

[amending this section and sections 15a and 15c of this title] shall apply only with respect to actions commenced after the date of the enactment of this Act [Sept 12, 1980].”

§ 15a. Suits by United States; amount of recovery; prejudgment interest

Whenever the United States is hereafter injured in its business or property by reason of anything forbidden in the antitrust laws it may sue therefor in the United States district court for the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by it sustained and the cost of suit. The court may award under this section, pursuant to a motion by the United States promptly made, simple interest on actual damages for the period beginning on the date of service of the pleading of the United States setting forth a claim under the antitrust laws and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this section for any period is just in the circumstances, the court shall consider only—

(1) whether the United States or the opposing party, or either party’s representative, made motions or asserted claims or defenses so lacking in merit as to show that such party or representative acted intentionally for delay or otherwise acted in bad faith;

(2) whether, in the course of the action involved, the United States or the opposing party, or either party’s representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings;

(3) whether the United States or the opposing party, or either party’s representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof; and

(4) whether the award of such interest is necessary to compensate the United States adequately for the injury sustained by the United States.

(Oct. 15, 1914, ch. 323, §4A, as added July 7, 1955, ch. 283, §1, 69 Stat. 282; amended Pub. L. 96-349, §4(a)(2), Sept. 12, 1980, 94 Stat. 1156; Pub. L. 101-588, §5, Nov. 16, 1990, 104 Stat. 2880.)

Editorial Notes

REFERENCES IN TEXT

The antitrust laws, referred to in text, are defined in section 12 of this title.

AMENDMENTS

1990—Pub. L. 101-588 substituted “threefold the” for “actual”.

1980—Pub. L. 96-349 inserted provisions respecting award of prejudgment interest including considerations for the court in determining whether an award is just under the circumstances.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-349 applicable only with respect to actions commenced after Sept. 12, 1980, see sec-

tion 4(b) of Pub. L. 96-349, set out as a note under section 15 of this title.

EFFECTIVE DATE

Section effective six months after July 7, 1955, see note set out under section 15b of this title.

§ 15b. Limitation of actions

Any action to enforce any cause of action under section 15, 15a, or 15c of this title shall be forever barred unless commenced within four years after the cause of action accrued. No cause of action barred under existing law on the effective date of this Act shall be revived by this Act.

(Oct. 15, 1914, ch. 323, §4B, as added July 7, 1955, ch. 283, §1, 69 Stat. 283; amended Pub. L. 94-435, title III, §302(1), Sept. 30, 1976, 90 Stat. 1396.)

Editorial Notes

REFERENCES IN TEXT

The effective date of this Act, referred to in text, probably refers to the effective date of act July 7, 1955, ch. 283, 69 Stat. 282, which was six months after July 7, 1955.

This Act, referred to in text, probably refers to act July 7, 1955.

AMENDMENTS

1976—Pub. L. 94-435 substituted “section 15, 15a, or 15c” for “sections 15 or 15a”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Act July 7, 1955, ch. 283, §4, 69 Stat. 283, provided: “This Act [enacting this section and section 15a of this title, amending section 16 of this title, and repealing provisions set out as a note under section 15 of this title] shall take effect six months after its enactment [July 7, 1955].”

§ 15c. Actions by State attorneys general

(a) Parens patriae; monetary relief; damages; prejudgment interest

(1) Any attorney general of a State may bring a civil action in the name of such State, as parens patriae on behalf of natural persons residing in such State, in any district court of the United States having jurisdiction of the defendant, to secure monetary relief as provided in this section for injury sustained by such natural persons to their property by reason of any violation of sections 1 to 7 of this title. The court shall exclude from the amount of monetary relief awarded in such action any amount of monetary relief (A) which duplicates amounts which have been awarded for the same injury, or (B) which is properly allocable to (i) natural persons who have excluded their claims pursuant to subsection (b)(2) of this section, and (ii) any business entity.

(2) The court shall award the State as monetary relief threefold the total damage sustained as described in paragraph (1) of this subsection, and the cost of suit, including a reasonable attorney’s fee. The court may award under this paragraph, pursuant to a motion by such State promptly made, simple interest on the total damage for the period beginning on the date of service of such State’s pleading setting forth a claim under the antitrust laws and ending on

the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this paragraph for any period is just in the circumstances, the court shall consider only—

(A) whether such State or the opposing party, or either party's representative, made motions or asserted claims or defenses so lacking in merit as to show that such party or representative acted intentionally for delay or otherwise acted in bad faith;

(B) whether, in the course of the action involved, such State or the opposing party, or either party's representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

(C) whether such State or the opposing party, or either party's representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.

(b) Notice; exclusion election; final judgment

(1) In any action brought under subsection (a)(1) of this section, the State attorney general shall, at such times, in such manner, and with such content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice given solely by publication would deny due process of law to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

(2) Any person on whose behalf an action is brought under subsection (a)(1) may elect to exclude from adjudication the portion of the State claim for monetary relief attributable to him by filing notice of such election with the court within such time as specified in the notice given pursuant to paragraph (1) of this subsection.

(3) The final judgment in an action under subsection (a)(1) shall be res judicata as to any claim under section 15 of this title by any person on behalf of whom such action was brought and who fails to give such notice within the period specified in the notice given pursuant to paragraph (1) of this subsection.

(c) Dismissal or compromise of action

An action under subsection (a)(1) shall not be dismissed or compromised without the approval of the court, and notice of any proposed dismissal or compromise shall be given in such manner as the court directs.

(d) Attorneys' fees

In any action under subsection (a)—

(1) the amount of the plaintiffs' attorney's fee, if any, shall be determined by the court; and

(2) the court may, in its discretion, award a reasonable attorney's fee to a prevailing defendant upon a finding that the State attorney general has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

(Oct. 15, 1914, ch. 323, §4C, as added Pub. L. 94-435, title III, §301, Sept. 30, 1976, 90 Stat. 1394; amended Pub. L. 96-349, §4(a)(3), Sept. 12, 1980, 94 Stat. 1157.)

Editorial Notes

REFERENCES IN TEXT

The antitrust laws, referred to in subsec. (a)(2), are defined in section 12 of this title.

AMENDMENTS

1980—Subsec. (a)(2). Pub. L. 96-349 inserted provisions respecting award of prejudgment interest including considerations for the court in determining whether an award is just under the circumstances.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-349 applicable only with respect to actions commenced after Sept. 12, 1980, see section 4(b) of Pub. L. 96-349, set out as a note under section 15 of this title.

EFFECTIVE DATE

Pub. L. 94-435, title III, §304, Sept. 30, 1976, 90 Stat. 1396, provided that: "The amendments to the Clayton Act made by section 301 of this Act [enacting this section and sections 15d to 15h of this title] shall not apply to any injury sustained prior to the date of enactment of this Act [Sept. 30, 1976]."

§ 15d. Measurement of damages

In any action under section 15c(a)(1) of this title, in which there has been a determination that a defendant agreed to fix prices in violation of sections 1 to 7 of this title, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

(Oct. 15, 1914, ch. 323, §4D, as added Pub. L. 94-435, title III, §301, Sept. 30, 1976, 90 Stat. 1395.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Injuries sustained prior to Sept. 30, 1976, not covered by this section, see section 304 of Pub. L. 94-435, set out as a note under section 15c of this title.

§ 15e. Distribution of damages

Monetary relief recovered in an action under section 15c(a)(1) of this title shall—

(1) be distributed in such manner as the district court in its discretion may authorize; or

(2) be deemed a civil penalty by the court and deposited with the State as general revenues;

subject in either case to the requirement that any distribution procedure adopted afford each person a reasonable opportunity to secure his appropriate portion of the net monetary relief.

(Oct. 15, 1914, ch. 323, §4E, as added Pub. L. 94-435, title III, §301, Sept. 30, 1976, 90 Stat. 1395.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Injuries sustained prior to Sept. 30, 1976, not covered by this section, see section 304 of Pub. L. 94-435, set out as a note under section 15c of this title.