

Editorial Notes

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (a)(3)(A), is Jan. 1, 1993, see section 3 of Pub. L. 102-559, set out as an Effective Date note under section 3701 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Jan. 1, 1993, see section 3 of Pub. L. 102-559, set out as a note under section 3701 of this title.

CHAPTER 179—JUDICIAL REVIEW OF CERTAIN ACTIONS BY PRESIDENTIAL OFFICES

Sec.

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§ 3901. Civil actions

(a) PARTIES.—In an action under section 1346(g) of this title, the defendant shall be the employing office alleged to have committed the violation involved.

(b) JURY TRIAL.—In an action described in subsection (a), any party may demand a jury trial where a jury trial would be available in an action against a private defendant under the relevant law made applicable by chapter 5 of title 3. In any case in which a violation of section 411 of title 3 is alleged, the court shall not inform the jury of the maximum amount of compensatory damages available under section 411(b)(1) or 411(b)(3) of title 3.

(Added Pub. L. 104-331, §3(c), Oct. 26, 1996, 110 Stat. 4070.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as a note under section 1296 of this title.

§ 3902. Judicial review of regulations

In any proceeding under section 1296 or 1346(g) of this title in which the application of a regulation issued under chapter 5 of title 3 is at issue, the court may review the validity of the regulation in accordance with the provisions of subparagraphs (A) through (D) of section 706(2) of title 5. If the court determines that the regulation is invalid, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provisions with respect to which the invalid regulation was issued. Except as provided in this section, the validity of regulations issued under this chapter is not subject to judicial review.

(Added Pub. L. 104-331, §3(c), Oct. 26, 1996, 110 Stat. 4070.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as a note under section 1296 of this title.

§ 3903. Effect of failure to issue regulations

In any proceeding under section 1296 or 1346(g) of this title, if the President, the designee of the President, or the Federal Labor Relations Authority has not issued a regulation on a matter for which chapter 5 of title 3 requires a regulation to be issued, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

(Added Pub. L. 104-331, §3(c), Oct. 26, 1996, 110 Stat. 4070.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as a note under section 1296 of this title.

§ 3904. Expedited review of certain appeals

(a) IN GENERAL.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order of a court upon the constitutionality of any provision of chapter 5 of title 3.

(b) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal referred to in subsection (a), advance the appeal on the docket, and expedite the appeal to the greatest extent possible.

(Added Pub. L. 104-331, §3(c), Oct. 26, 1996, 110 Stat. 4070.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as a note under section 1296 of this title.

§ 3905. Attorney's fees and interest

(a) ATTORNEY'S FEES.—If a covered employee, with respect to any claim under chapter 5 of title 3, or a qualified person with a disability, with respect to any claim under section 421 of title 3, is a prevailing party in any proceeding under section 1296 or section 1346(g), the court may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964.

(b) INTEREST.—In any proceeding under section 1296 or section 1346(g), the same interest to compensate for delay in payment shall be made available as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964.

(c) PUNITIVE DAMAGES.—Except as otherwise provided in chapter 5 of title 3, no punitive dam-

ages may be awarded with respect to any claim under chapter 5 of title 3.

(Added Pub. L. 104-331, §3(c), Oct. 26, 1996, 110 Stat. 4070.)

Editorial Notes

REFERENCES IN TEXT

Sections 706 and 717 of the Civil Rights Act of 1964, referred to in subsecs. (a) and (b), are classified to sections 2000e-5 and 2000e-16, respectively, of Title 42, The Public Health and Welfare.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as a note under section 1296 of this title.

§ 3906. Payments

A judgment, award, or compromise settlement against the United States under this chapter (including any interest and costs) shall be paid—

(1) under section 1304 of title 31, if it arises out of an action commenced in a district court of the United States (or any appeal therefrom); or

(2) out of amounts otherwise appropriated or available to the office involved, if it arises out of an appeal from an administrative proceeding under chapter 5 of title 3.

(Added Pub. L. 104-331, §3(c), Oct. 26, 1996, 110 Stat. 4071.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as a note under section 1296 of this title.

§ 3907. Other judicial review prohibited

Except as expressly authorized by this chapter and chapter 5 of title 3, the compliance or non-compliance with the provisions of chapter 5 of title 3, and any action taken pursuant to chapter 5 of title 3, shall not be subject to judicial review.

(Added Pub. L. 104-331, §3(c), Oct. 26, 1996, 110 Stat. 4071.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as a note under section 1296 of this title.

§ 3908. Definitions

For purposes of applying this chapter, the terms “employing office” and “covered employee” have the meanings given those terms in section 401 of title 3.

(Added Pub. L. 104-331, §3(c), Oct. 26, 1996, 110 Stat. 4071.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 3(d) of Pub. L. 104-331, set out as a note under section 1296 of this title.

CHAPTER 180—ASSUMPTION OF CERTAIN CONTRACTUAL OBLIGATIONS

Sec.

4001. Assumption of contractual obligations related to transfers of rights in motion pictures.

§ 4001. Assumption of contractual obligations related to transfers of rights in motion pictures

(a) ASSUMPTION OF OBLIGATIONS.—(1) In the case of a transfer of copyright ownership under United States law in a motion picture (as the terms “transfer of copyright ownership” and “motion picture” are defined in section 101 of title 17) that is produced subject to 1 or more collective bargaining agreements negotiated under the laws of the United States, if the transfer is executed on or after the effective date of this chapter and is not limited to public performance rights, the transfer instrument shall be deemed to incorporate the assumption agreements applicable to the copyright ownership being transferred that are required by the applicable collective bargaining agreement, and the transferee shall be subject to the obligations under each such assumption agreement to make residual payments and provide related notices, accruing after the effective date of the transfer and applicable to the exploitation of the rights transferred, and any remedies under each such assumption agreement for breach of those obligations, as those obligations and remedies are set forth in the applicable collective bargaining agreement, if—

(A) the transferee knows or has reason to know at the time of the transfer that such collective bargaining agreement was or will be applicable to the motion picture; or

(B) in the event of a court order confirming an arbitration award against the transferor under the collective bargaining agreement, the transferor does not have the financial ability to satisfy the award within 90 days after the order is issued.

(2) For purposes of paragraph (1)(A), “knows or has reason to know” means any of the following:

(A) Actual knowledge that the collective bargaining agreement was or will be applicable to the motion picture.

(B)(i) Constructive knowledge that the collective bargaining agreement was or will be applicable to the motion picture, arising from recordation of a document pertaining to copyright in the motion picture under section 205 of title 17 or from publication, at a site available to the public on-line that is operated by the relevant union, of information that identifies the motion picture as subject to a collective bargaining agreement with that union, if the site permits commercially reasonable verification of the date on which the information was available for access.

(ii) Clause (i) applies only if the transfer referred to in subsection (a)(1) occurs—

(I) after the motion picture is completed, or

(II) before the motion picture is completed and—

(aa) within 18 months before the filing of an application for copyright registration