

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subssecs. (b) and (c), was in the original “this Act”, meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 5154, Pub. L. 93-288, title III, §314, May 22, 1974, 88 Stat. 151, consisted of similar provisions, prior to repeal by Pub. L. 100-707, §105(h).

A prior section 311 of Pub. L. 93-288 was renumbered section 308 by Pub. L. 100-707 and is classified to section 5151 of this title.

AMENDMENTS

2000—Subsecs. (a)(1), (b), (c). Pub. L. 106-390 substituted “section 3149(c)(2) of this title” for “section 3233 of this title”.

1994—Subsec. (b). Pub. L. 103-325 inserted at end “The requirements of this subsection may not be waived under section 5141 of this title.”

§ 5154a. Prohibited flood disaster assistance**(a) General prohibition**

Notwithstanding any other provision of law, no Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

(b) Transfer of property**(1) Duty to notify**

In the event of the transfer of any property described in paragraph (3), the transferor shall, not later than the date on which such transfer occurs, notify the transferee in writing of the requirements to—

(A) obtain flood insurance in accordance with applicable Federal law with respect to such property, if the property is not so insured as of the date on which the property is transferred; and

(B) maintain flood insurance in accordance with applicable Federal law with respect to such property.

Such written notification shall be contained in documents evidencing the transfer of ownership of the property.

(2) Failure to notify

If a transferor described in paragraph (1) fails to make a notification in accordance with such paragraph and, subsequent to the transfer of the property—

(A) the transferee fails to obtain or maintain flood insurance in accordance with applicable Federal law with respect to the property,

(B) the property is damaged by a flood disaster, and

(C) Federal disaster relief assistance is provided for the repair, replacement, or res-

toration of the property as a result of such damage,

the transferor shall be required to reimburse the Federal Government in an amount equal to the amount of the Federal disaster relief assistance provided with respect to the property.

(3) Property described

For purposes of paragraph (1), a property is described in this paragraph if it is personal, commercial, or residential property for which Federal disaster relief assistance made available in a flood disaster area has been provided, prior to the date on which the property is transferred, for repair, replacement, or restoration of the property, if such assistance was conditioned upon obtaining flood insurance in accordance with applicable Federal law with respect to such property.

(c) Omitted**(d) “Flood disaster area” defined**

For purposes of this section, the term “flood disaster area” means an area with respect to which—

(1) the Secretary of Agriculture finds, or has found, to have been substantially affected by a natural disaster in the United States pursuant to section 1961(a) of title 7; or

(2) the President declares, or has declared, the existence of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as a result of flood conditions existing in or affecting that area.

(e) Effective date

This section and the amendments made by this section shall apply to disasters declared after September 23, 1994.

(Pub. L. 103-325, title V, §582, Sept. 23, 1994, 108 Stat. 2286.)

Editorial Notes

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d)(2), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The amendments made by this section, referred to in subsec. (e), means the amendments made by section 582(c) of Pub. L. 103-325, which amended section 4012a of this title. See Codification note below.

CODIFICATION

Section is comprised of section 582 of Pub. L. 103-325. Subsec. (c) of section 582 of Pub. L. 103-325 amended section 4012a of this title.

Section was enacted as part of the National Flood Insurance Reform Act of 1994 and as part of the Riegle Community Development and Regulatory Improvement Act of 1994, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

§ 5155. Duplication of benefits**(a) General prohibition**

The President, in consultation with the head of each Federal agency administering any pro-

gram providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.

(b) Special rules

(1) Limitation

This section shall not prohibit the provision of Federal assistance to a person who is or may be entitled to receive benefits for the same purposes from another source if such person has not received such other benefits by the time of application for Federal assistance and if such person agrees to repay all duplicative assistance to the agency providing the Federal assistance.

(2) Procedures

The President shall establish such procedures as the President considers necessary to ensure uniformity in preventing duplication of benefits.

(3) Effect of partial benefits

Receipt of partial benefits for a major disaster or emergency shall not preclude provision of additional Federal assistance for any part of a loss or need for which benefits have not been provided.

(4) Waiver of general prohibition

(A) In general

The President may waive the general prohibition provided in subsection (a) upon request of a Governor on behalf of the State or on behalf of a person, business concern, or any other entity suffering losses as a result of a major disaster or emergency, if the President finds such waiver is in the public interest and will not result in waste, fraud, or abuse. In making this decision, the President may consider the following:

(i) The recommendations of the Administrator of the Federal Emergency Management Agency made in consultation with the Federal agency or agencies administering the duplicative program.

(ii) If a waiver is granted, the assistance to be funded is cost effective.

(iii) Equity and good conscience.

(iv) Other matters of public policy considered appropriate by the President.

(B) Grant or denial of waiver

A request under subparagraph (A) shall be granted or denied not later than 45 days after submission of such request.

(C) Prohibition on determination that loan is a duplication

Notwithstanding subsection (c), in carrying out subparagraph (A), the President may not determine that a loan is a duplication of assistance, provided that all Federal assistance is used toward a loss suffered as a result of the major disaster or emergency.

(c) Recovery of duplicative benefits

A person receiving Federal assistance for a major disaster or emergency shall be liable to

the United States to the extent that such assistance duplicates benefits available to the person for the same purpose from another source. The agency which provided the duplicative assistance shall collect such duplicative assistance from the recipient in accordance with chapter 37 of title 31, relating to debt collection, when the head of such agency considers it to be in the best interest of the Federal Government.

(d) Assistance not income

Federal major disaster and emergency assistance provided to individuals and families under this chapter, and comparable disaster assistance provided by States, local governments, and disaster assistance organizations, shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs.

(Pub. L. 93-288, title III, §312, as added Pub. L. 100-707, title I, §105(i), Nov. 23, 1988, 102 Stat. 4693; amended Pub. L. 115-254, div. D, §1210(a)(1), (4), Oct. 5, 2018, 132 Stat. 3442, 3443.)

AMENDMENT OF SECTION

Pub. L. 115-254, div. D, §1210(a)(4), Oct. 5, 2018, 132 Stat. 3443, provided that, effective 5 years after Oct. 5, 2018, this section is amended by striking subsection (b)(4). See 2018 Amendment note below.

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original “this Act”, meaning Pub. L. 93-288, May 22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 5155, Pub. L. 93-288, title III, §315, May 22, 1974, 88 Stat. 152, consisted of similar provisions, prior to repeal by Pub. L. 100-707, §105(i).

A prior section 312 of Pub. L. 93-288 was renumbered section 309 by Pub. L. 100-707 and is classified to section 5152 of this title.

AMENDMENTS

2018—Subsec. (b)(4). Pub. L. 115-254, §1210(a)(4), struck out par. (4) which provided for a presidential waiver of the general prohibition in subsec. (a).

Pub. L. 115-254, §1210(a)(1), added par. (4).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Aug. 1, 2017, and authorities provided under div. D of Pub. L. 115-254 applicable to each major disaster and emergency declared by the President on or after Jan. 1, 2016, except as otherwise provided, see section 1202 of Pub. L. 115-254, set out as a note under section 5121 of this title.

Pub. L. 115-254, div. D, §1210(a)(3), Oct. 5, 2018, 132 Stat. 3443, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to any major disaster or emergency declared by the President under section 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170, 5191) between January 1, 2016, and December 31, 2021.”

Pub. L. 115-254, div. D, §1210(a)(4), Oct. 5, 2018, 132 Stat. 3443, provided that the amendment made by section 1210(a)(4) is effective on the date that is 5 years after Oct. 5, 2018.

LIMITATION

Pub. L. 115-254, div. D, §1210(a)(2), Oct. 5, 2018, 132 Stat. 3443, provided that: “This subsection [amending this section], including the amendment made by paragraph (1), shall not be construed to apply to section 406 or 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172, 5174).”

§ 5156. Standards and reviews

The President shall establish comprehensive standards which shall be used to assess the efficiency and effectiveness of Federal major disaster and emergency assistance programs administered under this chapter. The President shall conduct annual reviews of the activities of Federal agencies and State and local governments in major disaster and emergency preparedness and in providing major disaster and emergency assistance in order to assure maximum coordination and effectiveness of such programs and consistency in policies for reimbursement of States under this chapter.

(Pub. L. 93-288, title III, §313, as added Pub. L. 100-707, title I, §105(j), Nov. 23, 1988, 102 Stat. 4694.)

Editorial Notes

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PRIOR PROVISIONS

A prior section 5156, Pub. L. 93-288, title III, §316, May 22, 1974, 88 Stat. 152, related to reviews and reports by President, prior to repeal by Pub. L. 100-707, §105(j).

A prior section 313 of Pub. L. 93-288 was classified to section 5153 of this title prior to repeal by Pub. L. 100-707.

§ 5157. Penalties

(a) Misuse of funds

Any person who knowingly misapplies the proceeds of a loan or other cash benefit obtained under this chapter shall be fined an amount equal to one and one-half times the misapplied amount of the proceeds or cash benefit.

(b) Civil enforcement

Whenever it appears that any person has violated or is about to violate any provision of this chapter, including any civil penalty imposed under this chapter, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in an appropriate United States district court.

(c) Referral to Attorney General

The President shall expeditiously refer to the Attorney General for appropriate action any evidence developed in the performance of functions under this chapter that may warrant consideration for criminal prosecution.

(d) Civil penalty

Any individual who knowingly violates any order or regulation issued under this chapter

shall be subject to a civil penalty of not more than \$5,000 for each violation.

(Pub. L. 93-288, title III, §314, as added Pub. L. 100-707, title I, §105(k), Nov. 23, 1988, 102 Stat. 4694.)

Editorial Notes

REFERENCES IN TEXT

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PRIOR PROVISIONS

A prior section 5157, Pub. L. 93-288, title III, §317, May 22, 1974, 88 Stat. 152, related to criminal and civil penalties, prior to repeal by Pub. L. 100-707, §105(k).

A prior section 314 of Pub. L. 93-288 was classified to section 5154 of this title prior to repeal by Pub. L. 100-707.

§ 5158. Availability of materials

The President is authorized, at the request of the Governor of an affected State, to provide for a survey of construction materials needed in the area affected by a major disaster on an emergency basis for housing repairs, replacement housing, public facilities repairs and replacement, farming operations, and business enterprises and to take appropriate action to assure the availability and fair distribution of needed materials, including, where possible, the allocation of such materials for a period of not more than one hundred and eighty days after such major disaster. Any allocation program shall be implemented by the President to the extent possible, by working with and through those companies which traditionally supply construction materials in the affected area. For the purposes of this section “construction materials” shall include building materials and materials required for repairing housing, replacement housing, public facilities repairs and replacement, and for normal farm and business operations.

(Pub. L. 93-288, title III, §315, formerly §318, May 22, 1974, 88 Stat. 152; renumbered §315, Pub. L. 100-707, title I, §105(l), Nov. 23, 1988, 102 Stat. 4694.)

Editorial Notes

PRIOR PROVISIONS

A prior section 315 of Pub. L. 93-288 was classified to section 5155 of this title prior to repeal by Pub. L. 100-707.

§ 5159. Protection of environment

An action which is taken or assistance which is provided pursuant to section 5170a, 5170b, 5172, 5173, or 5192 of this title, including such assistance provided pursuant to the procedures provided for in section 5189 of this title, which has the effect of restoring a facility substantially to its condition prior to the disaster or emergency, shall not be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852) [42 U.S.C. 4321 et seq.]. Nothing in this section