

Department of Veterans Affairs

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existence or amount of the debt in accordance with § 1.911a(c)(1), offset shall not commence until the dispute is reviewed as provided in § 1.911a(c)(1) and unless the resolution is adverse to the debtor.

(2) If the debtor, within thirty days of the date of notification required by paragraph (b) of this section, requests, in writing, waiver of collection in accordance with § 1.963 or § 1.964, as applicable, offset shall not commence until the Department of Veterans Affairs has made an initial decision on waiver.

(3) If the debtor, within thirty days of the notification required by paragraph (b) of this section, requests, in writing, a hearing on the waiver request, no decision shall be made on the waiver request until after the hearing has been held.

(d) *Exceptions.* Offset may commence prior to the resolution of a dispute or a decision on a waiver request if collection of the debt would be jeopardized by deferral of offset. In such case, notification pursuant to § 1.911a(d) shall be made at the time offset begins or as soon thereafter as possible.

(Authority: 38 U.S.C. 5314, Ch. 37)

(e) *Offset of military service debts.* (1) In accordance with 38 U.S.C. 5301(c), VA shall collect by offset from any current or future compensation or pension benefits payable to a veteran under laws administered by VA, the uncollected portion of the amount of any indebtedness associated with the veteran's participation in a plan prescribed in subchapter I or II of 10 U.S.C. chapter 73.

(2) Offsets of a veteran's compensation or pension benefit payments to recoup indebtedness to the military services as described in paragraph (e)(1) of this section shall only be made by VA when the military service owed the debt has:

(i) Determined the amount of the indebtedness of the veteran;

(ii) Certified to VA that due process in accordance with the procedures prescribed in 31 U.S.C. 3716 have been provided to the veteran; and

(iii) Requested collection of the total debt amount due.

(3) Offset from any compensation or pension benefits under the authority of

38 U.S.C. 5301(c) shall not exceed 15% of the net monthly compensation or pension benefit payment. The net monthly compensation or pension benefit payment is defined as the authorized monthly compensation or pension benefit payment less all current deductions.

(Authority: 38 U.S.C. 5301(c) and 5314)

[48 FR 1055, Jan. 10, 1983, as amended at 52 FR 42106, Nov. 3, 1987; 57 FR 47263, Oct. 15, 1992]

§ 1.913 Personal interview with debtor.

The Department of Veterans Affairs will, to the extent feasible, undertake personal interviews whenever requested by debtors and in other cases having regard for the amounts involved and the proximity of agency representatives to the debtors.

§ 1.914 Contact with debtor's employing agency.

When a debtor of the Department of Veterans Affairs is employed by another agency of the Federal Government or is a member of the Military establishment or the Coast Guard and collection by offset cannot be accomplished in accordance with 5 U.S.C. 5514, the Department of Veterans Affairs will contact the employing agency in an effort to arrange with the debtor for payment of the indebtedness by allotment or otherwise in accordance with section 206 of Executive Order 11222 of May 8, 1965 (30 FR 6469; 3 CFR 1965 Supp., pp. 130, 131).

§ 1.915 Suspension or revocation of eligibility.

Demands on debtors who are lenders, contractors, brokers, or other participants in Department of Veterans Affairs programs will include notification that failure to pay their debts within a reasonable time may be cause for suspension or disqualification to the extent authorized by law. Nothing in this section is intended to be in derogation of the provisions of 38 U.S.C. 3704(b) and 3704(d) as implemented by §§ 36.4331 and 36.4361 of this chapter. The failure of any surety to honor its obligations in accordance with 6 U.S.C. 11 will be reported to the Treasury Department at once. Prompt and appropriate Department of Veterans Affairs action

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will be taken upon receipt of Treasury Department notification that a surety's certificate of authority to do business with the Federal Government has been revoked or forfeited.

§ 1.916 Liquidation of collateral.

VA will exercise its rights to liquidate security or collateral and apply the proceeds to debts due it through use of a power of sale in the security instrument or a non-judicial foreclosure if the debtor fails to pay his or her debt, within a reasonable time after demand, unless the cost of disposing of the collateral will be disproportionate to its value or the particular circumstances require judicial foreclosure. VA must provide the debtor with reasonable notice of the sale, and an accounting of any surplus proceeds, as well as notice of any other procedures required by law or contract. Collection from other sources, including liquidation of security or collateral, is not a prerequisite to requiring payment by a surety or insurance company unless such action is expressly required by statute or contract.

(Authority: 31 U.S.C. 3711)

[52 FR 42106, Nov. 3, 1987]

§ 1.917 Collection in installments.

(a) Whenever feasible, and except as otherwise provided by law, debts owed to VA together with any interest and administrative costs assessed under § 1.919, shall be collected in full in one lump sum. Collection in one lump sum is applicable whether the debt is being collected by administrative offset or by another method, including voluntary payment. However, payments may be accepted in regular installments when the debtor is financially unable to pay the debt in one lump sum.

(b) In agreeing to accept regular installment payments to liquidate an outstanding indebtedness, VA shall obtain a legally enforceable written agreement from the debtor which specifies all of the terms of the agreement and which contains a provision accelerating the debt in the event that the debtor defaults. The size and frequency of installment payments should bear a reasonable relationship to the size of the debt and the debtor's ability

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to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the debt in not more than three years. Installment payments of less than \$50 per month shall be accepted only if justified on the grounds of financial hardship or for some other reasonable cause.

(c) If VA is holding an unsecured claim for administrative collection, it shall attempt to obtain from a debtor an executed confess-judgment note in States and jurisdictions where permitted, using Department of Justice Form 1, or another appropriate Department of Justice form, whenever the total amount of the deferred installments will exceed \$750. Such notes may also be sought when an unsecured obligation of a lesser amount is involved. When attempting to obtain confess-judgment notes, VA shall provide debtors with a written explanation of the consequences of signing the note, and shall maintain sufficient documentation to demonstrate that the debtor signed the note knowingly and voluntarily. Security for deferred payments, other than a confess-judgment note, may be accepted in appropriate cases. VA may accept installment payments even if the debtor refuses to execute a confess-judgment note or to give other security.

(d) If the debtor owes more than one debt and designates how a voluntary installment payment is to be applied as among these debts, that designation must be followed by VA. If the debtor does not designate the application of the payment, VA shall apply payments to the various debts in accordance with the best interests of the Government as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

(Authority: 31 U.S.C. 3711)

[52 FR 42106, Nov. 3, 1987]

§ 1.918 Exploration of compromise.

VA will attempt to effect compromises, preferably during the course of personal interviews, in accordance with the standards set forth in §§ 1.930 through 1.938 in all cases in which it is ascertained that the debtor is financially unable to pay the full amount or