

**§ 5174a. Flexibility****(a) Waiver authority****(1) Definition**

In this subsection, the term “covered assistance” means assistance provided—

- (A) under section 5174 of this title; and
- (B) in relation to a major disaster or emergency declared by the President under section 5170 or 5191, respectively, of this title on or after October 28, 2012.

**(2) Authority**

Notwithstanding section 3716(e) of title 31, the Administrator—

(A) subject to subparagraph (B), may waive a debt owed to the United States related to covered assistance provided to an individual or household if—

- (i) the covered assistance was distributed based on an error by the Agency;
- (ii) there was no fault on behalf of the debtor; and
- (iii) the collection of the debt would be against equity and good conscience; and

(B) may not waive a debt under subparagraph (A) if the debt involves fraud, the presentation of a false claim, or misrepresentation by the debtor or any party having an interest in the claim.

**(3) Monitoring of covered assistance distributed based on error****(A) In general**

The Inspector General of the Department of Homeland Security shall monitor the distribution of covered assistance to individuals and households to determine the percentage of such assistance distributed based on an error.

**(B) Removal of waiver authority based on excessive error rate**

If the Inspector General of the Department of Homeland Security determines, with respect to any 12-month period, that the amount of covered assistance distributed based on an error by the Agency exceeds 4 percent of the total amount of covered assistance distributed—

- (i) the Inspector General shall notify the Administrator and publish the determination in the Federal Register; and
- (ii) with respect to any major disaster or emergency declared by the President under section 5170 or section 5191, respectively, of this title after the date on which the determination is published under subparagraph (A), the authority of the Administrator to waive debt under paragraph (2) shall no longer be effective.

**(b) Recoupment of certain assistance prohibited****(1) In general**

Notwithstanding section 3716(e) of title 31, and unless there is evidence of civil or criminal fraud, the Agency may not take any action to recoup covered assistance from the recipient of such assistance if the receipt of such assistance occurred on a date that is more than 3 years before the date on which the Agency

first provides to the recipient written notification of an intent to recoup.

**(2) Covered assistance defined**

In this subsection, the term “covered assistance” means assistance provided—

- (A) under section 5174 of this title; and
- (B) in relation to a major disaster or emergency declared by the President under section 5170 or 5191 of this title, respectively, on or after January 1, 2012.

**(c) Statute of limitations****(1) Omitted****(2) Applicability****(A) In general**

With respect to disaster or emergency assistance provided to a State or local government on or after January 1, 2004—

- (i) no administrative action may be taken to recover a payment of such assistance after October 5, 2018, if the action is prohibited under section 5205(a)(1) of this title, as amended by paragraph (1); and
- (ii) any administrative action to recover a payment of such assistance that is pending on such date of enactment shall be terminated if the action is prohibited under section 5205(a)(1) of this title, as amended by paragraph (1).

(ii) any administrative action to recover a payment of such assistance that is pending on such date of enactment shall be terminated if the action is prohibited under section 5205(a)(1) of this title, as amended by paragraph (1).

**(B) Limitation**

This section, including the amendments made by this section, may not be construed to invalidate or otherwise affect any administration action completed before October 5, 2018.

(Pub. L. 115–254, div. D, §1216, Oct. 5, 2018, 132 Stat. 3449.)

**Editorial Notes****CODIFICATION**

Section was enacted as part of the Disaster Recovery Reform Act of 2018 and as part of the FAA Reauthorization Act of 2018, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

Section is comprised of section 1216 of Pub. L. 115–254. Subsec. (c)(1) of section 1216 of Pub. L. 115–254 amended section 5205 of this title.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE**

Authorities provided under div. D of Pub. L. 115–254, which enacted this section, applicable to each major disaster and emergency declared by the President under Pub. L. 93–288 on or after Jan. 1, 2016, except as otherwise provided, see section 1202(b) of Pub. L. 115–254, set out in an Effective Date of 2018 Amendment note under section 5121 of this title.

**DEFINITIONS**

For definitions of terms used in this section, see section 1203 of Pub. L. 115–254, set out as a note under section 5122 of this title.

**§ 5174b. Critical document fee waiver****(1) In general**

Notwithstanding section 214 of title 22 or any other provision of law, the President, in con-