

- Sec.
 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.

(b) Place of filing

A declaration under subsection (a) of this section 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.)

SHORT TITLE

Section 2560 of Pub. L. 101-647 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) of this section.

(c) Loss of rights

A declarant who discloses, except as provided by this chapter,¹ 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.)

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.

¹ See References in Text note below.