

and management assistance that is not otherwise available; and

“(5) the use of this expertise in the Small Business Administration’s training delivery system would improve substantially the quantity and quality of the agency’s management assistance programs.

“(b) The purposes of this Act [amending this section and sections 632 and 637 of this title and enacting provisions set out as notes under this section and sections 631 and 637 of this title] are—

“(1) to improve the management by small businesses of their information technology,

“(2) to educate and encourage small businesses to protect such technology from intentional or unintentional manipulation or destruction; and

“(3) to permit cooperation with profitmaking organizations in providing management assistance to small business.”

**AUDIT BY GENERAL ACCOUNTING OFFICE OF SMALL BUSINESS ADMINISTRATION; REPORT TO CONGRESS**

Pub. L. 93-386, §13, Aug. 23, 1974, 88 Stat. 750, directed General Accounting Office to conduct a full-scale audit of Small Business Administration, including all field offices and to submit audit to House and Senate not later than six months from Aug. 23, 1974.

**NONAVAILABILITY OF UNOBLIGATED FUNDS AFTER JUNE 30, 1974**

Pub. L. 93-237, §1, Jan. 2, 1974, 87 Stat. 1023, provided in part that any additional amounts authorized by Pub. L. 93-237 [amending this section, sections 636 and 639 of this title, section 1961 of Title 7, Agriculture, and section 3142-1 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section, section 636 of this title, and sections 1961 and 1969 of Title 7] which were not obligated by June 30, 1974, were no longer to be available after that date.

**ADDITIONAL CAPITAL FOR REVOLVING FUND**

The following acts appropriated additional capital: 1965—\$76,000,000—Pub. L. 89-309, ch. IX, Oct. 31, 1965, 79 Stat. 1151.

\$84,000,000—Pub. L. 89-309, ch. IX, Oct. 31, 1965, 79 Stat. 1151 [effective only upon enactment into law of authorizing legislation].

\$150,000,000—Pub. L. 89-164, title V, Sept. 2, 1965, 79 Stat. 641.

\$100,000,000—Pub. L. 89-16, title I, ch. IX, Apr. 30, 1965, 79 Stat. 92.

1964—\$45,000,000—Pub. L. 88-635, ch. IX, Oct. 7, 1964, 78 Stat. 1032.

1963—\$90,000,000—Pub. L. 88-245, title V, Dec. 30, 1963, 77 Stat. 798.

1962—\$300,000,000—Pub. L. 87-843, title V, Oct. 18, 1962, 76 Stat. 1102.

\$40,000,000—Pub. L. 87-545, title I, July 25, 1962, 76 Stat. 213.

1961—\$160,000,000—Pub. L. 87-332, Sept. 30, 1961, 75 Stat. 742.

\$20,000,000—Pub. L. 87-125, title IV, Aug. 3, 1961, 75 Stat. 281.

1960—\$50,000,000—Pub. L. 86-451, title III, May 13, 1960, 74 Stat. 102.

1959—\$150,000,000—Pub. L. 86-88, title III, July 13, 1959, 73 Stat. 209.

1958—\$200,000,000—Pub. L. 85-766, ch. II, Aug. 27, 1958, 72 Stat. 867.

\$20,000,000—Pub. L. 85-457, June 13, 1958, 72 Stat. 186.

1957—\$100,000,000—Pub. L. 85-170, ch. II, Aug. 28, 1957, 71 Stat. 428.

\$45,000,000—Pub. L. 85-19, ch. I, Apr. 20, 1957, 71 Stat. 16.

1956—\$50,000,000—Act June 20, 1956, ch. 415, title III, 70 Stat. 325.

**BUSINESS LOAN AND INVESTMENT FUND; INCREASE IN FINANCING FUNCTIONS; MONTHLY REPORTS TO CONGRESS**

Pub. L. 91-151, title III, Dec. 23, 1969, 83 Stat. 378, provided that: “The Small Business Administration shall

promptly increase the level of its financing functions utilizing the business loan and investment fund established under section 4(c)(1)(B) of the Small Business Act (15 U.S.C. 633(c)(1)(B)) [subsec. (c)(1)(B) of this section] by \$70,000,000 above the level prevailing at the time of enactment of this Act [Dec. 23, 1969]. The Small Business Administration shall submit to Congress a monthly report of its implementation of this section.”

**TRANSFER OF FUNDS FOR TRADE ADJUSTMENT LOANS**

Pub. L. 89-409, §3(b), May 2, 1966, 80 Stat. 133, provided in part that any unexpended balances of appropriations heretofore appropriated for the purposes of such section [former section 637a of this title] were transferred to the business loan and investment fund established by section 4(c)(1) of the Small Business Act [subsec. (c)(1) of this section].

Such transfer of funds as effective July 1, 1966, see section 3(c) of Pub. L. 89-409, set out as Effective Date of 1966 Amendment note under section 636 of this title.

**§ 633a. Detailed justification for proposed changes in budget requests**

Beginning in fiscal year 2013 and each fiscal year thereafter, the budget request for the Small Business Administration shall provide a detailed justification of any proposed changes from the enacted level by individual appropriation. The detailed justification shall include at a minimum a description of each credit and non-credit program including amount of funding and costs by appropriation account and fiscal year. For activities funded in multiple appropriations, the budget justification shall specify the amount included in each enacted appropriation, the amount proposed in the budget year and a justification for any proposed changes.

(Pub. L. 112-74, div. C, title V, §532, Dec. 23, 2011, 125 Stat. 923.)

**CODIFICATION**

Section was enacted as part of the Financial Services and General Government Appropriations Act, 2012, and also as part of the Consolidated Appropriations Act, 2012, and not as part of the Small Business Act which comprises this chapter.

**§ 634. General powers**

**(a) Seal; appointment and compensation of personnel; use of other services and facilities**

The Administration shall have power to adopt, alter, and use a seal, which shall be judicially noticed. The Administrator is authorized, subject to the civil service and classification laws, to select, employ, appoint, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary to carry out the provisions of this chapter; to define their authority and duties; and to pay the costs of qualification of certain of them as notaries public. The Administration, with the consent of any board, commission, independent establishment, or executive department of the Government, may avail itself on a reimbursable or nonreimbursable basis of the use of information, services, facilities (including any field service thereof), officers, and employees thereof, in carrying out the provisions of this chapter.

**(b) Powers of Administrator**

In the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter the Administrator may—

(1) sue and be sued in any court of record of a State having general jurisdiction, or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Administrator or his property;

(2) under regulations prescribed by him, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in his discretion and upon such terms and conditions and for such consideration as the Administrator shall determine to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with the payment of loans granted under this chapter, and to collect or compromise all obligations assigned to or held by him and all legal or equitable rights accruing to him in connection with the payment of such loans until such time as such obligations may be referred to the Attorney General for suit or collection;

(3) deal with, complete, renovate, improve, modernize, insure, or rent, or sell for cash or credit upon such terms and conditions and for such consideration as the Administrator shall determine to be reasonable, any real property conveyed to or otherwise acquired by him in connection with the payment of loans granted under this chapter;

(4) pursue to final collection, by way of compromise or otherwise, all claims against third parties assigned to the Administrator in connection with loans made by him. This shall include authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Administrator. Section 6101 of title 41 shall not be construed to apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Administrator as a result of loans made under this chapter if the premium therefor or the amount thereof does not exceed \$1,000. The power to convey and to execute in the name of the Administrator deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real property or any interest therein acquired by the Administrator pursuant to the provisions of this chapter may be exercised by the Administrator or by any officer or agent appointed by him without the execution of any express delegation of power or power of attorney. Nothing in this section shall be construed to prevent the Administrator from delegating such power by order or by power of attorney, in his discretion, to any officer or agent he may appoint;

(5) acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), whenever deemed necessary or appropriate to the conduct of the activities authorized in sections 636(a) and 636(b) of this title;

(6) make such rules and regulations as he deems necessary to carry out the authority vested in him by or pursuant to this chapter;

(7) in addition to any powers, functions, privileges and immunities otherwise vested in him, take any and all actions (including the procurement of the services of attorneys by contract in any office where an attorney or attorneys are not or cannot be economically employed full time to render such services) when he determines such actions are necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans made under the provisions of this chapter: *Provided*, That with respect to deferred participation loans, the Administrator may, in the discretion of and pursuant to regulations promulgated by the Administrator, authorize participating lending institutions to take actions relating to loan servicing on behalf of the Administrator, including determining eligibility and creditworthiness and loan monitoring, collection, and liquidation;

(8) pay the transportation expenses and per diem in lieu of subsistence expenses, in accordance with subchapter I of chapter 57 of title 5, for travel of any person employed by the Administration to render temporary services not in excess of six months in connection with any disaster referred to in section 636(b) of this title from place of appointment to, and while at, the disaster area and any other temporary posts of duty and return upon completion of the assignment: *Provided*, That the Administrator may extend the six-month limitation for an additional six months if the Administrator determines the extension is necessary to continue efficient disaster loan making activities;

(9) accept the services and facilities of Federal, State, and local agencies and groups, both public and private, and utilize such gratuitous services and facilities as may, from time to time, be necessary, to further the objectives of section 636(b) of this title;

(10) upon purchase by the Administration of any deferred participation entered into under section 636 of this title, continue to charge a rate of interest not to exceed that initially charged by the participating institution on the amount so purchased for the remaining term of the indebtedness;

(11) make such investigations as he deems necessary to determine whether a recipient of or participant in any assistance under this chapter or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter, or of any rule or regulation under this chapter, or of any order issued under this chapter. The Administration shall permit any person to file with it a statement in writing, under oath or otherwise as the Administration shall determine, as to all the facts and circumstances concerning the matter to be investigated. For the purpose of any investigation, the Administration is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such

records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, including a recipient or participant, the Administration may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Administration, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found;

(12) impose, retain, and use only those fees which are specifically authorized by law or which are in effect on September 30, 1994, and in the amounts and at the rates in effect on such date, except that the Administrator may, subject to approval in appropriations Acts, impose, retain, and utilize, additional fees—

(A) not to exceed \$100 for each loan servicing action (other than a loan assumption) requested after disbursement of the loan, including any substitution of collateral, release or substitution of a guarantor, reamortization, or similar action;

(B) not to exceed \$300 for loan assumptions;

(C) not to exceed 1 percent of the amount of requested financings under title III of the Small Business Investment Act of 1958 [15 U.S.C. 681 et seq.] for which the applicant requests a commitment from the Administration for funding during the following year; and

(D) to recover the direct, incremental cost involved in the production and dissemination of compilations of information produced by the Administration under the authority of this chapter and the Small Business Investment Act of 1958 [15 U.S.C. 661 et seq.];

(13) collect, retain and utilize, subject to approval in appropriations Acts, any amounts collected by fiscal transfer agents and not used by such agent as payment of the cost of loan pooling or debenture servicing operations, except that amounts collected under this paragraph and paragraph (12) shall be utilized solely to facilitate the administration of the program that generated the excess amounts; and

(14) require any lender authorized to make loans under section 636 of this title to pay examination and review fees, which shall be deposited in the account for salaries and expenses of the Administration, and shall be available for the costs of examinations, reviews, and other lender oversight activities.

**(c) Procurement of experts and consultants; compensation and expenses**

To such extent as he finds necessary to carry out the provisions of this chapter, the Adminis-

trator is authorized to procure the temporary (not in excess of one year) or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services, by contract or appointment, and in such cases such services shall be without regard to the civil-service and classification laws and, except in the case of stenographic reporting services by organizations, without regard to section 6101 of title 41. Any individual so employed may be compensated at a rate not in excess of the daily equivalent of the highest rate payable under section 5332 of title 5, including travel time, and, while such individual is away from his or her home or regular place of business, he or she may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5.

**(d) Safety deposit box rentals**

Section 3324(a) and (b) of title 31 shall not apply to prepayments of rentals made by the Administration on safety deposit boxes used by the Administration for the safeguarding of instruments held as security for loans or for the safeguarding of other documents.

**(e) Undertaking or suspension of payment obligation; period; extension of maturity; repayment agreement; "required payments" defined**

(1) Subject to the requirements and conditions contained in this subsection, upon application by a small business concern which is the recipient of a loan made under this chapter, the Administration may undertake the small business concern's obligation to make the required payments under such loan or may suspend such obligation if the loan was a direct loan made by the Administration. While such payments are being made by the Administration pursuant to the undertaking of such obligation or while such obligation is suspended, no such payment with respect to the loan may be required from the small business concern.

(2) The Administration may undertake or suspend for a period of not to exceed 5 years any small business concern's obligation under this subsection only if—

(A) without such undertaking or suspension of the obligation, the small business concern would, in the sole discretion of the Administration, become insolvent or remain insolvent;

(B) with the undertaking or suspension of the obligation, the small business concern would, in the sole discretion of the Administration, become or remain a viable small business entity; and

(C) the small business concern executes an agreement in writing satisfactory to the Administration as provided by paragraph (4).

(3) Notwithstanding the provisions of sections 636(a)(4)(C) and 636(i)(1) of this title, the Administration may extend the maturity of any loan on which the Administration undertakes or suspends the obligation pursuant to this subsection for a corresponding period of time.

(4)(A) Prior to the undertaking or suspension by the Administration of any small business concern's obligation under this subsection, the Administration, consistent with the purposes

sought to be achieved herein, shall require the small business concern to agree in writing to repay to it the aggregate amount of the payments which were required under the loan during the period for which such obligation was undertaken or suspended, either—

- (i) by periodic payments not less in amount or less frequently falling due than those which were due under the loan during such period, or
- (ii) pursuant to a repayment schedule agreed upon by the Administration and the small business concern, or
- (iii) by a combination of the payments described in clause (i) and clause (ii).

(B) In addition to requiring the small business concern to execute the agreement described in subparagraph (A), the Administration shall, prior to the undertaking or suspension of the obligation, take such action, and require the small business concern to take such action as the Administration deems appropriate in the circumstances, including the provision of such security as the Administration deems necessary or appropriate to insure that the rights and interests of the lender (Small Business Administration or participant) will be safeguarded adequately during and after the period in which such obligation is so undertaken or suspended.

(5) The term "required payments" with respect to any loan means payments of principal and interest under the loan.

**(f) Sale of guaranteed portion of loans by lender or subsequent holder; limitations; secondary market**

(1) The guaranteed portion of any loan made pursuant to this chapter may be sold by the lender, and by any subsequent holder, consistent with regulations on such sales as the Administration shall establish, subject to the following limitations:

(A) prior to the Administration's approval of the sale, or upon any subsequent resale, of any loan guaranteed by the Administration, if the lender certifies that such loan has been properly closed and that the lender has substantially complied with the provisions of the guarantee agreement and the regulations of the Administration, the Administration shall review and approve only materials not previously approved;

(B) all fees due the Administration on a guaranteed loan shall have been paid in full prior to any sale; and

(C) each loan, except each loan made under section 636(a)(14) of this title, shall have been fully disbursed to the borrower prior to any sale.

(2) After a loan is sold in the secondary market, the lender shall remain obligated under its guarantee agreement with the Administration, and shall continue to service the loan in a manner consistent with the terms and conditions of such agreement.

(3) The Administration shall develop such procedures as are necessary for the facilitation, administration, and promotion of secondary market operations, and for assessing the increase of small business access to capital at reasonable rates and terms as a result of secondary market

operations. Beginning on March 31, 1997, the sale of the unguaranteed portion of any loan made under section 636(a) of this title shall not be permitted until a final regulation that applies uniformly to both depository institutions and other lenders is promulgated by the Administration setting forth the terms and conditions under which such sales can be permitted, including maintenance of appropriate reserve requirements and other safeguards to protect the safety and soundness of the program.

(4) Nothing in this subsection or subsection (g) of this section shall be interpreted to impede or extinguish the right of the borrower or the successor in interest to such borrower to prepay (in whole or in part) any loan made pursuant to section 636(a) of this title, the guaranteed portion of which may be included in such trust or pool, or to impede or extinguish the rights of any party pursuant to section 636(a)(6)(C) of this title or subsection (e) of this section.

**(g) Trust certificates; guarantee of timely payments of principal and interest; full faith and credit of United States; collection of fees; subrogation; division of loan guarantees**

(1) The Administration is authorized to issue trust certificates representing ownership of all or a fractional part of the guaranteed portion of one or more loans which have been guaranteed by the Administration under this chapter, or under section 696 of this title: *Provided*, That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of the entire guaranteed portion of such loans.

(2) The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this subsection. Such guarantee shall be limited to the extent of principal and interest on the guaranteed portions of loans which compose the trust or pool. In the event that a loan in such trust or pool is prepaid, either voluntarily or in the event of default, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid loan represents in the trust or pool. Interest on prepaid or defaulted loans shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemption due to prepayment or default of all loans constituting the pool.

(3) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this subsection.

(4)(A) The Administration may collect a fee for any loan guarantee sold into the secondary market under subsection (f) of this section in an amount equal to not more than 50 percent of the portion of the sale price that exceeds 110 percent of the outstanding principal amount of the portion of the loan guaranteed by the Administra-

tion. Any such fee imposed by the Administration shall be collected by the Administration or by the agent which carries out on behalf of the Administration the central registration functions required by subsection (h) of this section and shall be paid to the Administration and used solely to reduce the subsidy on loans guaranteed under section 636(a) of this title: *Provided*, That such fee shall not be charged to the borrower whose loan is guaranteed: and, *Provided further*, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (h)(2)<sup>1</sup> of this section.

(B) The Administration is authorized to impose and collect, either directly or through a fiscal and transfer agent, a reasonable penalty on late payments of the fee authorized under subparagraph (A) in an amount not to exceed 5 percent of such fee per month plus interest.

(C) The Administration may contract with an agent to carry out, on behalf of the Administration, the assessment and collection of the annual fee established under section 636(a)(23) of this title. The agent may receive, as compensation for services, any interest earned on the fee while in the control of the agent before the time at which the agent is contractually required to remit the fee to the Administration.

(5)(A) In the event the Administration pays a claim under a guarantee issued under this subsection, it shall be subrogated fully to the rights satisfied by such payment.

(B) No State or local law, and no Federal law, shall preclude or limit the exercise by the Administration of its ownership rights in the portions of loans constituting the trust or pool against which the trust certificates are issued.

(6) If the amount of the guaranteed portion of any loan under section 636(a) of this title is more than \$500,000, the Administrator shall, upon request of a pool assembler, divide the loan guarantee into increments of \$500,000 and 1 increment of any remaining amount less than \$500,000, in order to permit the maximum amount of any loan in a pool to be not more than \$500,000. Only 1 increment of any loan guarantee divided under this paragraph may be included in the same pool. Increments of loan guarantees to different borrowers that are divided under this paragraph may be included in the same pool.

**(h) Central registration of loans and trust certificates; contracts with agent; disclosures by sellers of guaranteed portions of loans; regulation of brokers and dealers; electronic registration**

(1) Upon the adoption of final rules and regulations, the Administration shall—

(A) provide for a central registration of all loans and trust certificates sold pursuant to subsections (f) and (g) of this section;

(B) contract with an agent to carry out on behalf of the Administration the central registration functions of this section and the issuance of trust certificates to facilitate pooling. Such agent shall provide a fidelity bond or insurance in such amounts as the Adminis-

tration determines to be necessary to fully protect the interest of the Government;

(C) prior to any sale, require the seller to disclose to a purchaser of the guaranteed portion of a loan guaranteed under this chapter and to the purchaser of a trust certificate issued pursuant to subsection (g) of this section, information on the terms, conditions, and yield of such instrument. As used in this paragraph, if the instrument being sold is a loan, the term "seller" does not include (A) an entity which made the loan or (B) any individual or entity which sells three or fewer guaranteed loans per year; and

(D) have the authority to regulate brokers and dealers in guaranteed loans and trust certificates sold pursuant to subsections (f) and (g) of this section.

(2) The agent described in paragraph (1)(B) may be compensated through any of the fees assessed under this section and any interest earned on any funds collected by the agent while such funds are in the control of the agent and before the time at which the agent is contractually required to transfer such funds to the Administration or to the holders of the trust certificates, as appropriate.

(3) Nothing in this subsection shall prohibit the utilization of a book-entry or other electronic form of registration for trust certificates. The Administration may, with the consent of the Secretary of the Treasury, use the book-entry system of the Federal Reserve System.

(Pub. L. 85-536, §2[5], July 18, 1958, 72 Stat. 385; Pub. L. 87-305, §4, Sept. 26, 1961, 75 Stat. 666; Pub. L. 87-367, title I, §103(3), Oct. 4, 1961, 75 Stat. 787; Pub. L. 92-310, title II, §224(a), June 6, 1972, 86 Stat. 206; Pub. L. 93-386, §§3(1), 10, Aug. 23, 1974, 88 Stat. 745, 749; Pub. L. 94-305, title II, §208, June 4, 1976, 90 Stat. 671; Pub. L. 95-89, title III, §303, Aug. 4, 1977, 91 Stat. 558; Pub. L. 95-510, §103, Oct. 24, 1978, 92 Stat. 1781; Pub. L. 96-302, title I, §114, July 2, 1980, 94 Stat. 838; Pub. L. 98-352, §2, July 10, 1984, 98 Stat. 329; Pub. L. 100-590, title I, §113, Nov. 3, 1988, 102 Stat. 2997; Pub. L. 102-140, title VI, §609(a), Oct. 28, 1991, 105 Stat. 825; Pub. L. 102-564, title III, §307(d), Oct. 28, 1992, 106 Stat. 4264; Pub. L. 103-81, §3(a), Aug. 13, 1993, 107 Stat. 780; Pub. L. 103-282, §2, July 22, 1994, 108 Stat. 1422; Pub. L. 103-403, title VI, §602, Oct. 22, 1994, 108 Stat. 4202; Pub. L. 104-36, §4(b), Oct. 12, 1995, 109 Stat. 297; Pub. L. 104-208, div. D, title I, §103(e), title II, §§205(a), 208(i)(1), Sept. 30, 1996, 110 Stat. 3009-727, 3009-738, 3009-747; Pub. L. 106-554, §1(a)(9) [title II, §209], Dec. 21, 2000, 114 Stat. 2763, 2763A-683; Pub. L. 108-306, §3, Sept. 24, 2004, 118 Stat. 1131; Pub. L. 108-447, div. K, title I, §131, Dec. 8, 2004, 118 Stat. 3452; Pub. L. 111-240, title I, §1117, Sept. 27, 2010, 124 Stat. 2509.)

REFERENCES IN TEXT

The Small Business Investment Act of 1958, referred to in subsec. (b)(12)(C), (D), is Pub. L. 85-699, Aug. 21, 1958, 72 Stat. 689, which is classified principally to chapter 14B (§661 et seq.) of this title. Title III of the Act is classified generally to subchapter III (§681 et seq.) of chapter 14B of this title. For complete classification of this Act to the Code, see Short Title note set out under section 661 of this title and Tables.

Subsection (h)(2) of this section, referred to in subsec. (g)(4)(A), was redesignated subsec. (h)(1)(B) by Pub. L.

<sup>1</sup> See References in Text note below.

104-208, div. D, title II, §205(a)(1), (2), Sept. 30, 1996, 110 Stat. 3009-738.

#### CODIFICATION

In subsec. (b)(4), "Section 6101 of title 41" substituted for "Section 3709 of the Revised Statutes, as amended (41 U.S.C., sec. 5)" on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (b)(8), "subchapter I of chapter 57 of title 5" substituted for "the Travel Expense Act of 1949" on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

In subsec. (c), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended (41 U.S.C., sec. 5)" on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (d), "Section 3324(a) and (b) of title 31" substituted for "Section 3648 of the Revised Statutes (31 U.S.C. 529)" on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

#### PRIOR PROVISIONS

Prior similar provisions were contained in section 205 of act July 30, 1953, ch. 282, title II, 67 Stat. 234, as amended by act Aug. 9, 1955, ch. 628, §4, 69 Stat. 547, which was classified to this section. See Codification note set out under section 631 of this title.

#### AMENDMENTS

2010—Subsec. (g)(6). Pub. L. 111-240 added par. (6).

2004—Subsec. (b)(14). Pub. L. 108-447 added par. (14).

Subsec. (g)(4)(C). Pub. L. 108-306, §3(1), added subpar. (C).

Subsec. (h)(2), (3). Pub. L. 108-306, §3(2), added par. (2) and redesignated former par. (2) as (3).

2000—Subsec. (f)(1)(C). Pub. L. 106-554 amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "each loan shall have been fully disbursed to the borrower prior to any sale."

1996—Subsec. (b)(7). Pub. L. 104-208, §208(i)(1), substituted "": *Provided*, That with respect to deferred participation loans, the Administrator may, in the discretion of and pursuant to regulations promulgated by the Administrator, authorize participating lending institutions to take actions relating to loan servicing on behalf of the Administrator, including determining eligibility and creditworthiness and loan monitoring, collection, and liquidation" for "": *Provided*, That nothing herein shall be construed as authorizing the Administrator to contract or otherwise delegate his responsibility for loan servicing to other than Administration personnel, but with respect to deferred participation loans he may authorize participating lending institutions, in his discretion pursuant to regulations promulgated by him, to take such actions on his behalf, including, but not limited to the determination of eligibility and creditworthiness, and loan monitoring, collection and liquidation".

Subsec. (f)(3). Pub. L. 104-208, §103(e), inserted at end "Beginning on March 31, 1997, the sale of the unguaranteed portion of any loan made under section 636(a) of this title shall not be permitted until a final regulation that applies uniformly to both depository institutions and other lenders is promulgated by the Administration setting forth the terms and conditions under which such sales can be permitted, including maintenance of appropriate reserve requirements and other safeguards to protect the safety and soundness of the program."

Subsec. (h). Pub. L. 104-208, §205(a), designated existing provisions as par. (1), redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, of par. (1), in subpar. (A) substituted "(A) provide for a central registration of all loans and trust certificates sold pursuant to subsections (f) and (g) of this section;" for "(A)

provide for a central registration of all loans and trust certificates sold pursuant to subsections (f) and (g) of this section. Such central registration shall include, with respect to each sale, an identification of each lender who has sold the loan; the interest rate paid by the borrower to the lender; the lender's servicing fee; whether the loan is for a fixed rate or variable rate; an identification of each purchaser of the loan or trust certificate; the price paid by the purchaser for the loan or trust certificate; the interest rate paid on the loan or trust certificate; the fees of an agent for carrying out the functions described in paragraph (2) below; and such other information as the Administration deems appropriate;" and added par. (2).

1995—Subsec. (g)(4)(A). Pub. L. 104-36 substituted first sentence for former first sentence which read as follows: "The Administration may collect the following fees for loan guarantees sold into the secondary market pursuant to the provisions of subsection (f) of this section: an amount equal to (A) not more than ¼ of one percent per year of the outstanding principal amount of the portion of such loan guaranteed by the Administration, and (B) not more than 50 percent of the portion of the sale price which is in excess of 110 percent of the outstanding principal amount of the portion of such loan guaranteed by the Administration." and substituted "such fee" for "such fees" in two places in second sentence.

1994—Subsec. (b)(8). Pub. L. 103-282 inserted "": *Provided*, That the Administrator may extend the six-month limitation for an additional six months if the Administrator determines the extension is necessary to continue efficient disaster loan making activities" before semicolon at end.

Subsec. (b)(12), (13). Pub. L. 103-403 added pars. (12) and (13).

1993—Subsec. (g)(4). Pub. L. 103-81 added par. (4) and struck out former par. (4) which read as follows: "The Administration shall not collect any fee for any guarantee under this subsection: *Provided*, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (h)(2) of this section."

1992—Subsec. (f)(4). Pub. L. 102-564 substituted "section 636(a)(6)(C) of this title or subsection (e) of this section" for "subsection (e) of this section or section 636(a)(6) or 636(a)(8) of this title".

1991—Subsec. (g)(1). Pub. L. 102-140 substituted "or under section 696 of this title" for "except separate trust certificates shall be issued for loans approved under section 636(a)(13) of this title".

1988—Subsec. (g)(1). Pub. L. 100-590 substituted "except separate trust certificates shall be issued for loans approved" for "except those".

1984—Subsecs. (f) to (h). Pub. L. 98-352 added subsecs. (f) to (h).

1980—Subsec. (b)(7). Pub. L. 96-302 prohibited an interpretation that authorized the Administrator to contract or otherwise delegate his responsibility for loan servicing to other than Administration personnel, but sanctioned, with respect to deferred participation loans, authority for participating lending institutions to take action on behalf of the Administrator determining eligibility and creditworthiness, loan monitoring, collection, and liquidation, etc.

1978—Subsec. (c). Pub. L. 95-510 substituted "Any individual so employed may be compensated at a rate not in excess of the daily equivalent of the highest rate payable under section 5332 of Title 5, including travel time, and, while such individual is away from his or her home or regular place of business, he or she may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of Title 5" for "Any individual so employed may be compensated at a rate not in excess of \$50 per diem, and, while such individual is away from his home or regular place of business, he may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence and other expenses".

1977—Subsec. (e). Pub. L. 95-89 added subsec. (e).  
 1976—Subsec. (e). Pub. L. 94-305 struck out subsec. (e) which provided for the appointment, by the Administrator, of the Chief Counsel for Advocacy who would serve as a focal point for complaints and suggestions, counsel small businessmen, develop proposals for change, represent interest of small businesses before federal agencies and enlist the cooperation of public and private agencies. See sections 634a to 634g of this title.

1974—Subsec. (b)(10), (11). Pub. L. 93-386, §3(1), added pars. (10) and (11).

Subsec. (e). Pub. L. 93-386, §10, added subsec. (e).  
 1972—Subsec. (a). Pub. L. 92-310 struck out provisions which authorized the Administrator to provide bonds for officers, employees, attorneys, and agents.

1961—Subsec. (a). Pub. L. 87-367 struck out authorization for fifteen additional positions in grades 16, 17, and 18 of the General Schedule of the Classification Act of 1949.

Subsec. (d). Pub. L. 87-305 added subsec. (d).

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by sections 103 and 205 of Pub. L. 104-208 effective Oct. 1, 1996, see section 3 of Pub. L. 104-208, set out as a note under section 633 of this title.

Pub. L. 104-208, div. D, title II, §208(j), Sept. 30, 1996, 110 Stat. 3009-747, provided that: "This section [amending this section, sections 80a-18, 662, 681 to 683, 687, 687b, 687d, 687k to 687m, and 697f of this title, and section 1431 of Title 12, Banks and Banking, repealing sections 687i and 687j of this title, enacting provisions set out as notes under sections 681 and 683 of this title, and amending provisions set out as a note under section 631 of this title] and the amendments made by this section shall become effective on the date of enactment of this Act [Sept. 30, 1996]."

#### EFFECTIVE DATE OF 1995 AMENDMENT

Pub. L. 104-36, §8, Oct. 12, 1995, 109 Stat. 297, provided that:

"(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act [see Short Title of 1995 Amendment note set out under section 631 of this title] do not apply with respect to any loan made or guaranteed under the Small Business Act [15 U.S.C. 631 et seq.] or the Small Business Investment Act of 1958 [15 U.S.C. 661 et seq.] before the date of enactment of this Act [Oct. 12, 1995].

"(b) EXCEPTIONS.—The amendments made by this Act apply to a loan made or guaranteed under the Small Business Act or the Small Business Investment Act of 1958 before the date of enactment of this Act [Oct. 12, 1995], if the loan is refinanced, extended, restructured, or renewed on or after the date of enactment of this Act."

#### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-81, §3(b), Aug. 13, 1993, 107 Stat. 781, provided that: "Any new fees imposed by the Administration pursuant to the authority conferred by subsection (a) [amending this section] shall be applicable only to loans initially sold in the secondary market pursuant to the provisions of section 5(f) of the Small Business Act [subsec. (f) of this section] after August 31, 1993."

Pub. L. 103-81, §7, Aug. 13, 1993, 107 Stat. 782, which provided that sections 3 and 5 of Pub. L. 103-81, amending this section and section 636 of this title and enacting provisions set out as notes under this section and section 636 of this title, were repealed on Sept. 30, 1996, was repealed by Pub. L. 104-208, div. D, title I, §109(a), Sept. 30, 1996, 110 Stat. 3009-733, effective Sept. 29, 1996.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-302 effective Oct. 1, 1980, see section 507 of Pub. L. 96-302, set out as a note under section 631 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-510, §105, Oct. 24, 1978, 92 Stat. 1782, provided that: "This Act [amending this section and sec-

tions 636 and 637 of this title and repealing sections 5031, 5032, and 5083 of Title 42, The Public Health and Welfare] shall be effective October 1, 1979."

#### REGULATIONS

Pub. L. 98-352, §3, July 10, 1984, 98 Stat. 331, provided that:

"(a) Within ninety days after the date of enactment of this Act [July 10, 1984], the Small Business Administration shall develop and promulgate final rules and regulations to implement the central registration provisions provided for in section 5(h)(1) of the Small Business Act [15 U.S.C. 634(h)(1)], and shall contract with an agent for an initial period of not to exceed two years to carry out the functions provided for in section 5(h)(2) of such Act.

"(b) Within nine months after the date of enactment of this Act [July 10, 1984], the Small Business Administration shall consult with representatives of appropriate Federal and State agencies and officials, the securities industry, financial institutions and lenders, and small business persons, and shall develop and promulgate final rules and regulations to implement this Act [amending sections 633, 634, and 639 of this title and enacting provisions set out as notes under sections 631 and 634 of this title] other than as provided for in subsection (a).

"(c) The Small Business Administration shall not implement any of the provisions under section 5(g) of the Small Business Act, as amended [15 U.S.C. 634(g)], until final rules and regulations become effective."

#### ASSET SALES

Pub. L. 105-135, title V, §505, Dec. 2, 1997, 111 Stat. 2624, provided that: "In connection with the Administration's implementation of a program to sell to the private sector loans and other assets held by the Administration, the Administration shall provide to the Committees a copy of the draft and final plans describing the sale and the anticipated benefits resulting from such sale."

#### PREFERRED LENDER STANDARD REVIEW PROGRAM

Pub. L. 104-208, div. D, title I, §103(h), Sept. 30, 1996, 110 Stat. 3009-728, provided that: "Not later than 90 days after the date of enactment of this Act [Sept. 30, 1996], the Administrator shall commence a standard review program for the Preferred Lender Program established by section 5(b)(7) of the Small Business Act [15 U.S.C. 634(b)(7)], which shall include annual or more frequent assessments of the participation of the lender in the program, including defaults, loans, and recoveries of loans made by that lender under the authority of this section. The Administrator shall require such standard review for each new entrant to the Preferred Lender Program."

#### STUDY AND REPORT REGARDING 1993 AMENDMENTS TO IMPOSE SECONDARY MARKET FEES AND TO REDUCE LOAN GUARANTEE PERCENTAGES

Pub. L. 103-81, §6, Aug. 13, 1993, 107 Stat. 782, provided that: "The Administration shall study, monitor and evaluate the impact of the amendments made by sections 3 and 5 of this Act [amending this section and section 636 of this title] on the ability of small business concerns and small business concerns owned and controlled by minorities and women, to obtain financing and the impact of such sections on the effectiveness, viability and growth of the secondary market authorized by section 5(f) of the Small Business Act [subsec. (f) of this section]. Not later than 16 months after the date of enactment [Aug. 13, 1993], and annually thereafter, the Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives [Committee on Small Business of Senate now Committee on Small Business and Entrepreneurship of Senate] a report containing the Administration's findings and recommendations on such impact, specifically including changes in the interest rates on

financings provided to small business concerns and small business concerns owned and controlled by minorities and women, through the use of the secondary market. The Administration shall segregate such findings and recommendations in the study according to the ethnic and gender components in these categories. Solely for the purposes of the study authorized herein, the term 'small business concerns owned and controlled by minorities', includes businesses owned and controlled by individuals belonging to one of the designated groups listed in section 8(d)(3)(C) of the Small Business Act [15 U.S.C. 637(d)(3)(C)]."

#### REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

#### VIABILITY OF SECONDARY MARKETS

Pub. L. 102-366, title II, §226, Sept. 4, 1992, 106 Stat. 1001, provided that: "The Administrator of the Small Business Administration is authorized and directed to take such actions in the awarding of contracts as is deemed necessary to assure the continued long-term viability of the secondary markets in loans, debentures or other securities guaranteed by the Administration."

#### SMALL BUSINESS LOAN SECONDARY MARKET STUDY

Pub. L. 102-366, title III, §311, Sept. 4, 1992, 106 Stat. 1005, directed Secretary of the Treasury, Director of Congressional Budget Office, and Chairman of Securities and Exchange Commission, in consultation with Administrator of Small Business Administration, to conduct a study of potential benefits of, and legal, regulatory, and market-based barriers to, developing a secondary market for loans to small businesses, specified considerations to be included in the study, and required that, not later than 1 year after Sept. 4, 1992, a report be submitted to Congress on results of the study, including recommendations for legislation to facilitate development of a secondary market for loans to small businesses.

#### APPROPRIATIONS NOT AUTHORIZED

Pub. L. 98-352, §6, July 10, 1984, 98 Stat. 332, provided that: "This Act [amending this section and sections 633 and 639 of this title and enacting provisions set out as notes under this section and section 631 of this title] does not authorize the appropriation of any funds."

#### SMALL BUSINESS PROTECTION

Pub. L. 90-104, title III, §§301-303, Oct. 11, 1967, 81 Stat. 272, authorized Administrator of Small Business Administration to conduct a special study of impact on small business concerns of robbery, burglary, shoplifting, vandalism, and other criminal activities, and report to President and to Congress results of study, including such recommendations he deemed appropriate for administrative and legislative action, within one year after Oct. 11, 1967.

#### § 634a. Office of Advocacy within Small Business Administration; Chief Counsel for Advocacy

There is established within the Small Business Administration an Office of Advocacy. The management of the Office shall be vested in a Chief Counsel for Advocacy who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(Pub. L. 94-305, title II, §201, June 4, 1976, 90 Stat. 668.)

#### CODIFICATION

Section was not enacted as part of the Small Business Act which comprises this chapter.

#### § 634b. Primary functions of Office of Advocacy

The primary functions of the Office of Advocacy shall be to—

(1) examine the role of small business in the American economy and the contribution which small business can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing an avenue through which new and untested products and services can be brought to the marketplace;

(2) assess the effectiveness of existing Federal subsidy and assistance programs for small business and the desirability of reducing the emphasis on such existing programs and increasing the emphasis on general assistance programs designed to benefit all small businesses;

(3) measure the direct costs and other effects of government regulation on small businesses; and make legislative and nonlegislative proposals for eliminating excessive or unnecessary regulations of small businesses;

(4) determine the impact of the tax structure on small businesses and make legislative and other proposals for altering the tax structure to enable all small businesses to realize their potential for contributing to the improvement of the Nation's economic well-being;

(5) study the ability of financial markets and institutions to meet small business credit needs and determine the impact of government demands for credit on small businesses;

(6) determine financial resource availability and to recommend methods for delivery of financial assistance to minority enterprises, including methods for securing equity capital, for generating markets for goods and services, for providing effective business education, more effective management and technical assistance, and training, and for assistance in complying with Federal, State, and local law;

(7) evaluate the efforts of Federal agencies, business and industry to assist minority enterprises;

(8) make such other recommendations as may be appropriate to assist the development and strengthening of minority and other small business enterprises;

(9) recommend specific measures for creating an environment in which all businesses will have the opportunity to complete<sup>1</sup> effectively and expand to their full potential, and to ascertain the common reasons, if any, for small business successes and failures;

(10) determine the desirability of developing a set of rational, objective criteria to be used to define small business, and to develop such criteria, if appropriate;

(11) advise, cooperate with, and consult with, the Chairman of the Administrative Con-

<sup>1</sup>So in original. Probably should be "complete".

Subsec. (e)(2). Pub. L. 105-85, §1012(2), added par. (2) and struck out former par. (2) which read as follows: "Payment of a claim settled under paragraph (1) shall be subject to the availability of appropriations for payment of that particular claim."

1996—Pub. L. 104-316, §202(n)(1)(A), struck out "of the Comptroller General" after "Authority" in section catchline.

Subsec. (a). Pub. L. 104-316, §202(n)(1)(B), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Except as provided in this chapter or another law, the Comptroller General shall settle all claims of or against the United States Government. A claim that was not administratively examined before submission to the Comptroller General shall be examined by 2 officers or employees of the General Accounting Office independently of each other."

Subsec. (b)(1). Pub. L. 104-316, §202(n)(1)(C), in introductory provisions substituted "The claim must be received by the official responsible under subsection (a) for settling the claim or by the agency that conducts the activity from which the claim arises within 6 years after the claim accrues except—" for "The claim must be received by the Comptroller General within 6 years after the claim accrues except—".

Subsec. (b)(2). Pub. L. 104-316, §202(n)(1)(D), substituted "received" for "presented to the Comptroller General" and "in paragraph" for "in clause".

Subsec. (b)(3). Pub. L. 104-316, §202(n)(1)(E), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The Comptroller General shall return a claim not received in the time required under this subsection with a copy of this subsection and no further communication is required."

Subsec. (d). Pub. L. 104-316, §202(n)(1)(F), substituted "official responsible under subsection (a) for settling the claim" for "Comptroller General" before "shall report to Congress" and "official" for "Comptroller General" before "believes" and before period at end.

Subsec. (e). Pub. L. 104-201 added subsec. (e).

1987—Subsec. (c). Pub. L. 100-86 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "A claim on a check or warrant that the records of the Comptroller General or the Secretary of the Treasury show as being paid must be presented to the Comptroller General or the Secretary within 6 years after the check or warrant was issued."

1983—Subsec. (b)(2). Pub. L. 97-452 inserted "this" before "subsection".

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-163, div. A, title X, §1056(e)(2), Jan. 6, 2006, 119 Stat. 3440, as amended by Pub. L. 111-383, div. A, title X, §1075(h)(3), Jan. 7, 2011, 124 Stat. 4377, provided that the amendment by section 1056(e)(2) is effective as of Dec. 2, 2002, and as if included in Pub. L. 107-314 as enacted.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-314, div. A, title VI, §635(c), Dec. 2, 2002, 116 Stat. 2574, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to claims against the United States presented to the Secretary of Defense under section 3702 of title 31, United States Code, on or after the date of the enactment of this Act [Dec. 2, 2002]."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-86 effective 6 months after Aug. 10, 1987, or on such later date as the Secretary of the Treasury may prescribe in regulations, see section 1006 of Pub. L. 100-86, set out as a note under section 3328 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment effective Sept. 13, 1982, see section 2(i) of Pub. L. 97-452, set out as a note under section 3331 of this title.

REGULATIONS

For provision permitting Secretary of the Treasury to prescribe rules, regulations, and procedures as necessary to implement amendment by section 1004(b) of Pub. L. 100-86, including recertification of Treasury checks which have been canceled or for which a claim has been asserted or barred, see section 1005 of Pub. L. 100-86, set out as a note under section 3328 of this title.

SUBCHAPTER II—CLAIMS OF THE UNITED STATES GOVERNMENT

§ 3711. Collection and compromise

(a) The head of an executive, judicial, or legislative agency—

(1) shall try to collect a claim of the United States Government for money or property arising out of the activities of, or referred to, the agency;

(2) may compromise a claim of the Government of not more than \$100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe that has not been referred to another executive or legislative agency for further collection action, except that only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official; and

(3) may suspend or end collection action on a claim referred to in clause (2) of this subsection when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim or the cost of collecting the claim is likely to be more than the amount recovered.

(b)(1) The head of an executive, judicial, or legislative agency may not act under subsection (a)(2) or (3) of this section on a claim that appears to be fraudulent, false, or misrepresented by a party with an interest in the claim, or that is based on conduct in violation of the antitrust laws.

(2) The Secretary of Transportation may not compromise for less than \$500 a penalty under section 21302 of title 49 for a violation of chapter 203, 205, or 207 of title 49 or a regulation or requirement prescribed or order issued under any of those chapters.

(c) A compromise under this section is final and conclusive unless gotten by fraud, misrepresentation, presenting a false claim, or mutual mistake of fact. An accountable official is not liable for an amount paid or for the value of property lost or damaged if the amount or value is not recovered because of a compromise under this section.

(d) The head of an executive, judicial, or legislative agency acts under—

(1) regulations prescribed by the head of the agency; and

(2) standards that the Attorney General, the Secretary of the Treasury, may prescribe.<sup>1</sup>

(e)(1) When trying to collect a claim of the Government under a law except the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.), the head of an executive, judicial, or legislative agency shall disclose to a consumer reporting

<sup>1</sup> So in original. Probably should be "Attorney General and the Secretary of the Treasury may prescribe jointly."

agency information from a system of records that a person is responsible for a claim if—

(A) notice required by section 552a(e)(4) of title 5 indicates that information in the system may be disclosed to a consumer reporting agency;

(B) the head of the agency has reviewed the claim and decided that the claim is valid and overdue;

(C) the head of the agency has notified the person in writing—

(i) that payment of the claim is overdue;

(ii) that, within not less than 60 days after sending the notice, the head of the agency intends to disclose to a consumer reporting agency that the person is responsible for the claim;

(iii) of the specific information to be disclosed to the consumer reporting agency; and

(iv) of the rights the person has to a complete explanation of the claim, to dispute information in the records of the agency about the claim, and to administrative appeal or review of the claim;

(D) the person has not—

(i) repaid or agreed to repay the claim under a written repayment plan that the person has signed and the head of the agency has agreed to; or

(ii) filed for review of the claim under paragraph (2) of this subsection;

(E) the head of the agency has established procedures to—

(i) disclose promptly, to each consumer reporting agency to which the original disclosure was made, a substantial change in the condition or amount of the claim;

(ii) verify or correct promptly information about the claim on request of a consumer reporting agency for verification of information disclosed; and

(iii) get satisfactory assurances from each consumer reporting agency that the agency is complying with all laws of the United States related to providing consumer credit information; and

(F) the information disclosed to the consumer reporting agency is limited to—

(i) information necessary to establish the identity of the person, including name, address, and taxpayer identification number;

(ii) the amount, status, and history of the claim; and

(iii) the agency or program under which the claim arose.

(2) Before disclosing information to a consumer reporting agency under paragraph (1) of this subsection and at other times allowed by law, the head of an executive, judicial, or legislative agency shall provide, on request of a person alleged by the agency to be responsible for the claim, for a review of the obligation of the person, including an opportunity for reconsideration of the initial decision on the claim.

(3) Before disclosing information to a consumer reporting agency under paragraph (1) of this subsection, the head of an executive, judicial, or legislative agency shall take reasonable

action to locate a person for whom the head of the agency does not have a current address to send the notice under paragraph (1)(C).

(4) The head of each executive agency shall require, as a condition for insuring or guaranteeing any loan, financing, or other extension of credit under any law to a person, that the lender provide information relating to the extension of credit to consumer reporting agencies or commercial reporting agencies, as appropriate.

(5) The head of each executive agency may provide to a consumer reporting agency or commercial reporting agency information from a system of records that a person is responsible for a claim which is current, if notice required by section 552a(e)(4) of title 5 indicates that information in the system may be disclosed to a consumer reporting agency or commercial reporting agency, respectively.

(f)(1) The Secretary of Defense may suspend or terminate an action by the Secretary or by the Secretary of a military department under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

(2) The Secretary of Homeland Security may suspend or terminate an action by the Secretary under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Coast Guard if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

(3) The Secretary of Veterans Affairs may suspend or terminate an action by the Secretary under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

(4) In this subsection, the term "active duty" has the meaning given that term in section 101 of title 10.

(g)(1) If a nontax debt or claim owed to the United States has been delinquent for a period of 180 days—

(A) the head of the executive, judicial, or legislative agency that administers the program that gave rise to the debt or claim shall transfer the debt or claim to the Secretary of the Treasury; and

(B) upon such transfer the Secretary of the Treasury shall take appropriate action to collect or terminate collection actions on the debt or claim.

(2) Paragraph (1) shall not apply—

(A) to any debt or claim that—

(i) is in litigation or foreclosure;

(ii) will be disposed of under an asset sales program within 1 year after becoming eligible for sale, or later than 1 year if consistent

with an asset sales program and a schedule established by the agency and approved by the Director of the Office of Management and Budget;

(iii) has been referred to a private collection contractor for collection for a period of time determined by the Secretary of the Treasury;

(iv) has been referred by, or with the consent of, the Secretary of the Treasury to a debt collection center for a period of time determined by the Secretary of the Treasury; or

(v) will be collected under internal offset, if such offset is sufficient to collect the claim within 3 years after the date the debt or claim is first delinquent; and

(B) to any other specific class of debt or claim, as determined by the Secretary of the Treasury at the request of the head of an executive, judicial, or legislative agency or otherwise.

(3) For purposes of this section, the Secretary of the Treasury may designate, and withdraw such designation of debt collection centers operated by other Federal agencies. The Secretary of the Treasury shall designate such centers on the basis of their performance in collecting delinquent claims owed to the Government.

(4) At the discretion of the Secretary of the Treasury, referral of a nontax claim may be made to—

(A) any executive department or agency operating a debt collection center for servicing, collection, compromise, or suspension or termination of collection action;

(B) a private collection contractor operating under a contract for servicing or collection action; or

(C) the Department of Justice for litigation.

(5) Nontax claims referred or transferred under this section shall be serviced, collected, or compromised, or collection action thereon suspended or terminated, in accordance with otherwise applicable statutory requirements and authorities. Executive departments and agencies operating debt collection centers may enter into agreements with the Secretary of the Treasury to carry out the purposes of this subsection. The Secretary of the Treasury shall—

(A) maintain competition in carrying out this subsection;

(B) maximize collections of delinquent debts by placing delinquent debts quickly;

(C) maintain a schedule of private collection contractors and debt collection centers eligible for referral of claims; and

(D) refer delinquent debts to the person most appropriate to collect the type or amount of claim involved.

(6) Any agency operating a debt collection center to which nontax claims are referred or transferred under this subsection may charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the nontax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this

subsection. Agencies may agree to pay through a different method, or to fund an activity from another account or from revenue received from the procedure described under section 3720C of this title. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

(7) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (in this subsection referred to in this section<sup>2</sup> as the "Account"). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of Governmentwide debt collection activities. Costs properly chargeable to the Account include—

(A) the costs of computer hardware and software, word processing and telecommunications equipment, and other equipment, supplies, and furniture;

(B) personnel training and travel costs;

(C) other personnel and administrative costs;

(D) the costs of any contract for identification, billing, or collection services; and

(E) reasonable costs incurred by the Secretary of the Treasury, including services and utilities provided by the Secretary, and administration of the Account.

(8) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year, minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

(9) Before discharging any delinquent debt owed to any executive, judicial, or legislative agency, the head of such agency shall take all appropriate steps to collect such debt, including (as applicable)—

(A) administrative offset,

(B) tax refund offset,

(C) Federal salary offset,

(D) referral to private collection contractors,

(E) referral to agencies operating a debt collection center,

(F) reporting delinquencies to credit reporting bureaus,

(G) garnishing the wages of delinquent debtors, and

(H) litigation or foreclosure.

(10) To carry out the purposes of this subsection, the Secretary of the Treasury may prescribe such rules, regulations, and procedures as

<sup>2</sup> So in original.

the Secretary considers necessary and transfer such funds from funds appropriated to the Department of the Treasury as may be necessary to meet existing liabilities and obligations incurred prior to the receipt of revenues that result from debt collections.

(h)(1) The head of an executive, judicial, or legislative agency acting under subsection (a)(1), (2), or (3) of this section to collect a claim, compromise a claim, or terminate collection action on a claim may obtain a consumer report (as that term is defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)) or comparable credit information on any person who is liable for the claim.

(2) The obtaining of a consumer report under this subsection is deemed to be a circumstance or purpose authorized or listed under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).

(i)(1) The head of an executive, judicial, or legislative agency may sell, subject to section 504(b) of the Federal Credit Reform Act of 1990 and using competitive procedures, any nontax debt owed to the United States that is delinquent for more than 90 days. Appropriate fees charged by a contractor to assist in the conduct of a sale under this subsection may be payable from the proceeds of the sale.

(2) After terminating collection action, the head of an executive, judicial, or legislative agency shall sell, using competitive procedures, any nontax debt or class of nontax debts owed to the United States, if the Secretary of the Treasury determines the sale is in the best interests of the United States.

(3) Sales of nontax debt under this subsection—

(A) shall be for—

(i) cash, or

(ii) cash and a residuary equity or profit participation, if the head of the agency reasonably determines that the proceeds will be greater than sale solely for cash,

(B) shall be without recourse, but may include the use of guarantees if otherwise authorized, and

(C) shall transfer to the purchaser all rights of the Government to demand payment of the nontax debt, other than with respect to a residuary equity or profit participation under subparagraph (A)(ii).

(4)(A) Within one year after the date of enactment of the Debt Collection Improvement Act of 1996, each executive agency with current and delinquent collateralized nontax debts shall report to the Congress on the valuation of its existing portfolio of loans, notes and guarantees, and other collateralized debts based on standards developed by the Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury.

(B) The Director of the Office of Management and Budget shall determine what information is required to be reported to comply with subparagraph (A). At a minimum, for each financing account and for each liquidating account (as those terms are defined in sections 502(7) and 502(8), respectively, of the Federal Credit Reform Act of 1990) the following information shall be reported:

(i) The cumulative balance of current debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

(ii) The cumulative balance of delinquent debts, debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

(iii) The cumulative balance of guaranteed loans outstanding, the estimated net present value of such guarantees, the annual administrative expenses of such guarantees (including the portion of salaries and expenses that are directly related to such guaranteed loans), and the estimated net proceeds that would be received by the Government if such loan guarantees were sold.

(iv) The cumulative balance of defaulted loans that were previously guaranteed and have resulted in loans receivables, the estimated net present value of such loan assets, the annual administrative expenses of such loan assets (including the portion of salaries and expenses that are directly related to such loan assets), and the estimated net proceeds that would be received by the Government if such loan assets were sold.

(v) The marketability of all debts.

(5) This subsection is not intended to limit existing statutory authority of agencies to sell loans, debts, or other assets.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 971; Pub. L. 97-452, §1(15), Jan. 12, 1983, 96 Stat. 2470; Pub. L. 98-216, §1(5), Feb. 14, 1984, 98 Stat. 4; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101-552, §8(b), Nov. 15, 1990, 104 Stat. 2746; Pub. L. 102-365, §4(a)(4), Sept. 3, 1992, 106 Stat. 973; Pub. L. 103-272, §5(i)(1), July 5, 1994, 108 Stat. 1375; Pub. L. 104-106, div. A, title X, §1089, Feb. 10, 1996, 110 Stat. 459; Pub. L. 104-134, title III, §31001(c)(1), (g)(1)(C), (k), (m)(1), (p), Apr. 26, 1996, 110 Stat. 1321-359, 1321-363, 1321-365, 1321-366, 1321-371; Pub. L. 104-201, div. A, title X, §1010, Sept. 23, 1996, 110 Stat. 2635; Pub. L. 104-316, title I, §115(g)(1), Oct. 19, 1996, 110 Stat. 3834; Pub. L. 109-241, title IX, §902(b)(4), July 11, 2006, 120 Stat. 566; Pub. L. 110-389, title VIII, §801(a), Oct. 10, 2008, 122 Stat. 4185.)

HISTORICAL AND REVISION NOTES  
1982 ACT

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3711(a) .....	31:952(a)(less words between 1st and 2d commas), (b)(1st sentence less words between 6th and 7th commas).	July 19, 1966, Pub. L. 89-508, §3, 80 Stat. 309.
3711(b) .....	31:952(b)(2d sentence, last sentence words after semicolon).	
3711(c)(1)	31:952(b)(last sentence words before semicolon).	

HISTORICAL AND REVISION NOTES—CONTINUED  
1982 ACT

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3711(c)(2)	31:952(note).	July 8, 1976, Pub. L. 94-348, §3(e), 90 Stat. 818.
3711(d) .....	31:952(c).	
3711(e) .....	31:952(a)(words between 1st and 2d commas), (b)(1st sentence words between 6th and 7th commas).	

In the section, the words "executive or legislative agency" are substituted for "agency" because of the restatement. The words "or his designee" are omitted as unnecessary.

In subsection (a), the word "Government" is added for consistency. In clause (2), the words "including the General Accounting Office" are omitted as surplus. In clause (3), the word "financial" is omitted as surplus.

In subsections (b) and (d), the word "official" is substituted for "officer" for consistency.

In subsection (b), the words "Comptroller General" are substituted for "General Accounting Office" for consistency. The words "has the same authority that the head of the agency has" are substituted for "have the foregoing authority" for clarity. The words "by another agency" are omitted as surplus. The words "only . . . may compromise" are substituted for "nor shall the head of an agency, other than . . . have authority to compromise" to eliminate unnecessary words.

In subsection (c)(1), the words "that appears to be fraudulent, false, or misrepresented by" are substituted for "as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of" to eliminate unnecessary words. The words "the debtor or . . . other" and "in whole or in part" are omitted as surplus.

In subsection (c)(2), the words "Notwithstanding any provision of the Federal Claims Collection Act of 1966" are omitted as unnecessary. The words "arising" and "an amount" are omitted as surplus.

In subsection (d), the words "effected . . . authority conferred by", "on the debtor and on all officials, agencies, and courts of the United States", "destroyed", and "with a person primarily responsible" are omitted as surplus.

In subsection (e), the words "in conformity with" are omitted as surplus.

## 1983 ACT

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3711(f)(1)	31 App.:952(d)(1).	July 19, 1966, Pub. L. 89-508, 80 Stat. 308, §3(d)(1)-(3); added Oct. 25, 1982, Pub. L. 97-365, §3, 96 Stat. 1749.
3711(f)(2)	31 App.:952(d)(2).	
3711(f)(3)	31 App.:952(d)(3).	

In subsection (f)(1), before clause (A), the word "Government" is substituted for "United States" for consistency in the revised title and with other titles of the United States Code. The words "subsection (a) of this section, or under any other" are omitted as surplus. The word "law" is substituted for "statutory authority" to eliminate unnecessary words. In clause (A), the words "for the system of records" are omitted as surplus. In clause (C)(iii), the word "intended" is omitted as surplus. In clause (E)(ii), the words "as appropriate" and "any or all" are omitted as surplus. In clause (E)(iii), the words "all laws of the United States" are coextensive with and substituted for "the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and any other Federal law".

## 1984 ACT

This is necessary to reflect the transfer of the non-positive law provisions of title 49 to title 49 appendix.

## REFERENCES IN TEXT

Sections 502(7), 502(8), and 504(b) of the Federal Credit Reform Act of 1990, referred to in subsec. (1)(1), (4)(B), are classified to sections 661a(7), 661a(8), and 661c(b), respectively, of Title 2, The Congress.

The date of enactment of the Debt Collection Improvement Act of 1996, referred to in subsec. (1)(4)(A), is the date of enactment of section 31001 of Pub. L. 104-134, which was approved Apr. 26, 1996.

## AMENDMENTS

2008—Subsec. (f)(3), (4). Pub. L. 110-389 added par. (3) and redesignated former par. (3) as (4).

2006—Subsec. (f)(2). Pub. L. 109-241 substituted "Secretary of Homeland Security" for "Secretary of Transportation".

1996—Subsec. (a). Pub. L. 104-134, §31001(c)(1), which directed that this section be amended by substituting "the head of an executive, judicial, or legislative agency" for "the head of an executive or legislative agency" wherever appearing, was executed in introductory provisions by substituting "The head of an executive, judicial, or legislative agency" for "The head of an executive or legislative agency", to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 104-316, §115(g)(1)(A), inserted ", except that only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official" before "; and" at end.

Subsec. (b). Pub. L. 104-316, §115(g)(1)(B), (C), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: "The Comptroller General has the same authority that the head of the agency has under subsection (a) of this section when the claim is referred to the Comptroller General for further collection action. Only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official."

Subsec. (c). Pub. L. 104-316, §115(g)(1)(C), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 104-134, §31001(c)(1), which directed that this section be amended by substituting "the head of an executive, judicial, or legislative agency" for "the head of an executive or legislative agency" wherever appearing, was executed by substituting "The head of an executive, judicial, or legislative agency" for "The head of an executive or legislative agency", to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 104-316, §115(g)(1)(C), (D), redesignated subsec. (e) as (d) and in par. (2) struck out "and the Comptroller General" before "may prescribe" and "jointly" after "prescribe". Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 104-316, §115(g)(1)(C), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Pub. L. 104-134, §31001(c)(1), which directed that this section be amended by substituting "the head of an executive, judicial, or legislative agency" for "the head of an executive or legislative agency" wherever appearing, was executed in introductory provisions by substituting "The head of an executive, judicial, or legislative agency" for "The head of an executive or legislative agency", to reflect the probable intent of Congress.

Subsec. (e)(2). Pub. L. 104-134, §31001(g)(1)(C), inserted ", the Secretary of the Treasury," after "Attorney General".

Subsec. (f). Pub. L. 104-316, §115(g)(1)(C), redesignated the subsec. (g), relating to authority to suspend or terminate collection actions against deceased members, as (f). Former subsec. (f) redesignated (e).

Subsec. (f)(1). Pub. L. 104-134, §31001(c)(1), (k)(1), (2), in introductory provisions substituted "the head of an executive, judicial, or legislative agency shall" for "the head of an executive or legislative agency may" and "a person" for "an individual".

Subsec. (f)(1)(C), (D), (F). Pub. L. 104-134, §31001(k)(3), substituted "the person" for "the individual" wherever appearing.

Subsec. (f)(2). Pub. L. 104-134, § 31001(c)(1), (k)(2), (3), substituted "the head of an executive, judicial, or legislative agency" for "the head of an executive or legislative agency", "a person" for "an individual", and "the person" for "the individual".

Subsec. (f)(3). Pub. L. 104-134, § 31001(c)(1), (k)(2), substituted "the head of an executive, judicial, or legislative agency" for "the head of an executive or legislative agency" and "a person" for "an individual".

Subsec. (f)(4), (5). Pub. L. 104-134, § 31001(k)(4), added pars. (4) and (5).

Subsec. (g). Pub. L. 104-316, § 115(g)(1)(C), redesignated the subsec. (g), relating to authority to suspend or terminate collection actions against deceased members, as (f).

Pub. L. 104-134, § 31001(m)(1), added subsec. (g) relating to transfer of debt or claim to Secretary of the Treasury in case of delinquency.

Pub. L. 104-106 added subsec. (g) relating to authority to suspend or terminate collection actions against deceased members.

Subsec. (g)(1). Pub. L. 104-201, § 1010(1), substituted "Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy" for "or Marine Corps".

Subsec. (g)(2), (3). Pub. L. 104-201, § 1010(2), (3), added par. (2) and redesignated former par. (2) as (3).

Subsec. (h). Pub. L. 104-134, § 31001(m)(1), added subsec. (h).

Subsec. (i). Pub. L. 104-134, § 31001(p), added subsec. (i).

1994—Subsec. (c)(2). Pub. L. 103-272 substituted "section 21302 of title 49 for a violation of chapter 203, 205, or 207 of title 49 or a regulation or requirement prescribed or order issued under any of those chapters" for "section 6 of the Act of March 2, 1893 (45 U.S.C. 6), section 4 of the Act of April 14, 1910 (45 U.S.C. 13), section 9 of the Act of February 17, 1911 (45 U.S.C. 34), and section 25(h) of the Interstate Commerce Act (49 App. U.S.C. 26(h))".

1992—Subsec. (c)(2). Pub. L. 102-365 substituted "\$500" for "\$250".

1990—Subsec. (a)(2). Pub. L. 101-552 substituted "\$100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe" for "\$20,000 (excluding interest)".

1986—Subsec. (f)(1). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

1984—Subsec. (c)(2). Pub. L. 98-216 substituted "(49 App. U.S.C. 26(h))" for "(49 U.S.C. 26(h))".

1983—Subsec. (f). Pub. L. 97-452 added subsec. (f).

#### SAVINGS PROVISION

Section 31001(n) of Pub. L. 104-134 provided that: "Effective October 1, 1995, section 11 of the Administrative Dispute Resolution Act (Public Law 101-552, [former] 5 U.S.C. 571 note) shall not apply to the amendment made by section 8(b) of such Act [amending this section]."

#### GUIDELINES

Section 31001(aa)(1) of Pub. L. 104-134 provided that: "The Secretary of the Treasury, in consultation with concerned Federal agencies, may establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities."

#### REPORT

Section 31001(aa)(2) of Pub. L. 104-134 provided that: "Not later than 3 years after the date of enactment of this Act [Apr. 26, 1996], the Secretary of the Treasury shall report to the Congress on collection services provided by Federal agencies or entities collecting debt on behalf of other Federal agencies under the authorities contained in section 3711(g) of title 31, United States Code, as added by subsection (m) of this section."

#### STANDARDS AND POLICIES FOR COMPROMISING, WRITING-DOWN, FORGIVING, OR DISCHARGING INDEBTEDNESS

Section 31001(bb) of Pub. L. 104-134 provided that: "The Director of the Office of Management and Budget shall—

"(1) review the standards and policies of each Federal agency for compromising, writing-down, forgiving, or discharging indebtedness arising from programs of the agency;

"(2) determine whether those standards and policies are consistent and protect the interests of the United States;

"(3) in the case of any Federal agency standard or policy that the Director determines is not consistent or does not protect the interests of the United States, direct the head of the agency to make appropriate modifications to the standard or policy; and

"(4) report annually to the Congress on—

"(A) deficiencies in the standards and policies of Federal agencies for compromising, writing-down, forgiving, or discharging indebtedness; and

"(B) progress made in improving those standards and policies."

#### EXISTING AGENCY AUTHORITY TO LITIGATE, SETTLE, COMPROMISE, OR CLOSE CLAIMS

Pub. L. 89-508, § 4, July 19, 1966, 80 Stat. 309, provided that: "Nothing in this Act [now this section] shall increase or diminish the existing authority of the head of an agency to litigate claims, or diminish his existing authority to settle, compromise, or close claims."

#### § 3712. Time limitations for presenting certain claims of the Government

##### (a) CLAIMS OVER FORGED OR UNAUTHORIZED ENDORSEMENTS.—

(1) PERIOD FOR CLAIMS.—If the Secretary of the Treasury determines that a Treasury check has been paid over a forged or unauthorized endorsement, the Secretary may reclaim the amount of such check from the presenting bank or any other endorser that has breached its guarantee of endorsements prior to—

(A) the end of the 1-year period beginning on the date of payment; or

(B) the expiration of the 180-day period beginning on the close of the period described in subparagraph (A) if a timely claim is received under section 3702.

(2) CIVIL ACTIONS.—(A) Except as provided in subparagraph (B), the United States may bring a civil action to enforce the liability of an endorser, transferor, depository, or fiscal agent on a forged or unauthorized signature or endorsement on, or a change in, a check or warrant issued by the Secretary of the Treasury, the United States Postal Service, or any disbursing official or agent not later than 1 year after a check or warrant is presented to the drawee for payment.

(B) If the United States has given an endorser written notice of a claim against the endorser within the time allowed by subparagraph (A), the 1-year period for bringing a civil action on that claim under subparagraph (A) shall be extended by 3 years.

(3) EFFECT ON AGENCY AUTHORITY.—Nothing in this subsection shall be construed to limit the authority of any agency under subchapter II of chapter 37 of this title.

(b) Notwithstanding subsection (a) of this section, a civil action may be brought within 2 years after the claim is discovered when an en-