

pay and allowances of members of the armed force concerned.

(c) The Secretaries concerned shall prescribe regulations to carry out this section, including regulations for the manner in which reimbursement under this section is to be made.

(d) In this section:

(1) The term “financial institution” means a bank, savings and loan association, or similar institution or a credit union chartered by the United States or a State.

(2) The term “pay” includes (A) retired pay, and (B) allowances.

(Added Pub. L. 99-661, div. A, title VI, §662(a)(1), Nov. 14, 1986, 100 Stat. 3893; amended Pub. L. 101-189, div. A, title VI, §664(a)(1)-(3)(A), Nov. 29, 1989, 103 Stat. 1466; Pub. L. 102-25, title VII, §701(e)(8)(A), Apr. 6, 1991, 105 Stat. 115; Pub. L. 104-106, div. A, title XV, §1501(c)(8), Feb. 10, 1996, 110 Stat. 499; Pub. L. 105-261, div. A, title V, §564(a), Oct. 17, 1998, 112 Stat. 2029; Pub. L. 106-398, §1 [[div. A], title V, §579(c)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-141.)

#### AMENDMENTS

2000—Pub. L. 106-398 substituted “Financial institution charges incurred because of Government error in direct deposit of pay: reimbursement” for “Reimbursement for financial institution charges incurred because of Government error in direct deposit of pay” in section catchline.

1998—Subsec. (d)(1). Pub. L. 105-261 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The term ‘financial institution’ has the meaning given the term ‘financial organization’ in section 3332(a) of title 31.”

1996—Subsec. (a)(1). Pub. L. 104-106 substituted “chapter 1223” for “chapter 67”.

1991—Pub. L. 102-25 struck out “mandatory” after “error in” in section catchline.

1989—Pub. L. 101-189, §664(a)(3)(A), amended section catchline generally, substituting “Reimbursement for financial institution charges incurred because of Government” for “Relief for expenses because of”.

Subsec. (a). Pub. L. 101-189, §664(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “A member of the armed forces who, by law or regulation, is required to participate in a program for the automatic deposit of pay to a financial institution may be reimbursed for overdraft charges levied by the financial institution when such charges result from an administrative or mechanical error on the part of the Government that causes such member’s pay to be deposited late or in an incorrect amount or manner.”

Subsec. (d). Pub. L. 101-189, §664(a)(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “In this section, the term ‘financial institution’ has the meaning given that term in section 3332 of title 31.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as originally enacted.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-189, div. A, title VI, §664(c), Nov. 29, 1989, 103 Stat. 1467, provided that: “The amendments made by subsection (a) [amending this section], and section 1594 of title 10, United States Code, as added by subsection (b), shall apply with respect to pay and allowances deposited (or scheduled to be deposited) on or after the first day of the first month beginning after the date of the enactment of this Act [Nov. 29, 1989].”

#### EFFECTIVE DATE

Pub. L. 99-661, div. A, title VI, §662(c), Nov. 14, 1986, 100 Stat. 3894, provided that: “Section 1053 of title 10, United States Code, as added by subsection (a), shall apply only with respect to charges levied as a result of errors occurring on or after the date of the enactment of this Act [Nov. 14, 1986].”

#### § 1053a. Repealed. Pub. L. 113-66, div. A, title VI, § 621(c)(2)(A), Dec. 26, 2013, 127 Stat. 784]

Section, added Pub. L. 106-398, §1 [[div. A], title V, §579(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-141, related to reimbursement for expenses incurred in connection with leave canceled due to contingency operations.

#### § 1054. Defense of certain suits arising out of legal malpractice

(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for injury or loss of property caused by the negligent or wrongful act or omission of any person who is an attorney, paralegal, or other member of a legal staff within the Department of Defense (including the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32) or within the Coast Guard, in connection with providing legal services while acting within the scope of the person’s duties or employment, is exclusive of any other civil action or proceeding by reason of the same subject matter against the person (or the estate of the person) whose act or omission gave rise to such action or proceeding.

(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) (or the estate of such person) for any such injury. Any person against whom such a civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person (or an attested true copy thereof) to such person’s immediate superior or to whomever was designated by the head of the agency concerned to receive such papers. Such person shall promptly furnish copies of the pleading and process therein—

- (1) to the United States attorney for the district embracing the place wherein the action or proceeding is brought;
- (2) to the Attorney General; and
- (3) to the head of the agency concerned.

(c) Upon a certification by the Attorney General that a person described in subsection (a) was acting in the scope of such person’s duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court—

- (1) shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending; and
- (2) shall be deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) is not available