

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 of this chapter, 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 of this chapter.

(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 declarant¹

(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) of this section, 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 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.)

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

¹ So in original. Probably should be followed by a period.

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) of this section or a notice of invalidity pursuant to section 4204 of this title within the time period set forth in subsection (e) of this section, 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) of this section 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 of this chapter 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) of this section, the Attorney General shall—

(1) grant a contract pursuant to subchapter III of this chapter; 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 of this chapter.

(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.)

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.

¹ See References in Text note below.