed hereunder. No purchaser, lessee, licensee, or other transferee of any property from the designee shall, solely by reason of such purchase, lease, license, or transfer, become liable for the payment of any debt owed by the person who owned such property prior to its vesting in the designee. Payment by the designee to any debt claimant shall constitute, to the extent of payment, a discharge of the indebtedness represented by the claim.

(Mar. 10, 1950, ch. 54, title II, §208, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 565.)

CODIFICATION

In subsec. (g), “sections 3713(a) and 9309 of title 31” substituted for “sections 3466 and 3468 of the Revised Statutes (31 U.S.C., secs. 191 and 193)” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§ 1631h. Hearings on claims; rules and regulations; delegation of powers

The officer or agency designated by the President under this subchapter to entertain claims under sections 1631f(b) and 1631g of this title shall have power to hold such hearings as may be deemed necessary; to prescribe rules and regulations governing the form and contents of claims, the proof thereof, and all other matters related to proceedings on such claims; and in connection with such proceedings to issue subpoenas, administer oaths, and examine witnesses. Such powers, and any other powers conferred upon such officer or agency by sections 1631f(b) and 1631g of this title may be exercised through subordinate officers designated by such officer or agency.

(Mar. 10, 1950, ch. 54, title II, §209, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 568.)

§ 1631i. Limitations

No suit may be instituted pursuant to section 1631f(a) of this title after the expiration of one year from the date of vesting of the property in respect of which relief is sought. No return may be made pursuant to section 1631f(b) of this title unless notice of claim has been filed within one year from the date of vesting of the property in respect of which the claim is filed.

(Mar. 10, 1950, ch. 54, title II, §210, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 568.)

§ 1631j. Fees of agents, attorneys, or representatives

No property or proceeds shall be returned under this subchapter, nor shall any payment be made or judgment awarded in respect of any property vested in any officer or agency designated by the President under this subchapter

unless satisfactory evidence is furnished to said designee, or the court, as the case may be, that the aggregate of the fees to be paid to all agents, attorneys at law or in fact, or representatives, for services rendered in connection with such return or payment or judgment does not exceed 10 per centum of the value of such property or proceeds or of such payment. Any agent, attorney at law or in fact, or representative, believing that the aggregate of the fees should be in excess of such 10 per centum may, in the case of any return of, or the making of any payment in respect of, such property or proceeds by the President or such officer or agency as he may designate, petition the district court of the United States for the district in which he resides for an order authorizing fees in excess of 10 per centum and shall name such officer or agency as respondent. The court hearing such petition or a court awarding any judgment in respect of any such property or proceeds, as the case may be, shall approve an aggregate of fees in excess of 10 per centum of the value of such property or proceeds only upon a finding that there exist special circumstances of unusual hardship which require the payment of such excess. Any person accepting any fee in excess of an amount approved under this section, or retaining for more than thirty days any portion of a fee, accepted prior to such approval, in excess of the fee as approved, shall be guilty of a violation of this subchapter.

(Mar. 10, 1950, ch. 54, title II, §211, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 568.)

§ 1631k. Taxes

(a) Liability

The vesting in any officer or agency designated by the President under this subchapter of any property or the receipt by such designee of any earnings, increment, or proceeds thereof shall not render inapplicable any Federal, State, Territorial, or local tax for any period before or after such vesting.

(b) Payment by designee; liability of former owner; enforcement of tax liability; transfer of property

The officer or agency designated by the President under this subchapter shall, notwithstanding the filing of any claim or the institution of any suit under this subchapter, pay any tax incident to any such property, or the earnings, increment, or proceeds thereof, at the earliest time appearing to him to be not contrary to the interest of the United States. The former owner shall not be liable for any such tax accruing while such property, earnings, increment, or proceeds are held by such designee, unless they are returned pursuant to this subchapter without payment of such tax by the designee. Every such tax shall be paid by the designee to the same extent, as nearly as may be deemed practicable, as though the property had not been vested, and shall be paid only out of the property, or earnings, increment, or proceeds thereof, to which they are incident or out of other property acquired from the same former owner, or earnings, increment, or proceeds thereof. No tax liability may be enforced from any property