

104TH CONGRESS
1ST SESSION

H. R. 2234

To reduce delinquencies and to improve debt-collection activities Government-wide, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 1995

Mr. HORN (for himself, Mrs. MALONEY, Mrs. MORELLA, Mr. HUTCHINSON, Mr. FRANK of Massachusetts, Mr. JACOBS, Mr. FROST, Mr. KASICH, Mr. KLUG, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committees on the Judiciary, Ways and Means, and House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reduce delinquencies and to improve debt-collection activities Governmentwide, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 101. SHORT TITLE.**

4 This Act may be cited as the “Debt Collection Im-
5 provement Act of 1995”.

1 **SEC. 102. EFFECTIVE DATE.**

2 (a) Except as provided in subsection (b), the provi-
3 sions of this Act and the amendments made by this Act
4 shall become effective October 1, 1995.

5 (b) The amendments made by title III of this Act
6 shall become effective for levies issued after the date of
7 enactment of this Act.

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1 **TITLE I—GENERAL DEBT**
 2 **COLLECTION INITIATIVES**
 3 **Subchapter A—General Offset Authority**

4 **SEC. 201. ENHANCEMENT OF ADMINISTRATIVE OFFSET AU-**
 5 **THORITY.**

6 (a) Section 3701(c) of title 31, United States Code,
 7 is amended to read as follows:

8 “(c) In sections 3716 and 3717 of this title, the term
 9 ‘person’ does not include an agency of the United States
 10 Government, or of a unit of general local government.”.

11 (b) Section 3716 of title 31, United States Code, is
 12 amended—

13 (1) by amending subsection (b) to read as fol-
 14 lows:

1 “(b) Before collecting a claim by administrative off-
2 set, the head of an executive, legislative, or judicial agency
3 must either—

4 “(1) adopt regulations on collecting by adminis-
5 trative offset promulgated by the Department of
6 Justice, the General Accounting Office and/or the
7 Department of the Treasury without change; or

8 “(2) prescribe independent regulations on col-
9 lecting by administrative offset consistent with the
10 regulations promulgated under paragraph (1).”;

11 (2) by amending subsection (c)(2) to read as
12 follows:

13 “(2) when a statute explicitly prohibits using
14 administrative ‘offset’ or ‘setoff’ to collect the claim
15 or type of claim involved.”;

16 (3) by redesignating subsection (c) as sub-
17 section (d); and

18 (4) by inserting after subsection (b) the follow-
19 ing new subsection:

20 “(c)(1)(A) Except as provided in subparagraph (B)
21 or (C), a disbursing official of the Department of the
22 Treasury, the Department of Defense, the United States
23 Postal Service, or any disbursing official of the United
24 States designated by the Secretary of the Treasury, is au-
25 thorized to offset the amount of a payment which a pay-

1 ment certifying agency has certified to the disbursing offi-
2 cial for disbursement by an amount equal to the amount
3 of a claim which a creditor agency has certified to the Sec-
4 retary of the Treasury pursuant to this subsection.

5 “(B) An agency that designates disbursing officials
6 pursuant to section 3321(c) of this title is not required
7 to certify claims arising out of its operations to the Sec-
8 retary of the Treasury before such agency’s disbursing of-
9 ficials offset such claims.

10 “(C) Payments certified by the Department of Edu-
11 cation under a program administered by the Secretary of
12 Education under title IV of the Higher Education Act of
13 1965, as amended, shall not be subject to offset under this
14 subsection.

15 “(2) Neither the disbursing official nor the payment
16 certifying agency shall be liable—

17 “(A) for the amount of the offset on the basis
18 that the underlying obligation, represented by the
19 payment before the offset was taken, was not satis-
20 fied; or

21 “(B) for failure to provide timely notice under
22 paragraph (8).

23 “(3)(A) Notwithstanding any other provision of law
24 (including sections 207 and 1631(d)(1) of the Act of Au-
25 gust 14, 1935 (42 U.S.C. 407 and 1383(d)(1)), section

1 413(b) of Public Law 91–173 (30 U.S.C. 923(b)), and
2 section 14 of the Act of August 29, 1935 (45 U.S.C.
3 231m)), all payments due under the Social Security Act,
4 part B of the Black Lung Benefits Act, or under any law
5 administered by the Railroad Retirement Board, shall be
6 subject to offset under this section.

7 “(B) An amount of \$10,000 which a debtor may re-
8 ceive under Federal benefit programs cited under subpara-
9 graph (A) within a 12-month period shall be exempt from
10 offset under this subsection. In applying the \$10,000 ex-
11 emption, the disbursing official shall—

12 “(i) apply a prorated amount of the exemption
13 to each periodic benefit payment to be made to debt-
14 or during the applicable 12-month period; and

15 “(ii) consider all benefit payments made during
16 the applicable 12-month period which are exempt
17 from offset under this subsection as part of the
18 \$10,000 exemption.

19 For purposes of the preceding sentence, the amount of a
20 periodic benefit payment shall be the amount after any
21 reduction or deduction required under the laws authoriz-
22 ing the program under which such payment is authorized
23 to be made (including any reduction or deduction to re-
24 cover any overpayment under such program).

1 “(C) The Secretary of the Treasury shall exempt
2 means-tested programs when notified by the head of the
3 respective agency. The Secretary may exempt other pay-
4 ments from offset under this subsection upon the written
5 request of the head of a payment certifying agency. A
6 written request for exemption of other payments must pro-
7 vide justification for the exemption under the standards
8 prescribed by the Secretary. Such standards shall give due
9 consideration to whether offset would tend to interfere
10 substantially with or defeat the purposes of the payment
11 certifying agency’s program.

12 “(D) The provisions of sections 205(b)(1) and
13 1631(c)(1) of the Social Security Act shall not apply to
14 any offset executed pursuant to this section against bene-
15 fits authorized by either title II or title XVI of the Social
16 Security Act.

17 “(4) The Secretary of the Treasury is authorized to
18 charge a fee sufficient to cover the full cost of implement-
19 ing this subsection. The fee may be collected either by the
20 retention of a portion of amounts collected pursuant to
21 this subsection, or by billing the agency referring or trans-
22 ferring the claim. Fees charged to the agencies shall be
23 based only on actual offsets completed. Fees charged
24 under this subsection concerning delinquent claims may
25 be considered as costs pursuant to section 3717(e) of this

1 title. Fees charged under this subsection shall be deposited
2 into the 'Account' determined by the Secretary of the
3 Treasury in accordance with section 3711(g) of this title,
4 and shall be collected and accounted for in accordance
5 with the provisions of that section.

6 “(5) The Secretary of the Treasury may disclose to
7 a creditor agency the current address of any payee and
8 any data related to certifying and authorizing such pay-
9 ment in accordance with section 552a of title 5, United
10 States Code, even when the payment has been exempt
11 from offset. Where payments are made electronically, the
12 Secretary is authorized to obtain the current address of
13 the debtor/payee from the institution receiving the pay-
14 ment. Upon request by the Secretary, the institution re-
15 ceiving the payment shall report the current address of
16 the debtor/payee to the Secretary.

17 “(6) The Secretary of the Treasury is authorized to
18 prescribe such rules, regulations, and procedures as the
19 Secretary of the Treasury deems necessary to carry out
20 the purposes of this subsection. The Secretary shall con-
21 sult with the heads of affected agencies in the development
22 of such rules, regulations, and procedures.

23 “(7)(A) Any Federal agency that is owed by a named
24 person a past-due legally enforceable non-tax debt that is
25 over 180 days delinquent (other than any past-due sup-

1 port), including non-tax debt administered by a third
2 party acting as an agent for the Federal Government,
3 shall notify the Secretary of the Treasury of all such non-
4 tax debts for purposes of offset under this subsection.

5 “(B) An agency may delay notification under sub-
6 paragraph (A) with respect to a debt that is secured by
7 bond or other instruments in lieu of bond, or for which
8 there is another specific repayment source, in order to
9 allow sufficient time to either collect the debt through nor-
10 mal collection processes (including collection by internal
11 administrative offset) or render a final decision on any
12 protest filed against the claim.

13 “(8) The disbursing official conducting the offset
14 shall notify the payee in writing of—

15 “(A) the occurrence of an offset to satisfy a
16 past-due legally enforceable debt, including a de-
17 scription of the type and amount of the payment
18 otherwise payable to the debtor against which the
19 offset was executed;

20 “(B) the identity of the creditor agency request-
21 ing the offset; and

22 “(C) a contact point within the creditor agency
23 that will handle concerns regarding the offset.”.

24 Where the payment to be offset is a periodic benefit pay-
25 ment, the disbursing official shall take reasonable steps,

1 as determined by the Secretary of the Treasury, to provide
2 the notice to the payee not later than the date on which
3 the payee is otherwise scheduled to receive the payment,
4 or as soon as practical thereafter, but no later than the
5 date of the offset. Notwithstanding the preceding sen-
6 tence, the failure of the debtor to receive such notice shall
7 not impair the legality of such offset.

8 “(9) A levy pursuant to the Internal Revenue Code
9 of 1986 shall take precedence over requests for offset re-
10 ceived from other agencies.”.

11 (c) Section 3701(a) of title 31, United States Code,
12 is amended by adding at the end the following new para-
13 graph:

14 “(8) ‘non-tax claim’ means any claim from any
15 agency of the Federal Government other than a
16 claim by the Internal Revenue Service under the In-
17 ternal Revenue Code of 1986.”.

18 **SEC. 202. HOUSE OF REPRESENTATIVES AS LEGISLATIVE**
19 **AGENCY.**

20 (a) Section 3701(a) of title 31, United States Code,
21 is amended by adding the following new paragraphs after
22 paragraph (7):

23 “(8) For purposes of subchapters I and II of chapter
24 37 of title 31, United States Code (relating to claims of
25 or against United States Government), the United States

1 House of Representatives shall be considered to be a legis-
2 lative agency (as defined in section 3701(a)(4) of such
3 title), and the Clerk of the House of Representatives shall
4 be deemed to be the head of such legislative agency.

5 “(9) Regulations prescribed by the Clerk of the
6 House of Representatives pursuant to section 3716 of title
7 31, United States Code, shall not become effective until
8 they are approved by the Committee on Rules of the
9 House of Representatives.”.

10 **SEC. 203. EXEMPTION FROM COMPUTER MATCHING RE-**
11 **QUIREMENTS UNDER THE PRIVACY ACT OF**
12 **1974.**

13 Section 552a(a) of title 5, United States Code, is
14 amended—

15 (1) in paragraph (2), by inserting “acting in an
16 individual, not a business capacity” after “resi-
17 dence”;

18 (2) in paragraph (8)(B)—

19 (A) by striking “or” at the end of clause
20 (vi);

21 (B) by inserting “or” at the end of clause
22 (vii); and

23 (C) by adding after clause (vii) the follow-
24 ing new clause:

1 “(viii) matches for administrative off-
2 set or claims collection pursuant to sub-
3 section 3716(c) of title 31, section 5514 of
4 this title, or any other payment intercept
5 or offset program authorized by statute;”.

6 **SEC. 204. TECHNICAL AND CONFORMING AMENDMENTS.**

7 (a) Title 31, United States Code, is amended—

8 (1) in section 3322(a), by inserting “section
9 3716 and section 3720A of this title, section 6331
10 of title 26, and” after “Except as provided in”;

11 (2) in section 3325(a)(3), by inserting “or pur-
12 suant to payment intercepts or offsets pursuant to
13 section 3716 or 3720A, or pursuant to levies exe-
14 cuted under section 6331 of the Internal Revenue
15 Code of 1986 (26 U.S.C. 6331),” after “voucher”;
16 and

17 (3) in sections 3711, 3716, 3717, and 3718, by
18 striking “the head of an executive or legislative
19 agency” each place it appears and inserting instead
20 “the head of an executive, judicial, or legislative
21 agency”.

22 (b) Subsection 6103(l)(10) of title 26, United States
23 Code, is amended—

24 (1) in subparagraph (A), by inserting “and to
25 officers and employees of the Department of the

1 Treasury in connection with such reduction” adding
2 after “6402”; and

3 (2) in subparagraph (B), by adding “and to of-
4 ficers and employees of the Department of the
5 Treasury in connection with such reduction” after
6 “agency”.

7 **Subchapter B—Salary Offset Authority**

8 **SEC. 301. ENHANCEMENT OF SALARY OFFSET AUTHORITY.**

9 Section 5514 of title 5, United States Code, is
10 amended—

11 (1) in subsection (a)—

12 (A) by adding at the end of paragraph (1)
13 the following: “All Federal agencies to which
14 debts are owed and are delinquent in repay-
15 ment, shall participate in a computer match at
16 least annually of their delinquent debt records
17 with records of Federal employees to identify
18 those employees who are delinquent in repay-
19 ment of those debts. Matched Federal employee
20 records shall include, but shall not be limited
21 to, active Civil Service employees government-
22 wide, military active duty personnel, military re-
23 servists, United States Postal Service employ-
24 ees, and records of seasonal and temporary em-
25 ployees. The Secretary of the Treasury shall es-

1 tablish and maintain an interagency consortium
2 to implement centralized salary offset computer
3 matching, and promulgate regulations for this
4 program. Agencies that perform centralized sal-
5 ary offset computer matching services under
6 this subsection are authorized to charge a fee
7 sufficient to cover the full cost for such serv-
8 ices.”;

9 (B) by redesignating paragraphs (3) and
10 (4) as paragraphs (4) and (5), respectively;

11 (C) by inserting after paragraph (2) the
12 following new paragraph:

13 “(3) The provisions of paragraph (2) shall not
14 apply to routine intra-agency adjustments of pay
15 that are attributable to clerical or administrative er-
16 rors or delays in processing pay documents that
17 have occurred within the four pay periods preceding
18 the adjustment and to any adjustment that amounts
19 to \$50 or less, provided that at the time of such ad-
20 justment, or as soon thereafter as practical, the indi-
21 vidual is provided written notice of the nature and
22 the amount of the adjustment and a point of contact
23 for contesting such adjustment.”; and

24 (D) by amending paragraph (5)(B) (as re-
25 designated) to read as follows:

1 “(B) For purposes of this section ‘agency’
2 includes executive departments and agencies,
3 the United States Postal Service, the Postal
4 Rate Commission, the United States Senate,
5 the United States House of Representatives,
6 and any court, court administrative office, or
7 instrumentality in the judicial or legislative
8 branches of government, and government cor-
9 porations.”;

10 (2) by adding at the end of subsection (b) the
11 following new paragraphs:

12 “(3) For purposes of this section, the Clerk of
13 the House of Representatives shall be deemed to be
14 the head of the agency. Regulations prescribed by
15 the Clerk of the House of Representatives pursuant
16 to subsection (b)(1) shall be subject to the approval
17 of the Committee on Rules of the House of Rep-
18 resentatives.

19 “(4) For purposes of this section, the Secretary
20 of the Senate shall be deemed to be the head of the
21 agency. Regulations prescribed by the Secretary of
22 the Senate pursuant to subsection (b)(1) shall be
23 subject to the approval of the Committee on Rules
24 and Administration of the Senate.”; and

1 “(A) a lender or servicer in a Federal
2 guaranteed or insured loan program;

3 “(B) an applicant for, or recipient of—

4 “(i) a Federal guaranteed, insured, or
5 direct loan; or

6 “(ii) a Federal license, permit, right-
7 of-way, grant, benefit payment or insur-
8 ance;

9 “(C) a contractor of the agency;

10 “(D) assessed a fine, fee, royalty or pen-
11 alty by that agency;

12 “(E) in a relationship with a Federal agen-
13 cy that may give rise to a receivable due to that
14 agency, such as a partner of a borrower in or
15 a guarantor of a Federal direct or insured loan;
16 and

17 “(F) is a joint holder of any account to
18 which Federal benefit payments are transferred
19 electronically.

20 “(2) Each agency shall disclose to the person
21 required to furnish a taxpayer identifying number
22 under this subsection its intent to use such number
23 for purposes of collecting and reporting on any de-
24 linquent amounts arising out of such persons’s rela-
25 tionship with the government.

1 “(3) For purposes of this subsection:

2 “(A) The term ‘taxpayer identifying num-
3 ber’ has the meaning given such term in section
4 6109 of title 26, United States Code.

5 “(B) The term ‘person’ means an individ-
6 ual, sole proprietorship, partnership, corpora-
7 tion, nonprofit organization, or any other form
8 of business association, but with the exception
9 of debtors owing claims resulting from petro-
10 leum pricing violations does not include debtors
11 under third party claims of the United States.

12 “(d) ACCESS TO SOCIAL SECURITY NUMBERS.—Not-
13 withstanding section 552a of title 5, United States Code,
14 creditor agencies to which a delinquent claim is owed, and
15 their agents, may match their debtor records with the So-
16 cial Security Administration records to verify name, name
17 control, Social Security number, address, and date of
18 birth.”.

19 **SEC. 402. BARRING DELINQUENT FEDERAL DEBTORS FROM**
20 **OBTAINING FEDERAL LOANS OR LOAN GUAR-**
21 **ANTEES.**

22 (a) Title 31, United States Code, is amended by add-
23 ing after section 3720A the following new section:

1 **“§ 3720B. Barring delinquent Federal debtors from**
2 **obtaining Federal loans or loan guaran-**
3 **tees**

4 “(a) Unless waived by the head of the agency, no per-
5 son may obtain any Federal financial assistance in the
6 form of a loan or a loan guarantee if such person has an
7 outstanding Federal non-tax debt which is in a delinquent
8 status, as determined under the standards prescribed by
9 the Secretary of the Treasury, with a Federal agency. Any
10 such person may obtain additional Federal financial as-
11 sistance only after such delinquency is resolved, pursuant
12 to these standards. This section shall not apply to loans
13 or loan guarantees where a statute specifically permits ex-
14 tension of Federal financial assistance to borrowers in de-
15 linquent status.

16 “(b) The head of the agency may delegate the waiver
17 authority described in subsection (a) to the Chief Finan-
18 cial Officer of the agency. The waiver authority may be
19 redelegated only to the Deputy Chief Financial Officer of
20 the agency.

21 “(c) For purposes of this section, ‘person’ means an
22 individual; or sole proprietorship, partnership, corpora-
23 tion, non-profit organization, or any other form of busi-
24 ness association.”.

25 (b) The table of sections for subchapter II of chapter
26 37 of title 31, United States Code, is amended by inserting

1 after the item relating to section 3720A the following new
2 item:

“3720B. Barring delinquent Federal debtors from obtaining Federal loans or
loan guarantees.”.

3 **Subchapter D—Expanding Collection Au-**
4 **thorities and Governmentwide Cross-**
5 **Servicing**

6 **SEC. 501. EXPANDING COLLECTION AUTHORITIES UNDER**
7 **THE DEBT COLLECTION ACT OF 1982.**

8 (a) Subsection 8(e) of the Debt Collection Act of
9 1982 (Public Law 97–365, 31 U.S.C. 3701(d) and 5
10 U.S.C. 5514 note) is repealed.

11 (b) Section 5 of the Social Security Domestic Em-
12 ployment Reform Act of 1994 (Public Law 103–387) is
13 repealed.

14 (c) Section 631 of the Tariff Act of 1930 (19 U.S.C.
15 1631), is repealed.

16 (d) Title 31, United States Code, is amended—

17 (1) in section 3701—

18 (A) by amending subsection (a)(4) to read
19 as follows:

20 “(4) ‘executive, judicial or legislative agency’
21 means a department, military department, agency,
22 court, court administrative office, or instrumentality
23 in the executive, judicial or legislative branches of

1 government, including government corporations.”;
2 and

3 (B) by adding at the end the following new
4 subsection:

5 “(d) Sections 3711(f) and 3716–3719 of this title do
6 not apply to a claim or debt under, or to an amount pay-
7 able under, the Internal Revenue Code of 1986.”;

8 (2) by amending section 3711(f) to read as fol-
9 lows:

10 “(f)(1) When trying to collect a claim of the Govern-
11 ment, the head of an executive or legislative agency may
12 disclose to a consumer reporting agency information from
13 a system of records that an individual is responsible for
14 a claim if notice required by section 552a(e)(4) of title
15 5, United States Code, indicates that information in the
16 system may be disclosed to a consumer reporting agency.

17 “(2) The information disclosed to a consumer report-
18 ing agency shall be limited to—

19 “(A) information necessary to establish the
20 identity of the individual, including name, address
21 and taxpayer identifying number;

22 “(B) the amount, status, and history of the
23 claim; and

24 “(C) the agency or program under which the
25 claim arose.”; and

1 (3) in section 3718—

2 (A) in subsection (a), by striking the first
3 sentence and inserting instead the following:

4 “Under conditions the head of an executive, leg-
5 islative or judicial agency considers appropriate,
6 the head of an agency may make a contract
7 with a person for collection service to recover
8 indebtedness owed, or to locate or recover as-
9 sets of, the United States Government. No head
10 of an agency may enter into a contract to locate
11 or recover assets of the United States held by
12 a State government or financial institution un-
13 less that agency has established procedures ap-
14 proved by the Secretary of the Treasury to
15 identify and recover such assets.”; and

16 (B) in subsection (d), by inserting “, or to
17 locate or recover assets of,” after “owed”.

18 **SEC. 502. GOVERNMENTWIDE CROSS-SERVICING.**

19 Section 3711 of title 31, United States Code, is
20 amended by adding at the end the following new sub-
21 section:

22 “(g)(1) At the discretion of the head of an executive,
23 judicial or legislative agency, referral of a non-tax claim
24 may be made to any executive department or agency oper-
25 ating a debt collection center for servicing and collection

1 in accordance with an agreement entered into under para-
2 graph (2). Referral or transfer of a claim may also be
3 made to the Secretary of the Treasury for servicing, collec-
4 tion, compromise, and/or suspension or termination of col-
5 lection action. Non-tax claims referred or transferred
6 under this section shall be serviced, collected, com-
7 promised, and/or collection action suspended or termi-
8 nated in accordance with existing statutory requirements
9 and authorities.

10 “(2) Executive departments and agencies operating
11 debt collection centers are authorized to enter into agree-
12 ments with the heads of executive, judicial, or legislative
13 agencies to service and/or collect nontax claims referred
14 or transferred under this subsection. The heads of other
15 executive departments and agencies are authorized to
16 enter into agreements with the Secretary of the Treasury
17 for servicing or collection of referred or transferred non-
18 tax claims or other Federal agencies operating debt collec-
19 tion centers to obtain debt collection services from those
20 agencies.

21 “(3) Any agency to which non-tax claims are referred
22 or transferred under this subsection is authorized to
23 charge a fee sufficient to cover the full cost of implement-
24 ing this subsection. The agency transferring or referring
25 the non-tax claim shall be charged the fee, and the agency

1 charging the fee shall collect such fee by retaining the
2 amount of the fee from amounts collected pursuant to this
3 subsection. Agencies may agree to pay through a different
4 method, or to fund the activity from another account or
5 from revenue received from section 701. Amounts charged
6 under this subsection concerning delinquent claims may
7 be considered as costs pursuant to section 3717(e) of this
8 title.

9 “(4) Notwithstanding any other law concerning the
10 depositing and collection of Federal payments, including
11 section 3302(b) of this title, agencies collecting fees may
12 retain the fees from amounts collected. Any fee charged
13 pursuant to this subsection shall be deposited into an ac-
14 count to be determined by the executive department or
15 agency operating the debt collection center charging the
16 fee (hereafter referred to in this section as the ‘Account’).
17 Amounts deposited in the Account shall be available until
18 expended to cover costs associated with the implementa-
19 tion and operation of Governmentwide debt collection ac-
20 tivities. Costs properly chargeable to the Account include,
21 but are not limited to—

22 “(A) the costs of computer hardware and soft-
23 ware, word processing and telecommunications
24 equipment, other equipment, supplies, and furniture;

25 “(B) personnel training and travel costs;

1 “(C) other personnel and administrative costs;

2 “(D) the costs of any contract for identification,
3 billing, or collection services; and

4 “(E) reasonable costs incurred by the Secretary
5 of the Treasury, including but not limited to, serv-
6 ices and utilities provided by the Secretary, and ad-
7 ministration of the Account.

8 “(5) Not later than January 1 of each year, there
9 shall be deposited into the Treasury as miscellaneous re-
10 ceipts, an amount equal to the amount of unobligated bal-
11 ances remaining in the Account at the close of business
12 on September 30 of the preceding year minus any part
13 of such balance that the executive department or agency
14 operating the debt collection center determines is nec-
15 essary to cover or defray the costs under this subsection
16 for the fiscal year in which the deposit is made.

17 “(6)(A) The head of an executive, legislative, or judi-
18 cial agency shall transfer to the Secretary of the Treasury
19 all non-tax claims over 180 days delinquent for additional
20 collection action and/or closeout.

21 “(B) Subparagraph (A) shall not apply—

22 “(i) to claims that—

23 “(I) are in litigation or foreclosure;

1 “(II) are eligible for disposition under the
2 loan sales programs of a Federal department or
3 agency;

4 “(III) have been referred to a private col-
5 lection contractor for collection;

6 “(IV) are being collected under internal
7 offset procedures;

8 “(V) have been referred to the Department
9 of the Treasury, the Department of Defense,
10 the United States Postal Service, or disbursing
11 official of the United States designated by Sec-
12 retary of the Treasury for administrative offset;

13 “(VI) have been retained by an executive
14 agency in a debt collection center; or

15 “(VII) have been referred to another agen-
16 cy for collection;

17 “(ii) to claims which may be collected after the
18 180-day period in accordance with specific statutory
19 authority or procedural guidelines, provided that the
20 head of an executive, legislative, or judicial agency
21 provides notice of such claims to the Secretary of the
22 Treasury; and

23 “(iii) to other specific class of claims as deter-
24 mined by the Secretary of the Treasury at the re-
25 quest of the head of an agency or otherwise.

1 “(C) The head of an executive, legislative, or judicial
2 agency shall transfer to the Secretary of the Treasury all
3 non-tax claims on which the agency has ceased collection
4 activity. The Secretary may exempt specific classes of
5 claims from this requirement, at the request of the head
6 of an agency, or otherwise. The Secretary shall review
7 transferred claims to determine if additional collection ac-
8 tion is warranted. The Secretary may, in accordance with
9 section 6050P of title 26, United States Code, report to
10 the Internal Revenue Service on behalf of the creditor
11 agency any claims that have been discharged within the
12 meaning of such section.

13 “(7) At the end of each calendar year, the head of
14 an executive, legislative, or judicial agency which, regard-
15 ing a claim owed to the agency, is required to report a
16 discharge of indebtedness as income under the 6050P of
17 title 26, United States Code, shall either complete the ap-
18 propriate form 1099 or submit to the Secretary of the
19 Treasury such information as is necessary for the Sec-
20 retary of the Treasury to complete the appropriate form
21 1099. The Secretary of the Treasury shall incorporate this
22 information into the appropriate form and submit the in-
23 formation to the taxpayer and Internal Revenue Service.

24 “(8) To carry out the purposes of this subsection, the
25 Secretary of the Treasury is authorized—

1 scribed under section 5 of this Act and publish each such
2 regulation in the Federal Register.”;

3 (2) in section 5(a), by striking “The adjustment
4 described under paragraphs (4) and (5)(A) of sec-
5 tion 4” and inserting “The inflation adjustment”;
6 and

7 (3) by adding at the end the following new sec-
8 tion:

9 “SEC. 7. Any increase to a civil monetary penalty re-
10 sulting from this Act shall apply only to violations which
11 occur after the date any such increase takes effect.”.

12 (b) The initial adjustment of a civil monetary penalty
13 made pursuant to section 4 of Federal Civil Penalties In-
14 flation Adjustment Act of 1990 (as amended by subsection
15 (a)) may not exceed 10 percent of such penalty.

16 **Subchapter F—Gain Sharing**

17 **SEC. 701. DEBT COLLECTION IMPROVEMENT ACCOUNT.**

18 (a) Title 31, United States Code, is amended by in-
19 sserting after section 3720B the following new section:

20 **“§ 3720C. Debt Collection Improvement Account**

21 “(a)(1) There is hereby established in the Treasury
22 a special fund to be known as the ‘Debt Collection Im-
23 provement Account’ (hereinafter referred to as the ‘Ac-
24 count’).

1 “(2) The Account shall be maintained and managed
2 by the Secretary of the Treasury, who shall ensure that
3 programs are credited with the amounts described in sub-
4 section (b) and with allocations described in subsection
5 (c).

6 “(b)(1) Not later than 30 days after the end of a
7 fiscal year, an agency other than the Department of Jus-
8 tice is authorized to transfer to the Account a dividend
9 not to exceed one percent of the debt collection improve-
10 ment amount as described in paragraph (3).

11 “(2) Agency transfers to the Account may include
12 collections from—

13 “(A) salary, administrative and tax referral off-
14 sets;

15 “(B) automated levy authority;

16 “(C) the Department of Justice; and

17 “(D) private collection agencies.

18 “(3) For purposes of this section, the term ‘debt col-
19 lection improvement amount’ means the amount by which
20 the collection of delinquent debt with respect to a particu-
21 lar program during a fiscal year exceeds the delinquent
22 debt baseline for such program for such fiscal year. The
23 Office of Management and Budget shall determine the
24 baseline from which increased collections are measured
25 over the prior fiscal year, taking into account the rec-

1 ommendations made by the Secretary of the Treasury in
2 consultation with creditor agencies.

3 “(c)(1) The Secretary of the Treasury is authorized
4 to make payments from the Account solely to reimburse
5 agencies for qualified expenses. For agencies with fran-
6 chise funds, payments may be credited to subaccounts des-
7 igned for debt collection.

8 “(2) For purposes of this paragraph, the term ‘quali-
9 fied expenses’ means expenditures for the improvement of
10 tax administration and agency debt collection and debt re-
11 covery activities including, but not limited to, account
12 servicing (including cross-servicing under section 502 of
13 the Debt Collection Improvement Act of 1955), automatic
14 data processing equipment acquisitions, delinquent debt
15 collection, measures to minimize delinquent debt, asset
16 disposition, and training of personnel involved in credit
17 and debt management.

18 “(3) Payments made to agencies pursuant to para-
19 graph (1) shall be in proportion to their contributions to
20 the Account.

21 “(4)(A) Amounts in the Account shall be available
22 to the Secretary of the Treasury to the extent and in the
23 amounts provided in advance in appropriation Acts, for
24 purposes of this section. Such amounts are authorized to
25 be appropriated without fiscal year limitation.

1 “(B) As soon as practicable after the end of third
2 fiscal year after which appropriations are made pursuant
3 to this section, and every 3 years thereafter, any unappro-
4 priated balance in the account as determined by the Sec-
5 retary of the Treasury in consultation with agencies, shall
6 be transferred to the Treasury general fund as miscellane-
7 ous receipts.

8 “(d) For direct loan and loan guarantee programs
9 subject to title V of the Congressional Budget Act of 1974,
10 amounts credited in accordance with subsection (c) shall
11 be considered administrative costs and shall not be in-
12 cluded in the estimated payments to the Government for
13 the purpose of calculating the cost of such programs.

14 “(e) The Secretary of the Treasury shall prescribe
15 such rules, regulations, and procedures as the Secretary
16 deems necessary or appropriate to carry out the purposes
17 of this section.”.

18 (b) The table of sections for subchapter II of chapter
19 37 of title 31, United States Code, is amended by inserting
20 after the item relating to section 3720B the following new
21 item:

“3720C. Debt Collection Improvement Account.”.

1 **Subchapter G—Tax Refund Offset Authority**

2 **SEC. 801. OFFSET OF TAX REFUND PAYMENT BY DISBURS-**
3 **ING OFFICIALS.**

4 Section 3720A(h) of title 31, United States Code, is
5 amended to read as follows:

6 “(h)(1) The term ‘Secretary of the Treasury’ may in-
7 clude the disbursing official of the Department of the
8 Treasury.

9 “(2) The disbursing official of the Department of the
10 Treasury—

11 “(A) shall notify a taxpayer in writing of—

12 “(i) the occurrence of an offset to satisfy
13 a past-due legally enforceable non-tax debt;

14 “(ii) the identity of the creditor agency re-
15 questing the offset; and

16 “(iii) a contact point within the creditor
17 agency that will handle concerns regarding the
18 offset;

19 “(B) shall notify the Internal Revenue Service
20 on a weekly basis of—

21 “(i) the occurrence of an offset to satisfy
22 a past-due legally enforceable non-tax debt;

23 “(ii) the amount of such offset; and

24 “(iii) any other information required by
25 regulations; and

1 as an agent for the Federal Government) shall, in accord-
2 ance with regulations issued pursuant to subsections (b)
3 and (d), notify the Secretary of the Treasury at least once
4 a year of the amount of such debt.”.

5 (b) Section 664(a) of the Act of August 13, 1935,
6 as amended (42 U.S.C. 664(a)) is amended—

7 (1) in paragraph (1), by adding at the end
8 thereof the following: “This subsection may be im-
9 plemented by the Secretary of the Treasury in ac-
10 cordance with section 3720A of title 31, United
11 States Code.”; and

12 (2) in paragraph (2)(A), by adding at the end
13 thereof the following: “This subsection may be im-
14 plemented by the Secretary of the Treasury in ac-
15 cordance with section 3720A of title 31, United
16 States Code.”.

17 **Subchapter H—Definitions, Due Process**
18 **Rights, and Severability**

19 **SEC. 901. TECHNICAL AMENDMENTS TO DEFINITIONS.**

20 Section 3701 of title 31, United States Code, is
21 amended—

22 (1) by amending subsection (a)(1) to read as
23 follows:

24 “(1) ‘administrative offset’ means withholding
25 money payable by the United States (including

1 money payable by the United States on behalf of a
2 State government) to, or held by the United States
3 for, a person to satisfy a claim.”;

4 (2) by amending subsection (a)(4) to read as
5 follows:

6 “(4) ‘executive, judicial, or legislative agency’
7 means a department, agency, court, court adminis-
8 trative office, or instrumentality in the executive, ju-
9 dicial, or legislative branches of government, includ-
10 ing government corporations.”;

11 (3) by amending subsection (b) to read as fol-
12 lows:

13 “(b)(1) The term ‘claim’ or ‘debt’ means any amount
14 of money or property that has been determined by an ap-
15 propriate official of the Federal Government to be owed
16 to the United States by a person, organization, or entity
17 other than another Federal agency. A claim includes, with-
18 out limitation, money owed on account of loans insured
19 or guaranteed by the Government, non-appropriated
20 funds, over-payments, any amount the United States is
21 authorized by statute to collect for the benefit of any per-
22 son, and other amounts of money or property due the Gov-
23 ernment.

24 “(2) For purposes of section 3716 of this title, the
25 term ‘claim’ also includes an amount of money or property

1 owed by a person to a State, the District of Columbia,
2 American Samoa, the United States Virgin Islands, the
3 Commonwealth of the Northern Mariana Islands, or the
4 Commonwealth of Puerto Rico.”;

5 (4) by adding after subsection (d) the following
6 new subsection:

7 “(e) In section 3716 of this title—

8 “(1) ‘creditor agency’ means any entity owed a
9 claim that seeks to collect that claim through admin-
10 istrative offset; and

11 “(2) ‘payment certifying agency’ means any
12 Federal department, agency, or instrumentality and
13 government corporation, that has transmitted a
14 voucher to a disbursing official for disbursement.”.

15 **SEC. 902. SEVERABILITY.**

16 If any provision of this title, or the amendments made
17 by this title, or the application of any provision to any
18 entity, person, or circumstance is for any reason adjudged
19 by a court of competent jurisdiction to be invalid, the re-
20 mainder of this title, and the amendments made by this
21 title, or its application shall not be affected.

22 **Subchapter I—Reporting**

23 **SEC. 1001. MONITORING AND REPORTING.**

24 (a) The Secretary of the Treasury, in consultation
25 with concerned Federal agencies, is authorized to establish

1 guidelines, including information on outstanding debt, to
2 assist agencies in the performance and monitoring of debt
3 collection activities.

4 (b) Not later than three years after the date of enact-
5 ment of this Act, the Secretary of the Treasury shall re-
6 port to the Congress on collection services provided by
7 Federal agencies or entities collecting debt on behalf of
8 other Federal agencies under the authorities contained in
9 section 3711(g) of title 31, United States Code, as added
10 by section 502 of this Act.

11 (c) Section 3719 of title 31, United States Code, is
12 amended—

13 (1) in subsection (a)—

14 (A) by amending the first sentence to read
15 as follows: “In consultation with the Comptrol-
16 ler General, the Secretary of the Treasury shall
17 prescribe regulations requiring the head of each
18 agency with outstanding non-tax claims to pre-
19 pare and submit to the Secretary at least once
20 a year a report summarizing the status of loans
21 and accounts receivable managed by the head of
22 the agency.”; and

23 (B) in paragraph (3), by striking “Direc-
24 tor” and inserting “Secretary”; and

1 (2) in subsection (b), by striking “Director”
2 and inserting “Secretary”.

3 (d) Notwithstanding any other provision of law, the
4 Secretary of the Treasury is authorized to consolidate all
5 reports concerning debt collection into one annual report.

6 **TITLE II—JUSTICE DEBT** 7 **MANAGEMENT**

8 **Subchapter A—Private Attorneys**

9 **SEC. 1101. EXPANDED USE OF PRIVATE ATTORNEYS.**

10 (a) Section 3718(b)(1)(A) of title 31, United States
11 Code, is amended by striking the fourth sentence.

12 (b) Sections 3 and 5 of the Federal Debt Recovery
13 Act (Public Law 99–578, 100 Stat. 3305) are hereby re-
14 pealed.

15 **Subchapter B—Nonjudicial Foreclosure**

16 **SEC. 1201. NONJUDICIAL FORECLOSURE OF MORTGAGES.**

17 Chapter 176 of title 28 of the United States Code
18 is amended by adding at the end thereof the following:

19 **“Subchapter E—Nonjudicial Foreclosure**

“3401. Definitions.

“3402. Rules of construction.

“3403. Election of procedure.

“3404. Designation of foreclosure trustee.

“3405. Notice of foreclosure sale; statute of limitations.

“3406. Service of notice of foreclosure sale.

“3407. Cancellation of foreclosure sale.

“3408. Stay.

“3409. Conduct of sale; postponement.

“3410. Transfer of title and possession.

“3411. Record of foreclosure and sale.

“3412. Effect of sale.

“3413. Disposition of sale proceeds.

“3414. Deficiency judgment.

1 **“§ 3401. Definitions**

2 “As used in this subchapter—

3 “(1) ‘agency’ means—

4 “(A) an executive department as defined in
5 section 101 of title 5, United States Code;

6 “(B) an independent establishment as de-
7 fined in section 104 of title 5, United States
8 Code (except that it shall not include the Gen-
9 eral Accounting Office);

10 “(C) a military department as defined in
11 section 102 of title 5, United States Code; and

12 “(D) a wholly owned government corpora-
13 tion as defined in section 9101(3) of title 31,
14 United States Code.

15 “(2) ‘agency head’ means the head and any as-
16 sistant head of an agency, and may upon the des-
17 ignation by the head of an agency include the chief
18 official of any principal division of an agency or any
19 other employee of an agency.

20 “(3) ‘bona fide purchaser’ means a purchaser
21 for value in good faith and without notice of any ad-
22 verse claim who acquires the seller’s interest free of
23 any adverse claim.

1 “(4) ‘debt instrument’ means a note, mortgage
2 bond, guaranty or other instrument creating a debt
3 or other obligation, including any instrument incor-
4 porated by reference therein and any instrument or
5 agreement amending or modifying a debt instru-
6 ment.

7 “(5) ‘file’ or ‘filing’ means docketing, indexing,
8 recording, or registering, or any other requirement
9 for perfecting a mortgage or a judgment.

10 “(6) ‘foreclosure trustee’ means an individual,
11 partnership, association, or corporation, or any em-
12 ployee thereof, including a successor, appointed by
13 the agency head to conduct a foreclosure sale pursu-
14 ant to this subchapter.

15 “(7) ‘mortgage’ means a deed of trust, deed to
16 secure debt, security agreement, or any other form
17 of instrument under which any interest in real prop-
18 erty, including leaseholds, life estates, reversionary
19 interests, and any other estates under applicable law
20 is conveyed in trust, mortgaged, encumbered,
21 pledged or otherwise rendered subject to a lien, for
22 the purpose of securing the payment of money or the
23 performance of any other obligation.

24 “(8) ‘of record’ means an interest recorded pur-
25 suant to Federal or State statutes that provide for

1 official recording of deeds, mortgages and judg-
2 ments, and that establish the effect of such records
3 as notice to creditors, purchasers, and other inter-
4 ested persons.

5 “(9) ‘owner’ means any person who has an
6 ownership interest in property and includes heirs,
7 devisees, executors, administrators, and other per-
8 sonal representatives, and trustees of testamentary
9 trusts if the owner of record is deceased.

10 “(10) ‘sale’ means a sale conducted pursuant to
11 this subchapter, unless the context requires other-
12 wise.

13 “(11) ‘security property’ means real property,
14 or any interest in real property including leaseholds,
15 life estates, reversionary interests, and any other es-
16 tates under applicable State law that secure a mort-
17 gage.

18 **“§ 3402. Rules of construction**

19 “(a) IN GENERAL.—If an agency head elects to pro-
20 ceed under this subchapter, this subchapter shall apply
21 and the provisions of this subchapter shall govern in the
22 event of a conflict with any other provision of Federal law
23 or State law.

24 “(b) LIMITATION.—This subchapter shall not be con-
25 strued to supersede or modify the operation of—

1 “(1) the lease-back/buy-back provisions under
2 section 1985 of title 7, United States Code, or regu-
3 lations promulgated thereunder; or

4 “(2) The Multifamily Mortgage Foreclosure Act
5 of 1981 (chapter 38 of title 12, United States Code).

6 “(c) EFFECT ON OTHER LAWS.—This subchapter
7 shall not be construed to curtail or limit the rights of the
8 United States or any of its agencies—

9 “(1) to foreclose a mortgage under any other
10 provision of Federal law or State law; or

11 “(2) to enforce any right under Federal law or
12 State law in lieu of or in addition to foreclosure, in-
13 cluding any right to obtain a monetary judgment.

14 “(d) APPLICATION TO MORTGAGES.—The provisions
15 of this subchapter may be used to foreclose any mortgage,
16 whether executed prior or subsequent to the effective date
17 of this subchapter.

18 **“§ 3403. Election of procedure**

19 “(a) SECURITY PROPERTY SUBJECT TO FORE-
20 CLOSURE.—An agency head may foreclose a mortgage
21 upon the breach of a covenant or condition in a debt in-
22 strument or mortgage for which acceleration or foreclosure
23 is authorized. An agency head may not institute fore-
24 closure proceedings on the mortgage under any other pro-
25 vision of law, or refer such mortgage for litigation, during

1 the pendency of foreclosure proceedings pursuant to this
2 subchapter.

3 “(b) EFFECT OF CANCELLATION OF SALE.—If a
4 foreclosure sale is canceled pursuant to section 3407, the
5 agency head may thereafter foreclose on the security prop-
6 erty in any manner authorized by law.

7 **“§ 3404. Designation of foreclosure trustee**

8 “(a) IN GENERAL.—An agency head shall designate
9 a foreclosure trustee who shall supersede any trustee des-
10 igned in the mortgage. A foreclosure trustee designated
11 under this section shall have a nonjudicial power of sale
12 pursuant to this subchapter.

13 “(b) DESIGNATION OF FORECLOSURE TRUSTEE.—

14 “(1) An agency head may designate as fore-
15 closure trustee—

16 “(A) an officer or employee of the agency;

17 “(B) an individual who is a resident of the
18 State in which the security property is located;

19 or

20 “(C) a partnership, association, or corpora-
21 tion, provided such entity is authorized to
22 transact business under the laws of the State in
23 which the security property is located.

1 “(2) The agency head is authorized to enter
2 into personal services and other contracts not incon-
3 sistent with this subchapter.

4 “(c) METHOD OF DESIGNATION.—An agency head
5 shall designate the foreclosure trustee in writing. The fore-
6 closure trustee may be designated by name, title, or posi-
7 tion. An agency head may designate one or more fore-
8 closure trustees for the purpose of proceeding with mul-
9 tiple foreclosures or a class of foreclosures.

10 “(d) AVAILABILITY OF DESIGNATION.—An agency
11 head may designate such foreclosure trustees as the agen-
12 cy head deems necessary to carry out the purposes of this
13 subchapter.

14 “(e) MULTIPLE FORECLOSURE TRUSTEES AUTHOR-
15 IZED.—An agency head may designate multiple fore-
16 closure trustees for different tracts of a secured property.

17 “(f) REMOVAL OF FORECLOSURE TRUSTEES; SUC-
18 CESSOR FORECLOSURE TRUSTEES.—An agency head
19 may, with or without cause or notice, remove a foreclosure
20 trustee and designate a successor trustee as provided in
21 this section. The foreclosure sale shall continue without
22 prejudice notwithstanding the removal of the foreclosure
23 trustee and designation of a successor foreclosure trustee.
24 Nothing in this section shall be construed to prohibit a

1 successor foreclosure trustee from postponing the fore-
2 closure sale in accordance with this subchapter.

3 **“§ 3405. Notice of foreclosure sale; statute of limita-**
4 **tions**

5 “(a) IN GENERAL.—

6 “(1) Not earlier than 21 days nor later than
7 ten years after acceleration of a debt instrument or
8 demand on a guaranty, the foreclosure trustee shall
9 serve a notice of foreclosure sale in accordance with
10 this subchapter.

11 “(2) For purposes of computing the time period
12 under paragraph (1), there shall be excluded all pe-
13 riods during which there is in effect—

14 “(A) a judicially imposed stay of fore-
15 closure; or

16 “(B) a stay imposed by section 362 of title
17 11, United States Code.

18 “(3) In the event of partial payment or written
19 acknowledgement of the debt after acceleration of
20 the debt instrument, the right to forecloseure shall
21 be deemed to accrue again at the time of each such
22 payment or acknowledgement.

23 “(b) NOTICE OF FORECLOSURE SALE.—The notice
24 of foreclosure sale shall include the following:

1 “(1) the name, title, and business address of
2 the foreclosure trustee as of the date of the notice;

3 “(2) the names of the original parties to the
4 debt instrument and the mortgage, and any assign-
5 ees of the mortgagor of record;

6 “(3) the street address or location of the secu-
7 rity property, and a generally accepted designation
8 used to describe the security property, or so much
9 thereof as is to be offered for sale, sufficient to iden-
10 tify the property to be sold;

11 “(4) the date of the mortgage, the office in
12 which the mortgage is filed, and the location of the
13 filing of the mortgage;

14 “(5) the default or defaults upon which fore-
15 closure is based, and the date of the acceleration of
16 the debt instrument;

17 “(6) the date, time, and place of the foreclosure
18 sale;

19 “(7) a statement that the foreclosure is being
20 conducted in accordance with this subchapter;

21 “(8) the types of costs, if any, to be paid by the
22 purchaser upon transfer of title; and

23 “(9) the terms and conditions of sale, including
24 the method and time of payment of the foreclosure
25 purchase price.

1 **“§ 3406. Service of notice of foreclosure sale**

2 “(a) RECORD NOTICE.—At least 21 days prior to the
3 date of the foreclosure sale, the notice of foreclosure sale
4 required by section 3405 shall be filed in the manner au-
5 thorized for filing a notice of an action concerning real
6 property according to the law of the State where the secu-
7 rity property is located or, if none, in the manner author-
8 ized by section 3201 of this chapter.

9 “(b) NOTICE BY MAIL.—

10 “(1) At least 21 days prior to the date of the
11 foreclosure sale, the notice set forth in section 3405
12 shall be sent by registered or certified mail, return
13 receipt requested—

14 “(A) to the current owner of record of the
15 security property as the record appears on the
16 date that the notice of foreclosure sale is re-
17 corded pursuant to subsection (a);

18 “(B) to all debtors, including the mortgagor,
19 assignees of the mortgagor and guarantors
20 of the debt instrument;

21 “(C) to all persons having liens, interests
22 or encumbrances of record upon the security
23 property, as the record appears on the date that
24 the notice of foreclosure sale is recorded pursu-
25 ant to subsection (a); and

1 “(D) to any occupants of the security
2 property. If the names of the occupants of the
3 security property are not known to the agency,
4 or the security property has more than one
5 dwelling unit, the notice shall be posted at the
6 security property.

7 “(2) The notice shall be sent to the debtor at
8 the address, if any, set forth in the debt instrument
9 or mortgage as the place to which notice is to be
10 sent, and if different, to the debtor’s last known ad-
11 dress as shown in the mortgage record of the agen-
12 cy. The notice shall be sent to any person other than
13 the debtor to that person’s address of record or, if
14 there is no address of record, to any address at
15 which the agency in good faith believes the notice is
16 likely to come to that person’s attention.

17 “(3) Notice by mail pursuant to this subsection
18 shall be effective upon mailing.

19 “(c) NOTICE BY PUBLICATION.—The notice of the
20 foreclosure sale shall be published at least once a week
21 for each of three successive weeks prior to the sale in at
22 least one newspaper of general circulation in any county
23 or counties in which the security property is located. If
24 there is no newspaper published at least weekly that has
25 a general circulation in at least one county in which the

1 security property is located, copies of the notice of fore-
2 closure sale shall instead be posted at least 21 days prior
3 to the sale at the courthouse of any county or counties
4 in which the property is located and the place where the
5 sale is to be held.

6 **“§ 3407. Cancellation of foreclosure sale**

7 “(a) IN GENERAL.—At any time prior to the fore-
8 closure sale, the foreclosure trustee shall cancel the sale—

9 “(1) if the debtor or the holder of any subordi-
10 nate interest in the security property tenders the
11 performance due under the debt instrument and
12 mortgage, including any amounts due because of the
13 exercise of the right to accelerate, and the expenses
14 of proceeding to foreclosure incurred to the time of
15 tender; or

16 “(2) if the security property is a dwelling of
17 four units or fewer, and the debtor:

18 “(A) pays or tenders all sums which would
19 have been due at the time of tender in the ab-
20 sence of any acceleration;

21 “(B) performs any other obligation which
22 would have been required in the absence of any
23 acceleration; and

1 “(C) pays or tenders all costs of fore-
2 closure incurred for which payment from the
3 proceeds of the sale would be allowed; or

4 “(3) for any reason approved by the agency
5 head.

6 “(b) LIMITATION.—The debtor may not, without the
7 approval of the agency head, cure the default under sub-
8 section (a)(2) if, within the preceding 12 months, the debt-
9 or has cured a default after being served with a notice
10 of foreclosure sale pursuant to this subchapter.

11 “(c) NOTICE OF CANCELLATION.—The foreclosure
12 trustee shall file a notice of the cancellation in the same
13 place and manner provided for the filing of the notice of
14 foreclosure sale under section 3406(a).

15 **“§ 3408. Stay**

16 “If, prior to the time of sale, foreclosure proceedings
17 under this subchapter are stayed in any manner, including
18 the filing of bankruptcy, no person may thereafter cure
19 the default under the provisions of section 3407(a)(2). If
20 the default is not cured at the time a stay is terminated,
21 the foreclosure trustee shall proceed to sell the security
22 property as provided in this subchapter.

23 **“§ 3409. Conduct of sale; postponement**

24 “(a) SALE PROCEDURES.—Foreclosure sale pursuant
25 to this subchapter shall be at public auction and shall be

1 scheduled to begin at a time between the hours of 9:00
2 a.m. and 4:00 p.m. local time. The foreclosure sale shall
3 be held at the location specified in the notice of foreclosure
4 sale, which shall be a location where real estate foreclosure
5 auctions are customarily held in the county or one of the
6 counties in which the property to be sold is located or at
7 a courthouse therein, or upon the property to be sold. Sale
8 of security property situated in two or more counties may
9 be held in any one of the counties in which any part of
10 the security property is situated. The foreclosure trustee
11 may designate the order in which multiple tracts of secu-
12 rity property are sold.

13 “(b) BIDDING REQUIREMENTS.—Written one-price
14 sealed bids shall be accepted by the foreclosure trustee,
15 if submitted by the agency head or other persons for entry
16 by announcement by the foreclosure trustee at the sale.
17 The sealed bids shall be submitted in accordance with the
18 terms set forth in the notice of foreclosure sale. The agen-
19 cy head or any other person may bid at the foreclosure
20 sale, even if the agency head or other person previously
21 submitted a written one-price bid. The agency head may
22 bid a credit against the debt due without the tender or
23 payment of cash. The foreclosure trustee may serve as
24 auctioneer, or may employ an auctioneer who may be paid
25 from the sale proceeds. If an auctioneer is employed, the

1 foreclosure trustee is not required to attend the sale. The
2 foreclosure trustee or an auctioneer may bid as directed
3 by the agency head.

4 “(c) POSTPONEMENT OF SALE.—The foreclosure
5 trustee shall have discretion, prior to or at the time of
6 sale, to postpone the foreclosure sale. The foreclosure
7 trustee may postpone a sale to a later hour the same day
8 by announcing or posting the new time and place of the
9 foreclosure sale at the time and place originally scheduled
10 for the foreclosure sale. The foreclosure trustee may in-
11 stead postpone the foreclosure sale for not fewer than 9
12 nor more than 31 days, by serving notice that the fore-
13 closure sale has been postponed to a specified date, and
14 the notice may include any revisions the foreclosure trust-
15 ee deems appropriate. The notice shall be served by publi-
16 cation, mailing, and posting in accordance with section
17 3406 (b) and (c), except that publication may be made
18 on any of three separate days prior to the new date of
19 the foreclosure sale, and mailing may be made at any time
20 at least 7 days prior to the new date of the foreclosure
21 sale.

22 “(d) LIABILITY OF SUCCESSFUL BIDDER WHO FAILS
23 TO COMPLY.—The foreclosure trustee may require a bid-
24 der to make a cash deposit before the bid is accepted. The
25 amount or percentage of the cash deposit shall be stated

1 by the foreclosure trustee in the notice of foreclosure sale.
2 A successful bidder at the foreclosure sale who fails to
3 comply with the terms of the sale shall forfeit the cash
4 deposit or, at the election of the foreclosure trustee, shall
5 be liable to the agency on a subsequent sale of the prop-
6 erty for all net losses incurred by the agency as a result
7 of such failure.

8 “(e) EFFECT OF SALE.—Any foreclosure sale held in
9 accordance with this subchapter shall be conclusively pre-
10 sumed to have been conducted in a legal, fair, and com-
11 mercially reasonable manner. The sale price shall be con-
12 clusively presumed to constitute the reasonably equivalent
13 value of the security property.

14 **“§ 3410. Transfer of title and possession**

15 “(a) DEED.—After receipt of the purchase price in
16 accordance with the terms of the sale as provided in the
17 notice of foreclosure sale, the foreclosure trustee shall exe-
18 cute and deliver to the purchaser a deed conveying the
19 security property to the purchaser that grants and conveys
20 title to the security property without warranty or cov-
21 enants to the purchaser. The execution of the foreclosure
22 trustee’s deed shall have the effect of conveying all of the
23 right, title, and interest in the security property covered
24 by the mortgage. Notwithstanding any other law to the
25 contrary, the foreclosure trustee’s deed shall be a convey-

1 ance of the security property and not a quitclaim. No judi-
2 cial proceeding shall be required ancillary or supple-
3 mentary to the procedures provided in this subchapter to
4 establish the validity of the conveyance.

5 “(b) DEATH OF PURCHASER PRIOR TO CONSUMMA-
6 TION OF SALE.—If a purchaser dies before execution and
7 delivery of the deed conveying the security property to the
8 purchaser, the foreclosure trustee shall execute and deliver
9 the deed to the representative of the purchaser’s estate
10 upon payment of the purchase price in accordance with
11 the terms of sale. Such delivery to the representative of
12 the purchaser’s estate shall have the same effect as if ac-
13 complished during the lifetime of the purchaser.

14 “(c) PURCHASER CONSIDERED BONA FIDE PUR-
15 CHASER WITHOUT NOTICE.—The purchaser of property
16 under this subchapter shall be presumed to be a bona fide
17 purchaser without notice of defects, if any, in the title con-
18 veyed to the purchaser.

19 “(d) POSSESSION BY PURCHASER; CONTINUING IN-
20 TERESTS.—A purchaser at a foreclosure sale conducted
21 pursuant to this subchapter shall be entitled to possession
22 upon passage of title to the security property, subject to
23 any interest or interests senior to that of the mortgage.
24 The right to possession of any person without an interest
25 senior to the mortgage who is in possession of the property

1 shall terminate immediately upon the passage of title to
2 the security property, and the person shall vacate the secu-
3 rity property immediately. The purchaser shall be entitled
4 to take any steps available under Federal law or State law
5 to obtain possession.

6 “(e) RIGHT OF REDEMPTION; RIGHT OF POSSES-
7 SION.—This subchapter shall preempt all Federal and
8 State rights of redemption, statutory, or common law.
9 Upon conclusion of the public auction of the security prop-
10 erty, no person shall have a right of redemption.

11 “(f) PROHIBITION OF IMPOSITION OF TAX ON CON-
12 VEYANCE BY THE UNITED STATES OR AGENCY THERE-
13 OF.—No tax, or fee in the nature of a tax, for the transfer
14 of title to the security property by the foreclosure trustee’s
15 deed shall be imposed upon or collected from the fore-
16 closure trustee or the purchaser by any State or political
17 subdivision thereof.

18 **“§ 3411. Record of foreclosure and sale**

19 “(a) RECITAL REQUIREMENTS.—The foreclosure
20 trustee shall recite in the deed to the purchaser, or in an
21 addendum to the foreclosure trustee’s deed, or shall pre-
22 pare an affidavit stating—

23 “(1) the date, time, and place of sale;

1 “(2) the date of the mortgage, the office in
2 which the mortgage is filed, and the location of the
3 filing of the mortgage;

4 “(3) the persons served with the notice of fore-
5 closure sale;

6 “(4) the date and place of filing of the notice
7 of foreclosure sale under section 3406(a);

8 “(5) that the foreclosure was conducted in ac-
9 cordance with the provisions of this subchapter; and

10 “(6) the sale amount.

11 “(b) EFFECT OF RECITALS.—The recitals set forth
12 in subsection (a) shall be prima facie evidence of the truth
13 of such recitals. Compliance with the requirements of sub-
14 section (a) shall create a conclusive presumption of the
15 validity of the sale in favor of bona fide purchasers and
16 encumbrancers for value without notice.

17 “(c) DEED TO BE ACCEPTED FOR FILING.—The
18 register of deeds or other appropriate official of the county
19 or counties where real estate deeds are regularly filed shall
20 accept for filing and shall file the foreclosure trustee’s
21 deed and affidavit, if any, and any other instruments sub-
22 mitted for filing in relation to the foreclosure of the secu-
23 rity property under this subchapter.

1 **“§ 3412. Effect of sale**

2 “A sale conducted under this subchapter to a bona
3 fide purchaser shall bar all claims upon the security prop-
4 erty by—

5 “(1) any person to whom the notice of fore-
6 closure sale was mailed as provided in this sub-
7 chapter who claims an interest in the property sub-
8 ordinate to that of the mortgage, and the heir, devi-
9 see, executor, administrator, successor, or assignee
10 claiming under any such person;

11 “(2) any person claiming any interest in the
12 property subordinate to that of the mortgage, if such
13 person had actual knowledge of the sale;

14 “(3) any person so claiming, whose assignment,
15 mortgage, or other conveyance was not filed in the
16 proper place for filing, or whose judgment or decree
17 was not filed in the proper place for filing, prior to
18 the date of filing of the notice of foreclosure sale as
19 required by section 3406(a), and the heir, devisee,
20 executor, administrator, successor, or assignee of
21 such a person; or

22 “(4) any other person claiming under a statu-
23 tory lien or encumbrance not required to be filed
24 and attaching to the title or interest of any person
25 designated in any of the foregoing subsections of
26 this section.

1 **“§ 3413. Disposition of sale proceeds**

2 “(a) DISTRIBUTION OF SALE PROCEEDS.—The fore-
3 closure trustee shall distribute the proceeds of the fore-
4 closure sale in the following order—

5 “(1)(A) to pay the commission of the fore-
6 closure trustee, other than an agency employee, the
7 greater of—

8 “(i) the sum of—

9 “(I) 3 percent of the first \$1,000 col-
10 lected, plus

11 “(II) 1.5 percent on the excess of any
12 sum collected over \$1,000; or

13 “(ii) \$250; and

14 “(B) the amounts described in subparagraph
15 (A)(i) shall be computed on the gross proceeds of all
16 security property sold at a single sale;

17 “(2) to pay the expense of any auctioneer em-
18 ployed by the foreclosure trustee, if any, except that
19 the commission payable to the foreclosure trustee
20 pursuant to paragraph (1) shall be reduced by the
21 amount paid to an auctioneer, unless the agency
22 head determines that such reduction would adversely
23 affect the ability of the agency head to retain quali-
24 fied foreclosure trustees or auctioneers;

25 “(3) to pay for the costs of foreclosure, includ-
26 ing—

1 “(A) reasonable and necessary advertising
2 costs and postage incurred in giving notice pur-
3 suant to section 3406;

4 “(B) mileage for posting notices and for
5 the foreclosure trustee’s or auctioneer’s attend-
6 ance at the sale at the rate provided in section
7 1921 of title 28, United States Code, for mile-
8 age by the most reasonable road distance;

9 “(C) reasonable and necessary costs actu-
10 ally incurred in connection with any search of
11 title and lien records; and

12 “(D) necessary costs incurred by the fore-
13 closure trustee to file documents;

14 “(4) to pay valid real property tax liens or as-
15 sessments, if required by the notice of foreclosure
16 sale;

17 “(5) to pay any liens senior to the mortgage, if
18 required by the notice of foreclosure sale;

19 “(6) to pay service charges and advancements
20 for taxes, assessments, and property insurance pre-
21 miums; and

22 “(7) to pay late charges and other administra-
23 tive costs and the principal and interest balances se-
24 cured by the mortgage, including expenditures for
25 the necessary protection, preservation, and repair of

1 the security property as authorized under the debt
2 instrument or mortgage and interest thereon if pro-
3 vided for in the debt instrument or mortgage, pursu-
4 ant to the agency's procedure.

5 “(b) INSUFFICIENT PROCEEDS.—In the event there
6 are no proceeds of sale or the proceeds are insufficient
7 to pay the costs and expenses set forth in subsection (a),
8 the agency head shall pay such costs and expenses as au-
9 thorized by applicable law.

10 “(c) SURPLUS MONIES.—

11 “(1) After making the payments required by
12 subsection (a), the foreclosure trustee shall—

13 “(A) distribute any surplus to pay liens in
14 the order of priority under Federal law or the
15 law of the State where the security property is
16 located; and

17 “(B) pay to the person who was the owner
18 of record on the date the notice of foreclosure
19 sale was filed the balance, if any, after any pay-
20 ments made pursuant to paragraph (1).

21 “(2) If the person to whom such surplus is to
22 be paid cannot be located, or if the surplus available
23 is insufficient to pay all claimants and the claimants
24 cannot agree on the distribution of the surplus, that
25 portion of the sale proceeds may be deposited by the

1 foreclosure trustee with an appropriate official au-
2 thorized under law to receive funds under such cir-
3 cumstances. If such a procedure for the deposit of
4 disputed funds is not available, and the foreclosure
5 trustee files a bill of interpleader or is sued as a
6 stakeholder to determine entitlement to such funds,
7 the foreclosure trustee's necessary costs in taking or
8 defending such action shall be deducted first from
9 the disputed funds.

10 **“§ 3414. Deficiency judgment**

11 “(a) IN GENERAL.—If after deducting the disburse-
12 ments described in section 3413, the price at which the
13 security property is sold at a foreclosure sale is insufficient
14 to pay the unpaid balance of the debt secured by the secu-
15 rity property, counsel for the United States may com-
16 mence an action or actions against any or all debtors to
17 recover the deficiency, unless specifically prohibited by the
18 mortgage. The United States is also entitled to recover
19 any amount authorized by section 3011 and costs of the
20 action.

21 “(b) LIMITATION.—Any action commenced to recover
22 the deficiency shall be brought within 6 years of the last
23 sale of security property.

24 “(c) CREDITS.—The amount payable by a private
25 mortgage guaranty insurer shall be credited to the account

1 of the debtor prior to the commencement of an action for
2 any deficiency owed by the debtor. Nothing in this sub-
3 section shall curtail or limit the subrogation rights of a
4 private mortgage guaranty insurer.”.

5 **TITLE III—IRS LEVY AUTHORITY**

6 **Subchapter A—Amendments To The Internal**

7 **Revenue Code of 1986**

8 **SEC. 1301. PROVISION FOR CONTINUOUS LEVY.**

9 Section 6331 of the Internal Revenue Code of 1986
10 (26 U.S.C. 6331) is amended—

11 (1) by redesignating subsection (h) as sub-
12 section (i); and

13 (2) by inserting after subsection (g) the follow-
14 ing new subsection:

15 “(h) CONTINUING LEVY ON NON-MEANS TESTED
16 FEDERAL PAYMENTS.—The effect of a levy on non-means
17 tested Federal payments to or received by a taxpayer shall
18 be continuous from the date such levy is first made until
19 such levy is released. Notwithstanding section 6334, such
20 levy shall attach up to 15 percent of any salary or pension
21 payment due to the taxpayer. For the purposes of this
22 subsection, the term ‘non-means tested Federal payment’
23 refers to a Federal payment for which eligibility is not
24 based on the income and/or assets of a payee.”.

1 **SEC. 1302. MODIFICATION OF LEVY EXEMPTION.**

2 Section 6334 of the Internal Revenue Code of 1986
3 (26 U.S.C. 6334) is amended by adding at the end the
4 following new subsection:

5 “(f) LEVY ALLOWED ON CERTAIN NON-MEANS
6 TESTED FEDERAL PAYMENTS.—Non-means tested
7 amounts—

8 “(1) described in subsections (a)(7) and (a)(9)
9 of this section; and

10 “(2) annuity or pension payments under the
11 Railroad Retirement Act and benefits under the
12 Railroad Unemployment Insurance Act described in
13 subsection (a)(6) of this section,
14 shall not be exempt from levy if the Secretary approves
15 the levy of such property.”.

16 **SEC. 1303. CONFIDENTIALITY AND DISCLOSURE OF RE-**
17 **URNS AND RETURN INFORMATION.**

18 (a) Section 6103 of the Internal Revenue Code of
19 1986 (26 U.S.C. 6103) is amended by adding at the end
20 of subsection (k) the following new paragraph:

21 “(8) LEVIES ON CERTAIN GOVERNMENT PAY-
22 MENTS.—

23 “(A) DISCLOSURE OF RETURN INFORMA-
24 TION IN LEVIES ON FINANCIAL MANAGEMENT
25 SERVICE.—The Secretary may disclose to offi-
26 cers and employees of the Financial Manage-

1 ment Service return information, including tax-
2 payer identity information, the amount of any
3 unpaid liability under this title (including pen-
4 alties and interest), and the type of tax and tax
5 period to which such unpaid liability relates, in
6 serving a notice of levy, or release of such levy,
7 with respect to any applicable government pay-
8 ment.

9 “(B) RESTRICTION ON USE OF DISCLOSED
10 INFORMATION.—Return information disclosed
11 under subparagraph (A) may be used by offi-
12 cers and employees of the Financial Manage-
13 ment Service only for the purpose of, and to the
14 extent necessary in, transferring levied funds in
15 satisfaction of the levy, maintaining appropriate
16 agency records in regard to such levy or the re-
17 lease thereof, notifying the taxpayer and the
18 agency certifying such payment that the levy
19 has been honored, or in the defense of any liti-
20 gation ensuing from the honor of such levy.

21 “(C) APPLICABLE GOVERNMENT PAY-
22 MENT.—For purposes of this paragraph, the
23 term ‘applicable government payment’ means
24 any non-means tested Federal payment, as de-
25 fined in section 6331(h) certified to the Finan-

1 cial Management Service for disbursement and
 2 any other payment certified to the Financial
 3 Management Service for disbursement and
 4 which the Commissioner designates by pub-
 5 lished notice.”.

6 (b) Section 6301(p) of the Internal Revenue Code of
 7 1986 (26 U.S.C. 6301(p)), is amended—

8 (1) in paragraph (3)(A), by inserting “(8)”
 9 after “(6),”; and

10 (2) in paragraph (4), by inserting “(k)(8),”
 11 after “(j) (1) or (2),”.

12 (c) Section 552a(a)(8)(B) of title 5, United States
 13 Code, is amended by adding at the end the following new
 14 clause:

15 “(ix) matches performed incident to a
 16 levy described in section 6103(k)(8) of the
 17 Internal Revenue Code of 1986.”.

○

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