

**§ 6716. Civil action by a person adversely affected**

(a) **AUTHORITY FOR PRIVATE SUITS IN FEDERAL OR STATE COURT.**—If a unit of general local government, or an officer or employee of a unit of general local government acting in an official capacity, engages in a practice prohibited by this chapter, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b).

(b) **ADMINISTRATIVE REMEDIES REQUIRED TO BE EXHAUSTED.**—A person adversely affected shall file an administrative complaint with the Secretary or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 6711(d). Administrative remedies are deemed to be exhausted by the person after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

(1) issues a decision that the government has not failed to comply with this chapter; or

(2) does not issue a decision on the complaint.

(c) **AUTHORITY OF COURT.**—In an action under this section, the court—

(1) may grant—

(A) a temporary restraining order;

(B) an injunction; or

(C) another order, including suspension, termination, or repayment of, payments under this chapter or placement of additional payments under this chapter in escrow pending the outcome of the action; and

(2) to enforce compliance with section 6711(a) or (b), may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

(d) **INTERVENTION BY ATTORNEY GENERAL.**—In an action under this section to enforce compliance with section 6711(a) or (b), the Attorney General may intervene in the action if the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

(Added Pub. L. 103-322, title III, §31001(a), Sept. 13, 1994, 108 Stat. 1878.)

**PRIOR PROVISIONS**

A prior section 6716, Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1024; Pub. L. 98-185, §9(f), (g), Nov. 30, 1983, 97 Stat. 1312; Pub. L. 98-216, §1(8), Feb. 14, 1984, 98 Stat. 4, related to prohibition of discrimination, prior to repeal by Pub. L. 99-272, title XIV, §14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

**§ 6717. Judicial review**

(a) **APPEALS IN FEDERAL COURT OF APPEALS.**—A unit of general local government which receives notice from the Secretary about withholding payments under section 6703(f), suspend-

ing payments under section 6713(a)(1)(B), or terminating payments under section 6712(d)(2)(A), may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition shall be filed by the 60th day after the date the notice is received. The clerk of the court shall immediately send a copy of the petition to the Secretary.

(b) **FILING OF RECORD OF ADMINISTRATIVE PROCEEDING.**—The Secretary shall file with the court a record of the proceeding on which the Secretary based the action. The court may consider only objections to the action of the Secretary that were presented before the Secretary.

(c) **COURT ACTION.**—The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. If a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. Upon such a remand, the Secretary may make new or modified findings and shall certify additional proceedings to the court.

(d) **REVIEW ONLY BY SUPREME COURT.**—A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.

(Added Pub. L. 103-322, title III, §31001(a), Sept. 13, 1994, 108 Stat. 1878.)

**PRIOR PROVISIONS**

A prior section 6717, Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1025; Pub. L. 98-185, §§7, 9(h), Nov. 30, 1983, 97 Stat. 1310, 1312, related to discrimination proceedings, prior to repeal by Pub. L. 99-272, title XIV, §14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

**§ 6718. Investigations and reviews**

(a) **INVESTIGATIONS BY SECRETARY.**—

(1) **IN GENERAL.**—The Secretary shall within a reasonable time limit—

(A) carry out an investigation and make a finding after receiving a complaint referred to in section 6716(b), a determination by a State or local administrative agency, or other information about a possible violation of this chapter;

(B) carry out audits and reviews (including investigations of allegations) about possible violations of this chapter; and

(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of section 6711(a) or (b) or other provision of this chapter.

(2) **TIME LIMIT.**—The maximum time limit under paragraph (1)(A) is 120 days.

(b) **REVIEWS BY COMPTROLLER GENERAL.**—The Comptroller General of the United States may carry out reviews of the activities of the Secretary, State governments, and units of general local government necessary for the Congress to evaluate compliance and operations under this chapter. These reviews may include a comparison of the waste and inefficiency of local governments using funds under this chapter compared

to waste and inefficiency with other comparable Federal programs.

(Added Pub. L. 103-322, title III, §31001(a), Sept. 13, 1994, 108 Stat. 1879; amended Pub. L. 104-316, title I, §115(k), Oct. 19, 1996, 110 Stat. 3835.)

#### PRIOR PROVISIONS

A prior section 6718, Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1026; Pub. L. 98-185, §9(i), Nov. 30, 1983, 97 Stat. 1312, related to suspension and termination of payments in discrimination proceedings, prior to repeal by Pub. L. 99-272, title XIV, §14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

#### AMENDMENTS

1996—Subsec. (b). Pub. L. 104-316 substituted “may” for “shall” before “carry” and “include”.

### § 6719. Reports

(a) **REPORTS BY SECRETARY TO CONGRESS.**—Before June 2 of each year prior to 2002, the Secretary personally shall report to the Congress on—

(1) the status and operation of the Local Government Fiscal Assistance Fund during the prior fiscal year; and

(2) the administration of this chapter, including a complete and detailed analysis of—

(A) actions taken to comply with sections 6711 through 6715, including a description of the kind and extent of noncompliance and the status of pending complaints;

(B) the extent to which units of general local government receiving payments under this chapter have complied with the requirements of this chapter;

(C) the way in which payments under this chapter have been distributed in the jurisdictions receiving payments; and

(D) significant problems in carrying out this chapter and recommendations for legislation to remedy the problems.

(b) **REPORTS BY UNITS OF GENERAL LOCAL GOVERNMENT TO SECRETARY.**—

(1) **IN GENERAL.**—At the end of each fiscal year, each unit of general local government which received a payment under this chapter for the fiscal year shall submit a report to the Secretary. The report shall be submitted in the form and at a time prescribed by the Secretary and shall be available to the public for inspection. The report shall state—

(A) the amounts and purposes for which the payment has been appropriated, expended, or obligated in the fiscal year;

(B) the relationship of the payment to the relevant functional items in the budget of the government; and

(C) the differences between the actual and proposed use of the payment.

(2) **AVAILABILITY OF REPORT.**—The Secretary shall provide a copy of a report submitted under paragraph (1) by a unit of general local government to the chief executive officer of the State in which the government is located. The Secretary shall provide the report in the manner and form prescribed by the Secretary.

(Added Pub. L. 103-322, title III, §31001(a), Sept. 13, 1994, 108 Stat. 1879.)

#### PRIOR PROVISIONS

A prior section 6719, Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1027, related to compliance agreements, prior to repeal by Pub. L. 99-272, title XIV, §14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

### § 6720. Definitions, application, and administration

(a) **DEFINITIONS.**—In this chapter—

(1) “unit of general local government” means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers;

(2) “payment period” means each 1-year period beginning on October 1 of the years 1994 through 2000;

(3) “State and local taxes” means taxes imposed by a State government or unit of general local government or other political subdivision of a State government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) as determined by the Secretary of Commerce for general statistical purposes;

(4) “State” means any of the several States and the District of Columbia;

(5) “income” means the total money income received from all sources as determined by the Secretary of Commerce for general statistical purposes, which for units of general local government is reported by the Bureau of the Census for 1990 in the publication Summary Social, Economic, and Housing Characteristics;

(6) “per capita income” means—

(A) in the case of the United States, the income of the United States divided by the population of the United States;

(B) in the case of a State, the income of that State, divided by the population of that State; and

(C) in the case of a unit of general local government, the income of that unit of general local government divided by the population of the unit of general local government;

(7) “finding of discrimination” means a decision by the Secretary about a complaint described in section 6716(b), a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a unit of general local government has not complied with section 6711(a) or (b);

(8) “holding of discrimination” means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, United States Code, that a unit of general local government expending amounts received under this chapter has—

(A) excluded a person in the United States from participating in, denied the person the