

for which it was collected and there are no pending requests or orders for access to such information under subsection (b)(2) or (c)(2) or pursuant to a court order.

(f) **PREEMPTION.**—The provisions of this section preempt only the provisions of State or local law that require disclosure prohibited by this section.

(Added Pub. L. 100-618, §2(a)(2), Nov. 5, 1988, 102 Stat. 3195; amended Pub. L. 112-258, §2, Jan. 10, 2013, 126 Stat. 2414.)

#### REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (b)(2)(C), are set out in the Appendix to this title.

#### PRIOR PROVISIONS

A prior section 2710 was renumbered section 2711 of this title.

#### AMENDMENTS

2013—Subsec. (b)(2)(B). Pub. L. 112-258 added subpar. (B) and struck out former subpar. (B) which read as follows: “to any person with the informed, written consent of the consumer given at the time the disclosure is sought;”.

### § 2711. Definitions for chapter

As used in this chapter—

(1) the terms defined in section 2510 of this title have, respectively, the definitions given such terms in that section;

(2) the term “remote computing service” means the provision to the public of computer storage or processing services by means of an electronic communications system;

(3) the term “court of competent jurisdiction” includes—

(A) any district court of the United States (including a magistrate judge of such a court) or any United States court of appeals that—

(i) has jurisdiction over the offense being investigated;

(ii) is in or for a district in which the provider of a wire or electronic communication service is located or in which the wire or electronic communications, records, or other information are stored; or

(iii) is acting on a request for foreign assistance pursuant to section 3512 of this title; or

(B) a court of general criminal jurisdiction of a State authorized by the law of that State to issue search warrants; and

(4) the term “governmental entity” means a department or agency of the United States or any State or political subdivision thereof.

(Added Pub. L. 99-508, title II, §201[a], Oct. 21, 1986, 100 Stat. 1868, §2710; renumbered §2711, Pub. L. 100-618, §2(a)(1), Nov. 5, 1988, 102 Stat. 3195; amended Pub. L. 107-56, title II, §220(a)(2), Oct. 26, 2001, 115 Stat. 292; Pub. L. 109-177, title I, §107(b)(2), Mar. 9, 2006, 120 Stat. 202; Pub. L. 111-79, §2(2), Oct. 19, 2009, 123 Stat. 2086.)

#### AMENDMENTS

2009—Par. (3). Pub. L. 111-79 substituted “includes—” and subpars. (A) and (B) for “has the meaning assigned

by section 3127, and includes any Federal court within that definition, without geographic limitation; and”.

2006—Par. (4). Pub. L. 109-177 added par. (4).

2001—Par. (3). Pub. L. 107-56 added par. (3).

1988—Pub. L. 100-618 renumbered section 2710 of this title as this section.

### § 2712. Civil actions against the United States

(a) **IN GENERAL.**—Any person who is aggrieved by any willful violation of this chapter or of chapter 119 of this title or of sections 106(a), 305(a), or 405(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) may commence an action in United States District Court against the United States to recover money damages. In any such action, if a person who is aggrieved successfully establishes such a violation of this chapter or of chapter 119 of this title or of the above specific provisions of title 50, the Court may assess as damages—

(1) actual damages, but not less than \$10,000, whichever amount is greater; and

(2) litigation costs, reasonably incurred.

(b) **PROCEDURES.**—(1) Any action against the United States under this section may be commenced only after a claim is presented to the appropriate department or agency under the procedures of the Federal Tort Claims Act, as set forth in title 28, United States Code.

(2) Any action against the United States under this section shall be forever barred unless it is presented in writing to the appropriate Federal agency within 2 years after such claim accrues or unless action is begun within 6 months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the agency to which it was presented. The claim shall accrue on the date upon which the claimant first has a reasonable opportunity to discover the violation.

(3) Any action under this section shall be tried to the court without a jury.

(4) Notwithstanding any other provision of law, the procedures set forth in section 106(f), 305(g), or 405(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) shall be the exclusive means by which materials governed by those sections may be reviewed.

(5) An amount equal to any award against the United States under this section shall be reimbursed by the department or agency concerned to the fund described in section 1304 of title 31, United States Code, out of any appropriation, fund, or other account (excluding any part of such appropriation, fund, or account that is available for the enforcement of any Federal law) that is available for the operating expenses of the department or agency concerned.

(c) **ADMINISTRATIVE DISCIPLINE.**—If a court or appropriate department or agency determines that the United States or any of its departments or agencies has violated any provision of this chapter, and the court or appropriate department or agency finds that the circumstances surrounding the violation raise serious questions about whether or not an officer or employee of the United States acted willfully or intentionally with respect to the violation, the department or agency shall, upon receipt of a true and correct copy of the decision and findings of the court or appropriate department or agency