

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 Repealed.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.)

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Section 3059A(e) of title 18, referred to in text, was repealed by Pub.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) of this section 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 de-

clarant 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) of this section.

(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 sec-

¹ See References in Text note below.

tion 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) of this section, 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.)

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 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) 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.)

REFERENCES IN TEXT

Section 3509A of title 18, referred to in subsec. (d)(1), 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.

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

¹ See References in Text note below.