

mittee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

**EFFECTIVE DATE OF 1993 AMENDMENT**

Section 701 of Pub. L. 103-183 provided that the amendment made by that section is effective Oct. 1, 1994.

**EFFECTIVE DATE OF 1981 AMENDMENT**

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 902(h) of Pub. L. 97-35, set out as a note under section 238l of this title.

**§ 238k. Contract authority**

The authority of the Secretary to enter into contracts under this chapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

(July 1, 1944, ch. 373, title II, §242, formerly title V, §514, as added Pub. L. 95-623, §11(e), Nov. 9, 1978, 92 Stat. 3456; renumbered title XXI, §2114, Pub. L. 98-24, §2(a)(1), Apr. 26, 1983, 97 Stat. 176; renumbered title XXIII, §2314, Pub. L. 99-660, title III, §311(a), Nov. 14, 1986, 100 Stat. 3755; renumbered title XXV, §2512, Pub. L. 100-607, title II, §201(1), (3), Nov. 4, 1988, 102 Stat. 3062, 3063; renumbered title XXVI, §2612, Pub. L. 100-690, title II, §2620(a), Nov. 18, 1988, 102 Stat. 4244; renumbered title XXVII, §2712, Pub. L. 101-381, title I, §101(1), (2), Aug. 18, 1990, 104 Stat. 576; renumbered title II, §242, Pub. L. 103-43, title XX, §2010(a)(1)-(3), June 10, 1993, 107 Stat. 213.)

**CODIFICATION**

Section was formerly classified to section 300aaa-11 of this title prior to renumbering by Pub. L. 103-43, to section 300cc-13 of this title prior to renumbering by Pub. L. 100-607, to section 300aa-13 of this title prior to renumbering by Pub. L. 99-660, and to section 229c of this title prior to renumbering by Pub. L. 98-24.

**OBLIGATIONS RELATED TO AGREEMENT WITH PRIVATE ENTITIES**

Pub. L. 105-277, div. A, §101(f) [title II], Oct. 21, 1998, 112 Stat. 2681-337, 2681-349, provided in part: "That hereinafter obligations may be incurred related to agreement with private entities without receipt of advance payment."

**§ 238l. Recovery**

**(a) Right of United States to recover base amount plus interest**

If any facility with respect to which funds have been paid under the Community Mental Health Centers Act [42 U.S.C. 2689 et seq.] (as such Act was in effect prior to October 1, 1981) is, at any time within twenty years after the completion of remodeling, construction, or expansion or after the date of its acquisition—

(1) sold or transferred to any entity (A) which would not have been qualified to file an application under section 222 of such Act [42 U.S.C. 2689j] (as such section was in effect prior to October 1, 1981) or (B) which is disapproved as a transferee by the State mental health agency or by another entity designated by the chief executive officer of the State, or

(2) ceases to be used by a community mental health center in the provision of comprehensive mental health services,

the United States shall be entitled to recover from the transferor, transferee, or owner of the facility, the base amount prescribed by subsection (c)(1) of this section plus the interest (if any) prescribed by subsection (c)(2) of this section.

**(b) Notice of sale, transfer, or change**

The transferor and transferee of a facility that is sold or transferred as described in subsection (a)(1) of this section, or the owner of a facility the use of which changes as described in subsection (a)(2) of this section, shall provide the Secretary written notice of such sale, transfer, or change within 10 days after the date on which such sale, transfer, or cessation of use occurs or within 30 days after October 22, 1985, whichever is later.

**(c) Base amount; interest**

(1) The base amount that the United States is entitled to recover under subsection (a) of this section is the amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district in which the facility is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the remodeling, construction, expansion, or acquisition of the project or projects.

(2)(A) The interest that the United States is entitled to recover under subsection (a) of this section is the interest for the period (if any) described in subparagraph (B) at a rate (determined by the Secretary) based on the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned during that period.

(B) The period referred to in subparagraph (A) is the period beginning—

(i) if notice is provided as prescribed by subsection (b) of this section, 191 days after the date on which such sale, transfer, or cessation of use occurs, or

(ii) if notice is not provided as prescribed by subsection (b) of this section, 11 days after such sale, transfer, or cessation of use occurs,

and ending on the date the amount the United States is entitled to recover is collected.

**(d) Waiver of recovery rights**

The Secretary may waive the recovery rights of the United States under subsection (a) of this section with respect to a facility (under such conditions as the Secretary may establish by regulation) if the Secretary determines that there is good cause for waiving such rights.

**(e) Pre-judgment lien**

The right of recovery of the United States under subsection (a) of this section shall not, prior to judgment, constitute a lien on any facility.

(July 1, 1944, ch. 373, title II, §243, formerly title V, §515, formerly Pub. L. 88-164, title II, §225, as added Pub. L. 94-63, title III, §303, July 29, 1975, 89 Stat. 326; amended Pub. L. 95-622, title I, §110(c), Nov. 9, 1978, 92 Stat. 3420; renumbered title V, §515, and amended Pub. L. 97-35, title IX, §902(e)(2)(A), Aug. 13, 1981, 95 Stat. 560; renum-