

(Pub. L. 100-242, title II, §255, as added Pub. L. 102-550, title III, §312, Oct. 28, 1992, 106 Stat. 3767.)

#### Editorial Notes

##### REFERENCES IN TEXT

This title, referred to in subsec. (b)(2), means title II of Pub. L. 100-242, as amended by Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4249, known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (b)(2), is title II of Pub. L. 100-242, Feb. 5, 1988, 101 Stat. 1877, which was classified principally as a note under section 1715/ of this title. Title II of Pub. L. 100-242 was amended generally by Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4249, and is now known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

#### § 4146. Definitions

For purposes of this subchapter—

(1) the term “community-based nonprofit housing developer” means a nonprofit community development corporation that—

(A) has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of title 26;

(B) has been in existence for at least 2 years prior to the date of the grant application;

(C) has a record of service to low- and moderate-income people in the community in which the project is located;

(D) is organized at the neighborhood, city, county or multi-county level; and

(E) in the case of a corporation acquiring eligible housing under subchapter I of this chapter, agrees to form a purchaser entity that conforms to the definition of a community-based nonprofit organization under such subchapter and agrees to use its best efforts to secure majority tenant consent to the acquisition of the project for which grant assistance is requested; and

(2) the terms “eligible low-income housing”, “nonprofit organization”, “owner”, and “resident council” have the meanings given such terms in section 4119 of this title.

(Pub. L. 100-242, title II, §256, as added Pub. L. 102-550, title III, §312, Oct. 28, 1992, 106 Stat. 3769.)

#### § 4147. Funding

The Secretary shall use not more than \$25,000,000 of the amounts made available under section 4124(a) of this title for fiscal year 1993, and not more than \$25,000,000 of the amounts made available under section 4124(a) of this title for fiscal year 1994, to carry out this subchapter. Of any amounts made available to carry out this subchapter in any appropriation Act, 90 percent shall be set aside for use in accordance with section 4143 of this title and 10 percent shall be set

aside for use in accordance with subsection<sup>1</sup> 4144 of this title.

(Pub. L. 100-242, title II, §257, as added Pub. L. 102-550, title III, §312, Oct. 28, 1992, 106 Stat. 3769.)

### CHAPTER 43—ACTIONS AGAINST PERSONS COMMITTING BANK FRAUD CRIMES

#### SUBCHAPTER I—DECLARATIONS PROVIDING NEW CLAIMS TO UNITED STATES

- |       |   |
|-------|---|
| Sec.  |   |
| 4201. | Filing of confidential declarations by private persons.                   |
| 4202. | Contents of declarations.   |
| 4203. | Confidentiality of declarations.  |
| 4204. | Ineligibility to file valid declarations.                                 |
| 4205. | Rights of declarants; participation in actions, awards.                   |
| 4206. | Rights of declarants; notifications; Government accountability.           |
| 4207. | Unreviewed declarations; petition to pursue action as private contractor. |
| 4208. | Nonreviewability of action by Attorney General.                           |
| 4209. | Repealed.   |
| 4210. | Sources of payments to declarants.  |
| 4211. | Repealed.   |
| 4212. | Protection for declarants.  |
| 4213. | Promulgation of regulations.  |

#### SUBCHAPTER II—DECLARATIONS PROVIDING UNITED STATES WITH NEW INFORMATION CONCERNING RECOVERY OF ASSETS

- |       |   |
|-------|---|
| 4221. | Filing of confidential declarations by private persons identifying specific assets. |
| 4222. | Contents of declarations.   |
| 4223. | Confidentiality of declarations.  |
| 4224. | Ineligibility to file valid declarations.   |
| 4225. | Rights of declarants; participation in actions, awards.                             |
| 4226. | Rights of declarants; notifications; Government accountability.                     |
| 4227. | Unreviewed declarations; petition to pursue action as private contractor.           |
| 4228. | Nonreviewability of action by Attorney General.                                     |
| 4229. | Protection for declarants.  |
| 4230. | Promulgation of regulations.  |

#### SUBCHAPTER III—USE OF PRIVATE LEGAL RESOURCES

- |       |  |
|-------|--|
| 4241. | Authority to enter into contracts for private counsel. |
| 4242. | Contract decisions nonreviewable.                      |
| 4243. | Representation.  |
| 4244. | Contract provisions.                                   |
| 4245. | Counterclaims.   |
| 4246. | Awards of costs and fees to prevailing plaintiff.      |
| 4247. | Promulgation of regulations.                           |

#### SUBCHAPTER I—DECLARATIONS PROVIDING NEW CLAIMS TO UNITED STATES

##### § 4201. Filing of confidential declarations by private persons

###### (a) In general

Any person may file a declaration of a violation giving rise to an action for civil penalties under section 1833a of this title affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States.

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

**(b) Place of filing**

A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by the Attorney General for receiving declarations under this section.

(Pub. L. 101-647, title XXV, §2561, Nov. 29, 1990, 104 Stat. 4894.)

**Statutory Notes and Related Subsidiaries****SHORT TITLE**

Pub. L. 101-647, title XXV, §2560, Nov. 29, 1990, 104 Stat. 4893, provided that: "This subtitle [subtitle H (§§2560-2594) of title XXV of Pub. L. 101-647, enacting this chapter and section 3059A of Title 18, Crimes and Criminal Procedure, and amending section 1831k of this title] may be cited as the 'Financial Institutions Anti-Fraud Enforcement Act of 1990'."

**§ 4202. Contents of declarations**

A declaration filed pursuant to section 4201 of this title shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts, relating to a particular transaction or transactions, which constitute a prima facie case of a violation giving rise to an action for civil penalties under section 1833a of this title affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States;

(3) contain at least 1 new factual element necessary to establish a prima facie case that was unknown to the Government at the time of filing; and

(4) set forth all facts supporting the allegation of a violation described in paragraph (2) known to the declarant, along with the names of material witnesses and the nature and location of documentary evidence known to the declarant.

(Pub. L. 101-647, title XXV, §2562, Nov. 29, 1990, 104 Stat. 4894.)

**§ 4203. Confidentiality of declarations****(a) Period of confidentiality**

A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section 4201 of this title until—

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section 4206(b) of this title;

(2) the declarant receives notice of an award pursuant to section 4206(c) of this title; or

(3) the declarant is granted a contract to pursue an action under section 4205(b) or 4207 of this title.

**(b) Maintenance of confidentiality to prevent prejudice**

(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of

any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

**(c) Loss of rights**

A declarant who discloses, except as provided by this chapter,<sup>1</sup> the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this subchapter.

(Pub. L. 101-647, title XXV, §2563, Nov. 29, 1990, 104 Stat. 4894.)

**Editorial Notes****REFERENCES IN TEXT**

This chapter, referred to in subsec. (c), was in the original "this title", and was translated as reading "this subtitle", meaning subtitle H of title XXV of Pub. L. 101-647, known as the Financial Institutions Anti-Fraud Enforcement Act of 1990, which is classified principally to this chapter, as the probable intent of Congress. For complete classification of subtitle H to the Code, see Short Title note set out under section 4201 of this title and Tables.

**§ 4204. Ineligibility to file valid declarations****(a) In general**

A declaration filed pursuant to section 4201<sup>1</sup> of this title and in accordance with sections 4202 and 4203 of this title is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of section 1517 of title 18 or any of the sections of title 18 referred to in section 1833a(c) of this title, or any other fraudulent conduct with respect to which the declaration is made;

(3) the declaration is filed by an institution-affiliated party (as defined in section 1813(u) of this title) who withheld information during the course of any bank examination or investigation authorized pursuant to section 1820 of this title which such party owed a fiduciary duty to disclose;

(4) the declaration is filed by a member of the immediate family of the individual whose activities are the subject of the declaration or where, in the discretion of the Attorney General, it appears the individual could benefit from the award; or

(5) the declaration consists of allegations or transactions that have been disclosed to a

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

<sup>2</sup> See References in Text note below.

member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or Government Accountability Office report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

**(b) “Original source” defined**

For the purposes of subsection (a)(5), the term “original source” means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

**(c) Notice of invalidity**

If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section 4202 of this title, or that a declaration has been disclosed in violation of section 4203 of this title, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section 4205 or 4206 of this title.

(Pub. L. 101-647, title XXV, § 2564, Nov. 29, 1990, 104 Stat. 4895; Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814.)

**Editorial Notes**

**REFERENCES IN TEXT**

Section 4201 of this title, referred to in subsec. (a), was in the original “section 811”, and was translated as reading “section 2561”, meaning section 2561 of Pub. L. 101-647, as the probable intent of Congress, because Pub. L. 101-647 does not contain a section 811.

**AMENDMENTS**

2004—Subsec. (a)(5). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

**§ 4205. Rights of declarants; participation in actions, awards**

**(a) In general**

A person who has filed a declaration that meets the requirements of sections 4201 through 4204 of this title shall have the rights stated in this section.

**(b) Civil action**

If the Attorney General determines that a cause of action referred to in section 4201 of this title based on the declaration should be referred to private counsel pursuant to subchapter III, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute the action, and the declarant and the declarant’s counsel shall act in accordance with subchapter III.

**(c) Criminal conviction**

(1) When the United States obtains a criminal conviction and the Attorney General determines that the conviction was based in whole or in part on the information contained in a valid declaration filed under section 4201 of this title

the Attorney General may, in his discretion, pay a reward to the declarant<sup>1</sup>

(2) In determining the size of any award under paragraph (1), the Attorney General may, in the Attorney General’s discretion, consider any appropriate factor, including—

(A) the seriousness of the offense for which the conviction was obtained;

(B) the extent to which the facts alleged in the declaration contributed to the conviction;

(C) the number of offenders apprehended pursuant to information provided by the declarant;

(D) whether or not the offender was previously under investigation by any law enforcement agency when the declaration was filed;

(E) the extent to which the declarant cooperated in the development of the Government’s case and its presentation at trial;

(F) the sentences and fines imposed on the offender and other offenders in related cases;

(G) the extent to which other sources of private information were relied upon; and

(H) the hardship to the declarant and any expenses the declarant incurred in preparing the declaration.

**(d) Share of funds and assets**

(1) When the United States acquires funds or assets pursuant to the execution of a judgment, order, or settlement and the Attorney General determines that the judgment, order, or settlement was based in whole or in part on the information contained in a valid declaration filed under section 4201 of this title, the declarant shall have the right to share in the recovery as follows:

(A)(i) The declarant shall be entitled to 20 percent to 30 percent of any recovery up to the first \$1,000,000 recovered, 10 percent to 20 percent of the next \$4,000,000 recovered, and 5 percent to 10 percent of the next \$5,000,000 recovered.

(ii) In calculating an award under clause (i), the Attorney General may consider the size of the overall recovery and the usefulness of the information provided by the declarant.

(B) When a declarant has received an award under subsection (c), the Attorney General may subtract the amount of that reward from any recovery under this subsection.

(2)(A) When more than 1 declarant has provided information leading to a recovery under this subsection, the Attorney General shall first calculate the size of the total award under paragraph (1)(A) and then distribute that amount according to the contribution made by each declarant.

(B) In distributing any such award between 2 or more declarants, the Attorney General may, in the Attorney General’s discretion, consider any appropriate factor.

**(e) Repealed. Pub. L. 107-273, div. A, title III, § 301(c)(3), Nov. 2, 2002, 116 Stat. 1781**

**(f) Appropriate Federal banking agency exception**

For purposes of this section, funds or assets acquired by the United States shall not include

<sup>1</sup> So in original. Probably should be followed by a period.

any funds or assets acquired by any appropriate Federal banking agency acting in any capacity or the Resolution Trust Corporation acting in any capacity, except for any civil money penalties recovered by a Federal banking agency through a final judgment, order or settlement.

(Pub. L. 101-647, title XXV, §2565, Nov. 29, 1990, 104 Stat. 4896; Pub. L. 107-273, div. A, title III, §301(c)(3), Nov. 2, 2002, 116 Stat. 1781.)

#### Editorial Notes

##### AMENDMENTS

2002—Subsec. (c)(1). Pub. L. 107-273 substituted “the Attorney General may, in his discretion, pay a reward to the declarant” for “, the declarant shall have the right to receive not less than \$5,000 and not more than \$100,000, any such award to be paid from the Financial Institution Information Award Fund established under section 4209 of this title.”

Subsec. (e). Pub. L. 107-273 struck out heading and text of subsec. (e). Text read as follows:

“(1) No person shall receive both an award under this section and a reward under either section 1831k of this title or section 3509A of title 18 for providing the same or substantially similar information.

“(2) When a person qualifies for both an award under this section and a reward under either section 1831k of this title or section 3509A of title 18 for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under such other section.”

#### § 4206. Rights of declarants; notifications; Government accountability

##### (a) In general

A person who has filed a declaration that meets the requirements of sections 4201 through 4204 of this title shall have the rights stated in this section.

##### (b) Notice of decision not to pursue

If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a civil or criminal proceeding, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

##### (c) Judgment, order, or settlement

(1) When the United States obtains a judgment, order, or settlement based in whole or in part on a valid declaration filed under section 4201 of this title, the Attorney General shall notify the declarant in writing of such fact.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under subsection (c) or (d) of section 4205 of this title upon recovery by the United States; and

(B) a short statement of reasons for the amount of the award.

##### (d) Notice of pendency of investigation or proceeding

If the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section 4204 of this title within the time period set forth in sub-

section (e), the Attorney General shall notify the declarant in writing that—

(1) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(2) the declarant's allegations have not yet been addressed.

##### (e) Time for notices

(1) In the case of a valid declaration filed not more than 3 years after November 29, 1990, the Attorney General shall send notification to a declarant pursuant to subsection (d) not later than 3 years after the date of filing of the declaration.

(2)(A) Subject to subparagraph (B), in the case of a declaration filed more than 3 years after November 29, 1990, the Attorney General shall send notification not later than 1 year after the date of filing of the declaration.

(B) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

##### (f) Confidentiality of notices

All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section 4203 of this title.

(Pub. L. 101-647, title XXV, §2566, Nov. 29, 1990, 104 Stat. 4897.)

#### § 4207. Unreviewed declarations; petition to pursue action as private contractor

##### (a) Notification

(1) If, pursuant to section 4206(d)(2) of this title, the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may notify the Attorney General to award a contract pursuant to subchapter III to pursue the case.

(2) A declarant's notification under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section 4206(d)(2) of this title, and the Attorney General shall respond to the notification not later than 30 days after receipt.

##### (b) Contents of response

In response to a notification under subsection (a)(1), the Attorney General shall—

(1) grant a contract pursuant to subchapter III; or

(2) proceed with an action.

##### (c) Grant of contract

If the Attorney General decides to grant a contract, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with subchapter III.

(Pub. L. 101-647, title XXV, §2567, Nov. 29, 1990, 104 Stat. 4898.)

#### § 4208. Nonreviewability of action by Attorney General

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any

action taken by the Attorney General or any refusal to take action under this subchapter, except for failure to provide notification under section 4206 of this title.

(Pub. L. 101-647, title XXV, § 2568, Nov. 29, 1990, 104 Stat. 4898.)

**§ 4209. Repealed. Pub. L. 107-273, div. A, title III, § 301(c)(3), Nov. 2, 2002, 116 Stat. 1781**

Section, Pub. L. 101-647, title XXV, § 2569, Nov. 29, 1990, 104 Stat. 4898, related to Financial Institution Information Award Fund.

**§ 4210. Sources of payments to declarants**

Notwithstanding any other law, an award under this chapter<sup>1</sup> may be paid to a declarant, or to an individual providing information, from the amounts recovered through civil actions based in whole or in part on the information provided in a valid declaration under this chapter.<sup>1</sup>

(Pub. L. 101-647, title XXV, § 2570, Nov. 29, 1990, 104 Stat. 4899.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, and was translated as reading “this subtitle”, meaning subtitle H of title XXV of Pub. L. 101-647, known as the Financial Institutions Anti-Fraud Enforcement Act of 1990, which is classified principally to this chapter, as the probable intent of Congress. For complete classification of subtitle H to the Code, see Short Title note set out under section 4201 of this title and Tables.

**§ 4211. Repealed. Pub. L. 105-362, title X, § 1001(e), Nov. 10, 1998, 112 Stat. 3291**

Section, Pub. L. 101-647, title XXV, § 2571, Nov. 29, 1990, 104 Stat. 4899, related to Government accountability and public reports on processing of declarations.

**§ 4212. Protection for declarants**

A declarant under this subchapter shall enjoy the protections of section 3059A(e)<sup>1</sup> of title 18.

(Pub. L. 101-647, title XXV, § 2572, Nov. 29, 1990, 104 Stat. 4899.)

**Editorial Notes**

REFERENCES IN TEXT

Section 3059A(e) of title 18, referred to in text, was repealed by Pub. L. 107-273, div. A, title III, § 301(c)(2), Nov. 2, 2002, 116 Stat. 1781.

**§ 4213. Promulgation of regulations**

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General’s judgment, are necessary and appropriate to the effective administration of this subchapter.

(Pub. L. 101-647, title XXV, § 2573, Nov. 29, 1990, 104 Stat. 4899.)

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

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

**SUBCHAPTER II—DECLARATIONS PROVIDING UNITED STATES WITH NEW INFORMATION CONCERNING RECOVERY OF ASSETS**

**§ 4221. Filing of confidential declarations by private persons identifying specific assets**

**(a) In general**

After the United States obtains a final judgment or settlement in any action referred to in section 4201 of this title, any person may file a declaration identifying specific assets which might be recovered by the United States in satisfaction of that judgment or settlement.

**(b) Place of filing**

A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by him for receiving declarations under this section.

(Pub. L. 101-647, title XXV, § 2576, Nov. 29, 1990, 104 Stat. 4899.)

**§ 4222. Contents of declarations**

A declaration filed pursuant to section 4221 of this title shall—

(1) set forth the name and address of the declarant and the basis for the declarant’s knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts indicating the nature, location, and approximate dollar value of the asset or assets and the names of all persons known to the declarant to have possession, custody, or control of the asset or assets; and

(3) allege under oath or affirmation specific facts that establish a prima facie case showing that the asset is legally subject to attachment, garnishment, sequestration, or other proceeding in satisfaction of the judgment referred to in section 4221 of this title.

(Pub. L. 101-647, title XXV, § 2577, Nov. 29, 1990, 104 Stat. 4900.)

**§ 4223. Confidentiality of declarations**

**(a) Period of confidentiality**

A declarant and the declarant’s agents shall not disclose the existence or filing of a declaration filed pursuant to section 4221 of this title until:

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section 4226(b) of this title;

(2) the declarant receives notice of an award pursuant to section 4226(c) of this title; or

(3) the declarant is granted a contract to pursue an action under section 4225(b) or 4227 of this title.

**(b) Maintenance of confidentiality to prevent prejudice**

(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but

information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

**(c) Loss of rights**

A declarant who discloses, except as provided by this subchapter, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this subchapter.

(Pub. L. 101-647, title XXV, § 2578, Nov. 29, 1990, 104 Stat. 4900.)

**§ 4224. Ineligibility to file valid declarations**

**(a) In general**

A declaration filed pursuant to section 4221 of this title and in accordance with sections 4222 and 4223 of this title is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of section 1517 of title 18 or any of the sections of title 18 referred to in section 4201<sup>1</sup> of this title, or any other fraudulent conduct with respect to which the declaration is made;

(3) the declaration is filed by an institution-affiliated party (as defined in section 1813(u) of this title) who withheld information during the course of any bank examination or investigation authorized pursuant to section 1820 of this title which such party owed a fiduciary duty to disclose;

(4) the declaration is filed by a member of the immediate family of the individual whose activities are the subject of the declaration or where, in the discretion of the Attorney General, it appears the individual could benefit from the award; or

(5) the declaration identifies an asset or assets the nature, location, or possible recovery of which has been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or Government Accountability Office report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

**(b) "Original source" defined**

For the purposes of subsection (a)(5), the term "original source" means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

**(c) Notice of invalidity**

If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section 4222 of this title, or that a declaration has been disclosed in violation of section 4223 of this title, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section 4225 or 4226 of this title.

(Pub. L. 101-647, title XXV, § 2579, Nov. 29, 1990, 104 Stat. 4900; Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814.)

**Editorial Notes**

**AMENDMENTS**

2004—Subsec. (a)(5). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office".

**§ 4225. Rights of declarants; participation in actions, awards**

**(a) In general**

A person who has filed a declaration that meets the requirements of sections 4221 through 4224 of this title shall have the rights stated in this section.

**(b) Civil action**

If the Attorney General determines that a proceeding to recover the asset or assets identified in the declaration should be referred to private counsel pursuant to subchapter III, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute the action, and the declarant and the declarant's counsel shall act in accordance with subchapter III.

**(c) Share of assets**

When the United States recovers any asset or assets specifically identified in a valid declaration filed under section 4221 of this title and the Attorney General determines that the asset or assets would not have been recovered if the declaration had not been filed, the declarant shall have the right to share in the recovery in the amount of 20 percent to 30 percent of any recovery up to the first \$1,000,000 recovered, 10 percent to 20 percent of the next \$4,000,000 recovered, and 5 percent to 10 percent of the next \$5,000,000 recovered.

**(d) Prohibition of double awards**

(1) No person shall receive both an award under this section and a reward under either section 1831k of this title or section 3509A<sup>1</sup> of title 18 for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under either section 1831k of this title or section 3509A<sup>1</sup> of title 18 for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under such other section.

<sup>1</sup> So in original. Probably should be section "1833a(c)".

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

**(e) Appropriate Federal banking agency exception**

For purposes of this section, funds or assets acquired by the United States shall not include any funds or assets acquired by any appropriate Federal banking agency acting in any capacity or the Resolution Trust Corporation acting in any capacity, except for any civil money penalties recovered by a Federal banking agency through a final judgement, order, or settlement.

(Pub. L. 101-647, title XXV, § 2580, Nov. 29, 1990, 104 Stat. 4901.)

**Editorial Notes**

REFERENCES IN TEXT

Section 3509A of title 18, referred to in subsec. (d), probably is a reference to former section 3059A of title 18, which was repealed by Pub. L. 107-273, div. A, title III, § 301(c)(2), Nov. 2, 2002, 116 Stat. 1781.

**§ 4226. Rights of declarants; notifications; Government accountability**

**(a) In general**

A person who has filed a declaration that meets the requirements of sections 4221 through 4224 of this title shall have the rights stated in this section.

**(b) Notice of decision not to pursue**

If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a proceeding to recover the asset or assets, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

**(c) Judgment, order, or settlement**

(1) When the United States obtains a final judgment, order, or settlement transferring to the United States title to an asset or assets identified in a valid declaration filed under section 4221<sup>1</sup> of this title, the Attorney General shall notify the declarant in writing of the entry of the judgment, order, or settlement.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under section 4225(c) of this title upon recovery by the United States; and

(B) a short statement of reasons for the amount of the award.

**(d) Notice of pendency of investigation or proceeding**

(1) Subject to paragraph (2), if the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section 4224 of this title within 1 year after the date of filing of the declaration, the Attorney General shall notify the declarant in writing that—

(A) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(B) the declarant's allegations have not yet been addressed.

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

(2) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

**(e) Confidentiality of notices**

All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section 4223 of this title.

(Pub. L. 101-647, title XXV, § 2581, Nov. 29, 1990, 104 Stat. 4902.)

**Editorial Notes**

REFERENCES IN TEXT

Section 4221 of this title, referred to in subsec. (c)(1), was in the original "section 831", and was translated as reading "section 2576", meaning section 2576 of Pub. L. 101-647, as the probable intent of Congress, because Pub. L. 101-647 does not contain a section 831.

**§ 4227. Unreviewed declarations; petition to pursue action as private contractor**

**(a) Notification**

(1) If, pursuant to section 4226(d)(1)(B) of this title, the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may notify the Attorney General to award a contract pursuant to subchapter III to pursue the case.

(2) A declarant's notification under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section 4226(d)(1)(B) of this title, and the Attorney General shall respond to the notification not later than 30 days after receipt.

**(b) Contents of response**

In response to a notification under subsection (a)(1), the Attorney General shall—

(1) grant a contract pursuant to subchapter III; or

(2) proceed with an action.

**(c) Grant of contract**

If the Attorney General decides to grant a contract, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with subchapter III.

(Pub. L. 101-647, title XXV, § 2582, Nov. 29, 1990, 104 Stat. 4903.)

**§ 4228. Nonreviewability of action by Attorney General**

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this subchapter, except for failure to provide notification under section 4226 of this title.

(Pub. L. 101-647, title XXV, § 2583, Nov. 29, 1990, 104 Stat. 4903.)

**§ 4229. Protection for declarants**

A declarant under this subchapter shall enjoy the protections of section 3059A(e)<sup>1</sup> of title 18.

(Pub. L. 101-647, title XXV, § 2584, Nov. 29, 1990, 104 Stat. 4903.)

**Editorial Notes****REFERENCES IN TEXT**

Section 3059A(e) of title 18, referred to in text, was repealed by Pub. L. 107-273, div. A, title III, § 301(c)(2), Nov. 2, 2002, 116 Stat. 1781.

**§ 4230. Promulgation of regulations**

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this subchapter.

(Pub. L. 101-647, title XXV, § 2585, Nov. 29, 1990, 104 Stat. 4903.)

**SUBCHAPTER III—USE OF PRIVATE LEGAL RESOURCES****§ 4241. Authority to enter into contracts for private counsel****(a) In general**

The Attorney General may enter into contracts retaining private counsel to furnish legal services, including representation in investigation, negotiation, compromise, settlement, litigation, and execution of judgments in the case of any civil action referred to in section 4201 of this title or section 4225 of this title.

**(b) Terms and conditions**

Each contract under subsection (a) shall include the provisions described in section 4244 of this title and such other terms and conditions as the Attorney General considers necessary and appropriate to protect the interests of the United States.

**(c) Limitation of fee**

The amount of the contingency fee payable for legal services furnished under a contract described in subsection (a) shall not exceed the contingency fee that counsel engaged in the private practice of law in the jurisdiction wherein the legal services are furnished typically charge clients for furnishing the same or comparable legal services.

**(d) Contingent fees**

Notwithstanding section 3302(b) of title 31, a contract under this section shall provide that a fee that the United States pays private counsel for services is payable from the amount recovered and shall be based on a percentage of the civil penalties or assets recovered.

(Pub. L. 101-647, title XXV, § 2588, Nov. 29, 1990, 104 Stat. 4905.)

**§ 4242. Contract decisions nonreviewable**

Notwithstanding any other law, no court shall have jurisdiction over any claim based on the

Attorney General's decision to refuse to enter into a contract for legal services referred to in section 4241 of this title.

(Pub. L. 101-647, title XXV, § 2589, Nov. 29, 1990, 104 Stat. 4905.)

**§ 4243. Representation**

Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, private counsel retained under section 4241 of this title may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel, subject to the requirements specified in section 4244 of this title.

(Pub. L. 101-647, title XXV, § 2590, Nov. 29, 1990, 104 Stat. 4906.)

**§ 4244. Contract provisions**

A contract made with a private counsel under section 4241 of this title shall include—

(1) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is in the best interests of the United States;

(2) a provision requiring private counsel to transmit monthly to the Attorney General a report on the services relating to matters handled pursuant to the contract during the preceding month and the progress made during that period; and

(3) a provision requiring that the initiation, settlement, dismissal, or compromise of a claim be approved by a duly appointed officer of the United States.

(Pub. L. 101-647, title XXV, § 2591, Nov. 29, 1990, 104 Stat. 4906.)

**§ 4245. Counterclaims**

Any counterclaim filed in any action brought on behalf of the United States by private counsel retained under section 4241 of this title may not be asserted unless the counterclaim has been served directly on the Attorney General and the United States Attorney for the judicial district in which, or embracing the place in which, the action is pending. Such service shall be made in accordance with the rules of procedure of the court in which the action on behalf of the United States is pending.

(Pub. L. 101-647, title XXV, § 2592, Nov. 29, 1990, 104 Stat. 4906.)

**§ 4246. Awards of costs and fees to prevailing plaintiff**

When the United States, through private counsel retained under this subchapter, prevails in any civil action, the court, in its discretion, may allow the United States reasonable attorney's fees and other expenses of litigation as part of the costs.

(Pub. L. 101-647, title XXV, § 2593, Nov. 29, 1990, 104 Stat. 4906.)

**§ 4247. Promulgation of regulations**

The Attorney General may promulgate any rules, regulations, or guidelines that, in the At-

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



torney General's judgment, are necessary and appropriate to the effective administration of this subchapter.

(Pub. L. 101-647, title XXV, §2594, Nov. 29, 1990, 104 Stat. 4906.)

## CHAPTER 44—TRUTH IN SAVINGS

Sec.	
4301.	Findings and purpose.
4302.	Disclosure of interest rates and terms of accounts.
4303.	Account schedule.
4304.	Disclosure requirements for certain accounts.
4305.	Distribution of schedules.
4306.	Payment of interest.
4307.	Periodic statements.
4308.	Regulations.
4309.	Administrative enforcement.
4310.	Repealed.
4311.	Credit unions.
4312.	Effect on State law.
4313.	Definitions.

### § 4301. Findings and purpose

#### (a) Findings

The Congress hereby finds that economic stability would be enhanced, competition between depository institutions would be improved, and the ability of the consumer to make informed decisions regarding deposit accounts, and to verify accounts, would be strengthened if there was uniformity in the disclosure of terms and conditions on which interest is paid and fees are assessed in connection with such accounts.

#### (b) Purpose

It is the purpose of this chapter to require the clear and uniform disclosure of—

- (1) the rates of interest which are payable on deposit accounts by depository institutions; and
- (2) the fees that are assessable against deposit accounts,

so that consumers can make a meaningful comparison between the competing claims of depository institutions with regard to deposit accounts.

(Pub. L. 102-242, title II, §262, Dec. 19, 1991, 105 Stat. 2334.)

### Statutory Notes and Related Subsidiaries

#### SHORT TITLE

Pub. L. 102-242, title II, §261, Dec. 19, 1991, 105 Stat. 2334, provided that: "This subtitle [subtitle F (§§261-274) of title II of Pub. L. 102-242, enacting this chapter] may be cited as the 'Truth in Savings Act'."

#### SEPARABILITY

If any provision of Pub. L. 102-242 or any application of any provision thereof to any person or circumstance is held invalid, the remainder of Pub. L. 102-242 and the application of any remaining provision of such Act to any other person or circumstance not to be affected by such holding, see section 481 of Pub. L. 102-242, set out as a note under section 1811 of this title.

### § 4302. Disclosure of interest rates and terms of accounts

#### (a) In general

Except as provided in subsections (b) and (c), each advertisement, announcement, or solici-

tion initiated by any depository institution or deposit broker relating to any demand or interest-bearing account offered by an insured depository institution which includes any reference to a specific rate of interest payable on amounts deposited in such account, or to a specific yield or rate of earnings on amounts so deposited, shall state the following information, to the extent applicable, in a clear and conspicuous manner:

- (1) The annual percentage yield.
- (2) The period during which such annual percentage yield is in effect.
- (3) All minimum account balance and time requirements which must be met in order to earn the advertised yield (and, in the case of accounts for which more than 1 yield is stated, each annual percentage yield and the account minimum balance requirement associated with each such yield shall be in close proximity and have equal prominence).
- (4) The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised, if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.
- (5) A statement that regular fees or other conditions could reduce the yield.
- (6) A statement that an interest penalty is required for early withdrawal.

#### (b) Broadcast and electronic media and outdoor advertising exception

The Bureau may, by regulation, exempt advertisements, announcements, or solicitations made by any broadcast or electronic medium or outdoor advertising display not on the premises of the depository institution from any disclosure requirements described in paragraph (4) or (5) of subsection (a) if the Bureau finds that any such disclosure would be unnecessarily burdensome.

#### (c) Disclosure required for on-premises displays

The disclosure requirements contained in this section shall not apply to any sign (including a rate board) disclosing a rate or rates of interest which is displayed on the premises of the depository institution if such sign contains—

- (1) the accompanying annual percentage yield; and
- (2) a statement that the consumer should request further information from an employee of the depository institution concerning the fees and terms applicable to the advertised account.

#### (d) Misleading descriptions of free or no-cost accounts prohibited

No advertisement, announcement, or solicitation made by any depository institution or deposit broker may refer to or describe an account as a free or no-cost account (or words of similar meaning) if—

- (1) in order to avoid fees or service charges for any period—
  - (A) a minimum balance must be maintained in the account during such period; or
  - (B) the number of transactions during such period may not exceed a maximum number; or