

(e) Action to collect penalty

If any issuer or custodian fails to comply with the Secretary's determination or order imposing a civil money penalty under subsection (a), after the determination or order is no longer subject to review as provided by subsections (c)(1) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the issuer or custodian and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(f) Settlement by Secretary

The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(g) "Knowingly" defined

The term "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(h) Regulations

The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(i) Deposit of penalties

The Secretary shall deposit all civil money penalties collected under this section into moneys of the Association pursuant to section 1722 of this title.

(June 27, 1934, ch. 847, title III, § 317, as added Pub. L. 101-235, title I, § 110(a), Dec. 15, 1989, 103 Stat. 2011; amended Pub. L. 104-208, div. A, title II, § 2704(d)(13)(A), Sept. 30, 1996, 110 Stat. 3009-490; Pub. L. 109-171, title II, § 2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109-173, § 9(f)(1), Feb. 15, 2006, 119 Stat. 3618.)

Editorial Notes**AMENDMENTS**

2006—Subsec. (b)(1)(B). Pub. L. 109-173 substituted "Deposit Insurance Fund" for "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations".

Pub. L. 109-171 repealed Pub. L. 104-208, § 2704(d)(13)(A). See 1996 Amendment note below.

1996—Subsec. (b)(1)(B). Pub. L. 104-208, § 2704(d)(13)(A), which directed substitution of "Deposit Insurance Fund" for "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations", was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2006 AMENDMENT**

Amendment by Pub. L. 109-173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109-173, set out as a note under section 24 of this title.

Amendment by Pub. L. 109-171 effective no later than the first day of the first calendar quarter that begins

after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109-171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104-208, formerly set out as a note under section 1821 of this title.

EFFECTIVE DATE

Pub. L. 101-235, title I, § 110(b), Dec. 15, 1989, 103 Stat. 2014, provided that: "The amendment made by subsection (a) [enacting this section] shall apply only with respect to—

"(1) violations referred to in the amendment that occur on or after the effective date of this section [Dec. 15, 1989]; and

"(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation referred to in the amendment that occurs on or after such date."

SUBCHAPTER IV—INSURANCE OF SAVINGS AND LOAN ACCOUNTS**§§ 1724 to 1730d. Repealed. Pub. L. 101-73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363**

Section 1724, acts June 27, 1934, ch. 847, title IV, § 401, 48 Stat. 1255; July 16, 1952, ch. 883, 66 Stat. 727; July 28, 1959, Pub. L. 86-112, 73 Stat. 262; Oct. 16, 1966, Pub. L. 89-695, title III, § 302(a), 80 Stat. 1055; Dec. 23, 1969, Pub. L. 91-151, title I, § 8(a)(1), 83 Stat. 375; Oct. 28, 1974, Pub. L. 93-495, title I, §§ 101(b)(1), 103(a)(1), 88 Stat. 1501, 1503; Mar. 31, 1980, Pub. L. 96-221, title III, § 308(b)(1)(A), 94 Stat. 147, defined terms used in this subchapter.

Section 1725, acts June 27, 1934, ch. 847, title IV, § 402, 48 Stat. 1256; May 28, 1935, ch. 150, § 22, 49 Stat. 298; 1947 Reorg. Plan No. 3, eff. July 29, 1947, 12 F.R. 4981, 61 Stat. 954; July 3, 1948, ch. 825, § 2, 62 Stat. 1240; June 27, 1950, ch. 369, §§ 5, 6, 64 Stat. 258; Aug. 2, 1954, ch. 649, title V, § 501(1), title VIII, § 802(b), 68 Stat. 633, 642; June 11, 1960, Pub. L. 86-507, § 1(12), 74 Stat. 200; Aug. 16, 1973, Pub. L. 93-100, § 4, 87 Stat. 343; Oct. 28, 1974, Pub. L. 93-495, title I, § 105(d), 88 Stat. 1504; Oct. 28, 1977, Pub. L. 95-147, § 2(b), 91 Stat. 1227; Oct. 15, 1982, Pub. L. 97-320, title I, § 125(a), (b), title III, § 314, 96 Stat. 1485, 1499; Aug. 10, 1987, Pub. L. 100-86, title III, §§ 304, 306(b), (i), 101 Stat. 597, 601, 603, related to creation of Federal Savings and Loan Insurance Corporation.

Section 1726, acts June 27, 1934, ch. 847, title IV, § 403, 48 Stat. 1257; May 28, 1935, ch. 150, §§ 23, 24, 49 Stat. 298; July 14, 1952, ch. 723, § 10(a)(5), 66 Stat. 604; Aug. 11, 1955, ch. 783, title I, § 111, 69 Stat. 641; Sept. 2, 1964, Pub. L. 88-560, title IX, § 901(b), 78 Stat. 804; July 24, 1970, Pub. L. 91-351, title VII, § 707, 84 Stat. 463; Oct. 28, 1974, Pub. L. 93-495, title I, § 105(a), 88 Stat. 1503; Nov. 10, 1978, Pub. L. 95-630, title XII, § 1203, 92 Stat. 3711; Mar. 31, 1980, Pub. L. 96-221 title IV, §§ 407(b), 409, 94 Stat. 160; Oct. 15, 1982, Pub. L. 97-320, title I, § 115(a), title II, § 202(c), (d), 96 Stat. 1475, 1492; Aug. 10, 1987, Pub. L. 100-86, title V, § 504(a), 101 Stat. 632, related to insurance of accounts and eligibility provisions.

Section 1727, acts June 27, 1934, ch. 847, title IV, § 404, 48 Stat. 1258; May 28, 1935, ch. 150, § 25, 49 Stat. 298; June 27, 1950, ch. 369, §§ 7, 8, 64 Stat. 259; Sept. 8, 1961, Pub. L. 87-210, §§ 3-6, 75 Stat. 483; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1110(d), 79 Stat. 508; Sept. 21, 1968, Pub. L. 90-505, § 6(a), 82 Stat. 858; Dec. 23, 1969, Pub. L. 91-151, title I, § 6(a), 83 Stat. 375; Dec. 24, 1969, Pub. L. 91-152, title IV, § 416(c)(1), 83 Stat. 401; Dec. 22, 1971, Pub. L. 92-213, § 5, 85 Stat. 776; Aug. 16, 1973, Pub. L. 93-100, § 6, 87 Stat. 344; Oct. 28, 1974, Pub. L. 93-495, title I, § 115, 88 Stat. 1507; Oct. 15, 1982, Pub. L. 97-320, title I, § 126, 96 Stat. 1485; Aug. 10, 1987, Pub. L. 100-86, title III, §§ 305, 306(c), (f), (g), 307, title V, § 505(c), 101 Stat. 600-603, 633, related to primary and secondary services.

Section 1728, acts June 27, 1934, ch. 847, title IV, § 405, 48 Stat. 1259; June 27, 1950, ch. 369, § 9, 64 Stat. 259; Sept. 21, 1950, ch. 967, § 5, 64 Stat. 894; Aug. 2, 1954, ch. 649, title V, § 501(2), 68 Stat. 633; Oct. 16, 1966, Pub. L. 89-695, title III, §§ 302(b), 303(b), 80 Stat. 1055, 1056; Dec. 23, 1969, Pub. L. 91-151, title I, § 8(a)(2), 83 Stat. 375; Oct. 28, 1974, Pub. L. 93-495, title I, §§ 101(b)(2), (3), 103(a)(2), 88 Stat. 1501, 1503; Dec. 26, 1974, Pub. L. 93-541, § 1, 88 Stat. 1739; Nov. 10, 1978, Pub. L. 95-630, title XIV, § 1401(b), 92 Stat. 3712; Dec. 21, 1979, Pub. L. 96-153, title III, § 323(b), 93 Stat. 1120; Mar. 31, 1980, Pub. L. 96-221, title III, § 308(b)(1)(B), 94 Stat. 147; Oct. 15, 1982, Pub. L. 97-320, title I, § 128, 96 Stat. 1486; Oct. 22, 1986, Pub. L. 99-514, § 2, 100 Stat. 2095, related to payment of insurance, statute of limitations with respect to claims, and insurance of public funds.

Section 1729, acts June 27, 1934, ch. 847, title IV, § 406, 48 Stat. 1259; May 28, 1935, ch. 150, §§ 26, 27, 49 Stat. 299; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Aug. 2, 1954, ch. 649, title VIII, § 802(c)(2), 68 Stat. 643; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), (b), 69 Stat. 640, 641; July 7, 1968, Pub. L. 90-389, § 6, 82 Stat. 295; Nov. 10, 1978, Pub. L. 95-630, title I, § 105(b)(2), 92 Stat. 3647; Oct. 15, 1982, Pub. L. 97-320, title I, § 122, 141(a)(6), title II, §§ 202(a), 206, 96 Stat. 1480, 1489, 1496; Jan. 12, 1983, Pub. L. 97-457, §§ 5, 9(a), (b)(1), 96 Stat. 2507, 2508; Aug. 10, 1987, Pub. L. 100-86, title IV, § 405, title V, § 509(a), 101 Stat. 613, 635, related to liquidation of insured institutions.

Section 1730, acts June 27, 1934, ch. 847, title IV, § 407, 48 Stat. 1260; June 27, 1950, ch. 369, § 11, 64 Stat. 259; Aug. 2, 1954, ch. 649, title V, § 501(3), 68 Stat. 633; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640; Oct. 16, 1966, Pub. L. 89-695, title I, § 102(a), 80 Stat. 1036; Oct. 28, 1974, Pub. L. 93-495, title I, § 105(c), 88 Stat. 1504; Nov. 10, 1978, Pub. L. 95-630, title I, §§ 107(a)(2), (c)(2), (d)(2), (e)(2), 111(b), title II, § 208(c), title VII, §§ 702, 703, 92 Stat. 3650, 3654, 3658, 3661, 3667, 3675, 3687; Oct. 15, 1982, Pub. L. 97-320, title I, § 115(c)-(e), title IV, §§ 424(b), (d)(7), (e), 425(a), 427(b), 96 Stat. 1476, 1522, 1523, 1525; Oct. 27, 1986, Pub. L. 99-570, title I, §§ 1359(c), 1361, 100 Stat. 3207-28, 3207-31; Aug. 10, 1987, Pub. L. 100-86, title I, § 111(b), title III, § 306(e), title IV, §§ 406(b), 413(b), 101 Stat. 581, 602, 615, 621, related to termination of insurance and enforcement provisions.

Section 1730a, act June 27, 1934, ch. 847, title IV, § 408, as added Sept. 23, 1959, Pub. L. 86-374, 73 Stat. 691; amended Sept. 13, 1960, Pub. L. 86-746, 74 Stat. 883; Oct. 16, 1966, Pub. L. 89-695, title I, § 103, 80 Stat. 1046; Feb. 14, 1968, Pub. L. 90-255, § 2, 82 Stat. 5; Oct. 21, 1968, Pub. L. 90-608, ch. IV, § 403, 82 Stat. 1194; July 24, 1970, Pub. L. 91-351, title VII, § 705, 84 Stat. 462; Dec. 31, 1970, Pub. L. 91-609, title IX, § 920, 84 Stat. 1816; Nov. 10, 1978, Pub. L. 95-630, title I, §§ 105(b)(1), 106(c), 92 Stat. 3646, 3649; Oct. 15, 1982, Pub. L. 97-320, title I, §§ 115(b), 123, 141(a)(7), title III, § 335, title IV, § 424(b), (d)(5), 96 Stat. 1475, 1483, 1489, 1505, 1522, 1523; Jan. 12, 1983, Pub. L. 97-457, §§ 6, 7, 96 Stat. 2507; Oct. 22, 1986, Pub. L. 99-514, § 2, 100 Stat. 2095; Aug. 10, 1987, Pub. L. 100-86, title I, §§ 104(a)-(c)(1), (d)-(h), 106(a), 107(a), 110, 111(a), title IV, §§ 410(b), 414, title V, § 509(a), 101 Stat. 567-571, 573-577, 579, 580, 620, 621, 635, related to regulation of holding companies.

Section 1730b, act June 27, 1934, ch. 847, title IV, § 409, as added Sept. 2, 1964, Pub. L. 88-560, title IX, § 909, 78 Stat. 805, related to investment of certain funds in accounts of insured institutions.

Section 1730c, act June 27, 1934, ch. 847, title IV, § 410, as added Dec. 15, 1967, Pub. L. 90-203, § 4, 81 Stat. 611, related to participation by insured institutions in lotteries and related activities.

Section 1730d, act June 27, 1934, ch. 847, title IV, § 411, as added Oct. 26, 1970, Pub. L. 91-508, title I, § 102, 84 Stat. 1116; amended Nov. 18, 1988, Pub. L. 100-690, title VI, § 6185(d)(2), 102 Stat. 4356, related to retention of records by insured institutions.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

For provisions relating to abolition of Federal Savings and Loan Insurance Corporation and transfer of functions, personnel and property, see sections 401 to 406 of Pub. L. 101-73, set out as a note under section 1437 of this title.

§ 1730e. Repealed. Pub. L. 96-221, title V, § 529, Mar. 31, 1980, 94 Stat. 168

Section, act June 27, 1934, ch. 847, title IV, § 412, as added Dec. 28, 1979, Pub. L. 96-161, title II, § 203, 93 Stat. 1236, provided that if the applicable rate prescribed in this section exceeded the rate an insured institution would be permitted to charge in the absence of this section, then such institution could, for a business or agricultural loan of \$25,000 or more, notwithstanding State law, take or charge on any evidence of debt, interest of not more than 5 per centum in excess of the discount rate in effect at the Federal Reserve bank in the district in which the institution was located, that the taking or charging of interest at a greater rate than that prescribed by this section, if knowingly done, would be deemed a forfeit of the entire interest on that particular evidence of debt, and that if such greater rate of interest had already been paid, the payor could recover twice the amount of such payment in a civil action commenced within two years of such payment. See section 1730g of this title.

A prior section 1730e, act June 27, 1934, ch. 847, § 412, as added Nov. 5, 1979, Pub. L. 96-104, title I, § 103, 93 Stat. 790, identical to this section as added by Pub. L. 96-161, was repealed by section 212 of Pub. L. 96-161, effective at the close of Dec. 27, 1979, except that its provisions would continue to apply to any loan made in any State on or after Nov. 5, 1979, but prior to such repeal.

A prior section 1730e, act June 27, 1934, ch. 847, § 412, as added Oct. 29, 1974, Pub. L. 93-501, title II, § 203, 88 Stat. 1559, identical to this section as added by Pub. L. 96-104, was repealed by section 1 of Pub. L. 96-104 except that its provisions shall continue to apply to any loan made in any State during the period specified in section 206 of Pub. L. 93-501.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Pub. L. 96-221, title V, § 529, Mar. 31, 1980, 94 Stat. 168, provided that the repeal of this section is effective at close of Mar. 31, 1980.

SAVINGS PROVISION

Pub. L. 96-221, title V, § 529, Mar. 31, 1980, 94 Stat. 168, provided that, notwithstanding the repeal of Pub. L. 96-104 and title II of Pub. L. 96-161, this section [which had been enacted by those laws] shall continue to apply to any loan made, any deposit made, or any obligation issued in any State during any period when this section was in effect in such State.

§§ 1730f to 1730i. Repealed. Pub. L. 101-73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363

Section 1730f, act June 27, 1934, ch. 847, title IV, § 413, as added Dec. 22, 1974, Pub. L. 93-533, § 11(b), 88 Stat. 1729, related to disclosures with respect to certain federally related mortgage loans, identity of beneficiary interest as condition for loan, and report to Board.

Section 1730g, act June 27, 1934, ch. 847, title IV, § 414, as added Mar. 31, 1980, Pub. L. 96-221, title V, § 522, 94 Stat. 165; amended Jan. 12, 1983, Pub. L. 97-457, § 33, 96 Stat. 2511, related to insured savings and loan associations.

Section 1730h, act June 27, 1934, ch. 847, title IV, § 415, as added Aug. 10, 1987, Pub. L. 100-86, title IV, § 402(b), 101 Stat. 606, related to accounting principles and other standards and requirements.

Section 1730i, act June 27, 1934, ch. 847, title IV, §416, as added Aug. 10, 1987, Pub. L. 100-86, title IV, §404(b), 101 Stat. 611, related to thrift industry recovery regulations.

Statutory Notes and Related Subsidiaries

SAVINGS PROVISION

Any plan approved by the Federal Savings and Loan Insurance Corporation under former section 1730i of this title for any State savings association to continue in effect as long as such association adheres to the plan and continues to submit to the Federal Deposit Insurance Corporation regular and complete reports on the progress in meeting the association's goals under the plan, notwithstanding the repeal of that section, see section 302 of Pub. L. 101-73, set out as a Savings Provision note under section 1467a of this title.

TRANSFER OF FUNCTIONS

For provisions relating to abolition of Federal Savings and Loan Insurance Corporation and Federal Home Loan Bank Board and transfer of functions, personnel, and property of such agencies, see sections 401 to 406 of Pub. L. 101-73, set out as a note under section 1437 of this title.

SUBCHAPTER V—MISCELLANEOUS

§ 1731. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section, acts June 27, 1934, ch. 847, title V, §512, 48 Stat. 1265; Feb. 3, 1938, ch. 13, §§9, 10, 52 Stat. 24, 25; June 28, 1941, ch. 261, §10, 55 Stat. 365, related to penalties. See sections 493, 657, 709, 1006, and 1008 to 1010 of Title 18, Crimes and Criminal Procedure.

§ 1731a. Penalties

Notwithstanding any other provision of law, the Secretary is authorized to refuse the benefits of participation (either directly as an insured lender or as a borrower, or indirectly as a builder, contractor, or dealer, or salesman or sales agent for a builder, contractor or dealer) under subchapter I, II, VI, VII, VIII, IX-B, or X of this chapter to any person or firm (including but not limited to any individual, partnership, association, trust, or corporation) if the Secretary has determined that such person or firm (1) has knowingly or willfully violated any provision of this chapter or of title III of the Servicemen's Readjustment Act of 1944, as amended, or of chapter 37 of title 38, or of any regulation issued by the Secretary under this chapter or by the Secretary of Veterans Affairs under said title III, or chapter 37, or (2) has, in connection with any construction, alteration, repair or improvement work financed with assistance under this chapter or under said title III, or chapter 37, or in connection with contracts or financing relating to such work, violated any Federal or State penal statute, or (3) has failed materially to properly carry out contractual obligations with respect to the completion of construction, alteration, repair, or improvement work financed with assistance under this chapter or under title III of the Servicemen's Readjustment Act of 1944, as amended, or of chapter 37 of title 38. Before any such determination is made any person or firm with respect to whom such a determination is proposed shall be notified in writing by the Secretary and shall be entitled, upon making a written request to the Secretary, to a

written notice specifying charges in reasonable detail and an opportunity to be heard and to be represented by counsel. Determinations made by the Secretary under this section shall be based on the preponderance of the evidence. For the purposes of compliance with this section the Secretary's notice of a proposed determination under this section shall be considered to have been received by the interested person or firm if the notice is properly mailed to the last known address of such person or firm.

(June 27, 1934, ch. 847, title V, §512, as added Aug. 2, 1954, ch. 649, title I, §132, 68 Stat. 610; amended Pub. L. 85-857, §13(h), Sept. 2, 1958, 72 Stat. 1265; Pub. L. 86-372, title I, §119, Sept. 23, 1959, 73 Stat. 665; Pub. L. 89-754, title X, §1020(e), Nov. 3, 1966, 80 Stat. 1296; Pub. L. 90-19, §1(a)(3), (4), May 25, 1967, 81 Stat. 17; Pub. L. 98-479, title II, §204(a)(17), Oct. 17, 1984, 98 Stat. 2232; Pub. L. 101-235, title I, §133(d)(3), Dec. 15, 1989, 103 Stat. 2027; Pub. L. 102-54, §13(d)(2)(B), June 13, 1991, 105 Stat. 274.)

Editorial Notes

REFERENCES IN TEXT

The Servicemen's Readjustment Act of 1944, as amended, referred to in text, is act June 22, 1944, ch. 268, 58 Stat. 284. Title III of the Servicemen's Readjustment Act of 1944 was classified generally to subchapter II (§694 et seq.) of chapter 11C of former Title 38, Pensions, Bonuses, and Veterans' Relief, and was repealed by section 14(87) of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1273, the first section of which reenacted title III of such Act as chapter 37 (§1801 [now 3701] et seq.) of Title 38, Veterans' Benefits.

PRIOR PROVISIONS

A prior section 512 of act of June 27, 1934, related to offenses and penalties, and was classified to section 1731 of this title, prior to repeal by act June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948. See note under section 1731.

AMENDMENTS

1991—Pub. L. 102-54 substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

1989—Pub. L. 101-235 struck out reference to subchapter IX-A after reference to subchapter VIII.

1984—Pub. L. 98-479 substituted "Penalties" for "Denial of benefits in cases of abuses; determination by Secretary; notice and hearing" in section catchline.

1967—Pub. L. 90-16 substituted "Secretary" for "Commissioner" wherever appearing, and "Secretary's" for "Commissioner's".

1966—Pub. L. 89-754 inserted references to subchapters IX-A and IX-B of this chapter.

1959—Pub. L. 86-372 provided that for purposes of compliance with this section the Commissioner's notice of a proposed determination under this section shall be considered to have been received by the interested person or firm if the notice is properly mailed to the last known address of such person or firm.

1958—Pub. L. 85-857 inserted references to chapter 37 of title 38.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as an Effective Date note preceding part I of Title 38, Veterans' Benefits.