

Code, see Short Title note set out under section 4101 of this title and Tables.

§ 4146. Definitions

For purposes of this subchapter—

(1) the term “community-based nonprofit housing developer” means a nonprofit community development corporation that—

(A) has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of title 26;

(B) has been in existence for at least 2 years prior to the date of the grant application;

(C) has a record of service to low- and moderate-income people in the community in which the project is located;

(D) is organized at the neighborhood, city, county or multi-county level; and

(E) in the case of a corporation acquiring eligible housing under subchapter I of this chapter, agrees to form a purchaser entity that conforms to the definition of a community-based nonprofit organization under such subchapter and agrees to use its best efforts to secure majority tenant consent to the acquisition of the project for which grant assistance is requested; and

(2) the terms “eligible low-income housing”, “nonprofit organization”, “owner”, and “resident council” have the meanings given such terms in section 4119 of this title.

(Pub. L. 100-242, title II, §256, as added Pub. L. 102-550, title III, §312, Oct. 28, 1992, 106 Stat. 3769.)

§ 4147. Funding

The Secretary shall use not more than \$25,000,000 of the amounts made available under section 4124(a) of this title for fiscal year 1993, and not more than \$25,000,000 of the amounts made available under section 4124(a) of this title for fiscal year 1994, to carry out this subchapter. Of any amounts made available to carry out this subchapter in any appropriation Act, 90 percent shall be set aside for use in accordance with section 4143 of this title and 10 percent shall be set aside for use in accordance with subsection¹ 4144 of this title.

(Pub. L. 100-242, title II, §257, as added Pub. L. 102-550, title III, §312, Oct. 28, 1992, 106 Stat. 3769.)

CHAPTER 43—ACTIONS AGAINST PERSONS COMMITTING BANK FRAUD CRIMES

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¹ So in original. Probably should be “section”.

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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) 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

Pub. L. 101-647, title XXV, §2560, Nov. 29, 1990, 104 Stat. 4893, 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).

(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

¹ See References in Text note below.

"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.

§ 4204. Ineligibility to file valid declarations

(a) In general

A declaration filed pursuant to section 4201¹ of this title and in accordance with sections 4202 and 4203 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 1833a(c) 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 consists of allegations or transactions that have 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 4202 of this title, or that a declaration has been disclosed in violation of section 4203 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 4205 or 4206 of this title.

¹ See References in Text note below.