

TITLE 5 - GOVERNMENT ORGANIZATION AND EMPLOYEES

PART III - EMPLOYEES

Subpart D - Pay and Allowances

CHAPTER 55 - PAY ADMINISTRATION

SUBCHAPTER II - WITHHOLDING PAY

§ 5520a. Garnishment of pay

- (a) For purposes of this section—
- (1) “agency” means each agency of the Federal Government, including—
 - (A) an executive agency, except for the Government Accountability Office;
 - (B) the United States Postal Service and the Postal Regulatory Commission;
 - (C) any agency of the judicial branch of the Government; and
 - (D) any agency of the legislative branch of the Government, including the Government Accountability Office, each office of a Member of Congress, a committee of the Congress, or other office of the Congress;
 - (2) “employee” means an employee of an agency (including a Member of Congress as defined under section 2106);
 - (3) “legal process” means any writ, order, summons, or other similar process in the nature of garnishment, that—
 - (A) is issued by a court of competent jurisdiction within any State, territory, or possession of the United States, or an authorized official pursuant to an order of such a court or pursuant to State or local law; and
 - (B) orders the employing agency of such employee to withhold an amount from the pay of such employee, and make a payment of such withholding to another person, for a specifically described satisfaction of a legal debt of the employee, or recovery of attorney’s fees, interest, or court costs; and
 - (4) “pay” means—
 - (A) basic pay, premium pay paid under subchapter V, any payment received under subchapter VI, VII, or VIII, severance and back pay paid under subchapter IX, sick pay, incentive pay, and any other compensation paid or payable for personal services, whether such compensation is denominated as wages, salary, commission, bonus pay or otherwise; and
 - (B) does not include awards for making suggestions.
- (b) Subject to the provisions of this section and the provisions of section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673) pay from an agency to an employee is subject to legal process in the same manner and to the same extent as if the agency were a private person.
- (c) (1) Service of legal process to which an agency is subject under this section may be accomplished by certified or registered mail, return receipt requested, or by personal service, upon—
 - (A) the appropriate agent designated for receipt of such service of process pursuant to the regulations issued under this section; or
 - (B) the head of such agency, if no agent has been so designated.(2) Such legal process shall be accompanied by sufficient information to permit prompt identification of the employee and the payments involved.
- (d) Whenever any person, who is designated by law or regulation to accept service of process to which an agency is subject under this section, is effectively served with any such process or with interrogatories, such person shall respond thereto within thirty days (or within such longer period as may be prescribed by applicable State law) after the date effective service thereof is made, and shall, as soon as possible but not later than fifteen days after the date effective service is made, send written

notice that such process has been so served (together with a copy thereof) to the affected employee at his or her duty station or last-known home address.

(e) No employee whose duties include responding to interrogatories pursuant to requirements imposed by this section shall be subject to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by such employee in connection with the carrying out of any of such employee's duties which pertain directly or indirectly to the answering of any such interrogatory.

(f) Agencies affected by legal process under this section shall not be required to vary their normal pay and disbursement cycles in order to comply with any such legal process.

(g) Neither the United States, an agency, nor any disbursing officer shall be liable with respect to any payment made from payments due or payable to an employee pursuant to legal process regular on its face, provided such payment is made in accordance with this section and the regulations issued to carry out this section. In determining the amount of any payment due from, or payable by, an agency to an employee, there shall be excluded those amounts which would be excluded under section 462(g) of the Social Security Act (42 U.S.C. 662 (g)).

(h) (1) Subject to the provisions of paragraph (2), if an agency is served under this section with more than one legal process with respect to the same payments due or payable to an employee, then such payments shall be available, subject to section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673), to satisfy such processes in priority based on the time of service, with any such process being satisfied out of such amounts as remain after satisfaction of all such processes which have been previously served.

(2) A legal process to which an agency is subject under section 459 of the Social Security Act (42 U.S.C. 659) for the enforcement of the employee's legal obligation to provide child support or make alimony payments, shall have priority over any legal process to which an agency is subject under this section.

(i) The provisions of this section shall not modify or supersede the provisions of section 459 of the Social Security Act (42 U.S.C. 659) concerning legal process brought for the enforcement of an individual's legal obligations to provide child support or make alimony payments.

(j) (1) Regulations implementing the provisions of this section shall be promulgated—

(A) by the President or his designee for each executive agency, except with regard to employees of the United States Postal Service, the President or, at his discretion, the Postmaster General shall promulgate such regulations;

(B) jointly by the President pro tempore of the Senate and the Speaker of the House of Representatives, or their designee, for the legislative branch of the Government; and

(C) by the Chief Justice of the United States or his designee for the judicial branch of the Government.

(2) Such regulations shall provide that an agency's administrative costs in executing a garnishment action may be added to the garnishment, and that the agency may retain costs recovered as offsetting collections.

(k) (1) No later than 180 days after the date of the enactment of this Act, the Secretaries of the Executive departments concerned shall promulgate regulations to carry out the purposes of this section with regard to members of the uniformed services.

(2) Such regulations shall include provisions for—

(A) the involuntary allotment of the pay of a member of the uniformed services for indebtedness owed a third party as determined by the final judgment of a court of competent jurisdiction, and as further determined by competent military or executive authority, as appropriate, to be in compliance with the procedural requirements of the Servicemembers Civil Relief Act (50 App. U.S.C. 501 et seq.); and

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(B) consideration for the absence of a member of the uniformed service from an appearance in a judicial proceeding resulting from the exigencies of military duty.

(3) The Secretaries of the Executive departments concerned shall promulgate regulations under this subsection that are, as far as practicable, uniform for all of the uniformed services. The Secretary of Defense shall consult with the Secretary of Homeland Security with regard to the promulgation of such regulations that might affect members of the Coast Guard when the Coast Guard is operating as a service in the Navy.

(Added Pub. L. 103–94, § 9(a), Oct. 6, 1993, 107 Stat. 1007; amended Pub. L. 104–106, div. A, title VI, § 643, Feb. 10, 1996, 110 Stat. 368; Pub. L. 104–193, title III, § 362(b)(2), Aug. 22, 1996, 110 Stat. 2246; Pub. L. 105–85, div. A, title XI, § 1105, Nov. 18, 1997, 111 Stat. 1923; Pub. L. 108–189, § 2(b)(1), Dec. 19, 2003, 117 Stat. 2865; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109–241, title IX, § 902(a)(3), July 11, 2006, 120 Stat. 566; Pub. L. 109–435, title VI, § 604(f), Dec. 20, 2006, 120 Stat. 3242.)

References in Text

The date of the enactment of this Act, referred to in subsec. (k)(1), probably means the date of enactment of Pub. L. 103–94, which enacted this section and was approved Oct. 6, 1993.

The Servicemembers Civil Relief Act, referred to in subsec. (k)(2)(A), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, as amended, which is classified to section 501 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see section 501 of Title 50, Appendix, and Tables.

Amendments

2006—Subsec. (a)(1)(B). Pub. L. 109–435 substituted “Postal Regulatory Commission” for “Postal Rate Commission”.

Subsec. (k)(3). Pub. L. 109–241 substituted “Secretary of Homeland Security” for “Secretary of Transportation”.

2004—Subsec. (a)(1)(A), (D). Pub. L. 108–271 substituted “Government Accountability Office” for “General Accounting Office”.

2003—Subsec. (k)(2)(A). Pub. L. 108–189 substituted “Servicemembers Civil Relief Act” for “Soldiers’ and Sailors’ Civil Relief Act of 1940”.

1997—Subsec. (j)(2). Pub. L. 105–85, § 1105(1), added par. (2) and struck out former par. (2) which read as follows: “Such regulations shall provide that an agency’s administrative costs incurred in executing legal process to which the agency is subject under this section shall be deducted from the amount withheld from the pay of the employee concerned pursuant to the legal process.”

Subsec. (k)(3), (4). Pub. L. 105–85, § 1105(2), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: “Regulations under this subsection may also provide that the administrative costs incurred in establishing and maintaining an involuntary allotment be deducted from the amount withheld from the pay of the member of the uniformed services concerned pursuant to such regulations.”

Subsec. (l). Pub. L. 105–85, § 1105(3), struck out subsec. (l) which read as follows: “The amount of an agency’s administrative costs deducted under regulations prescribed pursuant to subsection (j)(2) or (k)(3) shall be credited to the appropriation, fund, or account from which such administrative costs were paid.”

1996—Subsecs. (h)(2), (i). Pub. L. 104–193 substituted “section 459 of the Social Security Act (42 U.S.C. 659)” for “sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)”.

Subsec. (j)(2). Pub. L. 104–106, § 643(a), added par. (2) and struck out former par. (2) which read as follows: “Such regulations shall provide that an agency’s administrative costs in executing a garnishment action may be added to the garnishment, and that the agency may retain costs recovered as offsetting collections.”

Subsec. (k)(3), (4). Pub. L. 104–106, § 643(b), added par. (3) and redesignated former par. (3) as (4).

Subsec. (l). Pub. L. 104–106, § 643(c), added subsec. (l).

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Effective Date of 1996 Amendment

Amendment by Pub. L. 104–193 effective six months after Aug. 22, 1996, see section 362(d) of Pub. L. 104–193, set out as a note under section 659 of Title 42, The Public Health and Welfare.

For provisions relating to effective date of title III of Pub. L. 104–193, see section 395 (a)–(c) of Pub. L. 104–193, set out as a note under section 654 of Title 42, The Public Health and Welfare.

Effective Date; Savings Provision

Section effective 120 days after Oct. 6, 1993, and not to affect any proceedings with respect to which charges were filed on or before 120 days after Oct. 6, 1993, with orders to be issued in such proceedings and appeals taken therefrom as if Pub. L. 103–94 had not been enacted, see section 12 of Pub. L. 103–94, set out as a note under section 7321 of this title.

Pilot Program on Alternative Notice of Receipt of Legal Process for Garnishment of Federal Pay for Child Support and Alimony

Pub. L. 105–261, div. A, title X, § 1061, Oct. 17, 1998, 112 Stat. 2128, authorized the Secretary of Defense to conduct a pilot program on alternative notice procedures for withholding or garnishment of pay for the payment of child support and alimony under section 659 of Title 42, The Public Health and Welfare, required the Secretary to submit to Congress, not later than Jan. 1, 2001, a report describing the experience of the Department of Defense under the authority provided for the program, and provided for termination of pilot program on Sept. 30, 2001.

Ex. Ord. No. 12897. Garnishment of Federal Employees' Pay

Ex. Ord. No. 12897, Feb. 3, 1994, 59 F.R. 5517, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 5520a (j)(1)(A) of title 5, United States Code, as added by section 9 of Public Law 103–94, it is hereby ordered as follows:

Section 1. The Office of Personnel Management, in consultation with the Attorney General, is designated to promulgate regulations for the implementation of section 5520a of title 5, United States Code, with respect to civilian employees and agencies in the executive branch, except as provided in section 2 of this order.

Sec. 2. The Postmaster General is designated to promulgate regulations for the implementation of section 5520a of title 5, United States Code, with respect to employees of the United States Postal Service.

William J. Clinton.