

**§ 328. Payment for care and treatment**

**(a) Persons liable; scope of liability; compromise or waiver; investigations; judicial proceedings**

Any person hospitalized under section 324 of this title or his estate, shall be liable to pay or contribute toward the payment of the costs or charges for his care and treatment to the same extent as such person would, if resident in the District of Columbia, be liable to pay, under the laws of the District of Columbia, for his care and maintenance in a hospital for the mentally ill in that jurisdiction. The Secretary may, in his discretion, where in his judgment substantial justice will be best served thereby or the probable recovery will not warrant the expense of collection, compromise or waive the whole or any portion of any claim under this section. In carrying out this section, the Secretary may make or cause to be made such investigations as may be necessary to determine the ability of any person hospitalized under section 324 of this title to pay or contribute toward the cost of his hospitalization. All collections or reimbursement on account of the costs and charges for the care of the eligible person shall be deposited in the Treasury as miscellaneous receipts. Any judicial proceedings to recover such costs or charges shall be brought in the name of the United States in any court of competent jurisdiction.

**(b) "Costs or charges" defined**

As used in this section, the term "costs or charges" means, in the case of hospitalization at a hospital under the jurisdiction of the Department of Health and Human Services, a per diem rate prescribed by the Secretary on a basis comparable to that charged for any other paying patients and, in the case of persons hospitalized elsewhere, the contract rate or a per diem rate fixed by the Secretary on the basis of the contract rate.

(Pub. L. 86-571, § 8, July 5, 1960, 74 Stat. 310; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

CHANGE OF NAME

"Department of Health and Human Services" substituted in text for "Department of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

**§ 329. Availability of appropriations for transportation**

Appropriations for carrying out this chapter shall also be available for the transportation of any eligible person and necessary attendants to or from a hospital (including any hospital of a State or political subdivision to which an eligible person is released under section 323 of this title), to the place where a relative to whom any person is released under section 323 of this title resides, or to a person's home upon his discharge from hospitalization under this chapter.

(Pub. L. 86-571, § 9, July 5, 1960, 74 Stat. 310.)

**CHAPTER 10—ARMED FORCES RETIREMENT HOME**

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## SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

441. Authorization of appropriations for United States Soldiers' and Airmen's Home.

**§ 401. Definitions**

For purposes of this chapter:

(1) The term "Retirement Home" means the Armed Forces Retirement Home established under section 411(a) of this title.

(2) The term "Retirement Home Board" means the Armed Forces Retirement Home Board.

(3) The term "Local Board" means a Board of Trustees established for each facility of the Retirement Home maintained as a separate establishment of the Retirement Home for administrative purposes.

(4) The term "Director" means a Director of the Armed Forces Retirement Home appointed under section 417(a) of this title.

(5) The term "Fund" means the Armed Forces Retirement Home Trust Fund established under section 419(a) of this title.

(6) The term "Armed Forces" does not include the Coast Guard when it is not operating as a service in the Navy.

(7) The term "chief personnel officers" means—

- (A) the Deputy Chief of Staff for Personnel of the Army;
- (B) the Chief of Naval Personnel;
- (C) the Deputy Chief of Staff, Manpower and Personnel of the Air Force; and
- (D) the Deputy Chief of Staff for Manpower of the Marine Corps.

(8) The term "senior noncommissioned officers" means the following:

- (A) The Sergeant Major of the Army.
- (B) The Master Chief Petty Officer of the Navy.
- (C) The Chief Master Sergeant of the Air Force.
- (D) The Sergeant Major of the Marine Corps.

(Pub. L. 101-510, div. A, title XV, § 1502, Nov. 5, 1990, 104 Stat. 1722.)

## REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title XV of Pub. L. 101-510, div. A, Nov. 5, 1990, 104 Stat. 1722, as amended, which is classified principally to this chapter. For complete classification of title XV to the Code, see Short Title note below and Tables.

## EFFECTIVE DATE

Section 1541 of title XV of div. A of Pub. L. 101-510, as amended by Pub. L. 103-160, div. A, title III, § 366(f), Nov. 30, 1993, 107 Stat. 1632, provided that:

"(a) IN GENERAL.—Except where otherwise specified, this title [see Short Title note below] and the amendments made by this title shall take effect one year after the date of the enactment of this Act [Nov. 5, 1990].

"(b) ESTABLISHMENT OF FUND.—Sections 1519, 1531, and 1533(c)(1) [enacting sections 419 and 431 of this title and amending section 1321 of Title 31, Money and Finance] shall take effect on the date of the enactment of this Act [Nov. 5, 1990].

"(c) APPOINTMENT OF BOARD.—The provisions of section 1515 [enacting section 415 of this title] relating to the appointment and designation of members of the Retirement Home Board and Local Boards shall take effect on October 1, 1991.

"(d) APPLICABILITY.—Section 1520 of this Act [enacting section 420 of this title] shall apply to the estate of each resident of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home, who dies after November 29, 1989."

## SHORT TITLE

Section 1501 of title XV of div. A of Pub. L. 101-510 provided that: "This title [enacting this chapter, amending section 6a of this title, sections 1089, 2575, 2772, 4624, 4712, 9624, and 9712 of Title 10, Armed Forces, section 1321 of Title 31, Money and Finance, section 1007 of Title 37, Pay and Allowances of the Uniformed Services, and section 906 of Title 44, Public Printing and Documents, repealing sections 21a to 25, 41 to 43, 44b, 45 to 46b, 48 to 50, 54, and 59 of this title and sections 4713 and 9713 of Title 10, and enacting provisions set out as notes above and under section 2772 of Title 10] may be cited as the 'Armed Forces Retirement Home Act of 1991'."

## SUBCHAPTER I—ESTABLISHMENT AND OPERATION OF RETIREMENT HOME

**§ 411. Establishment of Armed Forces Retirement Home****(a) Inclusion of existing homes**

The United States Soldiers' and Airmen's Home and the Naval Home are hereby incorporated into an independent establishment in the Executive branch of the Federal Government to be known as the Armed Forces Retirement Home.

**(b) Purpose**

The purpose of the Retirement Home is to provide, through the United States Soldiers' and Airmen's Home and the Naval Home, a residence and related services for certain retired and former members of the Armed Forces.

**(c) Operation**

Each facility of the Retirement Home maintained as a separate establishment of the Retirement Home for administrative purposes shall be operated by a Director under the overall supervision of the Armed Forces Retirement Home Board.

**(d) Property and facilities**

(1) The Retirement Home shall consist of such property and facilities as may be transferred to the Retirement Home or acquired by the Retirement Home Board for inclusion in the Retirement Home.

(2) On the effective date specified in section 1541(a), the property and facilities known and operated as the Naval Home and the United States Soldiers' and Airmen's Home shall be

transferred to, and made a part of, the Retirement Home.

**(e) Department of Defense support**

The Secretary of Defense may make available to the Retirement Home, on a nonreimbursable basis, administrative support and office services, legal and policy planning assistance, access to investigative facilities of the Inspector General of the Department of Defense and of the military departments, and any other support necessary to enable the Retirement Home to carry out its functions under this chapter.

**(f) Accreditation**

The Retirement Home Board shall endeavor to secure for each facility of the Retirement Home maintained as a separate establishment of the Retirement Home for administrative purposes the accreditation of that facility by a nationally recognized civilian accrediting organization, such as the Continuing Care Accreditation Commission and the Joint Commission for Accreditation of Health Organizations.

(Pub. L. 101-510, div. A, title XV, §1511, Nov. 5, 1990, 104 Stat. 1723; Pub. L. 103-160, div. A, title III, §366(a), Nov. 30, 1993, 107 Stat. 1630.)

REFERENCES IN TEXT

For the effective date specified in section 1541(a), referred to in subsec. (d)(2), see Effective Date note below.

This chapter, referred to in subsec. (e), was in the original "this Act", and was translated as reading "this title", meaning title XV of Pub. L. 101-510, div. A, Nov. 5, 1990, 104 Stat. 1722, as amended, known as the "Armed Forces Retirement Home Act of 1991", which is classified principally to this chapter. For complete classification of title XV to the Code, see Short Title note set out under section 401 of this title and Tables.

AMENDMENTS

1993—Subsecs. (e), (f). Pub. L. 103-160 added subsec. (e) and redesignated former subsec. (e) as (f).

EFFECTIVE DATE

Section effective one year after Nov. 5, 1990, see section 1541(a) of Pub. L. 101-510, set out as a note under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

**§ 412. Residents of Retirement Home**

**(a) Persons eligible to be residents**

Except as provided in subsection (b) of this section, the following persons who served as members of the Armed Forces, at least one-half of whose service was not active commissioned service (other than as a warrant officer or limited-duty officer), are eligible to become residents of the Retirement Home:

- (1) Persons who—
  - (A) are 60 years of age or over; and
  - (B) were discharged or released from service in the Armed Forces under honorable conditions after 20 or more years of active service.

- (2) Persons who are determined under rules prescribed by the Retirement Home Board to be incapable of earning a livelihood because of a service-connected disability incurred in the line of duty in the Armed Forces.

(3) Persons who—

- (A) served in a war theater during a time of war declared by Congress or were eligible for hostile fire special pay under section 310 of title 37;

- (B) were discharged or released from service in the Armed Forces under honorable conditions; and

- (C) are determined under rules prescribed by the Retirement Home Board to be incapable of earning a livelihood because of injuries, disease, or disability.

(4) Persons who—

- (A) served in a women's component of the Armed Forces before June 12, 1948; and

- (B) are determined under rules prescribed by the Retirement Home Board to be eligible for admission because of compelling personal circumstances.

**(b) Persons ineligible to be residents**

A person described in subsection (a) of this section who has been convicted of a felony or is not free of drug, alcohol, or psychiatric problems shall be ineligible to become a resident of the Retirement Home.

**(c) Acceptance**

To apply for acceptance as a resident of a facility of the Retirement Home, a person eligible to be a resident shall submit to the Director of that facility an application in such form and containing such information as the Retirement Home Board may require.

**(d) Priorities for acceptance**

The Retirement Home Board shall establish a system of priorities for the acceptance of residents so that the most deserving applicants will be accepted whenever the number of eligible applicants is greater than the Retirement Home can accommodate.

**(e) Effect of departure**

A resident of the Retirement Home who leaves the Retirement Home for more than 45 consecutive days (other than for inpatient medical care) shall be required to reapply for acceptance as a resident.

**(f) Application of eligibility requirements to current residents of Naval Home and Soldiers' and Airmen's Home**

Residents of the Naval Home and the United States Soldiers' and Airmen's Home as of the effective date specified in section 1541(a)—

- (1) shall not be required to apply for acceptance as residents of the Retirement Home; and
- (2) shall become residents of the Retirement Home on that date.

(Pub. L. 101-510, div. A, title XV, §1512, Nov. 5, 1990, 104 Stat. 1724.)

REFERENCES IN TEXT

For the effective date specified in section 1541(a), referred to in subsec. (f), see Effective Date note below.

EFFECTIVE DATE

Section effective one year after Nov. 5, 1990, see section 1541(a) of Pub. L. 101-510, set out as a note under section 401 of this title.

**§ 413. Services provided residents****(a) Services provided**

Except as provided in subsection (b) of this section, a resident of the Retirement Home shall receive the services authorized by the Retirement Home Board.

**(b) Medical and dental care**

The Retirement Home shall provide for the overall health care needs of residents in a high quality and cost-effective manner, including on site primary care, medical care, and a continuum of long-term care services. Secondary and tertiary hospital care for residents that is not available at a facility maintained as a separate establishment of the Retirement Home shall, to the extent available, be obtained by agreement with the Secretary of Veterans Affairs or the Secretary of Defense in a facility administered by such Secretary. The Retirement Home shall not be responsible for the costs incurred for such care by a resident of the Retirement Home who uses a private medical facility for such care. The Retirement Home may not construct an acute care facility.

(Pub. L. 101-510, div. A, title XV, § 1513, Nov. 5, 1990, 104 Stat. 1725; Pub. L. 103-160, div. A, title III, § 366(c), Nov. 30, 1993, 107 Stat. 1630.)

## AMENDMENTS

1993—Subsec. (b). Pub. L. 103-160 added second and third sentences and struck out former second sentence which read as follows: "Secondary and tertiary hospital care for residents that is not available at the Retirement Home shall be obtained through agreements with facilities administered by the Secretary of Veterans Affairs or the Secretary of Defense or at private facilities."

## EFFECTIVE DATE

Section effective one year after Nov. 5, 1990, see section 1541(a) of Pub. L. 101-510, set out as a note under section 401 of this title.

**§ 414. Fees paid by residents****(a) Monthly fees**

The Directors shall collect from each resident of the Retirement Home a monthly fee.

**(b) Deposit of fees**

The Directors shall deposit fees collected under subsection (a) of this section in the Armed Forces Retirement Home Trust Fund.

**(c) Fixing fees**

(1) The Retirement Home Board shall from time to time fix the fee required by subsection (a) of this section on the basis of the financial needs of the Retirement Home and the ability of the residents to pay.

(2) The fee shall be fixed as a percentage of the monthly income and monthly payments (including Federal payments) received by a resident, subject to such adjustments in the fee as the Retirement Home Board may make under paragraph (1). The percentage shall be the same for each establishment of the Retirement Home.

**(d) Application of fees**

Subject to such adjustments in the fee as the Retirement Home Board may make under subsection (c) of this section, each resident of the

Retirement Home shall be required to pay a monthly fee equal to the amount determined by multiplying the total amount of all monthly income and monthly payments (including Federal payments) received by the resident by a percentage as follows:

(1) In the case of a permanent health care resident—

- (A) in fiscal year 1998, 35 percent;
- (B) in fiscal year 1999, 45 percent; and
- (C) in fiscal year 2000, 65 percent.

(2) In the case of a resident who is not a permanent health care resident—

- (A) in fiscal year 1998, 30 percent;
- (B) in fiscal year 1999, 35 percent; and
- (C) in fiscal year 2000, 40 percent.

(Pub. L. 101-510, div. A, title XV, § 1514, Nov. 5, 1990, 104 Stat. 1725; Pub. L. 103-337, div. A, title III, § 371(b), Oct. 5, 1994, 108 Stat. 2735.)

## AMENDMENTS

1994—Subsec. (c)(2). Pub. L. 103-337, § 371(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The fee shall be fixed as a percentage of Federal payments made to a resident, including monthly retired or retainer pay, monthly civil service annuity, monthly compensation or pension paid to the resident by the Secretary of Veterans Affairs, and Social Security payments. Residents who do not receive such Federal payments shall be required to pay a monthly fee that is equivalent to the average monthly fee paid by residents who receive Federal payments, subject to such adjustments in the fee as the Retirement Home Board may make. The percentage shall be the same for each establishment of the Retirement Home."

Subsec. (d). Pub. L. 103-337, § 371(b)(2), added subsec. (d) and struck out former subsec. (d) which specified fees to be paid by residents of the Naval Home and residents of the United States Soldiers' and Airmen's Home who became residents of the Retirement Home on the effective date specified in section 1541(a) of Pub. L. 101-510.

Subsec. (e). Pub. L. 103-337, § 371(b)(2)(A), struck out subsec. (e) which read as follows: "A person who becomes a resident of the Retirement Home after the effective date specified in section 1541(a) shall be required to pay a monthly fee that is equal to 25 percent of Federal payments made to the resident, subject to such adjustments in the fee as may be made under subsection (c) of this section."

## EFFECTIVE DATE OF 1994 AMENDMENT

Section 371(d)(2) of Pub. L. 103-337 provided that: "The amendments made by subsection (b) [amending this section] shall take effect on October 1, 1997."

## EFFECTIVE DATE

Section effective one year after Nov. 5, 1990, see section 1541(a) of Pub. L. 101-510, set out as a note under section 401 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 419 of this title.

**§ 415. Composition and operation of Retirement Home Board****(a) Establishment**

There is hereby established the Armed Forces Retirement Home Board. The Retirement Home Board shall exercise policy oversight over the Retirement Home and oversee the activities of any Local Boards of trustees.

**(b) Members**

The Retirement Home Board shall consist of not less than 16 members who shall be appointed

by the Secretary of Defense, unless otherwise indicated, as follows:

(1) One representative from the office of the Assistant Secretary of Defense (Force Management and Personnel).

(2) One representative from the Department of Defense Comptroller's office.

(3) One representative from the office of the Assistant Secretary of Defense (Health Affairs).

(4) One representative from the office of the General Counsel of the Department of Defense.

(5) Two persons who are experts in the operations of retirement homes and who are not officers or employees of the United States.

(6) Two persons who are gerontologists and who are not officers or employees of the United States.

(7) Two persons who are personnel chiefs of the Armed Forces.

(8) Two persons who are senior noncommissioned officers of the Armed Forces.

(9) One representative from the Office of Management and Budget who shall be designated by the Director of the Office of Management and Budget.

(10) One representative from a national noncommissioned officer association or a military retiree council who shall be a nonvoting member of the Board.

(11) One representative of the Secretary of Veterans Affairs who shall be designated by that Secretary.

(12) One officer or employee of the Department of Health and Human Services who shall be designated by the Secretary of Health and Human Services.

**(c) Local Boards**

Each establishment of the Retirement Home shall have a Board of trustees which shall exercise operational oversight over the respective facility and provide reports to the Retirement Home Board at least twice annually. Each Local Board shall consist of at least 11 members appointed by the Secretaries of the military departments. The Local Boards shall consist of the following:

(1) One person who is a civilian expert in nursing home or retirement home administration and financing from the geographical area of each facility.

(2) One person who is a civilian expert in gerontology from the geographical area of each facility.

(3) One person who is a service expert in financial management.

(4) One representative from the Department of Veterans Affairs regional office nearest in proximity to each facility who shall be designated by the Secretary of Veterans Affairs.

(5) One representative from the resident advisory committee or council of the respective facility who shall be a nonvoting member.

(6) One enlisted representative of the Services' Retiree Advisory Council.

(7) The senior noncommissioned officer of an Armed Force.

(8) One senior representative from the military hospital nearest in proximity to each facility.

(9) One senior representative from the Judge Advocate General's Corps from one of the Armed Services.

(10) The director of the respective facility who shall be a nonvoting member.

(11) One senior representative of one of the chief personnel officers of the Armed Services.

**(d) Chairmen**

(1)(A) The Secretary of Defense shall select one of the members of the Retirement Home Board to serve as chairman. The term of office of the chairman shall be five years. At the discretion of the Secretary a chairman may serve a second five-year term of office as chairman.

(B) The chairman shall act as the chief executive officer of the Armed Forces Retirement Home and while so acting shall not be responsible to the Secretary of Defense or to the Secretaries of the military departments for direction and management of the Retirement Home or each facility maintained as a separate facility of the Retirement Home.

(C) The chairman may appoint, in addition to such ad hoc committees as the chairman determines to be appropriate, a standing executive committee to act for, and in the name of, the Retirement Home Board at such times and on such matters as the chairman considers necessary to expedite the efficient and timely management of each facility maintained as a separate facility of the Retirement Home.

(D) The chairman may appoint an administrative staff to assist the chairman in the performance of the duties of the chairman. The chairman shall determine the rates of pay applicable to such staff, except that a staff member who is a member of the Armed Forces on active duty or who is a full-time officer or employee of the United States shall receive no additional pay by reason of service on the administrative staff.

(2) The Secretaries of the military departments shall select the chairman for each Local Board from the members of that Board. The term of office of the chairman of a Local Board shall be three years.

**(e) Terms**

(1) Except as provided in subsection (f) of this section, the term of office of each member of the Retirement Home Board and each Local Board shall be five years.

(2) A member whose term of office has expired may continue to serve until the successor for the member is appointed or designated.

(3) The Chairman of the Retirement Home Board may appoint a member of the Retirement Home Board for a second consecutive term. The Chairman of a Local Board may appoint a member of that Local Board for a second consecutive term.

**(f) Early expiration of term**

A member of the Armed Forces or Federal civilian employee who is appointed as a member of the Retirement Home Board or a Local Board may serve as a board member only so long as the member of the Armed Forces or Federal civilian employee is assigned to or serving in the duty position that gave rise to the appointment as a board member.

**(g) Vacancies**

(1) A vacancy in the Retirement Home Board or a Local Board shall be filled in the manner in which the original appointment or designation was made.

(2) A member appointed or designated to fill a vacancy occurring before the end of the term of the predecessor of the member shall be appointed or designated, as the case may be, for the remainder of the term for which the predecessor was appointed.

(3) A vacancy in the Retirement Home Board or a Local Board shall not affect its authority to perform its duties.

**(h) Compensation**

(1) Except as provided in paragraph (2), members of the Retirement Home Board and members of the Local Boards shall—

(A) be provided a stipend consistent with the daily government consultant fee for each day in which the member is engaged in the performance of services for the Retirement Home Board or a Local Board; and

(B) while away from home or regular place of business in the performance of services for the Retirement Home Board or a Local Board, be allowed travel expenses (including per diem in lieu of subsistence) in the same manner as a person employed intermittently in Government under sections 5701 through 5707 of title 5.

(2) A member of the Retirement Home Board or a Local Board who is a member of the Armed Forces on active duty or a full-time officer or employee of the United States shall receive no additional pay by reason of service on the Retirement Home Board or a Local Board.

**(i) Meetings**

(1) The Retirement Home Board shall meet twice a year, or at more frequent intervals, at the call of the chairman or a majority of the members.

(2) The first meeting of the Retirement Home Board shall be held during the 30-day period beginning on the later of—

(A) the effective date specified in section 1541(a); and<sup>1</sup>

(B) the date on which the last of the five members required by subsection (b) of this section to be appointed is first appointed.

(Pub. L. 101-510, div. A, title XV, §1515, Nov. 5, 1990, 104 Stat. 1726; Pub. L. 102-190, div. A, title X, §1062(a)(4), Dec. 5, 1991, 105 Stat. 1475; Pub. L. 103-160, div. A, title III, §366(b), Nov. 30, 1993, 107 Stat. 1630; Pub. L. 104-201, div. A, title X, §1051(a), (b)(1), Sept. 23, 1996, 110 Stat. 2648.)

## REFERENCES IN TEXT

For the effective date specified in section 1541(a), referred to in subsec. (i)(2)(A), see Effective Date note set out under section 401 of this title.

## AMENDMENTS

1996—Subsec. (e)(3). Pub. L. 104-201, §1051(a), added par. (3).

Subsec. (f). Pub. L. 104-201, §1051(b)(1), amended heading and text of subsec. (f) generally. Prior to amend-

ment, text read as follows: “Not later than the effective date specified in section 1541(a), members of the Retirement Home Board and the members of each Local Board shall be first appointed to staggered terms.”

1993—Subsec. (d)(1). Pub. L. 103-160 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The Secretary of Defense shall select one of the members of the Retirement Home Board to serve as chairman. The term of office of the chairman of the Retirement Home Board shall be five years.”

1991—Subsecs. (a), (c). Pub. L. 102-190, §1062(a)(4)(A), substituted “Local Boards” for “local boards”.

Subsec. (d)(2). Pub. L. 102-190, §1062(a)(4)(B), substituted “that Board” for “that board”.

## CHANGE OF NAME

Reference to Comptroller of the Department of Defense to be treated as reference to Under Secretary of Defense (Comptroller) pursuant to section 903(d) of Pub. L. 103-337, set out as a note under section 135 of Title 10, Armed Forces.

## EFFECTIVE DATE

Section effective one year after Nov. 5, 1990, except that provisions of this section relating to appointment and designation of members of Retirement Home Board and Local Boards effective Oct. 1, 1991, see section 1541(a), (c) of Pub. L. 101-510, set out as a note under section 401 of this title.

## SAVINGS PROVISION

Section 1051(b)(2) of Pub. L. 104-201 provided that: “The amendment made by this subsection [amending this section] shall not affect the staggered terms of members of the Armed Forces Retirement Home Board or a Local Board of the Retirement Home under section 1515(f) of such Act [subsec. (f) of this section], as such section is in effect before the date of the enactment of this Act [Sept. 23, 1996].”

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 416 of this title.

**§ 416. Duties of Retirement Home Board****(a) Overall operation of Retirement Home**

The Retirement Home Board shall be responsible for the overall operation of the Retirement Home. As part of such responsibilities, the Retirement Home Board shall perform the following duties:

(1) Issue and ensure compliance with appropriate rules for the operation of the Retirement Home.

(2) Periodically visit, and inspect the operation of, the facilities of the Retirement Home.

(3) Periodically examine and audit the accounts of the Retirement Home.

(4) Establish such advisory bodies as the Retirement Home Board considers to be necessary.

**(b) Special duties of specific members**

The Retirement Home Board shall assign specific members of the Retirement Home Board appointed under section 415(b) of this title to oversee the operations of each facility of the Retirement Home maintained as a separate establishment of the Retirement Home for administrative purposes.

**(c) Acquisition of real property**

The Retirement Home Board may acquire, for the benefit of the Retirement Home, property

<sup>1</sup> So in original. Probably should be “or”.

and facilities for inclusion in the Retirement Home.

**(d) Limitation on disposal of real property**

(1) Real property of the Retirement Home may not be disposed of by the Retirement Home Board by sale or otherwise unless the disposal of the property is specifically authorized by law.

(2) In any case in which any real property is sold by the Retirement Home Board, the Board shall deposit moneys received from the sale of the property in the Armed Forces Retirement Home Trust Fund.

**(e) Gifts**

(1) The Retirement Home Board may accept gifts of money, property, and facilities on behalf of the Retirement Home.

(2) Monies received as gifts, or realized from the disposition of property and facilities received as gifts, shall be deposited in the Fund.

**(f) Annual report**

Not later than 90 days after the end of each fiscal year, the Retirement Home Board shall submit to the Secretary of Defense, for transmission to Congress, a report describing the financial and other affairs of the Retirement Home for that fiscal year.

(Pub. L. 101-510, div. A, title XV, § 1516, Nov. 5, 1990, 104 Stat. 1728.)

EFFECTIVE DATE

Section effective one year after Nov. 5, 1990, see section 1541(a) of Pub. L. 101-510, set out as a note under section 401 of this title.

MODERNIZATION OF FACILITIES AT UNITED STATES SOLDIERS' AND AIRMEN'S HOME

Pub. L. 103-337, div. A, title III, § 371(c), Oct. 5, 1994, 108 Stat. 2735, provided that:

“(1) The Chairman of the Armed Forces Retirement Home Board shall carry out a study to identify and evaluate alternatives for modernization of the facilities at the United States Soldiers' and Airmen's Home.

“(2) The Chairman shall submit an interim report and a final report on the results of the study to the Committees on Armed Services of the Senate and House of Representatives [now Committee on Armed Services of the Senate and Committee on National Security of House of Representatives]. The Chairman shall submit the interim report not later than April 1, 1995, and the final report not later than December 31, 1995.”

**§ 417. Directors and staff**

**(a) Appointment and qualifications**

(1) The Secretary of Defense shall appoint a Director for each separate establishment of the Retirement Home.

(2) Each Director shall be appointed from among persons recommended by the Retirement Home Board who—

(A) are not officers of the Armed Forces on active duty; and

(B) have appropriate leadership and management skills, an appreciation and understanding of the culture and norms associated with military service, and a significant military background.

(3) Each Director shall be required to pursue a course of study to receive certification as a retirement facilities director by an appropriate ci-

vilian certifying organization if the Director is not so certified at the time of appointment.

**(b) Application of civil service laws to appointment and fixing pay**

The Secretary of Defense may appoint the Director referred to in subsection (a) of this section and Deputy Directors for the Retirement Home without regard to the provisions of title 5 governing appointments in the competitive service.

**(c) Term of Director**

The term of office of a Director shall be five years. A Director may be reappointed for one additional term upon the completion of the first term of office unless the Director has failed to successfully complete a course of study to receive certification as a retirement facilities director.

**(d) Duties of Directors**

(1) A Director shall be responsible for the day-to-day operation of the facility of the Retirement Home for which the Director is appointed, including the acceptance of applicants to be residents of that facility.

(2) The Director shall keep accurate and complete records of the operations of that facility of the Retirement Home.

**(e) Staff**

(1) A Director, subject to the approval of the Retirement Home Board, may appoint and fix the pay of such principal staff as the Director considers appropriate to assist the Director in operating the facility of the Retirement Home for which the Director is appointed.

(2) The staff shall include persons with experience and expertise in the operation and management of retirement homes and in the provision of long-term medical care for older persons.

(3) The Director may exempt four physicians employed at the Retirement Home from the provisions of subsections (a), (b), and (c) of section 5532 of title 5, if the Director determines that the exemption is necessary to recruit or retain well-qualified physicians for the Retirement Home. An exemption granted under this section shall apply to the retired pay of the physician payable for the first month after the month in which the exemption is granted and shall terminate upon any break in employment with the Retirement Home of three days or more.

**(f) Annual evaluation of Directors**

The Chairman of the Retirement Home Board shall annually evaluate the performance of the Directors and shall make such recommendations to the Secretary of Defense as the Chairman considers appropriate in light of the evaluation.

(Pub. L. 101-510, div. A, title XV, § 1517, Nov. 5, 1990, 104 Stat. 1729; Pub. L. 102-190, div. A, title X, § 1062(a)(5), Dec. 5, 1991, 105 Stat. 1475; Pub. L. 104-201, div. A, title X, § 1051(c), Sept. 23, 1996, 110 Stat. 2649.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (b), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

## AMENDMENTS

1996—Subsec. (f). Pub. L. 104-201 added subsec. (f) and struck out heading and text of former subsec. (f). Text read as follows:

“(1) Until the date on which the Secretary of Defense first appoints the Director for the establishment of the Retirement Home known as the Naval Home, the Governor of the Naval Home shall operate that facility consistent with this chapter and other laws applicable to the Retirement Home.

“(2) Until the date on which the Secretary of Defense first appoints the Director for the facility of the Retirement Home known as the United States Soldiers' and Airmen's Home, the Governor of the United States Soldiers' and Airmen's Home shall operate that establishment consistent with this chapter and other laws applicable to the Retirement Home.”

1991—Subsec. (f). Pub. L. 102-190 made technical amendment to references to this chapter to correct reference to corresponding provision of original act.

## EFFECTIVE DATE

Section effective one year after Nov. 5, 1990, see section 1541(a) of Pub. L. 101-510, set out as a note under section 401 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

### § 418. Inspection by Inspector General of Department of Defense

The Inspector General of the Department of Defense shall—

(1) conduct, not later than three years after the effective date specified in section 1541(a) (and at six-year intervals thereafter), an inspection of the Retirement Home and the records of the Retirement Home;

(2) cause the Inspector Generals of the military departments to conduct an inspection of the Retirement Home and its records at six-year intervals alternating with the inspections by the Inspector General of the Department of Defense so that each home is inspected every three years; and

(3) submit to the Retirement Home Board, the Secretary of Defense, and Congress a report describing the results of the inspection and containing such recommendations as the Inspector General considers appropriate.

(Pub. L. 101-510, div. A, title XV, § 1518, Nov. 5, 1990, 104 Stat. 1730.)

## REFERENCES IN TEXT

For the effective date specified in section 1541(a), referred to in par. (1), see Effective Date note below.

## EFFECTIVE DATE

Section effective one year after Nov. 5, 1990, see section 1541(a) of Pub. L. 101-510, set out as a note under section 401 of this title.

### § 419. Retirement Home Trust Fund

#### (a) Establishment

There is hereby established in the Treasury of the United States a trust fund to be known as the Armed Forces Retirement Home Trust Fund. The Fund shall consist of the following:

(1) Such amounts as may be transferred to the Fund.

(2) Moneys deposited in the Fund by the Retirement Home Board realized from gifts or from the disposition of property and facilities.

(3) Amounts deposited in the Fund as monthly fees paid by residents of the Retirement Home under section 414 of this title.

(4) Amounts of fines and forfeitures deposited in the Fund under section 2772 of title 10.

(5) Amounts deposited in the Fund as deductions from the pay of enlisted members, warrant officers, and limited duty officers under section 1007(i) of title 37.

(6) Interest from investments made under subsection (c) of this section.

#### (b) Availability and use of Fund

Amounts in the Fund shall be available solely for the operation of the Retirement Home.

#### (c) Investments

The Secretary of the Treasury may invest in obligations issued or guaranteed by the United States any monies in the Fund that the Director determines are not currently needed to pay for the operation of the Retirement Home.

#### (d) Transitional accounts

(1) During the period beginning on November 5, 1990, and ending on September 30, 1994, the Fund shall contain a separate account for each establishment of the Retirement Home. During that period, contributions shall be collected under subsection (a) of this section for the account of the Naval Home for the purpose of achieving a trust fund five times the estimated annual operating budget of the Naval Home.

(2) Beginning on November 5, 1990, funds required for the operation of the United States Soldiers' and Airmen's Home shall be drawn from the appropriate account. Beginning on October 1, 1991, funds required for the operation of the Naval Home shall be drawn from the account of the Naval Home.

(3) During the period beginning on November 5, 1990, and ending on September 30, 1994—

(A) amounts collected as monthly fees paid by residents of the Naval Home and amounts referred to in subsections (a)(4) and (a)(5) of this section derived from enlisted members, warrant officers, and limited duty officers of the Navy, Marine Corps, and Coast Guard shall be credited to the account relating to that establishment; and

(B) amounts collected as monthly fees paid by residents of the United States Soldiers' and Airmen's Home and amounts referred to in subsections (a)(4) and (a)(5) of this section derived from members and warrant officers of the Army and Air Force shall be credited to the account relating to that establishment.

(Pub. L. 101-510, div. A, title XV, § 1519, Nov. 5, 1990, 104 Stat. 1730.)

## EFFECTIVE DATE

Section effective Nov. 5, 1990, see section 1541(b) of Pub. L. 101-510, set out as a note under section 401 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 401 of this title.

### § 420. Disposition of effects of deceased persons; unclaimed property

#### (a) Disposition of effects of deceased persons

The Director of each facility that is maintained as a separate establishment of the Retirement Home shall—

ment Home shall safeguard and dispose of the estate and personal effects of deceased residents, including effects delivered to such facility under sections 4712(f) and 9712(f) of title 10, and shall ensure the following:

(1) A will or other instrument of a testamentary nature involving property rights executed by a resident shall be promptly delivered, upon the death of the resident, to the proper court of record.

(2) If a resident dies intestate and the heirs or legal representative of the deceased cannot be immediately ascertained, the Director shall retain all property left by the decedent for a three-year period beginning on the date of the death. If entitlement to such property is established to the satisfaction of the Director at any time during the three-year period, the Director shall distribute the decedent's property, in equal pro-rata shares when multiple beneficiaries have been identified, to the highest following categories of identified survivors (listed in the order of precedence indicated):

(A) The surviving spouse or legal representative.

(B) The children of the deceased.

(C) The parents of the deceased.

(D) The siblings of the deceased.

(E) The next-of-kin of the deceased.

**(b) Sale of effects**

(1)(A) If the disposition of the estate of a resident of the Retirement Home cannot be accomplished under subsection (a)(2) of this section or if a resident dies testate and the nominated fiduciary, legatees, or heirs of the resident cannot be immediately ascertained, the entirety of the deceased resident's domiciliary estate and the entirety of any ancillary estate that is unclaimed at the end of the three-year period beginning on the date of the death of the resident shall escheat to the Retirement Home.

(B) Upon the sale of any such unclaimed estate property, the proceeds of the sale shall be deposited in the Retirement Home Trust Fund.

(C) If a personal representative or other fiduciary is appointed to administer a deceased resident's estate and the administration is completed before the end of such three-year period, the balance of the entire net proceeds of the estate, less expenses, shall be deposited directly in the Retirement Home Trust Fund. The heirs or legatees of the deceased resident may file a claim made with the Secretary of Defense to reclaim such proceeds. A determination of the claim by the Secretary shall be subject to judicial review exclusively by the United States Court of Federal Claims.

(2)(A) The Director of a facility maintained as a separate establishment of the Retirement Home may designate an attorney to serve as attorney or agent for the facility in any probate proceeding in which the Retirement Home may have a legal interest as nominated fiduciary, testamentary legatee, escheat legatee, or in any other capacity.

(B) An attorney designated under this paragraph may, in the domiciliary jurisdiction of the deceased resident and in any ancillary jurisdiction, petition for appointment as fiduciary. The attorney shall have priority over any petition-

ers (other than the deceased resident's nominated fiduciary, named legatees, or heirs) to serve as fiduciary. In a probate proceeding in which the heirs of an intestate deceased resident cannot be located and in a probate proceeding in which the nominated fiduciary, legatees, or heirs of a testate deceased resident cannot be located, the attorney shall be appointed as the fiduciary of the deceased resident's estate.

(3) The designation of an employee or representative of a facility of the Retirement Home as personal representative of the estate of a resident of the Retirement Home or as a legatee under the will or codicil of the resident shall not disqualify an employee or staff member of that facility from serving as a competent witness to a will or codicil of the resident.

(4) After the end of the three-year period beginning on the date of the death of a resident of a facility, the Director of the facility shall dispose of all property of the deceased resident that is not otherwise disposed of under this subsection, including personal effects such as decorations, medals, and citations to which a right has not been established under subsection (a) of this section. Disposal may be made within the discretion of the Director by—

(A) retaining such property or effects for the facility;

(B) offering such items to the Secretary of Veterans Affairs, a State, another military home, a museum, or any other institution having an interest in such items; or

(C) destroying any items determined by the Director to be valueless.

**(c) Transfer of proceeds to Fund**

The net proceeds received by the Directors from the sale of effects under subsection (b) of this section shall be deposited in the Fund.

**(d) Subsequent claim**

(1) A claim for the net proceeds of the sale under subsection (b) of this section of the effects of a deceased may be filed with the Secretary of Defense at any time within six years after the death of the deceased, for action under section 2771 of title 10.

(2) A claim referred to in paragraph (1) may not be considered by a court or the Secretary unless the claim is filed within the time period prescribed in such paragraph.

(3) A claim allowed by the Secretary under paragraph (1) shall be certified to the Secretary of the Treasury for payment from the Fund in the amount found due, including any interest relating to the amount. No claim may be allowed or paid in excess of the net proceeds of the estate deposited in the Fund under subsection (c) of this section plus interest.

**(e) Unclaimed property**

In the case of property delivered to the Retirement Home under section 2575 of title 10, the Directors shall deliver the property to the owner, the heirs or next of kin of the owner, or the legal representative of the owner, if a right to the property is established to the satisfaction of the Directors within two years after the delivery.

(Pub. L. 101-510, div. A, title XV, §1520, Nov. 5, 1990, 104 Stat. 1731; Pub. L. 103-160, div. A, title

III, §366(d), (e), Nov. 30, 1993, 107 Stat. 1631; Pub. L. 104-316, title II, §202(j), Oct. 19, 1996, 110 Stat. 3843.)

#### AMENDMENTS

1996—Subsec. (b)(1)(C). Pub. L. 104-316, §202(j)(1), substituted “Secretary of Defense” for “Comptroller General of the United States” and “Secretary” for “Comptroller General”.

Subsec. (d). Pub. L. 104-316, §202(j)(2), substituted “Secretary of Defense” for “Comptroller General of the United States” in par. (1), “Secretary” for “Comptroller General” in par. (2), and “allowed by the Secretary” for “allowed by the Comptroller General” in par. (3).

1993—Subsec. (a). Pub. L. 103-160, §366(d), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The Directors of the establishments of the Retirement Home shall safeguard and dispose of the effects of a deceased person delivered to the Retirement Home under section 4712(f) or 9712(f) of title 10 and the estate and effects of a deceased resident of the Armed Forces Retirement Home as follows:

“(1) A will or other paper involving property rights shall be promptly delivered to the proper court of record.

“(2) If the heirs or legal representative of the deceased cannot sooner be ascertained, the Directors shall retain the remaining effects until three years after the death of the deceased, and then, if a right to the effects is established to the satisfaction of the Directors, shall deliver the effects to the living person highest on the following list who can be found:

“(A) The surviving spouse or legal representative.

“(B) A child of the deceased.

“(C) A parent of the deceased.

“(D) A brother or sister of the deceased.

“(E) The next-of-kin of the deceased.

“(F) A beneficiary named in the will of the deceased.”

Subsec. (b). Pub. L. 103-160, §366(e), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows:

“(1) After three years from the date of death of the deceased, the Directors may sell the effects to which a right has not been established under subsection (a) of this section (except decorations, medals, and citations) by public or private sale, as the Directors consider most advantageous.

“(2) After five years from the date of death of the deceased, the Directors shall dispose of effects that were not sold under paragraph (1) (including decorations, medals, and citations) and to which a right has not been established under subsection (a) of this section. The sale shall be made in the manner that the Directors consider most appropriate in the public interest. Disposal may include—

“(A) retaining the effects for the use of the Retirement Home;

“(B) delivering the effects to the Secretary of Veterans Affairs, to a State or other military home, to a museum, or to any other appropriate institution; or

“(C) destroying the effects if the Retirement Home Board determines that they are valueless.”

#### EFFECTIVE DATE

Section applicable to estate of each resident of Armed Forces Retirement Home, including United States Soldiers’ and Airmen’s Home and Naval Home, who dies after Nov. 29, 1989, see section 1541(d) of Pub. L. 101-510, set out as a note under section 401 of this title.

### § 421. Payment of residents for services

#### (a) Authority

The Chairman of the Armed Forces Retirement Board is authorized to accept for the Armed Forces Retirement Home the part-time

or intermittent services of a resident of the Retirement Home, to pay the resident for such services, and to fix the rate of such pay.

#### (b) Employment status

A resident receiving pay for services authorized under subsection (a) of this section shall not, by reason of performing such services and receiving pay for such services, be considered as—

(1) receiving the pay of a position or being employed in a position for the purposes of section 5532 of title 5; or

(2) being an employee of the United States for any purpose other than—

(A) subchapter I of chapter 81 of title 5 (relating to compensation for work-related injuries); and

(B) chapter 171 of title 28 (relating to claims for damages or loss).

#### (c) “Position” defined

In subsection (b)(1) of this section, the term “position” has the meaning given that term in section 5531 of title 5.

(Pub. L. 101-510, div. A, title XV, §1521, as added Pub. L. 102-484, div. A, title III, §385(a), Oct. 23, 1992, 106 Stat. 2394; amended Pub. L. 104-201, div. A, title X, §1052(b), Sept. 23, 1996, 110 Stat. 2650.)

#### AMENDMENTS

1996—Subsec. (b)(2). Pub. L. 104-201 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “being an employee of the United States for any other purpose.”

#### FORGIVENESS OF INDEBTEDNESS

Section 385(b) of Pub. L. 102-484 provided that: “The Chairman of the Armed Forces Retirement Board is authorized to cancel the indebtedness of any resident of the Armed Forces Retirement Home for repayment to the United States of amounts paid the resident for services provided to the Retirement Home before the date of the enactment of this Act [Oct. 23, 1992] if the Chairman determines that it would be in the interest of the United States to do so and against equity and good conscience to require the repayment.”

### § 422. Authority to accept certain uncompensated services

#### (a) Authority to accept services

Subject to subsection (b) of this section and notwithstanding section 1342 of title 31, the Chairman of the Retirement Home Board or the Director of each establishment of the Retirement Home may accept from any person voluntary personal services or gratuitous services unless the acceptance of the voluntary services is disapproved by the Retirement Home Board.

#### (b) Requirements and limitations

(1) The Chairman of the Retirement Home Board or the Director of the establishment accepting the services shall notify the person of the scope of the services accepted.

(2) The Chairman or Director shall—

(A) supervise the person providing the services to the same extent as that official would supervise a compensated employee providing similar services; and

(B) ensure that the person is licensed, privileged, has appropriate credentials, or is other-

wise qualified under applicable laws or regulations to provide such services.

(3) A person providing services accepted under subsection (a) of this section may not—

(A) serve in a policymaking position of the Retirement Home; or

(B) be compensated for the services by the Retirement Home.

**(c) Authority to recruit and train persons providing services**

The Chairman of the Retirement Home Board or the Director of an establishment of the Retirement Home may recruit and train persons to provide services authorized to be accepted under subsection (a) of this section.

**(d) Status of persons providing services**

(1) Subject to paragraph (3), while providing services accepted under subsection (a) of this section or receiving training under subsection (c) of this section, a person shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

(A) Subchapter I of chapter 81 of title 5 (relating to compensation for work-related injuries).

(B) Chapter 171 of title 28 (relating to claims for damages or loss).

(2) A person providing services accepted under subsection (a) of this section shall be considered to be an employee of the Federal Government under paragraph (1) only with respect to services that are within the scope of the services accepted.

(3) For purposes of determining the compensation for work-related injuries payable under chapter 81 of title 5 (pursuant to this subsection) to a person providing services accepted under subsection (a) of this section, the monthly pay of the person for such services shall be deemed to be the amount determined by multiplying—

(A) the average monthly number of hours that the person provided the services, by

(B) the minimum wage determined in accordance with section 206(a)(1) of title 29.

**(e) Reimbursement of incidental expenses**

The Chairman of the Retirement Board or the Director of the establishment accepting services under subsection (a) of this section may provide for reimbursement of a person for incidental expenses incurred by the person in providing the services accepted under subsection (a) of this section. The Chairman or Director shall determine which expenses qualify for reimbursement under this subsection.

(Pub. L. 101-510, div. A, title XV, § 1522, as added Pub. L. 104-201, div. A, title X, § 1052(a), Sept. 23, 1996, 110 Stat. 2649.)

**SUBCHAPTER II—TRANSITIONAL PROVISIONS**

**§ 431. Transfer of trust funds relating to Naval Home and Soldiers' and Airmen's Home**

**(a) Initial transfer**

(1) On November 5, 1990, all monies in the funds named in paragraph (2) shall be transferred to the appropriate account in the Armed Forces Retirement Home Trust Fund, and those funds shall terminate.

(2) The funds referred to in paragraph (1) are the following:

(A) Soldiers' Home, permanent fund, referred to in paragraph (59)<sup>1</sup> of section 1321(a) of title 31.

(B) Soldiers' Home, interest fund, referred to in paragraph (81)<sup>1</sup> of such section.

(C) Personal funds of deceased inmates, Naval Home, referred to in paragraph (5)<sup>1</sup> of such section.

(D) Any new category of funds created for the Naval Home or the United States Soldiers' and Airmen's Home before November 5, 1990.

**(b) Subsequent transfers**

After the termination of the funds referred to in subsection (a) of this section, any monies that would be deposited into one of those funds but for the termination of that fund under subsection (a) of this section shall be deposited into the Armed Forces Retirement Home Trust Fund.

(Pub. L. 101-510, div. A, title XV, § 1531, Nov. 5, 1990, 104 Stat. 1732.)

**REFERENCES IN TEXT**

Paragraphs (59) and (81) of section 1321(a) of title 31, referred to in subsec. (a)(2)(A), (B), were repealed by Pub. L. 101-510, div. A, title XV, § 1533(c)(1)(A)(ii), Nov. 5, 1990, 104 Stat. 1735.

Paragraph (5) of section 1321(a) of title 31, referred to in subsec. (a)(2)(C), was amended generally by Pub. L. 101-510, div. A, title XV, § 1533(c)(1)(A)(i), Nov. 5, 1990, 104 Stat. 1735, and as so amended no longer relates to personal funds of deceased inmates, Naval Home.

**EFFECTIVE DATE**

Section effective Nov. 5, 1990, see section 1541(b) of Pub. L. 101-510, set out as a note under section 401 of this title.

**SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS**

**§ 441. Authorization of appropriations for United States Soldiers' and Airmen's Home**

There is authorized to be appropriated for fiscal year 1991 from the Soldiers' Home, Permanent Fund, the sum of \$53,999,000 for the operation of the United States Soldiers' and Airmen's Home. This section shall take effect on November 5, 1990.

(Pub. L. 101-510, div. A, title XV, § 1542, Nov. 5, 1990, 104 Stat. 1736.)

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