

to exceed sixty days, the Governor or the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); (3) exercise the powers and functions provided for in section 5311(a) of this title; or (4) take such other action as may be provided by law.

(c) Civil action by Attorney General

When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that a State government or unit of general local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(d) Waiver of race discrimination prohibitions regarding assistance to Hawaiian Home Lands

The provisions of this section and section 5304(b)(2) of this title which relate to discrimination on the basis of race shall not apply to the provision of assistance by grantees under this chapter to the Hawaiian Home Lands.

(e) Equal access

(1) Definition

In this subsection, the term “youth organization” means an organization described under part B of subtitle II of title 36 that is intended to serve individuals under the age of 21 years.

(2) In general

No State or unit of general local government that has a designated open forum, limited public forum, or nonpublic forum and that is a recipient of assistance under this chapter shall deny equal access or a fair opportunity to meet to, or discriminate against, any youth organization, including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America, that wishes to conduct a meeting or otherwise participate in that designated open forum, limited public forum, or nonpublic forum.

(Pub. L. 93-383, title I, §109, Aug. 22, 1974, 88 Stat. 649; Pub. L. 97-35, title III, §306, Aug. 13, 1981, 95 Stat. 392; Pub. L. 101-625, title IX, §§911, 912(a), Nov. 28, 1990, 104 Stat. 4392; Pub. L. 109-148, div. A, title VIII, §8126(d), Dec. 30, 2005, 119 Stat. 2730; Pub. L. 109-163, div. A, title X, §1058(d), Jan. 6, 2006, 119 Stat. 3443.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), (d), and (e)(2), was in the original “this title”, meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

The Age Discrimination Act of 1975, referred to in subsec. (a), is title III of Pub. L. 94-135, Nov. 28, 1975, 89 Stat. 728, which is classified generally to chapter 76

(§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-163, §1058(d)(1), inserted “or (e)” after “subsection (a)” in first sentence.

Subsec. (e). Pub. L. 109-163, §1058(d)(2), added subsec. (e).

2005—Subsec. (b). Pub. L. 109-148, §8126(d)(1), which directed amendment identical to amendment by Pub. L. 109-163, §1058(d)(1), was not executed. See 2006 Amendment note above and Reconciliation of Duplicate Enactments note below.

Subsec. (e). Pub. L. 109-148, §8126(d)(2), which directed addition of subsec. (e) substantially identical to subsec. (e) added by Pub. L. 109-163, §1058(d)(2), was not executed. See 2006 Amendment note above and Reconciliation of Duplicate Enactments note below.

1990—Subsec. (a). Pub. L. 101-625, §912(a), inserted “religion,” after “national origin.”

Subsec. (d). Pub. L. 101-625, §911, added subsec. (d).

1981—Subsec. (a). Pub. L. 97-35 inserted provisions respecting age discrimination.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-625, title IX, §912(b), Nov. 28, 1990, 104 Stat. 4392, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to conduct relating to discrimination occurring after the date of the enactment of this Act [Nov. 28, 1990].”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

RECONCILIATION OF DUPLICATE ENACTMENTS

Pub. L. 109-364, div. A, title X, §1071(f)(2), Oct. 17, 2006, 120 Stat. 2402, as amended by Pub. L. 110-181, div. A, title X, §1063(c)(10), Jan. 28, 2008, 122 Stat. 323, provided that: “In executing to section 109 of the Housing and Community Development Act of 1974 [42 U.S.C. 5309] the amendments made by section 8126(d) of Public Law 109-148 (119 Stat. 2730) and section 1058(d) of Public Law 109-163 (119 Stat. 3443), such amendments shall be executed so as to appear only once in the law as amended.”

[Pub. L. 110-181, div. A, title X, §1063(c), Jan. 28, 2008, 122 Stat. 322, provided that the amendment made by section 1063(c)(10) to Pub. L. 109-364, §1071(f)(2), set out above, is effective as of Oct. 17, 2006, and as if included in Pub. L. 109-364, as enacted.]

§5310. Labor standards; rate of wages; exceptions; enforcement powers

(a) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141-3144, 3146, and 3147 of title 40: *Provided*, That this section shall apply to the rehabilitation of residential property only if such property contains not

less than 8 units. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 3145 of title 40.

(b) Subsection (a) shall not apply to any individual that—

(1) performs services for which the individual volunteered;

(2)(A) does not receive compensation for such services; or

(B) is paid expenses, reasonable benefits, or a nominal fee for such services; and

(3) is not otherwise employed at any time in the construction work.

(Pub. L. 93-383, title I, § 110, Aug. 22, 1974, 88 Stat. 649; Pub. L. 97-35, title III, § 309(j), Aug. 13, 1981, 95 Stat. 397; Pub. L. 100-242, title V, § 523, Feb. 5, 1988, 101 Stat. 1939; Pub. L. 101-625, title IX, § 955(a), Nov. 28, 1990, 104 Stat. 4420.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this title”, meaning title I of Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (a), “sections 3141-3144, 3146, and 3147 of title 40” substituted for “the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5)” and “section 3145 of title 40” substituted for “section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c))”, meaning 276c, on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1990—Pub. L. 101-625 designated existing provisions as subsec. (a) and added subsec. (b).

1988—Pub. L. 100-242, which directed the substitution of “contains not less than 8 units” for “is designed for residential use of eight or more families”, was executed by making the substitution for “is designed for residential use for eight or more families” as the probable intent of Congress.

1981—Pub. L. 97-35 substituted “assistance” for “grants”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-625 applicable to any volunteer services provided before, on, or after Nov. 28, 1990, except that such amendment may not be construed to require repayment of any wages paid before Nov. 28, 1990, for services provided before such date, see section 955(d) of Pub. L. 101-625, set out as a note under section 1437j of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

§ 5311. Remedies for noncompliance with community development requirements

(a) Notice and hearing; termination, reduction, or limitation of payments by Secretary

If the Secretary finds after reasonable notice and opportunity for hearing that a recipient of assistance under this chapter has failed to comply substantially with any provision of this chapter, the Secretary, until he is satisfied that there is no longer any such failure to comply, shall—

(1) terminate payments to the recipient under this chapter, or

(2) reduce payments to the recipient under this chapter by an amount equal to the amount of such payments which were not expended in accordance with this chapter, or

(3) limit the availability of payments under this chapter to programs, projects, or activities not affected by such failure to comply.

(b) Referral of matters to Attorney General; institution of civil action by Attorney General

(1) In lieu of, or in addition to, any action authorized by subsection (a), the Secretary may, if he has reason to believe that a recipient has failed to comply substantially with any provision of this chapter, refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

(2) Upon such a referral the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this chapter which was not expended in accordance with it, or for mandatory or injunctive relief.

(c) Petition for review of action of Secretary in Court of Appeals; filing of record of proceedings in court by Secretary; affirmation, etc., of findings of Secretary; exclusiveness of jurisdiction of court; review by Supreme Court on writ of certiorari or certification

(1) Any recipient which receives notice under subsection (a) of the termination, reduction, or limitation of payments under this chapter may, within sixty days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the Secretary's action. The petitioner shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

(2) The Secretary shall file in the court record of the proceeding on which he based his action, as provided in section 2112 of title 28. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.

(3) The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order addi-