

riod, 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 Repealed.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 chapter¹ 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.¹

(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)¹ 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.)

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.)

¹ See References in Text note below.

¹ See References in Text note below.

§ 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 4201¹ 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".

¹ So in original. Probably should be section "1833a(c)".

§ 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 3509A¹ 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 3509A¹ 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.

(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.

¹ See References in Text note below.

§ 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 4221¹ 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.

(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

¹ See References in Text note below.

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)¹ 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.

¹ See References in Text note below.

(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