

TITLE 31. MONEY AND FINANCE  
SUBTITLE III. FINANCIAL MANAGEMENT  
CHAPTER 37. CLAIMS  
SUBCHAPTER III. CLAIMS AGAINST THE  
UNITED STATES GOVERNMENT

§ 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), 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 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 [26 USCS §§ 1 et seq.].

(e) [Redesignated]

**History:**

(Sept. 13, 1982, P.L. 97-258 96 Stat. 978; Oct. 27, 1986, P.L. 99-562, § 2, 100 Stat. 3153; July 5, 1994, P.L. 103-272, § 4(f)(1)(O), 108 Stat. 1362.)

(As amended May 20, 2009, P.L. 111-21, § 4(a), 123 Stat. 1621.)

**History; Ancillary Laws and Directives:**

- 1. Prior law and revision
- 2. Amendments
- 3. Other provisions

- 1. Prior law and revision:

Revised Section	Source (U.S. Code)
Source (Statutes at Large)	
3729	31:231 R.S. Sec. 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 "by reason of the doing or committing such act" are omitted as surplus. The words "civil action" are substituted for "suit" for consistency in the revised title and with other titles of the 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. 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 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 word "record" is 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.

## 2. Amendments:

1986. Act Oct. 27, 1986, substituted "(a) Liability for certain acts. Any person who--" for introductory matter which read: "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 subsec. (a), as so designated, in para. (1), substituted "United States Government or a member of the Armed Forces of the United States" for "Government or a member of an armed force", in para. (2), inserted "by the Government", in para. (4), deleted "public" following "control of" and substituted "by the Government" for "in an armed force", in para. (5), substituted "by the Government" for "in an armed force" and deleted "or" following the concluding semicolon, in para. (6), substituted "an officer or employee of the Government, or member of the Armed Forces," for "a member of an armed force" and substituted "; or" for the concluding period, and added para. (7), the intermediate matter following such para., subparas. (A)-(C), and the concluding matter; and added subsecs. (b)-(e).

1994. Act July 5, 1994, in subsec. (e), substituted "1986" for "1954".

2009. Act May 20, 2009 (effective and applicable as provided by § 4(f) of such Act, which appears as a note to this section), substituted subsec. (a) and (b) for former subsecs. (a)-(c) which read:

"(a) Liability for certain acts. Any person who--

"(1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;

"(2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;

"(3) conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;

"(4) has possession, custody, or control of

property or money used, or to be used, by the Government and, intending to defraud the Government or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;

"(5) 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;

"(6) 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 the property; or

"(7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease 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, plus 3 times the amount of damages which the Government sustains because of the act of that person, except that 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 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 the person. 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) Knowing and knowingly defined. For purposes of this section, the terms 'knowing' and 'knowingly' mean that a person, with respect to information--

"(1) has actual knowledge of the information;

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

"(3) acts in reckless disregard of the truth or falsity of the information,

and no proof of specific intent to defraud is required.

"(c) Claim defined. 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.";

redesignated subsecs. (d) and (e) as subsecs. (c) and (d), respectively; and in subsec. (c) as redesignated, substituted "subsection (a)(2)" for "subparagraphs (A) through (C) of subsection (a)".

§ 3730. Civil actions for false claims

(a) Responsibilities of the Attorney General. The Attorney General diligently shall investigate a violation under section 3729 [31 USCS § 3729]. If the Attorney General finds that a person has violated or is violating section 3729 [31 USCS § 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 [31 USCS § 3729

Rule 4(d)(4)

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 initiating the action if the person has been notified by the Government of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.

(B) The Government may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.

(C) Upon a showing by the Government that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the Government's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as--

(i) limiting the number of witnesses the person may call;

(ii) limiting the length of the testimony of such witnesses;

(iii) limiting the person's cross-examination of witnesses; or

(iv) otherwise limiting the participation by the person in the litigation.

(D) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

(3) If the Government elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the Government so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the Government's expense). When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the Government to intervene at a later date upon a showing of good cause.

(4) Whether or not the Government proceeds with the action, upon a showing by the

Government that certain actions of discovery by the person initiating the action would interfere with the Government's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the Government has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

(5) Notwithstanding subsection (b), the Government may elect to pursue its claim through any alternate remedy available to the Government, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the preceding sentence, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the United States, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

(d) Award to qui tam plaintiff.

(1) If the Government proceeds with an action brought by a person under subsection (b), such person shall, subject to the second sentence of this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one which the court finds to be based primarily on disclosures of specific information (other than information provided by the person bringing the action) relating to allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government [General] Accounting Office report, hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person under the first or second

sentence of this paragraph shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(2) If the Government does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(3) Whether or not the Government proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of section 3729 [31 USCS § 3729] upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of section 3729 [31 USCS § 3729]

action brought under subsection (b) against a Member of Congress, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the Government when the action was brought.

(B) For purposes of this paragraph, "senior executive branch official" means any officer or employee listed in paragraphs (1) through (8) of section 101(f) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(3) In no event may a person bring an action under subsection (b) which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the Government is already a party.

(4) (A) The court shall dismiss an action or claim under this section, unless opposed by the Government, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed—

(i) in a Federal criminal, civil, or administrative hearing in which the Government or its agent is a party;

(ii) in a congressional, Government Accountability Office, or other Federal report, hearing, audit, or investigation; or

(iii) from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.

(B) For purposes of this paragraph, "original source" means an individual who either (i) prior to a public disclosure under subsection (e)(4)(a), has voluntarily disclosed to the Government the information on which allegations or transactions in a claim are based, or (2) who has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and who has voluntarily provided the information to the Government before filing an action under this section.

(f) Government not liable for certain expenses. The Government is not liable for expenses which a person incurs in bringing an action under this section.

(g) Fees and expenses to prevailing defendant. In civil actions brought under this section by the United States, the provisions of section 2412(d) of title 28 shall apply.

(h) Relief from retaliatory actions.

(1) In general. Any employee, contractor, or agent shall be entitled to all relief necessary to

make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent or associated others in furtherance of an action under this section or other efforts to stop 1 or more violations of this subchapter [31 USCS §§ 3721 et seq.].

(2) Relief. Relief under paragraph (1) shall include reinstatement with the same seniority status that employee, contractor, or agent would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An action under this subsection may be brought in the appropriate district court of the United States for the relief provided in this subsection.

(3) Limitation on bringing civil action. A civil action under this subsection may not be brought more than 3 years after the date when the retaliation occurred.

#### History:

(Sept. 13, 1982, P.L. 97-258 96 Stat. 978; Oct. 27, 1986, P.L. 99-562, §§ 3, 4, 100 Stat. 3154, 3157; Nov. 19, 1988, P.L. 100-700, § 9, 102 Stat. 4638; May 4, 1990, P.L. 101-280, § 10(a), 104 Stat. 162; July 5, 1994, P.L. 103-272, § 4(f)(1)(P), 108 Stat. 1362.)

(As amended May 20, 2009, P.L. 111-21, § 4(d), 123 Stat. 1624; March 23, 2010, P.L. 111-148, Title X, Subtitle A, § 10104(j)(2), 124 Stat. 901; July 21, 2010, P.L. 111-203, Title X, Subtitle G, § 1079A(c), 124 Stat. 2079.)

#### History; Ancillary Laws and Directives:

1. Prior law and revision
2. References in text
3. Explanatory notes
4. Amendments

1. Prior law and revision:
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 Revised Section    Source (U.S. Code)    Source  
 (Statutes at Large)  
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 3730(a) .... 31:233 ..... R.S. Sec. 3492.  
 3730(b)(1) .. 31:232(A), (B)(less  
               words between  
               3d and 4th commas).. R.S. Sec. 3491(A)-  
 (E): restated  
   Dec. 23, 1943, ch 377, Sec.  
 1,   57 Stat. 608

In the section, the words "civil action" are substituted for "suit" for consistency in the revised title and with other titles of the Code.

In subsection (a), the words "Attorney General" are substituted for "several district attorneys of the United States [subsequently changed to 'United States attorneys' because of section 1 of the Act of June 25, 1948 (ch. 646, 62 Stat. 909)] for the respective districts, for the District of Columbia, and for the several Territories" because of 28:509. The words "by persons liable to such suit" are omitted as surplus. The words "and found within their respective districts or Territories" are omitted because of the restatement. The words "If the Attorney General finds that a person has violated or is violating section 3729, the Attorney General shall bring a civil action against the person" are substituted for "and to cause them to be proceeded against in due form of law for the recovery of such forfeiture and damages" for clarity and consistency. The words "as the district judge may order" are omitted as surplus. The words "of the Attorney General" are substituted for "the person

bringing the suit" for consistency in the section.

In subsection (b)(1), the words "Except as hereinafter provided" are omitted as unnecessary. The words "for a violation of section 3729 of this title" are added because of the restatement. The words "and carried on", "several", and "full power and" are omitted as surplus. The words "of the action" are substituted for "to hear, try, and determine such suit" to eliminate unnecessary words. The words "Trial is in the judicial district in which the person charged with a violation is found or the violation occurs" are substituted for "within whose jurisdictional limits the person doing or committing such act shall be found, shall wheresoever such act may have been done or committed" for consistency in the revised title and with other titles of the Code. The words "withdrawn or" and "judge of the" are omitted as surplus. The words "Attorney General" are substituted for "district attorney [subsequently changed to 'United States attorney' because of section 1 of the Act of June 25, 1948 (ch. 646, 62 Stat. 909)], first filed in the case" because of 28:509.

In subsection (b)(2), before clause (A), the words "bill of", "Whenever any such suit shall be brought by any person under clause (B) of this section" and "to the effective prosecution of such suit or" are omitted as surplus. The words "served on the Government under rule 4 of the Federal Rules of Civil Procedure (28 App. U.S.C.)" are substituted for "notice . . . shall be given to the United States by serving upon the United States Attorney for the district in which such suit shall have been brought . . . and by sending, by registered mail, or by certified mail, to the Attorney General of the United States at Washington, District of Columbia" because of 28:509 and to eliminate unnecessary words. The words "proceed with the action" are added for clarity. Clause (A) is substituted for "shall fail, or decline in writing to the court, during said period of sixty days to enter any such suit" for clarity and consistency. In clause (B), the words "a period of" and "therein" are omitted as surplus.

In subsection (b)(3), the words "within said period" are omitted as surplus. The words "proceeds with the action" are substituted for "shall enter appearance in such suit" for consistency. The words "In carrying on such suit" and "and may proceed in all respects as if it were instituting the suit" are omitted as surplus.

In subsection (b)(4), the words "Unless the Government proceeds with the action" are added because of the restatement. The words "shall dismiss an action brought by the person on discovering" are substituted for "shall have no



jurisdiction to proceed with any such suit . . . or pending suit . . . whenever it shall be made to appear that" to eliminate unnecessary words. The words "or any agency, officer, or employee thereof" are omitted as unnecessary. The text of 31:232(C)(last sentence proviso) and (D) is omitted as executed.

In subsection (c), the words "herein provided", "fair and . . . compensation to such person", and "involved therein, which shall be collected" are omitted as surplus.

In subsection (c)(2), the words "whether heretofore or hereafter brought" are omitted as unnecessary. The words "bringing the action or settling the claim" are substituted for "who brought such suit and prosecuted it to final judgment, or to settlement" for clarity and consistency. The words "as provided in clause (B) of this section" are omitted as unnecessary. The words "the civil penalty" are substituted for "forfeiture" for clarity and consistency. The words "to his own use", "the court may", and "to be allowed and taxed according to any provision of law or rule of court in force, or that shall be in force in suits between private parties in said court" are omitted as surplus.

Subsection (d) is substituted for 31:232(B)(words between 3d and 4th commas) and (E)(2)(proviso) to eliminate unnecessary words.

### 3. Explanatory notes:

The bracketed word "General" has been inserted in subsec. (d)(1) as the word probably intended by Congress.

### 4. Amendments:

1986. Act Oct. 27, 1986, substituted this section for one which read:

"(a) The Attorney General diligently shall investigate a violation under section 3729 of this title. 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. The person may be arrested and bail set for an amount of not more than \$ 2,000 and 2 times the amount of damages sworn to in an affidavit of the Attorney General.

"(b)

(1) A person may bring a civil action for a

violation of section 3729 of this title for the person and for the United States Government. The action shall be brought in the name of the Government. The district courts of the United States have jurisdiction of the action. Trial is in the judicial district within whose jurisdictional limits the person charged with a violation is found or the violation occurs. An action may be dismissed only if the court and the Attorney General give written consent 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 under rule 4 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The Government may proceed with the action by entering an appearance by the 60th day after being notified. The person bringing the action may proceed with the action if the Government--

"(A) by the end of the 60-day period does not enter, or gives written notice to the court of intent not to enter, the action; or

"(B) does not proceed with the action with reasonable diligence within 6 months after entering an appearance, or within additional time the court allows after notice.

"(3) If the Government proceeds with the action, the action is conducted only by the Government. The Government is not bound by an act of the person bringing the action.

"(4) Unless the Government proceeds with the action, the court shall dismiss an action brought by the person on discovering the action is based on evidence or information the Government had when the action was brought.

"(c)

(1) If the Government proceeds with an action, the person bringing the action may receive an amount the court decides is reasonable for disclosing evidence or information the Government did not have when the action was brought. The amount may not be more than 10 percent of the proceeds of the action or settlement of a claim and shall be paid out of those proceeds.

"(2) If the Government does not proceed with an action, the person bringing the action or settling the claim may receive an amount the court decides is reasonable for collecting the civil penalty and damages. The amount may not be more than 25 percent of the proceeds of the action or settlement and shall be paid out of those proceeds. The person may also receive an amount for reasonable expenses the court finds to have been necessarily incurred and costs awarded against the defendant.

"(d) The Government is not liable for expenses a person incurs in bringing an action under this

section."

Such Act further added subsec. (h).

1988. Act Nov. 19, 1988, in subsec. (d), redesignated former para. (3) as para. (4), and added a new para. (3).

Act Nov. 19, 1988, further purported to amend 28 USCS § 3730 by inserting, in subsec. (c)(4), "the" following "Government proceeds with" and, in subsec. (d)(4), as so redesignated, substituting "action" for "actions" preceding "was clearly frivolous."; however, such amendments were executed to 31 USCS § 3730 as the probable intent of Congress.

1990. Act May 4, 1990 (effective 1/1/91 as provided by § 10(c) of such Act, which appears as 10 USCS § 2397a note), in subsec. (e)(2)(B), substituted "paragraphs (1) through (8) of section 101(f)" for "201(f)".

1994. Act July 5, 1994, in subsec. (e)(2)(B), substituted "paragraphs (1)" for "section paragraphs (1)".

2009. Act May 20, 2009 (effective on enactment and applicable to conduct on or after the date of enactment, as provided by § 4(f) of such Act, which appears as 31 USCS § 3729 note), substituted subsec. (h) for one which read:

"(h) Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate district court of the United States for the relief provided in this subsection."

2010. Act March 23, 2010, in subsec. (e), substituted para. (4) for one which read:

"(4)

(A) No court shall have jurisdiction over an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.

"(B) For purposes of this paragraph, 'original source' means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government before filing an action under this section which is based on the information."

Act July 21, 2010 (effective 1 day after enactment, as provided by § 4 of such Act, which appears as 12 USCS § 5301 note), in subsec. (h), in para. (1), substituted "agent or associated others in furtherance of an action under this section or other efforts to stop 1 or more violations of this subchapter" for "or agent on behalf of the employee, contractor, or agent or associated others in furtherance of other efforts to stop 1 or more violations of this subchapter", and added para. (3).

§ 3731. False claims procedure

(a) A subpoena [subpoena] requiring the attendance of a witness at a trial or hearing conducted under section 3730 of this title [31 USCS § 3730] may be served at any place in the United States.

(b) A civil action under section 3730 [31 USCS § 3730] may not be brought--

(1) more than 6 years after the date on which the violation of section 3729 [31 USCS § 3729] is committed, or

(2) more than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the official of the United States charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed, whichever occurs last.

(c) If the Government elects to intervene and proceed with an action brought under 3730(b) [31 USCS § 3730(b)], the Government may file its own complaint or amend the complaint of a person who has brought an action under section 3730(b) [31 USCS § 3730(b)] to clarify or add detail to the claims in which the Government is intervening and to add any additional claims with respect to which the Government contends it is entitled to relief. For statute of limitations purposes, any such Government pleading shall relate back to the filing date of the complaint of the person who originally brought the action, to the extent that the claim of the Government arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the prior complaint of that person.

(d) In any action brought under section 3730 [31 USCS § 3730], the United States shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(e) Notwithstanding any other provision of law, the Federal Rules of Criminal Procedure, or the Federal Rules of Evidence, a final judgment rendered in favor of the United States in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal

proceeding and which is brought under subsection (a) or (b) of section 3730 [31 USCS § 3730].

**Return to Practitioner's Toolbox History:**

(Sept. 13, 1982, P.L. 97-258, § 1, 96 Stat. 979; Oct. 27, 1986, P.L. 99-562, § 5, 100 Stat. 3158.)  
(As amended May 20, 2009, P.L. 111-21, § 4(b), 123 Stat. 1623.)

**Return to Practitioner's Toolbox History; Ancillary Laws and Directives:**

Go to 1. Prior law and revision 1. Prior law and revision

Go to 2. Explanatory notes 2. Explanatory notes

Go to 3. Amendments 3. Amendments

**Go back to History; Ancillary Laws and Directives List 1. Prior law and revision:**

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Revised Section	Source (U.S. Code)
Source (Statutes at Large)	

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3731(a) .....	31:232(F) .....	R.S. Sec. 3491(F);
added Nov. 2,		1978, Pub. L. 95-582, Sec. 1,
92		Stat. 2479.
3731(b) .....	31:235 .....	R.S. Sec. 3494.

In subsection (b), the words "A civil action under section 3730 of this title" are substituted for "Every such suit" for clarity.

**Go back to History; Ancillary Laws and Directives List 2. Explanatory notes:**

The bracketed word "subpoena" has been inserted in subsec. (a) as the word probably intended by Congress.

**Go back to History; Ancillary Laws and Directives List 3. Amendments:**

1986. Act Oct. 27, 1986, substituted subsec. (b) for one which read: "A civil action under section 3730 of this title must be brought within 6 years from the date the violation is committed."; and added subsecs. (c) and (d).

2009. Act May 20, 2009 (effective on enactment and applicable as provided by § 4(f) of such Act, which appears as 31 USCS § 3729 note), redesignated subsecs (c) and (d) as subsecs. (d) and (e), respectively; and inserted new subsec. (c).