

§ 414. Fees paid by residents**(a) Monthly fees**

The Administrator of each facility of the Retirement Home shall collect a monthly fee from each resident of that facility.

(b) Deposit of fees

The Administrators shall deposit fees collected under subsection (a) in the Armed Forces Retirement Home Trust Fund.

(c) Fixing fees

(1) The Chief Operating Officer, with the approval of the Secretary of Defense, shall from time to time prescribe the fees required by subsection (a). Changes to such fees shall be based on the financial needs of the Retirement Home and the ability of the residents to pay. A change of a fee may not take effect until 120 days after the Secretary of Defense transmits a notification of the change to the Committees on Armed Services of the Senate and the House of Representatives.

(2)(A) The fee shall be fixed as a percentage of the monthly income and monthly payments (including Federal payments) received by a resident. The percentage shall be the same for each facility of the Retirement Home. The Secretary of Defense may make any adjustment in a percentage that the Secretary determines appropriate.

(B) The calculation of monthly income and monthly payments under subparagraph (A) for a resident eligible under section 412(a)(5) of this title shall not be less than the retirement pay for equivalent active duty service as determined by the Chief Operating Officer, except as the Chief Operating Officer may provide because of the compelling personal circumstances of such resident.

(3) The fee shall be subject to a limitation on maximum monthly amount. The amount of the limitation shall be increased, effective on January 1 of each year, by the percentage of the increase in retired pay and retainer pay that takes effect on the preceding December 1 under subsection (b) of section 1401a of title 10 without regard to paragraph (3) of such subsection.

(4) The Administrator of each facility of the Retirement Home may collect a fee upon admission from a resident accepted under section 412(a)(5) of this title equal to the deductions then in effect under section 1007(i)(1) of title 37 for each year of service computed under chapter 1223 of title 10 and shall deposit such fee in the Armed Forces Retirement Home Trust Fund.

(Pub. L. 101-510, div. A, title XV, § 1514, Nov. 5, 1990, 104 Stat. 1725; Pub. L. 103-337, div. A, title III, § 371(b), Oct. 5, 1994, 108 Stat. 2735; Pub. L. 107-107, div. A, title XIV, § 1405(b), Dec. 28, 2001, 115 Stat. 1261; Pub. L. 112-81, div. A, title V, §§ 564(b), 565, Dec. 31, 2011, 125 Stat. 1424; Pub. L. 116-283, div. A, title XIV, § 1412(b), Jan. 1, 2021, 134 Stat. 4031.)

Editorial Notes**AMENDMENTS**

2021—Subsec. (c)(2). Pub. L. 116-283, § 1412(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The fee shall be fixed as a percent-

age of the monthly income and monthly payments (including Federal payments) received by a resident. The percentage shall be the same for each facility of the Retirement Home. The Secretary of Defense may make any adjustment in a percentage that the Secretary determines appropriate.”

Subsec. (c)(4). Pub. L. 116-283, § 1412(b)(2), added par. (4).

2011—Subsec. (a). Pub. L. 112-81, § 564(b)(1), substituted “Administrator” for “Director”.

Subsec. (b). Pub. L. 112-81, § 564(b)(2), substituted “Administrators” for “Directors”.

Subsec. (c)(3). Pub. L. 112-81, § 565(a), struck out at end “The first increase in a limitation on maximum monthly amount shall take effect on January 1, 2003.”

Subsec. (d). Pub. L. 112-81, § 565(b), struck out subsec. (d) which related to transitional fee structures.

2001—Pub. L. 107-107 reenacted section catchline without change and amended text generally, substituting present provisions for provisions relating to collection of monthly fees in subsec. (a), deposit of fees in subsec. (b), fixing fees in subsec. (c), and application of fees in subsec. (d).

1994—Subsec. (c)(2). Pub. L. 103-337, § 371(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The fee shall be fixed as a percentage of Federal payments made to a resident, including monthly retired or retainer pay, monthly civil service annuity, monthly compensation or pension paid to the resident by the Secretary of Veterans Affairs, and Social Security payments. Residents who do not receive such Federal payments shall be required to pay a monthly fee that is equivalent to the average monthly fee paid by residents who receive Federal payments, subject to such adjustments in the fee as the Retirement Home Board may make. The percentage shall be the same for each establishment of the Retirement Home.”

Subsec. (d). Pub. L. 103-337, § 371(b)(2), added subsec. (d) and struck out former subsec. (d) which specified fees to be paid by residents of the Naval Home and residents of the United States Soldiers’ and Airmen’s Home who became residents of the Retirement Home on the effective date specified in section 1541(a) of Pub. L. 101-510.

Subsec. (e). Pub. L. 103-337, § 371(b)(2)(A), struck out subsec. (e) which read as follows: “A person who becomes a resident of the Retirement Home after the effective date specified in section 1541(a) shall be required to pay a monthly fee that is equal to 25 percent of Federal payments made to the resident, subject to such adjustments in the fee as may be made under subsection (c) of this section.”

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1994 AMENDMENT**

Pub. L. 103-337, div. A, title III, § 371(d)(2), Oct. 5, 1994, 108 Stat. 2735, provided that: “The amendments made by subsection (b) [amending this section] shall take effect on October 1, 1997.”

EFFECTIVE DATE

Section effective one year after Nov. 5, 1990, see section 1541(a) of Pub. L. 101-510, formerly set out as a note under section 401 of this title.

RELIEF FOR RESIDENTS OF THE ARMED FORCES RETIREMENT HOME IMPACTED BY INCREASE IN FEES

Pub. L. 115-232, div. A, title XIV, § 1415, Aug. 13, 2018, 132 Stat. 2092, provided that:

“(a) **PROHIBITION ON REMOVAL FOR INABILITY TO PAY FEE INCREASE.**—A resident of the Armed Forces Retirement Home as of September 30, 2018, may not be removed or released from the Retirement Home after that date based solely upon the inability of the resident to pay the amount of any increase in fees applicable to residents of the Retirement Home that takes effect on October 1, 2018.

“(b) **OTHER RELIEF.**—The Chief Operating Officer of the Armed Forces Retirement Home shall take all ac-

tions practicable to accommodate residents of the Retirement Home who are impacted by the fee structure applicable to residents of the Retirement Home that takes effect on October 1, 2018, including through hardship relief, additional deductions from gross income, and other appropriate actions.”

LIMITATION ON APPLICABILITY OF FEE INCREASE FOR RESIDENTS OF THE ARMED FORCES RETIREMENT HOME

Pub. L. 115-232, div. A, title XIV, §1416, Aug. 13, 2018, 132 Stat. 2092, provided that:

“(a) **IN GENERAL.**—In the case of an individual who was a resident of the Armed Forces Retirement Home as of April 9, 2018, the increase in fees for residents of the Home scheduled to take effect on October 1, 2018, shall occur on an incremental basis over the three-year period beginning on October 1, 2018, such that the total fee for such individual as a resident of the Home as of the end of such period covers the cost of care of such individual as a resident of the Home.

“(b) **NOTICE AND WAIT ON IMPLEMENTATION OF FUTURE INCREASES.**—Any increase in the fees for residents of the Home that is scheduled to take effect after October 1, 2018, may not take effect until 90 days after the date on which a report on the increase is submitted to the Committees on Armed Services of the Senate and the House of Representatives.”

§ 415. Chief Operating Officer

(a) Appointment

(1) The Secretary of Defense shall appoint the Chief Operating Officer of the Retirement Home.

(2) The Chief Operating Officer shall serve at the pleasure of the Secretary of Defense.

(3) The Secretary of Defense shall evaluate the performance of the Chief Operating Officer at least once each year.

(b) Qualifications

To qualify for appointment as the Chief Operating Officer, a person shall—

(1) be a continuing care retirement community professional;

(2) have appropriate leadership and management skills; and

(3) have experience and expertise in the operation and management of retirement homes and in the provision of long-term medical care for older persons.

(c) Responsibilities

(1) The Chief Operating Officer shall be responsible to the Secretary of Defense for the overall direction, operation, and management of the Retirement Home and shall report to the Secretary on those matters.

(2) The Chief Operating Officer shall supervise the operation and administration of the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport.

(3) The Chief Operating Officer shall perform the following duties:

(A) Issue, and ensure compliance with, appropriate rules for the operation of the Retirement Home.

(B) Periodically visit, and inspect the operation of, the facilities of the Retirement Home.

(C) Periodically examine and audit the accounts of the Retirement Home.

(D) Establish any advisory body or bodies that the Chief Operating Officer considers to be necessary.

(d) Compensation

(1) The Secretary of Defense may prescribe the pay of the Chief Operating Officer, except that

the annual rate of basic pay, including locality pay, of the Chief Operating Officer may not exceed the annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5.

(2) In addition to basic pay and any locality pay prescribed for the Chief Operating Officer, the Secretary may award the Chief Operating Officer, not more than once each year, a bonus based on the performance of the Chief Operating Officer for the year. The Secretary shall prescribe the amount of any such bonus.

(3) The total amount of the basic pay and bonus paid the Chief Operating Officer for a year under this section may not exceed the annual rate of basic pay payable for level I of the Executive Schedule under section 5312 of title 5.

(e) Administrative staff

(1) The Chief Operating Officer may, subject to the approval of the Secretary of Defense, appoint a staff to assist in the performance of the Chief Operating Officer’s duties in the overall administration of the Retirement Home.

(2) The Chief Operating Officer shall prescribe the rates of pay applicable to the members of the staff appointed under paragraph (1), except that—

(A) a staff member who is a member of the Armed Forces on active duty or who is a full-time officer or employee of the United States may not receive additional pay by reason of service on the administrative staff; and

(B) the limitations in section 5373 of title 5, relating to pay set by administrative action, shall apply to the rates of pay prescribed under this paragraph.

(f) Acceptance of gifts

(1) The Chief Operating Officer may accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property, or any income therefrom or other interest therein, for the benefit of the Retirement Home.

(2) Monies received as gifts, or realized from the disposition of property and facilities received as gifts, shall be deposited in the Armed Forces Retirement Home Trust Fund.

(Pub. L. 101-510, div. A, title XV, §1515, Nov. 5, 1990, 104 Stat. 1726; Pub. L. 102-190, div. A, title X, §1062(a)(4), Dec. 5, 1991, 105 Stat. 1475; Pub. L. 103-160, div. A, title III, §366(b), Nov. 30, 1993, 107 Stat. 1630; Pub. L. 104-201, div. A, title X, §1051(a), (b)(1), Sept. 23, 1996, 110 Stat. 2648; Pub. L. 107-107, div. A, title XIV, §1404(a), Dec. 28, 2001, 115 Stat. 1259; Pub. L. 112-81, div. A, title V, §563(b)(2), Dec. 31, 2011, 125 Stat. 1423; Pub. L. 115-232, div. A, title XIV, §1414, Aug. 13, 2018, 132 Stat. 2092.)

Editorial Notes

AMENDMENTS

2018—Subsec. (f)(1). Pub. L. 115-232 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The Chief Operating Officer may accept gifts of money, property, and facilities on behalf of the Retirement Home.”

2011—Subsec. (c)(2). Pub. L. 112-81 struck out “, including the Local Boards of those facilities” before period at end.