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§401. Definitions

For purposes of this chapter:

(1) The term "Retirement Home" includes the institutions established under section 411 of this title, as follows:

(A) The Armed Forces Retirement Home—Washington.

(B) The Armed Forces Retirement Home—Gulfport.

(2) The terms "Armed Forces Retirement Home Trust Fund" and "Fund" mean the Armed Forces Retirement Home Trust Fund established under section 419(a) of this title.

(3) The term "Advisory Council" means the Armed Forces Retirement Home Advisory Council established under section 416 of this title.

(4) The term "Resident Advisory Committee" means an elected body of residents at a facility of the Retirement Home established under section 416a of this title.

(5) 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 for Personnel of the Air Force;

(D) the Deputy Commandant of the Marine Corps for Manpower and Reserve Affairs; and

(E) the Assistant Commandant of the Coast Guard for Human Resources.

(6) 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.

(E) The Master Chief Petty Officer of the Coast Guard.

(Pub. L. 101–510, div. A, title XV, §1502, Nov. 5, 1990, 104 Stat. 1722; Pub. L. 106–398, §1 [[div. A], title IX, §902(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-224; Pub. L. 107–107, div. A, title XIV, §1402, Dec. 28, 2001,

115 Stat. 1257; Pub. L. 111–281, title II, §205(a), Oct. 15, 2010, 124 Stat. 2911; Pub. L. 112–81, div. A, title V, §563(b)(1), Dec. 31, 2011, 125 Stat. 1423.)

Editorial Notes

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.

Amendments

2011—Pars. (2) to (4). Pub. L. 112–81 added pars. (3) and (4), redesignated former par. (3) as (2), and struck out former par. (2) which read as follows: "The term 'Local Board' means a Local Board of Trustees established under section 416 of this title."

2010—Par. (4). Pub. L. 111–281, §205(a)(1), struck out par. (4) which read as follows: "The term 'Armed Forces' does not include the Coast Guard when it is not operating as a service in the Navy."

Par. (5)(E). Pub. L. 111–281, §205(a)(2), added subpar. (E).

Par. (6)(E). Pub. L. 111–281, §205(a)(3), added subpar. (E).

2001—Pars. (1) to (3). Pub. L. 107–107, §1402(1), added pars. (1) to (3) and struck out former pars. (1) to (3) which read as follows:

"(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."

Par. (4). Pub. L. 107–107, §1402(1), (2), redesignated par. (6) as (4) and struck out former par. (4) which read as follows: "The term 'Director' means a Director of the Armed Forces Retirement Home appointed under section 417(a) of this title."

Par. (5). Pub. L. 107–107, §1402(1), (2), redesignated par. (7) as (5) and struck out former par. (5) which read as follows: "The term 'Fund' means the Armed Forces Retirement Home Trust Fund established under section 419(a) of this title."

Par. (5)(C). Pub. L. 107–107, §1402(3)(A), substituted "for Personnel" for ", Manpower and Personnel".

Par. (5)(D). Pub. L. 107–107, §1402(3)(B), substituted "for Manpower and Reserve Affairs" for "with responsibility for personnel matters".

Pars. (6) to (8). Pub. L. 107–107, §1402(2), redesignated pars. (6) to (8) as (4) to (6), respectively.

2000—Par. (7)(D). Pub. L. 106–398 amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "the Deputy Chief of Staff for Manpower of the Marine Corps."

Statutory Notes and Related Subsidiaries

Effective Date

Pub. L. 101–510, div. A, title XV, §1541, Nov. 5, 1990, 104 Stat. 1736, as amended by Pub. L. 103–160, div. A, title III, §366(f), Nov. 30, 1993, 107 Stat. 1632, which provided that title XV of Pub. L. 101–510 (see Short Title note below) and the amendments made by such title were effective one year after Nov. 5, 1990, except that sections 1519, 1531, and 1533(c)(1) of the Act (enacting sections 419 and 431 of this title and amending section 1321 of Title 31, Money and Finance) were effective Nov. 5, 1990, provisions of section 1515 of the Act (enacting section 415 of this title) relating to the appointment and designation of members of the Retirement Home Board and Local Boards were effective Oct. 1, 1991, and section 1520 of the Act (enacting section 420 of this title) was applicable to the estate of each resident of the Armed Forces Retirement Home who dies after Nov. 29, 1989, was repealed by Pub. L. 107–107, div. A, title XIV, §1410(b)(3), Dec. 28, 2001, 115 Stat. 1266.

Short Title

Pub. L. 101–510, div. A, title XV, §1501(a), formerly §1501, Nov. 5, 1990, 104 Stat. 1722, as renumbered by Pub. L. 107–107, div. A, title XIV, §1410(c)(1), Dec. 28, 2001, 115 Stat. 1266, 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'."

Transfer of Functions

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

SUBCHAPTER I—ESTABLISHMENT AND OPERATION OF RETIREMENT HOME

§411. Establishment of the Armed Forces Retirement Home

(a) Independent establishment

The Armed Forces Retirement Home is an independent establishment in the executive branch.

(b) Purpose

The purpose of the Retirement Home is to provide, through the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport, residences and related services for certain retired and former members of the Armed Forces.

(c) Facilities

(1) Each facility of the Retirement Home referred to in paragraph (2) is a separate establishment of the Retirement Home.

(2) The United States Soldiers' and Airmen's Home is hereby redesignated as the Armed Forces Retirement Home—Washington. The Naval Home is hereby redesignated as the Armed Forces Retirement Home—Gulfport.

(d) Operation

(1) The Chief Operating Officer of the Armed Forces Retirement Home is the head of the Retirement Home. The Chief Operating Officer is subject to the authority, direction, and control of the Secretary of Defense.

(2) Each facility of the Retirement Home shall be maintained as a separate establishment of the Retirement Home for administrative purposes and shall be under the authority, direction, and control of the Administrator of that facility. The Administrator of each facility of the Retirement Home is subject to the authority, direction, and control of the Chief Operating Officer.

(3) The administration of the Retirement Home, including administration for the provision of health care and medical care for residents, shall remain under the control and administration of the Secretary of Defense.

(e) Property and facilities

(1) The Retirement Home shall include such property and facilities as may be acquired under paragraph (2) or accepted under section 415(f) of this title for inclusion in the Retirement Home.

(2) The Chief Operating Officer may acquire, for the benefit of the Retirement Home, property and facilities for inclusion in the Retirement Home. If the purchase price to acquire fee title to real property for inclusion in the Retirement Home is more than \$750,000, the Chief Operating Officer may acquire the real property only if the acquisition is specifically authorized by law.

(3) If the Chief Operating Officer determines that any property of the Retirement Home is excess to the needs of the Retirement Home, the Chief Operating Officer shall dispose of the property in accordance with subchapter III of chapter 5 of title 40 (40 U.S.C. 541 et seq.). The proceeds from the disposal of property under this paragraph shall be deposited in the Armed Forces Retirement Home Trust Fund.

(f) Department of Defense support

The Secretary of Defense may make available from the Department of Defense 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.

(g) Accreditation

The Chief Operating Officer shall secure and maintain accreditation by a nationally recognized civilian accrediting organization for each aspect of each facility of the Retirement Home, including medical and dental care, pharmacy, independent living, and assisted living and nursing care.

(h) Annual report

The Secretary of Defense shall transmit to Congress an annual report on the financial and other affairs of the Retirement Home for each fiscal year. The annual report shall include an assessment of all aspects of each facility of the Retirement Home, including the quality of care at the facility.

(i) Authority to lease non-excess property

(1) Subject to the approval of the Secretary of Defense, whenever the Chief Operating Officer of the Armed Forces Retirement Home considers it advantageous to the Retirement Home, the Chief Operating Officer may lease to such lessee and upon such terms as the Chief Operating Officer considers will promote the purpose and financial stability of the Retirement Home or be in the public interest, real or personal property that is—

(A) under the control of the Retirement Home; and

(B) not excess property (as defined by section 102 of title 40) subject to disposal under subsection (e)(3).

(2) A lease under this subsection—

(A) may not be for more than five years, unless the Chief Operating Officer determines that a lease for a longer period will promote the purpose and financial stability of the Retirement Home or be in the public interest;

(B) may give the lessee the first right to buy the property if the lease is revoked to allow the United States to sell the property under any other provision of law;

(C) shall permit the Chief Operating Officer to revoke the lease at any time, unless the Chief Operating Officer determines that the omission of such a provision will promote the purpose and financial stability of the Retirement Home or be in the public interest;

(D) shall provide for the payment (in cash or in kind) by the lessee of consideration in an amount that is not less than the fair market value of the lease interest, as determined by the Chief Operating Officer;

(E) may provide, notwithstanding section 1302 of title 40 or any other provision of law, for the alteration, repair, or improvement, by the lessee, of the property leased as the payment of part or all of the consideration for the lease; and

(F) may not provide for a leaseback by the Retirement Home with an annual payment in excess of \$100,000, or otherwise commit the Retirement Home or the Department of Defense to annual payments in excess of such amount.

(3) In addition to any in-kind consideration accepted under subparagraph (D) or (E) of paragraph (2), in-kind consideration accepted with respect to a lease under this subsection may include the following:

(A) Maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities of the Retirement Home.

(B) Construction of new facilities for the Retirement Home.

(C) Provision of facilities for use by the Retirement Home.

(D) Facilities operation support for the Retirement Home.

(E) Provision of such other services relating to activities that will occur on the leased property as the Chief Operating Officer considers appropriate.

(4) In-kind consideration under paragraph (3) may be accepted at any property or facilities of the Retirement Home that are selected for that purpose by the Chief Operating Officer.

(5) In the case of a lease for which all or part of the consideration proposed to be accepted under this subsection is in-kind consideration with a value in excess of \$500,000, the Chief Operating Officer may not enter into the lease until at least 30 days after the date on which a report on the facts of the lease is submitted to Congress. This paragraph does not apply to a lease covered by paragraph (6).

(6)(A) If a proposed lease under this subsection involves only personal property, the lease term exceeds one year, or the fair market value of the lease interest exceeds \$100,000, as determined by the Chief Operating Officer, the Chief Operating Officer shall use competitive procedures to select the lessee unless the Chief Operating Officer determines that—

(i) a public interest will be served as a result of the lease; and

(ii) the use of competitive procedures for the selection of certain lessees is unobtainable or not compatible with the public benefit served under clause (i).

(B) Not later than 45 days before entering into a lease described in subparagraph (A), the Chief Operating Officer shall submit to Congress written notice describing the terms of the proposed lease and—

(i) the competitive procedures used to select the lessee; or

(ii) in the case of a lease involving the public benefit exception authorized by subparagraph (A)(ii), a description of the public benefit to be served by the lease.

(7) The proceeds from the lease of property under this subsection shall be deposited in the Armed Forces Retirement Home Trust Fund.

(8) The interest of a lessee of property leased under this subsection may be taxed by State or local governments. A lease under this subsection shall provide that, if and to the extent that the leased property is later made taxable by State or local governments under an Act of Congress, the lease shall be renegotiated.

(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; Pub. L. 107–107, div. A, title XIV, §1403, Dec. 28, 2001, 115 Stat. 1258; Pub. L. 110–181, div. A, title XIV, §1422(a), (b), Jan. 28, 2008, 122 Stat. 420; Pub. L. 111–84, div. B, title XXVIII, §2823, Oct. 28, 2009, 123 Stat. 2666; Pub. L. 111–383, div. B, title XXVIII, §2813(b), Jan. 7, 2011, 124 Stat. 4463; Pub. L. 112–81, div. A, title V, §§561, 564(b)(1), Dec. 31, 2011, 125 Stat. 1420, 1424; Pub. L. 112–239, div. A, title X, §1076(j), Jan. 2, 2013, 126 Stat. 1955; Pub. L. 115–91, div. B, title XXVIII, §2873, Dec. 12, 2017, 131 Stat. 1870.)

Editorial Notes

References in Text

This chapter, referred to in subsec. (f), was in the original "this title", meaning title XV of Pub. L. 101–510, div. A, Nov. 5, 1990, 104 Stat. 1722, 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

2017—Subsec. (e)(2). Pub. L. 115–91, §2873(a)(1), substituted "Chief Operating Officer may acquire," for "Secretary of Defense may acquire," and "Chief Operating Officer may acquire" for "Secretary may acquire".

Subsec. (e)(3). Pub. L. 115–91, §2873(a)(2), substituted "Chief Operating Officer determines" for "Secretary of Defense determines" and "Chief Operating Officer shall dispose" for "Secretary shall dispose".

Subsec. (i)(1). Pub. L. 115–91, §2873(b)(1), in introductory provisions, substituted "Subject to the approval of the Secretary of Defense, whenever" for "Whenever", "Chief Operating Officer may" for "Secretary of Defense (acting on behalf of the Chief Operating Officer) may", and "Chief Operating Officer considers" for "Secretary considers".

Subsec. (i)(5). Pub. L. 115–91, §2873(b)(2), substituted "the Chief Operating Officer may not enter into the lease" for "the Secretary of Defense may not enter into the lease on behalf of the Chief Operating Officer".

Subsec. (i)(6)(A). Pub. L. 115–91, §2873(b)(3), substituted "Chief Operating Officer shall" for "Secretary of Defense shall" in introductory provisions.

2013—Subsec. (d)(3). Pub. L. 112–239 struck out first par. (3) which read as follows: "The administration of the Retirement Home (including administration for the provision of health care and medical care for residents) shall remain under the direct authority, control, and administration of the Secretary of Defense."

2011—Subsec. (d)(2). Pub. L. 112–81, §564(b)(1), substituted "Administrator" for "Director" in two places.

Subsec. (d)(3). Pub. L. 112–81, §561, added second par. (3).

Subsec. (i)(2)(F). Pub. L. 111–383 added subpar. (F).

2009—Subsec. (e)(2). Pub. L. 111–84, §2823(a), inserted at end "If the purchase price to acquire fee title to real property for inclusion in the Retirement Home is more than \$750,000, the Secretary may acquire the real property only if the acquisition is specifically authorized by law."

Subsec. (e)(3). Pub. L. 111–84, §2823(b)(1), added par. (3) and struck out former par. (3) which read as follows: "The Secretary of Defense may dispose of any property of the Retirement Home, by sale, lease, or otherwise, that the Secretary determines is excess to the needs of the Retirement Home. The proceeds from such a disposal of property shall be deposited in the Armed Forces Retirement Home Trust Fund. No such disposal of real property shall be effective earlier than 120 days after the date on which the Secretary transmits a notification of the proposed disposal to the Committees on Armed Services of the Senate and the House of Representatives."

Subsec. (i). Pub. L. 111–84, §2823(b)(2), added subsec. (i).

2008—Subsec. (d)(3). Pub. L. 110–181, §1422(a)(1), added par. (3).

Subsec. (g). Pub. L. 110–181, §1422(b), amended subsec. (g) generally. Prior to amendment, text read as follows: "The Chief Operating Officer shall endeavor to secure for each facility of the Retirement Home accreditation by a nationally recognized civilian accrediting organization, such as the Continuing Care Accreditation Commission and the Joint Commission for Accreditation of Health Organizations."

Subsec. (h). Pub. L. 110–181, §1422(a)(2), inserted at end "The annual report shall include an assessment of all aspects of each facility of the Retirement Home, including the quality of care at the facility."

2001—Pub. L. 107–107 reenacted section catchline without change and amended text generally, substituting present provisions for provisions relating to inclusion of existing homes in the Armed Forces Retirement Home in subsec. (a), the purpose of the Retirement Home in subsec. (b), its operation in subsec. (c), its property and

facilities in subsec. (d), the requirement that the Secretary of Defense make available certain support services for the Home in subsec. (e), and its accreditation in subsec. (f).

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

Statutory Notes and Related Subsidiaries

Effective Date

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

Termination of Reporting Requirements

For termination, effective Dec. 31, 2021, of provisions in subsec. (h) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of Title 10, Armed Forces.

§412. Residents of Retirement Home

(a) Persons eligible to be residents

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

- (1) Persons who were discharged or released from service in the Armed Forces after 20 or more years of active service.
- (2) Persons who are determined under rules prescribed by the Chief Operating Officer to be suffering from a service-connected disability incurred in the line of duty in the Armed Forces.
- (3) Persons who served in a war theater during a time of war declared by Congress or were eligible for hostile fire special pay under section 310 or 351 of title 37 and who are determined under rules prescribed by the Chief Operating Officer to be suffering from injuries, disease, or disability.
- (4) Persons who served in a women's component of the Armed Forces before June 12, 1948, and are determined under rules prescribed by the Chief Operating Officer to be eligible for admission because of compelling personal circumstances.
- (5) Persons who are eligible for retired pay under chapter 1223 of title 10 and are—
 - (A) eligible for care under section 1710 of title 38;
 - (B) enrolled in coverage under chapter 55 of title 10; or
 - (C) enrolled in a qualified health plan (as defined in section 18021(a) of title 42) that is acceptable to the Chief Operating Officer.

(b) Persons ineligible to be residents

The following persons are ineligible to become a resident of the Retirement Home:

(1) A person who—

(A) has been convicted of a felony; or

(B) was discharged or released from service in the Armed Forces under other than honorable conditions.

(2) A person with substance abuse or mental health problems, except upon a judgment and satisfactory determination by the Chief Operating Officer that—

(A) the person has been evaluated by a qualified health professional selected by the Retirement Home;

(B) the Retirement Home can accommodate the person's condition; and

(C) the person agrees to such conditions of residency as the Retirement Home may require.

(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 Administrator of that facility an application in such form and containing such information as the Chief Operating Officer may require.

(d) Priorities for acceptance

The Chief Operating Officer 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) Spouses of residents

(1) Authority to admit

Except as otherwise established pursuant to subsection (d), the spouse of a person accepted as a resident of a facility of the Retirement Home may be admitted to that facility if the spouse—

(A) is a covered beneficiary within the meaning of section 1072(5) of title 10;

(B) is not ineligible to become a resident as provided in subsection (b); and

(C) submits an application for admittance in accordance with subsection (c).

(2) Treatment as resident

A spouse admitted in accordance with paragraph (1) shall be a resident of the Retirement Home consistent with this chapter, except as the Chief Operating Officer may otherwise provide.

(Pub. L. 101–510, div. A, title XV, §1512, Nov. 5, 1990, 104 Stat. 1724; Pub. L. 107–107, div. A, title XIV, §§1404(b)(1)(A), 1405(a), 1410(b)(1), Dec. 28, 2001, 115 Stat. 1260, 1261, 1266; Pub. L. 112–81, div. A, title V, §§564(b)(1), 567(c)(6), Dec. 31, 2011, 125 Stat. 1424, 1426; Pub. L. 114–328, div. A, title VI, §618(f), Dec. 23, 2016, 130 Stat. 2160; Pub. L. 115–232, div. A, title XIV, §1412, Aug. 13, 2018, 132 Stat. 2090; Pub. L. 116–283, div. A, title XIV, §1412(a), Jan. 1, 2021, 134 Stat. 4030.)

Editorial Notes

References in Text

This chapter, referred to in subsec. (e)(2), was in the original "this Act", and was translated as meaning title XV of Pub. L. 101–510, div. A, Nov. 5, 1990, 104 Stat. 1722, known as the Armed Forces Retirement Home Act of 1991, which is classified principally to this chapter, to reflect the probable intent of Congress. For complete classification of title XV to the Code, see Short Title note set out under section 401 of this title and Tables.

Amendments

2021—Subsec. (a). Pub. L. 116–283, §1412(a)(1), struck out "active" before "commissioned service" in introductory provisions.

Subsec. (a)(1). Pub. L. 116–283, §1412(a)(2), struck out "are 60 years of age or over and" before "were discharged".

Subsec. (a)(5). Pub. L. 116–283, §1412(a)(3), added par. (5).

2018—Pub. L. 115–232 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to persons eligible to be residents, persons ineligible to be residents, acceptance, and priorities for acceptance, respectively.

2016—Subsec. (a)(3)(A). Pub. L. 114–328 inserted "or 351" after "section 310".

2011—Pub. L. 112–81, §567(c)(6), made technical amendment to section catchline.

Subsec. (c). Pub. L. 112–81, §564(b)(1), substituted "Administrator" for "Director".

2001—Subsecs. (a), (c), (d). Pub. L. 107–107, §1404(b)(1)(A), substituted "Chief Operating Officer" for "Retirement Home Board" wherever appearing.

Subsec. (e). Pub. L. 107–107, §1405(a), struck out heading and text of subsec. (e). Text read as follows: "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."

Subsec. (f). Pub. L. 107–107, §1410(b)(1), struck out heading and text of subsec. (f). Text read as follows: "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."

Statutory Notes and Related Subsidiaries

Effective Date

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

§413. Services provided to residents

(a) Services provided

Except as provided in subsections (b), (c), and (d), a resident of the Retirement Home shall receive the services authorized by the Chief Operating Officer.

(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. The services provided residents of the Retirement Home shall include appropriate nonacute medical and dental services, pharmaceutical services, and transportation of residents, which shall be provided at no cost to residents. Secondary and tertiary hospital care for residents that is not available at a facility 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. Except as provided in subsection (d), 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.

(c) Availability of physicians and dentists

(1) In providing for the health care needs of residents at a facility of the Retirement Home under subsection (b), the Retirement Home shall have a physician and a dentist—

(A) available at the facility during the daily business hours of the facility; and

(B) available on an on-call basis at other times.

(2) The physicians and dentists required by this subsection shall have the skills and experience suited to residents of the facility served by the physicians and dentists.

(3) To ensure the availability of health care services for residents of a facility of the Retirement Home, the Chief Operating Officer, in consultation with the Medical Director, shall establish uniform standards, appropriate to the medical needs of the residents, for access to health care services during and after the daily business hours of the facility.

(d) Transportation to medical care outside Retirement Home facilities

(1) With respect to each facility of the Retirement Home, the Retirement Home shall provide daily scheduled transportation to nearby medical facilities used by residents of the facility. The Retirement Home may provide, based on a determination of medical need, unscheduled transportation for a resident of the facility to any medical facility located not more than 30 miles from the facility for the provision of necessary and urgent medical care for the resident.

(2) The Retirement Home may not collect a fee from a resident for transportation provided under this subsection.

(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; Pub. L. 107–107, div. A, title XIV, §§1404(b)(1)(B), 1410(a)(1), Dec.

28, 2001, 115 Stat. 1260, 1266; Pub. L. 109–163, div. A, title IX, §909(a), Jan. 6, 2006, 119 Stat. 3404; Pub. L. 110–181, div. A, title XIV, §1422(c), Jan. 28, 2008, 122 Stat. 420; Pub. L. 112–81, div. A, title V, §567(c)(2), Dec. 31, 2011, 125 Stat. 1426.)

Editorial Notes

Amendments

2011—Pub. L. 112–81 substituted "Services provided to residents" for "Services provided residents" in section catchline.

2008—Subsec. (b). Pub. L. 110–181 inserted after first sentence "The services provided residents of the Retirement Home shall include appropriate nonacute medical and dental services, pharmaceutical services, and transportation of residents, which shall be provided at no cost to residents."

2006—Subsec. (a). Pub. L. 109–163, §909(a)(1), substituted "subsections (b), (c), and (d)" for "subsection (b)".

Subsec. (b). Pub. L. 109–163, §909(a)(2), substituted "Except as provided in subsection (d), the" for "The".

Subsecs. (c), (d). Pub. L. 109–163, §909(a)(3), added subsecs. (c) and (d).

2001—Subsec. (a). Pub. L. 107–107, §1404(b)(1)(B), substituted "Chief Operating Officer" for "Retirement Home Board".

Subsec. (b). Pub. L. 107–107, §1410(a)(1), struck out "maintained as a separate establishment" after "available at a facility" in second sentence.

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."

Statutory Notes and Related Subsidiaries

Effective Date

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

§413a. Oversight of health care provided to residents

(a) Designation of Senior Medical Advisor

(1) The Secretary of Defense shall designate the Deputy Director of the Defense Health Agency to serve as the Senior Medical Advisor for the Retirement Home.

(2) The Deputy Director of the Defense Health Agency shall serve as Senior Medical Advisor for the Retirement Home in addition to performing all other duties and responsibilities assigned to the Deputy Director of the

Defense Health Agency at the time of the designation under paragraph (1) or afterward.

(b) Responsibilities

The Senior Medical Advisor shall provide advice to the Secretary of Defense, the Chief Operating Officer, and the Advisory Council regarding the direction and oversight of—

- (1) medical administrative matters at each facility of the Retirement Home; and
- (2) the provision of medical care, preventive mental health, and dental care services at each facility of the Retirement Home.

(c) Duties

In carrying out the responsibilities set forth in subsection (b), the Senior Medical Advisor shall perform the following duties:

- (1) Facilitate and monitor the timely availability to residents of the Retirement Home such medical, mental health, and dental care services as such residents may require at locations other than the Retirement Home.
- (2) Monitor compliance by the facilities of the Retirement Home with accreditation standards, applicable nationally recognized health care standards and requirements, or any other applicable health care standards and requirements.
- (3) Periodically visit each facility of the Retirement Home to review—
 - (A) the medical facilities, medical operations, medical records and reports, and the quality of care provided to residents; and
 - (B) inspections and audits to ensure that appropriate follow-up regarding issues and recommendations raised by such inspections and audits has occurred.
- (4) Report on the findings and recommendations developed as a result of each review conducted under paragraph (3) to the Chief Operating Officer, the Advisory Council, and the Secretary of Defense.

(d) Advisory bodies

In carrying out the responsibilities set forth in subsection (b) and the duties set forth in subsection (c), the Senior Medical Advisor may establish and seek the advice of such advisory bodies as the Senior Medical Advisor considers appropriate.

(Pub. L. 101–510, div. A, title XV, §1513A, as added Pub. L. 110–181, div. A, title XIV, §1422(d)(1), Jan. 28, 2008, 122 Stat. 420; amended Pub. L. 112–81, div. A, title V, §§562, 567(c)(3), Dec. 31, 2011, 125 Stat. 1420, 1426; Pub. L. 113–291, div. A, title VII, §721, Dec. 19, 2014, 128 Stat. 3417; Pub. L. 115–91, div. A, title XIV, §1413(a)(1), Dec. 12, 2017, 131 Stat. 1707; Pub. L. 115–232, div. A, title XIV, §1413, Aug. 13, 2018, 132 Stat. 2092; Pub. L. 116–283, div. A, title XIV, §1413(b)(1), Jan. 1, 2021, 134 Stat. 4032.)

Editorial Notes

Amendments

2021—Subsec. (c)(2). Pub. L. 116–283 struck out "(including requirements identified in applicable reports of the Inspector General of the Department of Defense)" before period at end.

2018—Subsec. (c)(1). Pub. L. 115–232, §1413(1), added par. (1) and struck out former par. (1) which read as follows: "Ensure the timely availability to residents of the Retirement Home, at locations other than the Retirement Home, of such acute medical, mental health, and dental care as such resident may require that is not available at the applicable facility of the Retirement Home."

Subsec. (c)(2). Pub. L. 115–232, §1413(2), substituted "Monitor" for "Ensure".

2017—Subsec. (b). Pub. L. 115–91, §1413(a)(1)(A), struck out "the Under Secretary of Defense for Personnel and Readiness," after "Secretary of Defense," in introductory provisions.

Subsec. (c)(4). Pub. L. 115–91, §1413(a)(1)(B), substituted "the Secretary of Defense" for "the Under Secretary of Defense for Personnel and Readiness".

2014—Subsec. (a). Pub. L. 113–291, §721(a), substituted "Deputy Director of the Defense Health Agency" for "Deputy Director of the TRICARE Management Activity" wherever appearing.

Subsec. (c)(2). Pub. L. 113–291, §721(b), substituted "nationally recognized health care standards and requirements" for "health care standards of the Department of Veterans Affairs".

2011—Pub. L. 112–81, §567(c)(3), substituted "Oversight of health care provided to residents" for "Improved health care oversight of Retirement Home" in section catchline.

Subsec. (b). Pub. L. 112–81, §562(a), substituted "The" for "(1) The" and "the Chief Operating Officer, and the Advisory Council regarding the direction and oversight of—" for "the Chief Operating Officer regarding the direction and oversight of the provision of medical, preventive mental health, and dental care services at each facility of the Retirement Home.", added pars. (1) and (2), and struck out former par. (2) which read as follows: "The Senior Medical Advisor shall also provide advice to the Local Board for a facility of the Retirement Home regarding all medical and medical administrative matters of the facility."

Subsec. (c)(3) to (5). Pub. L. 112–81, §562(b), added pars. (3) and (4) and struck out former pars. (3) to (5) which read as follows:

"(3) Periodically visit and inspect the medical facilities and medical operations of each facility of the Retirement Home.

"(4) Periodically examine and audit the medical records and administration of the Retirement Home.

"(5) Consult with the Local Board for each facility of the Retirement Home not less frequently than once each year."

§414. Fees paid by residents

(a) Monthly fees

The Administrator of each facility of the Retirement Home shall collect a monthly fee from each resident of that facility.

(b) Deposit of fees

The Administrators shall deposit fees collected under subsection (a) in the Armed Forces Retirement Home Trust Fund.

(c) Fixing fees

(1) The Chief Operating Officer, with the approval of the Secretary of Defense, shall from time to time prescribe the fees required by subsection (a). Changes to such fees shall be based on the financial needs of the Retirement Home and the ability of the residents to pay. A change of a fee may not take effect until 120 days after the Secretary of Defense transmits a notification of the change to the Committees on Armed Services of the Senate and the House of Representatives.

(2)(A) The fee shall be fixed as a percentage of the monthly income and monthly payments (including Federal payments) received by a resident. The percentage shall be the same for each facility of the Retirement Home. The Secretary of Defense may make any adjustment in a percentage that the Secretary determines appropriate.

(B) The calculation of monthly income and monthly payments under subparagraph (A) for a resident eligible under section 412(a)(5) of this title shall not be less than the retirement pay for equivalent active duty service as determined by the Chief Operating Officer, except as the Chief Operating Officer may provide because of the compelling personal circumstances of such resident.

(3) The fee shall be subject to a limitation on maximum monthly amount. The amount of the limitation shall be increased, effective on January 1 of each year, by the percentage of the increase in retired pay and retainer pay that takes effect on the preceding December 1 under subsection (b) of section 1401a of title 10 without regard to paragraph (3) of such subsection.

(4) The Administrator of each facility of the Retirement Home may collect a fee upon admission from a resident accepted under section 412(a)(5) of this title equal to the deductions then in effect under section 1007(i)(1) of title 37 for each year of service computed under chapter 1223 of title 10 and shall deposit such fee in the Armed Forces Retirement Home Trust Fund.

(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; Pub. L. 107–107, div. A, title XIV, §1405(b), Dec. 28, 2001, 115 Stat. 1261; Pub. L. 112–81, div. A, title V, §§564(b), 565, Dec. 31, 2011, 125 Stat. 1424; Pub. L. 116–283, div. A, title XIV, §1412(b), Jan. 1, 2021, 134 Stat. 4031.)

Editorial Notes

Amendments

2021—Subsec. (c)(2). Pub. L. 116–283, §1412(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The fee shall be fixed as a percentage of the monthly income and monthly payments (including Federal payments) received by a resident. The percentage shall be the same for each facility of the Retirement Home. The Secretary of Defense may make any adjustment in a percentage that the Secretary determines appropriate."

Subsec. (c)(4). Pub. L. 116–283, §1412(b)(2), added par. (4).

2011—Subsec. (a). Pub. L. 112–81, §564(b)(1), substituted "Administrator" for "Director".

Subsec. (b). Pub. L. 112–81, §564(b)(2), substituted "Administrators" for "Directors".

Subsec. (c)(3). Pub. L. 112–81, §565(a), struck out at end "The first increase in a limitation on maximum monthly amount shall take effect on January 1, 2003."

Subsec. (d). Pub. L. 112–81, §565(b), struck out subsec. (d) which related to transitional fee structures.

2001—Pub. L. 107–107 reenacted section catchline without change and amended text generally, substituting present provisions for provisions relating to collection of monthly fees in subsec. (a), deposit of fees in subsec. (b), fixing fees in subsec. (c), and application of fees in subsec. (d).

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."

Statutory Notes and Related Subsidiaries

Effective Date of 1994 Amendment

Pub. L. 103–337, div. A, title III, §371(d)(2), Oct. 5, 1994, 108 Stat. 2735, 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, formerly set out as a note under section 401 of this title.

Relief for Residents of the Armed Forces Retirement Home Impacted by Increase in Fees

Pub. L. 115–232, div. A, title XIV, §1415, Aug. 13, 2018, 132 Stat. 2092, provided that:

"(a) Prohibition on Removal for Inability To Pay Fee Increase.—A resident of the Armed Forces Retirement Home as of September 30, 2018, may not be removed or released from the Retirement Home after that date based solely upon the inability of the resident to pay the amount of any increase in fees applicable to residents of the Retirement Home that takes effect on October 1, 2018.

"(b) Other Relief.—The Chief Operating Officer of the Armed Forces Retirement Home shall take all actions practicable to accommodate residents of the Retirement Home who are impacted by the fee structure applicable

to residents of the Retirement Home that takes effect on October 1, 2018, including through hardship relief, additional deductions from gross income, and other appropriate actions."

Limitation on Applicability of Fee Increase for Residents of the Armed Forces Retirement Home

Pub. L. 115–232, div. A, title XIV, §1416, Aug. 13, 2018, 132 Stat. 2092, provided that:

"(a) In General.—In the case of an individual who was a resident of the Armed Forces Retirement Home as of April 9, 2018, the increase in fees for residents of the Home scheduled to take effect on October 1, 2018, shall occur on an incremental basis over the three-year period beginning on October 1, 2018, such that the total fee for such individual as a resident of the Home as of the end of such period covers the cost of care of such individual as a resident of the Home.

"(b) Notice and Wait on Implementation of Future Increases.—Any increase in the fees for residents of the Home that is scheduled to take effect after October 1, 2018, may not take effect until 90 days after the date on which a report on the increase is submitted to the Committees on Armed Services of the Senate and the House of Representatives."

§415. Chief Operating Officer

(a) Appointment

- (1) The Secretary of Defense shall appoint the Chief Operating Officer of the Retirement Home.
- (2) The Chief Operating Officer shall serve at the pleasure of the Secretary of Defense.
- (3) The Secretary of Defense shall evaluate the performance of the Chief Operating Officer at least once each year.

(b) Qualifications

To qualify for appointment as the Chief Operating Officer, a person shall—

- (1) be a continuing care retirement community professional;
- (2) have appropriate leadership and management skills; and
- (3) have experience and expertise in the operation and management of retirement homes and in the provision of long-term medical care for older persons.

(c) Responsibilities

- (1) The Chief Operating Officer shall be responsible to the Secretary of Defense for the overall direction, operation, and management of the Retirement Home and shall report to the Secretary on those matters.
- (2) The Chief Operating Officer shall supervise the operation and administration of the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport.
- (3) The Chief Operating Officer shall perform the following duties:
 - (A) Issue, and ensure compliance with, appropriate rules for the operation of the Retirement Home.
 - (B) Periodically visit, and inspect the operation of, the facilities of the Retirement Home.

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

(D) Establish any advisory body or bodies that the Chief Operating Officer considers to be necessary.

(d) Compensation

(1) The Secretary of Defense may prescribe the pay of the Chief Operating Officer, except that the annual rate of basic pay, including locality pay, of the Chief Operating Officer may not exceed the annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5.

(2) In addition to basic pay and any locality pay prescribed for the Chief Operating Officer, the Secretary may award the Chief Operating Officer, not more than once each year, a bonus based on the performance of the Chief Operating Officer for the year. The Secretary shall prescribe the amount of any such bonus.

(3) The total amount of the basic pay and bonus paid the Chief Operating Officer for a year under this section may not exceed the annual rate of basic pay payable for level I of the Executive Schedule under section 5312 of title 5.

(e) Administrative staff

(1) The Chief Operating Officer may, subject to the approval of the Secretary of Defense, appoint a staff to assist in the performance of the Chief Operating Officer's duties in the overall administration of the Retirement Home.

(2) The Chief Operating Officer shall prescribe the rates of pay applicable to the members of the staff appointed under paragraph (1), except that—

(A) 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 may not receive additional pay by reason of service on the administrative staff; and

(B) the limitations in section 5373 of title 5, relating to pay set by administrative action, shall apply to the rates of pay prescribed under this paragraph.

(f) Acceptance of gifts

(1) The Chief Operating Officer may accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property, or any income therefrom or other interest therein, for the benefit 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 Armed Forces Retirement Home Trust Fund.

(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; Pub. L. 107–107, div. A, title XIV, §1404(a), Dec. 28, 2001, 115 Stat. 1259; Pub. L. 112–81, div. A, title V, §563(b)(2), Dec. 31, 2011, 125 Stat. 1423; Pub. L. 115–232, div. A, title XIV, §1414, Aug. 13, 2018, 132 Stat. 2092.)

Editorial Notes

Amendments

2018—Subsec. (f)(1). Pub. L. 115–232 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Chief Operating Officer may accept gifts of money, property, and facilities on behalf of the Retirement Home."

2011—Subsec. (c)(2). Pub. L. 112–81 struck out ", including the Local Boards of those facilities" before period at end.

2001—Pub. L. 107–107 amended section catchline and text generally, substituting provisions relating to the Chief Operating Officer of the Retirement Home for provisions relating to the composition and operation of Retirement Home Board.

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 amendment, 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".

Statutory Notes and Related Subsidiaries

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, formerly set out as a note under section 401 of this title.

Savings Provision

Pub. L. 104–201, div. A, title X, §1051(b)(2), Sept. 23, 1996, 110 Stat. 2649, 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]."

§416. Advisory Council

(a) Establishment

The Retirement Home shall have an Advisory Council, to be known as the "Armed Forces Retirement Home Advisory Council". The Advisory Council shall serve the interests of both facilities of the Retirement Home.

(b) Duties

(1) The Advisory Council shall provide to the Chief Operating Officer and the Administrator of each facility such guidance and recommendations on the administration of the Retirement Home and the quality of care provided to residents as the Advisory Council considers appropriate.

(2) Not less often than annually, the Advisory Council shall submit to the Secretary of Defense a report summarizing its activities during the preceding year and providing such observations and recommendations with respect to the Retirement Home as the Advisory Council considers appropriate.

(3) In carrying out its functions, the Advisory Council shall provide for participation in its activities by a representative of the Resident Advisory Committee of each facility of the Retirement Home.

(c) Composition

(1) The Advisory Council shall consist of at least 15 members.

(2) Members of the Advisory Council shall be designated by the Secretary of Defense, except that an individual who is not an employee of the Department of Defense shall be designated, in consultation with the Secretary of Defense, by the head of the Federal department or agency that employs the individual.

(3) The Advisory Council shall include the following members:

(A) One member who is an expert in nursing home or retirement home administration and financing.

(B) One member who is an expert in gerontology.

(C) One member who is an expert in financial management.

(D) Two representatives of the Department of Veterans Affairs, one to be designated from each of the regional offices nearest in proximity to the facilities of the Retirement Home.

(E) The Chairpersons of the Resident Advisory Committees.

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

(G) The senior noncommissioned officer of one of the Armed Forces.

(H) Two senior representatives of military medical treatment facilities, one to be designated from each of the military hospitals nearest in proximity to the facilities of the Retirement Home.

(I) One senior judge advocate from one of the Armed Forces.

(J) One senior representative of one of the chief personnel officers of the Armed Forces.

(K) Such other members as the Secretary of Defense may designate.

(4) The Administrator of the each facility of the Retirement Home shall be a nonvoting member of the Advisory Council.

(5) The Secretary of Defense shall designate one member of the Advisory Council to serve as the Chairperson of the Advisory Council. The Chairperson shall conduct the meetings of the Advisory Council.

(d) Term of service

(1) Except as provided in paragraphs (2), (3), and (4), the term of service of a member of the Advisory Council shall be two years. The Secretary of Defense may designate a member to serve one additional term.

(2) Unless earlier terminated by the Secretary of Defense, a person may continue to serve as a member of the Advisory Council after the expiration of the member's term until a successor is designated.

(3) The Secretary of Defense may terminate the term of service of a member of the Advisory Council before the expiration of the member's term.

(4) A member of the Advisory Council serves as a member of the Advisory Council only for as long as the member is assigned to or serving in a position for which the duties include the duty to serve as a member of the Advisory Council.

(e) Vacancies

A vacancy in the Advisory Council shall be filled in the manner in which the original designation was made. A member designated to fill a vacancy occurring before the end of the term of the predecessor shall be designated for the remainder of the term of the predecessor. A vacancy in the Advisory Council shall not affect its authority to perform its duties.

(f) Compensation

(1) Except as provided in paragraph (2), a member of the Advisory Council may—

(A) be provided a stipend consistent with the daily government consultant fee for each day on which the member is engaged in the performance of services for the Advisory Council; and

(B) while away from home or regular place of business in the performance of services for the Advisory Council, 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 Advisory Council 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 serving as a member of the Advisory Council.

(Pub. L. 101–510, div. A, title XV, §1516, as added Pub. L. 112–81, div. A, title V, §563(a), Dec. 31, 2011, 125 Stat. 1421; amended Pub. L. 115–91, div. A, title XIV, §1413(b), Dec. 12, 2017, 131 Stat. 1708; Pub. L. 116–283, div. A, title XIV, §1413(b)(2), Jan. 1, 2021, 134 Stat. 4032.)

Editorial Notes

Prior Provisions

A prior section 416, Pub. L. 101–510, div. A, title XV, §1516, Nov. 5, 1990, 104 Stat. 1728; Pub. L. 107–107, div. A, title XIV, §1406, Dec. 28, 2001, 115 Stat. 1262; Pub. L. 110–181, div. A, title XIV, §1422(e), Jan. 28, 2008, 122 Stat. 421; Pub. L. 110–417, [div. A], title X, §1061(b)(12), Oct. 14, 2008, 122 Stat. 4613, related to local boards of trustees, prior to repeal by Pub. L. 112–81, div. A, title V, §563(a), Dec. 31, 2011, 125 Stat. 1421.

Amendments

2021—Subsec. (b)(3). Pub. L. 116–283 struck out dash after "shall" and subpar. (A) designation before "provide", substituted period at end for "; and", and struck out subpar. (B) which read as follows: "make recommendations to the Inspector General of the Department of Defense regarding issues that the Inspector General should investigate."

2017—Subsec. (c)(1). Pub. L. 115–91, §1413(b)(1), substituted "15 members." for "15 members, each of whom shall be a full or part-time Federal employee or a member of the Armed Forces."

Subsec. (f)(1). Pub. L. 115–91, §1413(b)(2), substituted "may" for "shall" in introductory provisions.

§416a. Resident Advisory Committees

(a) Establishment and purpose

(1) A Resident Advisory Committee is an elected body of residents at each facility of the Retirement Home established to provide a forum for all residents to express their needs, ideas, and interests through elected representatives of their respective floor or area.

(2) A Resident Advisory Committee—

(A) serves as a forum for ideas, recommendations, and representation to management of that facility of the Retirement Home to enhance the morale, safety, health, and well-being of residents; and

(B) provides a means to communicate policy and general information between residents and management.

(b) Election process

The election process for the Resident Advisory Committee at a facility of the Retirement Home shall be coordinated by the facility Ombudsman.

(c) Chairperson

(1) The Chairperson of a Resident Advisory Committee shall be elected at large and serve a two-year term.

(2) Chairpersons serve as a liaison to the Administrator and are voting members of the Advisory Council. Chairpersons shall create meeting agendas, conduct the meetings, and provide a copy of the minutes to the Administrator, who will forward the copy to the Chief Operating Officer for approval.

(d) Meetings

At a minimum, meetings of a Resident Advisory Committee shall be conducted quarterly.

(Pub. L. 101–510, div. A, title XV, §1516A, as added Pub. L. 112–81, div. A, title V, §563(a), Dec. 31, 2011, 125 Stat. 1423.)

§417. Administrators, Ombudsmen, and staff of facilities

(a) Appointment

The Secretary of Defense shall appoint an Administrator and an Ombudsman for each facility of the Retirement Home.

(b) Administrator

The Administrator of a facility shall—

- (1) be a civilian with experience as a continuing care retirement community professional or a member of the Armed Forces serving on active duty in a grade below brigadier general or, in the case of the Navy, rear admiral (lower half);
- (2) have appropriate leadership and management skills;
- (3) be required to pursue a course of study to receive certification as a retirement facilities director by an appropriate civilian certifying organization, if the Administrator is not so certified at the time of appointment; and
- (4) serve at the pleasure of the Secretary of Defense.

(c) Duties of Administrator

- (1) The Administrator of a facility shall be responsible for the day-to-day operation of the facility, including the acceptance of applicants to be residents of that facility.
- (2) The Administrator of a facility shall keep accurate and complete records of the facility.

(d) Ombudsman

(1) The Ombudsman of a facility shall—

- (A) be a member of the Armed Forces serving on active duty in the grade of Sergeant Major, Master Chief Petty Officer, or Chief Master Sergeant or a member or former member retired in that grade; and
- (B) have appropriate leadership and management skills.

(2) The Ombudsman of a facility shall serve at the pleasure of the Secretary of Defense.

(e) Duties of Ombudsman

- (1) The Ombudsman of a facility shall, under the authority, direction, and control of the Administrator of the facility, serve as ombudsman for the residents and perform such other duties as the Administrator may assign.
- (2) The Ombudsman may provide information to the Administrator, the Chief Operating Officer, the Senior Medical Advisor, and the Secretary of Defense.

(f) Staff

- (1) The Administrator of a facility may, subject to the approval of the Chief Operating Officer, appoint and prescribe the pay of such principal staff as the Administrator considers appropriate to assist the Administrator in operating the facility.
- (2) The principal staff of a facility 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.

(g) Annual evaluation of Administrators

(1) The Chief Operating Officer shall evaluate the performance of each of the Administrators of the facilities of the Retirement Home each year.

(2) The Chief Operating Officer shall submit to the Secretary of Defense any recommendations regarding an Administrator that the Chief Operating Officer determines appropriate taking into consideration the annual 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; Pub. L. 105–261, div. A, title X, §1041(a)–(c), Oct. 17, 1998, 112 Stat. 2124; Pub. L. 107–107, div. A, title XIV, §1407, Dec. 28, 2001, 115 Stat. 1264; Pub. L. 112–81, div. A, title V, §§564(a), 567(c)(4), Dec. 31, 2011, 125 Stat. 1424, 1426; Pub. L. 115–91, div. A, title XIV, §1413(a)(2), (c), Dec. 12, 2017, 131 Stat. 1707, 1708; Pub. L. 116–283, div. A, title XIV, §1413(b)(3), Jan. 1, 2021, 134 Stat. 4032.)

Editorial Notes

Amendments

2021—Subsec. (e)(2). Pub. L. 116–283 struck out "the Inspector General of the Department of Defense," after "the Senior Medical Advisor,".

2017—Subsec. (b)(4). Pub. L. 115–91, §1413(c), added par. (4).

Subsec. (e)(2). Pub. L. 115–91, §1413(a)(2), substituted "the Secretary of Defense" for "the Under Secretary of Defense for Personnel and Readiness".

2011—Pub. L. 112–81, §567(c)(4), substituted "Administrators, Ombudsmen, and staff of facilities" for "Directors, deputy directors, associate directors, and staff of facilities" in section catchline.

Subsec. (a). Pub. L. 112–81, §564(a)(1), substituted "an Administrator and an Ombudsman" for "a Director, a Deputy Director, and an Associate Director".

Subsecs. (b), (c). Pub. L. 112–81, §564(a)(2), substituted "Administrator" for "Director" wherever appearing in heading and text.

Subsec. (d). Pub. L. 112–81, §564(a)(4), substituted "Ombudsman" for "Associate Director" wherever appearing in heading and text.

Pub. L. 112–81, §564(a)(3), redesignated subsec. (f) as (d) and struck out former subsec. (d) which related to Deputy Director.

Subsec. (e). Pub. L. 112–81, §564(a)(5), designated existing provisions as par. (1), substituted "Ombudsman" for "Associate Director" in heading and text, substituted "Administrator of" for "Director and Deputy Director of" and "Administrator may" for "Director may", and added par. (2).

Pub. L. 112–81, §564(a)(3), redesignated subsec. (g) as (e) and struck out former subsec. (e) which related to duties of Deputy Director.

Subsec. (f). Pub. L. 112–81, §564(a)(3), redesignated subsec. (h) as (f). Former subsec. (f) redesignated (d).

Subsec. (f)(1). Pub. L. 112–81, §564(a)(6), substituted "Administrator" for "Director" wherever appearing.

Subsec. (g). Pub. L. 112–81, §564(a)(7), substituted "Administrators" for "Directors" in heading and par. (1) and "an Administrator" for "a Director" in par. (2).

Pub. L. 112–81, §564(a)(3), redesignated subsec. (i) as (g). Former subsec. (g) redesignated (e).

Subsecs. (h), (i). Pub. L. 112–81, §564(a)(3), redesignated subsecs. (h) and (i) as (f) and (g), respectively.

2001—Pub. L. 107–107 amended section catchline and text generally, substituting provisions relating to directors, deputy directors, associate directors, and staff of facilities for provisions relating to directors and staff.

1998—Subsec. (a)(2). Pub. L. 105–261, §1041(a)(1)(A), substituted "The Director of the United States Soldiers' and Airmen's Home" for "Each Director" in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 105–261, §1041(a)(1)(B), added subpar. (B) and struck out former subpar. (B) which read as follows: "have appropriate leadership and management skills, an appreciation and understanding of the culture and norms associated with military service, and a significant military background."

Subsec. (a)(3) to (5). Pub. L. 105–261, §1041(a)(2), (3), added pars. (3) and (4) and redesignated former par. (3) as (5).

Subsec. (c). Pub. L. 105–261, §1041(b), substituted "Terms of Directors" for "Term of Director" in heading, designated existing provisions as par. (1), substituted "The term of office of the Director of the United States Soldiers' and Airmen's Home shall be five years. The Director" for "The term of office of a Director shall be five years. A Director", and added par. (2).

Subsec. (g). Pub. L. 105–261, §1041(c), added subsec. (g).

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.

Statutory Notes and Related Subsidiaries

Effective Date of 1998 Amendment

Pub. L. 105–261, div. A, title X, §1041(d), Oct. 17, 1998, 112 Stat. 2124, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 1998."

Effective Date

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

§418. Periodic inspection of retirement home facilities

(a) Inspections

The Chief Operating Officer shall request the inspection of each facility of the Retirement Home by a nationally recognized civilian accrediting organization in accordance with section 411(g) of this title on a frequency consistent with the standards of such organization.

(b) Availability of staff and records

The Chief Operating Officer and the Administrator of a facility being inspected under this section shall make all staff, other personnel, and records of the facility available to the civilian accrediting organization in a timely manner for purposes of inspections under this section.

(c) Reports

Not later than 60 days after receiving a report on an inspection from the civilian accrediting organization under this section, the Chief Operating Officer shall submit to the Secretary of Defense, the Senior Medical Advisor, and the Advisory Council a report containing—

- (1) the results of the inspection; and
- (2) a plan to address any recommendations and other matters set forth in the report.

(Pub. L. 101–510, div. A, title XV, §1518, Nov. 5, 1990, 104 Stat. 1730; Pub. L. 105–261, div. A, title X, §1042(a), Oct. 17, 1998, 112 Stat. 2125; Pub. L. 107–107, div. A, title XIV, §1404(b)(1)(C), Dec. 28, 2001, 115 Stat. 1260; Pub. L. 110–181, div. A, title XIV, §1422(f), Jan. 28, 2008, 122 Stat. 422; Pub. L. 112–81, div. A, title V, §§563(b)(3), 564(b)(1), 566, 567(c)(5), Dec. 31, 2011, 125 Stat. 1423–1426; Pub. L. 115–91, div. A, title X, §1051(d), title XIV, §1413(a)(3), Dec. 12, 2017, 131 Stat. 1562, 1707; Pub. L. 115–232, div. A, title X, §1081(c)(3), Aug. 13, 2018, 132 Stat. 1985; Pub. L. 116–283, div. A, title XIV, §1413(a), Jan. 1, 2021, 134 Stat. 4031.)

Editorial Notes

Amendments

2021—Pub. L. 116–283 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (e) relating to periodic inspection of retirement home facilities by Department of Defense Inspector General and outside inspectors.

2018—Subsecs. (c)(1), (e). Pub. L. 115–232, §1081(c)(3), made technical amendment to directory language of Pub. L. 115–91, §1051(d). See 2017 Amendment notes below.

2017—Subsec. (c)(1). Pub. L. 115–91, §1413(a)(3)(A), struck out "the Under Secretary of Defense for Personnel and Readiness," after "the Secretary of Defense,".

Pub. L. 115–91, §1051(d)(1), as amended by Pub. L. 115–232, §1081(c)(3), struck out "Congress and" before "the Secretary of Defense,".

Subsec. (e). Pub. L. 115–91, §1413(a)(3)(B), which directed amendment of subsec. (e)(1) by substituting "the Secretary of Defense" for "the Under Secretary of Defense for Personnel and Readiness", was executed by making the substitution in the introductory provisions of subsec. (e) to reflect the probable intent of Congress and the intervening amendment by Pub. L. 115–91, §1051(d)(2). See below.

Pub. L. 115–91, §1051(d)(2), as amended by Pub. L. 115–232, §1081(c)(3), struck out "(1)" before "Not later", redesignated subpars. (A) and (B) of par. (1) as pars. (1) and (2), respectively, and struck out par. (2) which read as follows: "Not later than 45 days after receiving a report and plan under paragraph (1), the Secretary of Defense shall submit the report and plan to Congress."

2011—Pub. L. 112–81, §567(c)(5), substituted "Periodic inspection of retirement home facilities by Department of Defense Inspector General and outside inspectors" for "Inspection of Retirement Home" in section catchline.

Subsec. (b)(1). Pub. L. 112–81, §566(1), substituted "Not less often than once every three years," for "In any year in which a facility of the Retirement Home is not inspected by a nationally recognized civilian accrediting organization," and "of each facility of the Retirement Home" for "of that facility" and inserted "long-term care," after "assisted living,".

Pub. L. 112–81, §563(b)(3)(A)(i), substituted "Advisory Council or the Resident Advisory Committee" for "Local Board for the facility or the resident advisory committee or council".

Subsec. (b)(3). Pub. L. 112–81, §563(b)(3)(A)(ii), substituted "Advisory Council, the Resident Advisory Committee" for "Local Board for the facility, the resident advisory committee or council".

Subsec. (b)(4). Pub. L. 112–81, §564(b)(1), substituted "Administrator" for "Director".

Subsec. (c). Pub. L. 112–81, §564(b)(1), substituted "Administrator" for "Director" in two places.

Subsec. (c)(1). Pub. L. 112–81, §566(2)(A), substituted "90 days" for "45 days".

Pub. L. 112–81, §563(b)(3)(B), substituted "Advisory Council" for "Local Board for the facility".

Subsec. (c)(2). Pub. L. 112–81, §566(2)(B), added par. (2) and struck out former par. (2) which read as follows: "Not later than 45 days after receiving a report of the Inspector General under paragraph (1), the Administrator of the facility concerned shall submit to the Secretary of Defense, the Under Secretary of Defense for Personnel and Readiness, the Chief Operating Officer, and the Local Board for the facility, and to Congress, a plan to address the recommendations and other matters set forth in the report."

Subsec. (d)(2). Pub. L. 112–81, §564(b)(1), substituted "Administrator" for "Director".

Subsec. (e)(1). Pub. L. 112–81, §566(3), substituted "60 days" for "45 days" and "Chief Operating Officer shall submit to the Under Secretary of Defense for Personnel and Readiness, the Senior Medical Advisor" for "Director of the facility concerned shall submit to the Under Secretary of Defense for Personnel and Readiness, the Chief Operating Officer".

Pub. L. 112–81, §563(b)(3)(C), substituted "Advisory Council" for "Local Board for the facility".

2008—Pub. L. 110–181 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to triennial inspections, alternating duties of Inspectors General, and inspection reports.

2001—Subsec. (c). Pub. L. 107–107 substituted "Chief Operating Officer" for "Retirement Home Board".

1998—Pub. L. 105–261 amended section catchline and text generally. Prior to amendment, text read as follows:
"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."

Statutory Notes and Related Subsidiaries

Effective Date of 2018 Amendment

Pub. L. 115–232, div. A, title X, §1081(c), Aug. 13, 2018, 132 Stat. 1985, provided that the amendment made by section 1081(c)(3) is effective as of Dec. 12, 2017, and as if included in Pub. L. 115–91 as enacted.

Effective Date

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

First Inspection

Pub. L. 105–261, div. A, title X, §1042(b), Oct. 17, 1998, 112 Stat. 2125, provided that: "The first inspection under section 1518 of the Armed Forces Retirement Home Act of 1991 [24 U.S.C. 418], as amended by subsection (a), shall be carried out during fiscal year 1999."

§419. Armed Forces 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 Chief Operating Officer 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).

(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 Chief Operating Officer determines are not currently needed to pay for the operation of the Retirement Home.

(d) Reporting requirements

The Chief Financial Officer of the Armed Forces Retirement Home shall comply with the reporting requirements of subchapter II of chapter 35 of title 31.

(Pub. L. 101–510, div. A, title XV, §1519, Nov. 5, 1990, 104 Stat. 1730; Pub. L. 107–107, div. A, title XIV, §§1404(b)(2), 1410(a)(2), (b)(2), Dec. 28, 2001, 115 Stat. 1260, 1266; Pub. L. 110–181, div. A, title XIV, §1422(g), Jan. 28, 2008, 122 Stat. 423; Pub. L. 112–81, div. A, title V, §567(b)(1), Dec. 31, 2011, 125 Stat. 1425.)

Editorial Notes

Amendments

2011—Subsec. (a)(2). Pub. L. 112–81 substituted "Chief Operating Officer" for "Retirement Home Board".

2008—Subsec. (d). Pub. L. 110–181 added subsec. (d).

2001—Pub. L. 107–107, §1410(a)(2), inserted "Armed Forces" before "Retirement Home Trust Fund" in section catchline.

Subsec. (c). Pub. L. 107–107, §1404(b)(2), substituted "Chief Operating Officer" for "Director".

Subsec. (d). Pub. L. 107–107, §1410(b)(2), struck out heading and text of subsec. (d). Text read as follows:

"(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."

Statutory Notes and Related Subsidiaries

Effective Date

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

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

(a) Disposition of effects of deceased persons

The Administrator of a facility of the Retirement Home shall safeguard and dispose of the estate and personal effects of deceased residents, including effects delivered to such facility under sections 7712(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 Administrator 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 Administrator at any time during the three-year period, the Administrator 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) 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 Armed Forces 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 Armed Forces 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 Administrator of a facility of the Retirement Home may designate an attorney who is a full-time officer or employee of the United States or a member of the Armed Forces on active duty 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 petitioners (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 Administrator 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). Disposal may be made within the discretion of the Administrator 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 Administrator to be valueless.

(c) Transfer of proceeds to Fund

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

(d) Subsequent claim

(1) A claim for the net proceeds of the sale under subsection (b) 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) plus interest.

(e) Unclaimed property

In the case of property delivered to the Retirement Home under section 2575 of title 10, the Administrator of the facility 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 Administrator of the facility 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; Pub. L. 107–107, div. A, title XIV, §§1408, 1410(a)(3), Dec. 28, 2001, 115 Stat. 1265, 1266; Pub. L. 107–314, div. A, title X, §1062(f)(3), Dec. 2, 2002, 116 Stat. 2651; Pub. L. 108–136, div. A, title X, §1045(g), Nov. 24, 2003, 117 Stat. 1613; Pub. L. 112–81, div. A, title V, §§564(b), 567(c)(6), Dec. 31, 2011, 125 Stat. 1424, 1426; Pub. L. 115–232, div. A, title VIII, §809(g), Aug. 13, 2018, 132 Stat. 1842.)

Editorial Notes

Amendments

2018—Subsec. (a). Pub. L. 115–232 substituted "sections 7712(f) and 9712(f) of title 10" for "sections 4712(f) and 9712(f) of title 10" in introductory provisions.

2011—Pub. L. 112–81, §567(c)(6), made technical amendment to section catchline.

Pub. L. 112–81, §564(b)(1), substituted "Administrator" for "Director" wherever appearing.

Subsec. (c). Pub. L. 112–81, §564(b)(2), substituted "Administrators" for "Directors".

2003—Subsec. (b)(1)(C). Pub. L. 108–136 inserted "Armed Forces" before "Retirement Home Trust Fund".

2002—Subsec. (e). Pub. L. 107–314 made technical correction to directory language of Pub. L. 107–107, §1410(a)(3)(C). See 2001 Amendment note below.

2001—Subsec. (a). Pub. L. 107–107, §1410(a)(3)(A), substituted "a facility" for "each facility that is maintained as a separate establishment" in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 107–107, §1408(b), inserted "Armed Forces" before "Retirement Home Trust Fund".

Subsec. (b)(2)(A). Pub. L. 107–107, §§1408(a), 1410(a)(3)(B), struck out "maintained as a separate establishment" before "of the Retirement Home" and inserted "who is a full-time officer or employee of the United States or a member of the Armed Forces on active duty" after "may designate an attorney".

Subsec. (e). Pub. L. 107–107, §1410(a)(3)(C), as amended by Pub. L. 107–314, substituted "Director of the facility" for "Directors" in two places.

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."

Statutory Notes and Related Subsidiaries

Effective Date of 2018 Amendment

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of Title 10, Armed Forces.

Effective Date of 2002 Amendment

Pub. L. 107–314, div. A, title X, §1062(f), Dec. 2, 2002, 116 Stat. 2651, provided that the amendment made by section 1062(f)(3) is effective as of Dec. 28, 2001, and as if included in Pub. L. 107–107 as enacted.

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, formerly set out as a note under section 401 of this title.

§421. Payment of residents for services

(a) Authority

The Chief Operating Officer 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) 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 ¹ 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), 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; Pub. L. 107–107, div. A, title XIV, §1404(b)(3), Dec. 28, 2001, 115 Stat. 1260.)

Editorial Notes

References in Text

Section 5532 of title 5, referred to in subsec. (b)(1), was repealed by Pub. L. 106–65, div. A, title VI, §651(a)(1), Oct. 5, 1999, 113 Stat. 664.

Amendments

2001—Subsec. (a). Pub. L. 107–107 substituted "Chief Operating Officer" for "Chairman of the Armed Forces Retirement Board".

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."

Statutory Notes and Related Subsidiaries

Forgiveness of Indebtedness

Pub. L. 102–484, div. A, title III, §385(b), Oct. 23, 1992, 106 Stat. 2394, 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."

[¹ See References in Text note below.](#)

§422. Authority to accept certain uncompensated services

(a) Authority to accept services

Subject to subsection (b) and notwithstanding section 1342 of title 31, the Chief Operating Officer or the Administrator of a facility of the Retirement Home may accept from any person voluntary personal services or gratuitous services.

(b) Requirements and limitations

(1) The Chief Operating Officer or the Administrator of a facility accepting the services shall notify the person offering the services of the scope of the services accepted.

(2) The Chief Operating Officer or Administrator 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 otherwise qualified under applicable laws or regulations to provide such services.

(3) A person providing services accepted under subsection (a) 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 Chief Operating Officer or the Administrator of a facility of the Retirement Home may recruit and train persons to provide services authorized to be accepted under subsection (a).

(d) Status of persons providing services

(1) Subject to paragraph (3), while providing services accepted under subsection (a) or receiving training under subsection (c), 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) 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), 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 Chief Operating Officer or the Administrator of a facility accepting services under subsection (a) may provide for reimbursement of a person for incidental expenses incurred by the person in providing the services accepted under subsection (a). The Chief Operating Officer or Administrator 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; amended Pub. L. 107–107, div. A, title XIV, §1404(b)(4), Dec. 28, 2001, 115 Stat. 1260; Pub. L. 112–81, div. A, title V, §564(b)(1), Dec. 31, 2011, 125 Stat. 1424.)

Editorial Notes

Amendments

2011—Pub. L. 112–81 substituted "Administrator" for "Director" wherever appearing.

2001—Subsec. (a). Pub. L. 107–107, §1404(b)(4)(A), substituted "Chief Operating Officer or the Director of a facility" for "Chairman of the Retirement Home Board or the Director of each establishment" and struck out

"unless the acceptance of the voluntary services is disapproved by the Retirement Home Board" before period at end.

Subsec. (b)(1). Pub. L. 107–107, §1404(b)(4)(B), substituted "Chief Operating Officer or the Director of a facility" for "Chairman of the Retirement Home Board or the Director of the establishment" and inserted "offering the services" after "notify the person".

Subsec. (b)(2). Pub. L. 107–107, §1404(b)(4)(C), substituted "Chief Operating Officer" for "Chairman" in introductory provisions.

Subsec. (c). Pub. L. 107–107, §1404(b)(4)(D), substituted "Chief Operating Officer or the Director of a facility" for "Chairman of the Retirement Home Board or the Director of an establishment".

Subsec. (e). Pub. L. 107–107, §1404(b)(4)(E), substituted "Chief Operating Officer or the Director of a facility" for "Chairman of the Retirement Board or the Director of the establishment" and "Chief Operating Officer or Director" for "Chairman or Director".

§423. Preservation of historic buildings and grounds at the Armed Forces Retirement Home—Washington

(a) Historic nature of facility

Congress finds the following:

- (1) Four buildings located on six acres of the establishment of the Retirement Home known as the Armed Forces Retirement Home—Washington are included on the National Register of Historic Places maintained by the Secretary of the Interior.
- (2) Amounts in the Armed Forces Retirement Home Trust Fund, which consists primarily of deductions from the pay of members of the Armed Forces, are insufficient to both maintain and operate the Retirement Home for the benefit of the residents of the Retirement Home and adequately maintain, repair, and preserve these historic buildings and grounds.
- (3) Other sources of funding are available to contribute to the maintenance, repair, and preservation of these historic buildings and grounds.

(b) Authority to accept assistance

The Chief Operating Officer and the Administrator of the Armed Forces Retirement Home—Washington may apply for and accept a direct grant from the Secretary of the Interior under section 302904 of title 54 for the purpose of maintaining, repairing, and preserving the historic buildings and grounds of the Armed Forces Retirement Home—Washington included on the National Register of Historic Places.

(c) Requirements and limitations

Amounts received as a grant under subsection (b) shall be deposited in the Fund, but shall be kept separate from other amounts in the Fund. The amounts received may only be used for the purpose specified in subsection (b).

(Pub. L. 101–510, div. A, title XV, §1523, as added Pub. L. 106–65, div. A, title III, §383, Oct. 5, 1999, 113 Stat. 583; amended Pub. L. 107–107, div. A, title XIV, §§1404(b)(5), 1410(a)(4), Dec. 28, 2001, 115 Stat. 1261, 1266; Pub. L. 112–81, div. A, title V, §564(b)(1), Dec. 31, 2011, 125 Stat. 1424.)

Editorial Notes

Codification

In subsec. (b), "section 302904 of title 54" substituted for "section 101(e)(3) of the National Historic Preservation Act (16 U.S.C. 470a(e)(3))" on authority of Pub. L. 113–287, §6(e), Dec. 19, 2014, 128 Stat. 3272, which Act enacted Title 54, National Park Service and Related Programs.

Amendments

2011—Subsec. (b). Pub. L. 112–81 substituted "Administrator" for "Director".

2001—Pub. L. 107–107, §1410(a)(4)(B), amended section catchline generally, substituting "the Armed Forces Retirement Home—Washington" for "United States Soldiers' and Airmen's Home".

Subsec. (a)(1). Pub. L. 107–107, §1410(a)(4)(A), substituted "Armed Forces Retirement Home—Washington" for "United States Soldiers' and Airmen's Home".

Subsec. (b). Pub. L. 107–107, §§1404(b)(5), 1410(a)(4)(A), substituted "Chief Operating Officer" for "Chairman of the Retirement Home Board" and substituted "Armed Forces Retirement Home—Washington" for "United States Soldiers' and Airmen's Home" in two places.

§424. Repealed. Pub. L. 107–107, div. A, title XIV, §1410(a)(5), Dec. 28, 2001, 115 Stat. 1266

Section, Pub. L. 101–510, div. A, title XV, §1524, as added Pub. L. 106–398, §1 [[div. A], title IX, §915], Oct. 30, 2000, 114 Stat. 1654, 1654A-231, related to conditional supervisory control of Retirement Home Board by Secretary of Defense.

SUBCHAPTER II—TRANSITIONAL PROVISIONS

§§431 to 433. Repealed. Pub. L. 112–81, div. A, title V, §567(a), Dec. 31, 2011, 125 Stat. 1425

Section 431, Pub. L. 101–510, div. A, title XV, §1531, as added Pub. L. 107–107, div. A, title XIV, §1409, Dec. 28, 2001, 115 Stat. 1265, related to temporary continuation of Armed Forces Retirement Home Board.

A prior section 431, Pub. L. 101–510, div. A, title XV, §1531, Nov. 5, 1990, 104 Stat. 1732, related to transfer of trust funds relating to Naval Home and Soldiers' and Airmen's Home, prior to repeal by Pub. L. 107–107, div. A, title XIV, §1409, Dec. 28, 2001, 115 Stat. 1265.

Section 432, Pub. L. 101–510, div. A, title XV, §1532, as added Pub. L. 107–107, div. A, title XIV, §1409, Dec. 28, 2001, 115 Stat. 1265, related to directors of facilities.

A prior section 1532 of Pub. L. 101–510, div. A, title XV, Nov. 5, 1990, 104 Stat. 1732, repealed sections 21a to 25, 41 to 43, 44b, 45 to 46b, 48 to 50, 54, and 59 of this title, prior to repeal by Pub. L. 107–107, div. A, title XIV, §1409, Dec. 28, 2001, 115 Stat. 1265.

Section 433, Pub. L. 101–510, div. A, title XV, §1533, as added Pub. L. 107–107, div. A, title XIV, §1409, Dec. 28, 2001, 115 Stat. 1265, related to temporary continuation of incumbent deputy directors.

A prior section 1533 of Pub. L. 101–510, div. A, title XV, Nov. 5, 1990, 104 Stat. 1733, amended 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, repealed sections 4713 and 9713 of Title 10, and

enacted provisions set out as a note under section 2772 of Title 10, prior to repeal by Pub. L. 107–107, div. A, title XIV, §1409, Dec. 28, 2001, 115 Stat. 1265.

SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

§441. Repealed. Pub. L. 107–107, div. A, title XIV, §1410(b)(3), Dec. 28, 2001, 115 Stat. 1266

Section, Pub. L. 101–510, div. A, title XV, §1542, Nov. 5, 1990, 104 Stat. 1736, related to authorization of appropriations for United States Soldiers' and Airmen's Home.