

the jurisdiction of the Secretary may settle a claim that otherwise would be payable under this section in an amount not to exceed \$25,000. A decision of the officer or employee who makes a final settlement decision under this section may be appealed by the claimant to the Secretary concerned or an officer or employee designated by the Secretary for that purpose.

(g) Notwithstanding any other provision of law, the settlement of a claim under this section is final and conclusive.

(h) In this section, "settle" means consider, ascertain, adjust, determine, and dispose of a claim, whether by full or partial allowance or disallowance.

(Added Pub. L. 86-740, §1(1), Sept. 13, 1960, 74 Stat. 878; amended Pub. L. 87-649, §8(b), Sept. 7, 1962, 76 Stat. 495; Pub. L. 90-486, §2(3), Aug. 13, 1968, 82 Stat. 756; Pub. L. 90-525, §6, Sept. 26, 1968, 82 Stat. 878; Pub. L. 91-312, §3, July 8, 1970, 84 Stat. 412; Pub. L. 92-445, Sept. 29, 1972, 86 Stat. 745; Pub. L. 93-336, §3, July 8, 1974, 88 Stat. 292; Pub. L. 98-564, §4, Oct. 30, 1984, 98 Stat. 2919; Pub. L. 104-316, title II, §202(r), Oct. 19, 1996, 110 Stat. 3844.)

Editorial Notes

AMENDMENTS

1996—Subsec. (d). Pub. L. 104-316 substituted "Secretary of the Treasury" for "Comptroller General".

1984—Subsec. (a). Pub. L. 98-564, §4(1), substituted "\$100,000" for "\$25,000".

Subsec. (d). Pub. L. 98-564, §4(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "If the Secretary of the military department concerned considers that a claim in excess of \$25,000 is meritorious and would otherwise be covered by this section, he may pay the claimant \$25,000 and report the excess to Congress for its consideration".

Subsec. (f). Pub. L. 98-564, §4(3), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: "In any case where the amount to be paid is not more than \$5,000, the authority contained in subsection (a) may be delegated to any officer of the Army or the Air Force, as the case may be, who has been delegated authority under section 2733(g) of title 10, to settle similar claims, subject to appeal to the Secretary concerned, or his designee for that purpose".

1974—Subsecs. (a), (d). Pub. L. 93-336, §3(1), (2), substituted "\$25,000" for "\$15,000".

Subsec. (f). Pub. L. 93-336, §3(3), substituted "\$5,000" for "\$2,500".

1972—Subsec. (b)(4). Pub. L. 92-445 inserted provision that claim may be allowed to extent that law of place where act or omission complained of occurred would permit recovery from a private individual under similar circumstances, when damage to or loss of property, or personal injury or death was caused wholly or partly by a negligent or wrongful act of claimant, his agent, or his employee.

1970—Subsecs. (a), (d). Pub. L. 91-312 substituted "\$15,000" for "\$5,000".

1968—Subsec. (a). Pub. L. 90-486 struck out "caused by a person employed under section 709 of this title acting within the scope of his employment;" after "acting within the scope of his employment;".

Subsec. (f). Pub. L. 90-525 increased limitation on amount of settlement from \$1,000 to \$2,500 and provided for appeals to Secretary concerned, or his designee, from determinations delegating authority to settle claims to an officer of the Army or the Air Force.

1962—Subsec. (a)(3). Pub. L. 87-649 substituted "section 206 of title 37" for "section 301 of title 37".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-486 effective Jan. 1, 1968, except that no deductions or withholding from salary which result therefrom shall commence before the first day of the first pay period that begins on or after Jan. 1, 1968, see section 11 of Pub. L. 90-486, set out as a note under section 709 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

SAVINGS PROVISION FOR CLAIMS ARISING BEFORE JANUARY 1, 1969

Settlement and payment of claims arising under this section before January 1, 1969, see section 3(a) of Pub. L. 90-486, set out as a note under section 709 of this title.

§ 716. Claims for overpayment of pay and allowances, and travel and transportation allowances

(a) A claim of the United States against a person arising out of an erroneous payment of any pay or allowances made before, on, or after October 2, 1972, or arising out of an erroneous payment of travel and transportation allowances, to or on behalf of a member or former member of the National Guard, the collection of which would be against equity and good conscience and not in the best interest of the United States, may be waived in whole or in part by—

(1) the Director of the Office of Management and Budget; or

(2) the Secretary concerned, as defined in section 101(5) of title 37, when—

(A) the claim is in an amount aggregating not more than \$10,000; and

(B) the waiver is made in accordance with standards which the Director of the Office of Management and Budget shall prescribe.

(b) The Director of the Office of Management and Budget or the Secretary concerned, as the case may be, may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the member or any other person having an interest in obtaining a waiver of the claim; or

(2) if application for waiver is received in his office after the expiration of five years immediately following the date on which the erroneous payment was discovered.

(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the department concerned at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that department for that refund within two years following the effective date of the waiver. The Secretary concerned shall pay from current applicable appropriations that refund in accordance with this section.

(d) In the audit and settlement of accounts of any accountable officer or official, full credit

shall be given for any amounts with respect to which collection by the United States is waived under this section.

(e) An erroneous payment, the collection of which is waived under this section, is considered a valid payment for all purposes.

(f) This section does not affect any authority under any other law to litigate, settle, compromise, or waive any claim of the United States.

(Added Pub. L. 92-453, §2(1), Oct. 2, 1972, 86 Stat. 759; amended Pub. L. 96-513, title V, §515(9), Dec. 12, 1980, 94 Stat. 2937; Pub. L. 99-224, §3(a), Dec. 28, 1985, 99 Stat. 1742; Pub. L. 102-190, div. A, title VI, §657(c), Dec. 5, 1991, 105 Stat. 1393; Pub. L. 104-316, title I, §116, Oct. 19, 1996, 110 Stat. 3835; Pub. L. 109-364, div. A, title VI, §671(b), Oct. 17, 2006, 120 Stat. 2270.)

Editorial Notes

AMENDMENTS

2006—Subsec. (a)(2)(A). Pub. L. 109-364, §671(b)(1), substituted “\$10,000” for “\$1,500”.

Subsec. (b)(2). Pub. L. 109-364, §671(b)(2), substituted “five” for “three”.

1996—Subsec. (a)(1). Pub. L. 104-316, §116(1)(A), substituted “Director of the Office of Management and Budget” for “Comptroller General”.

Subsec. (a)(2). Pub. L. 104-316, §116(1)(B), inserted “and” at end of subpar. (A), redesignated subpar. (C) as (B) and substituted “Director of the Office of Management and Budget” for “Comptroller General”, and struck out former subpar. (B) which read as follows: “the claim is not the subject of an exception made by the Comptroller General in the account of any accountable officer or official; and”.

Subsec. (b). Pub. L. 104-316, §116(2), substituted “The Director of the Office of Management and Budget” for “Comptroller General” in introductory provisions.

1991—Subsec. (a)(2)(A). Pub. L. 102-190 substituted “\$1,500” for “\$500”.

1985—Pub. L. 99-224, §3(a)(1), substituted “and travel” for “other than travel” in section catchline.

Subsec. (a). Pub. L. 99-224, §3(a)(2), substituted “made before, on, or after October 2, 1972, or arising out of an erroneous payment of travel and transportation allowances” for “, other than travel and transportation allowances, made before or after October 2, 1972”.

Subsec. (b)(2). Pub. L. 99-224, §3(a)(3), struck out “of pay or allowances, other than travel and transportation allowances,” before “was discovered”.

1980—Subsec. (a). Pub. L. 96-513 substituted “October 2, 1972” for “the effective date of this section”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-364 effective Mar. 1, 2007, see section 671(c) of Pub. L. 109-364, set out as a note under section 2774 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-316 effective 60 days after Oct. 19, 1996, see section 101(e) of Pub. L. 104-316, set out as a note under section 4593 of Title 2, The Congress.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-224 applicable to any claim arising out of an erroneous payment of travel and transportation allowances made on or after Dec. 28, 1985, see section 4 of Pub. L. 99-224, set out as a note under section 5584 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

[§ 717. Repealed. Pub. L. 109-163, div. A, title V, § 589(b)(2), Jan. 6, 2006, 119 Stat. 3279]

Section, added Pub. L. 108-375, div. A, title V, § 520(b)(1), Oct. 28, 2004, 118 Stat. 1886, related to presentation of recognition items for retention purposes.

CHAPTER 9—HOMELAND DEFENSE ACTIVITIES

Sec.

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§ 901. Definitions

In this chapter:

(1) The term “homeland defense activity” means an activity undertaken for the military protection of the territory or domestic population of the United States, or of infrastructure or other assets of the United States determined by the Secretary of Defense as being critical to national security, from a threat or aggression against the United States.

(2) The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(Added Pub. L. 108-375, div. A, title V, §512(a)(1), Oct. 28, 2004, 118 Stat. 1878.)

Statutory Notes and Related Subsidiaries

PILOT PROGRAM ON REMOTE PROVISION BY NATIONAL GUARD TO NATIONAL GUARDS OF OTHER STATES OF CYBERSECURITY TECHNICAL ASSISTANCE IN TRAINING, PREPARATION, AND RESPONSE TO CYBER INCIDENTS

Pub. L. 116-283, div. A, title XVII, §1725, Jan. 1, 2021, 134 Stat. 4112, provided that:

“(a) PILOT PROGRAM AUTHORIZED.—

“(1) IN GENERAL.—The Secretary of Defense may conduct a pilot program to assess the feasibility and advisability of the development of a capability in support of Department of Defense missions within the National Guard through which a National Guard of a State remotely provides National Guards of other States (whether or not in the same Armed Force as the providing National Guard) with cybersecurity technical assistance in training, preparation, and response to cyber incidents.

“(2) TERMINATION.—The authorization under paragraph (1) to conduct the pilot program expires 24 months after the date of the enactment of this Act [Jan. 1, 2021].

“(b) ASSESSMENT PRIOR TO COMMENCEMENT.—For purposes of the pilot program described in subsection (a), the Secretary of Defense shall, prior to commencing the pilot program, for purposes of evaluating existing platforms, technologies, and capabilities under subsection (c), and for establishing eligibility and participation requirements under such subsection—

“(1) conduct an assessment of—

“(A) existing cyber response capacities of the Army National Guard or Air National Guard, as applicable, in each State; and

“(B) any existing platform, technology, or capability of a National Guard that provides the capability described in subsection (a)(1);

“(2) determine whether a platform, technology, or capability referred to in subparagraph (B) is suitable for expansion for purposes of the pilot program; and