statutory renegotiation article in the contract'' are omitted as surplus.

Subsection (e)(1) is substituted for 31:203(4th par.) to eliminate unnecessary words.

In subsection (e)(2), the words ''person receiving an amount under an assignment or allotment'' are substituted for ''assignees, transferees, or allottees'' for clarity and consistency. The words ''or to others for them'' and ''with respect to such assignments, transfers, or allotments or the use of such moneys'' are omitted as surplus. The words ''person making the assignment or allotment'' are substituted for ''assignors, transferors, or allotters'' for clarity and consistency.

§ 3728. Setoff against judgment

(a) The Secretary of the Treasury shall withhold paying that part of a judgment against the United States Government presented to the Secretary that is equal to a debt the plaintiff owes the Government.

(b) The Secretary shall—

(1) discharge the debt if the plaintiff agrees to the setoff and discharges a part of the judgment equal to the debt; or

(2)(A) withhold payment of an additional amount the Secretary decides will cover legal costs of bringing a civil action for the debt if the plaintiff denies the debt or does not agree to the setoff; and

(B) have a civil action brought if one has not already been brought.

(c) If the Government loses a civil action to recover a debt or recovers less than the amount the Secretary withholds under this section, the Secretary shall pay the plaintiff the balance and interest of 6 percent for the time the money is withheld.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 977; Pub. L. 104–316, title II, § 202(p), Oct. 19, 1996, 110 Stat. 3844.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3728(a)	31:227(1st sentence words before semicolon).	Mar. 3, 1875, ch. 149, 18 Stat. 481; restated Mar. 3, 1933, ch. 212, § 13, 47 Stat. 1516.
3728(b)	31:227(1st sentence words after semicolon, 2d, 3d sentences).	
3728(c)	31:227(last sentence).	

In the section, the words ''of the United States'' are omitted as unnecessary.

In subsection (a), the words ''final . . . recovered . . . duly allowed by legal authority'', ''for payment'', and ''in any manner, whether as principal or surety'' are omitted as surplus.

In subsection (b)(1), the words ''due from the plaintiff to the United States'' are omitted as surplus.

In subsection (b)(2)(A), the words ''of such judgment'', ''be sufficient to'', and ''charges and'' are omitted as surplus. The words ''of bringing a civil action'' are substituted for ''in prosecuting the debt'' for consistency in the revised title and with other titles of the United States Code. The words ''of the United States to final judgment'' and ''to the United States'' are omitted as surplus.

Subsection (b)(2)(B) is substituted for 31:227(3d sentence) for consistency and to eliminate unnecessary words.

In subsection (c), the words ''for debt and costs'', ''thereon'', and ''from the plaintiff'' are omitted as surplus.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–316, § 202(p)(1), (2), substituted ''Secretary of the Treasury'' for ''Comptroller General'' before ''shall withhold'' and ''Secretary'' for ''Comptroller General'' after ''presented to the''.

Subsecs. (b), (c). Pub. L. 104–316, § 202(p)(2), substituted ''Secretary'' for ''Comptroller General'' wherever appearing.

§ 3729. False claims

(a) LIABILITY FOR CERTAIN ACTS.—

(1) IN GENERAL.—Subject to paragraph (2), any person who—

(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

(B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

(C) conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G);

(D) has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;

(E) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or

(G) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government,

is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 104–410[1]), plus 3 times the amount of damages which the Government sustains because of the act of that person.

(2) REDUCED DAMAGES.—If the court finds that—

(A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;

(B) such person fully cooperated with any Government investigation of such violation; and

(C) at the time such person furnished the United States with the information about

[1] So in original. Probably should be ''101–410''.

the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation,

the court may assess not less than 2 times the amount of damages which the Government sustains because of the act of that person.

(3) COSTS OF CIVIL ACTIONS.—A person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.

(b) DEFINITIONS.—For purposes of this section—

(1) the terms ''knowing'' and ''knowingly''—

(A) mean that a person, with respect to information—

(i) has actual knowledge of the information;

(ii) acts in deliberate ignorance of the truth or falsity of the information; or

(iii) acts in reckless disregard of the truth or falsity of the information; and

(B) require no proof of specific intent to defraud;

(2) the term ''claim''—

(A) means any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that—

(i) is presented to an officer, employee, or agent of the United States; or

(ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government's behalf or to advance a Government program or interest, and if the United States Government—

(I) provides or has provided any portion of the money or property requested or demanded; or

(II) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and

(B) does not include requests or demands for money or property that the Government has paid to an individual as compensation for Federal employment or as an income subsidy with no restrictions on that individual's use of the money or property;

(3) the term ''obligation'' means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment; and

(4) the term ''material'' means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

(c) EXEMPTION FROM DISCLOSURE.—Any information furnished pursuant to subsection (a)(2) shall be exempt from disclosure under section 552 of title 5.

(d) EXCLUSION.—This section does not apply to claims, records, or statements made under the Internal Revenue Code of 1986.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 978; Pub. L. 99–562, § 2, Oct. 27, 1986, 100 Stat. 3153; Pub. L. 103–272, § 4(f)(1)(O), July 5, 1994, 108 Stat. 1362; Pub. L. 111–21, § 4(a), May 20, 2009, 123 Stat. 1621.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3729	31:231.	R.S. § 3490.

In the section, before clause (1), the words ''a member of an armed force of the United States'' are substituted for ''in the military or naval forces of the United States, or in the militia called into or actually employed in the service of the United States'' and ''military or naval service'' for consistency with title 10. The words ''is liable'' are substituted for ''shall forfeit and pay'' for consistency. The words ''civil action'' are substituted for ''suit'' for consistency in the revised title and with other titles of the United States Code. The words ''and such forfeiture and damages shall be sued for in the same suit'' are omitted as unnecessary because of rules 8 and 10 of the Federal Rules of Civil Procedure (28 App. U.S.C.). In clauses (1)–(3), the words ''false or fraudulent'' are substituted for ''false, fictitious, or fraudulent'' and ''Fraudulent or fictitious'' to eliminate unnecessary words and for consistency. In clause (1), the words ''presents, or causes to be presented'' are substituted for ''shall make or cause to be made, or present or cause to be presented'' for clarity and consistency and to eliminate unnecessary words. The words ''officer or employee of the Government or a member of an armed force'' are substituted for ''officer in the civil, military, or naval service of the United States'' for consistency in the revised title and with other titles of the Code. The words ''upon or against the Government of the United States, or any department of the United States, or any department or officer thereof'' are omitted as surplus. In clause (2), the word ''knowingly'' is substituted for ''knowing the same to contain any fraudulent or fictitious statement or entry'' to eliminate unnecessary words. The words ''record or statement'' are substituted for ''bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition'' for consistency in the revised title and with other titles of the Code. In clause (3), the words ''conspires to'' are substituted for ''enters into any agreement, combination, or conspiracy'' to eliminate unnecessary words. The words ''of the United States, or any department or officer thereof'' are omitted as surplus. In clause (4), the words ''charge'', ''or other'', and ''to any other person having authority to receive the same'' are omitted as surplus. In clause (5), the words ''document certifying receipt'' are substituted for ''certificate, voucher, receipt, or other paper certifying the receipt'' to eliminate unnecessary words. The words ''arms, ammunition, provisions, clothing, or other'', ''to any other person'', and ''the truth of'' are omitted as surplus. In clause (6), the words ''arms, equipments, ammunition, clothes, military stores, or other'' are omitted as surplus. The words ''member of an armed force'' are substituted for ''soldier, officer, sailor, or other person called into or employed in the military or naval service'' for consistency with title 10. The words ''such soldier, sailor, officer, or other person'' are omitted as surplus.

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (d), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

2009—Subsecs. (a), (b). Pub. L. 111–21, § 4(a)(1), (2), added subsecs. (a) and (b) and struck out former sub-

secs. (a) and (b) which related to liability for certain acts and defined ''knowing'' and ''knowingly'', respectively.

Subsec. (c). Pub. L. 111–21, §4(a)(4), substituted ''subsection (a)(2)'' for ''subparagraphs (A) through (C) of subsection (a)''.

Pub. L. 111–21, §4(a)(2), (3), redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Prior to amendment, text read as follows: ''For purposes of this section, 'claim' includes any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded, or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.''

Subsecs. (d), (e). Pub. L. 111–21, §4(a)(3), redesignated subsecs. (d) and (e) as (c) and (d), respectively.

1994—Subsec. (e). Pub. L. 103–272 substituted ''1986'' for ''1954''.

1986—Subsec. (a). Pub. L. 99–562, §2(1), designated existing provisions as subsec. (a), inserted subsec. heading, and substituted ''Any person who'' for ''A person not a member of an armed force of the United States is liable to the United States Government for a civil penalty of $2,000, an amount equal to 2 times the amount of damages the Government sustains because of the act of that person, and costs of the civil action, if the person'' in introductory provisions.

Subsec. (a)(1). Pub. L. 99–562, §2(2), substituted ''United States Government or a member of the Armed Forces of the United States'' for ''Government or a member of an armed force''.

Subsec. (a)(2). Pub. L. 99–562, §2(3), inserted ''by the Government'' after ''approved''.

Subsec. (a)(4). Pub. L. 99–562, §2(4), substituted ''control of property'' for ''control of public property'' and ''by the Government'' for ''in an armed force''.

Subsec. (a)(5). Pub. L. 99–562, §2(5), substituted ''by the Government'' for ''in an armed force'' and ''true;'' for ''true; or''.

Subsec. (a)(6). Pub. L. 99–562, §2(6), substituted ''an officer or employee of the Government, or a member of the Armed Forces,'' for ''a member of an armed force'' and ''property; or'' for ''property.''

Subsec. (a)(7). Pub. L. 99–562, §2(7), added par. (7).

Subsecs. (b) to (e). Pub. L. 99–562, §2(7), added subsecs. (b) to (e).

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–21, §4(f), May 20, 2009, 123 Stat. 1625, provided that: ''The amendments made by this section [amending this section and sections 3730 to 3733 of this title] shall take effect on the date of enactment of this Act [May 20, 2009] and shall apply to conduct on or after the date of enactment, except that—

''(1) subparagraph (B) of section 3729(a)(1) of title 31, United States Code, as added by subsection (a)(1), shall take effect as if enacted on June 7, 2008, and apply to all claims under the False Claims Act (31 U.S.C. 3729 et seq.) that are pending on or after that date; and

''(2) section 3731(b) [probably should be section 3731] of title 31, as amended by subsection (b); section 3733, of title 31, as amended by subsection (c); and section 3732 of title 31, as amended by subsection (e); shall apply to cases pending on the date of enactment.''

INCREASED PENALTIES FOR FALSE CLAIMS IN DEFENSE PROCUREMENT

Pub. L. 99–145, title IX, §931(b), Nov. 8, 1985, 99 Stat. 699, provided that: ''Notwithstanding section 3729 of title 31, United States Code, the amount of the liability under that section in the case of a person who makes a false claim related to a contract with the Department of Defense shall be a civil penalty of $2,000, an amount equal to three times the amount of the damages the Government sustains because of the act of the person, and costs of the civil action.''

[Section 931(c) of Pub. L. 99–145 provided that section 931(b) is applicable to claims made or presented on or after Nov. 8, 1985.]

§ 3730. Civil actions for false claims

(a) RESPONSIBILITIES OF THE ATTORNEY GENERAL.—The Attorney General diligently shall investigate a violation under section 3729. If the Attorney General finds that a person has violated or is violating section 3729, the Attorney General may bring a civil action under this section against the person.

(b) ACTIONS BY PRIVATE PERSONS.—(1) A person may bring a civil action for a violation of section 3729 for the person and for the United States Government. The action shall be brought in the name of the Government. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to Rule 4(d)(4)[1] of the Federal Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.

(3) The Government may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure.

(4) Before the expiration of the 60-day period or any extensions obtained under paragraph (3), the Government shall—

(A) proceed with the action, in which case the action shall be conducted by the Government; or

(B) notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

(5) When a person brings an action under this subsection, no person other than the Government may intervene or bring a related action based on the facts underlying the pending action.

(c) RIGHTS OF THE PARTIES TO QUI TAM ACTIONS.—(1) If the Government proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (2).

(2)(A) The Government may dismiss the action notwithstanding the objections of the person

[1] So in original. Probably should be a reference to Rule 4(i).