

## HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3730(b)(4)	31:232(C)(last sentence), (D).	
3730(c)(1)	31:232(E)(1).	
3730(c)(2)	31:232(E)(2)(less proviso).	
3730(d) . . . .	31:232(B)(words between 3d and 4th commas), (E)(2)(proviso).	

In the section, the words “civil action” are substituted for “suit” for consistency in the revised title and with other titles of the United States 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 may bring a civil action under this section 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 within whose jurisdictional limits 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 The words “withdrawn or” and “judge of the” are omitted as surplus.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 attorneys’ 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.

## REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), (3), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Section 101(f) of the Ethics in Government Act of 1978, referred to in subsec. (e)(2)(B), is section 101(f) of Pub. L. 95-521, title I, Oct. 26, 1978, 92 Stat. 1824, as amended, which was set out in the Appendix to Title 5, Government Organization and Employees.

## AMENDMENTS

1994—Subsec. (e)(2)(B). Pub. L. 103-272 substituted “paragraphs (1) through (8)” for “section paragraphs (1) through (8)”.

1990—Subsec. (e)(2)(B). Pub. L. 101-280 substituted “paragraphs (1) through (8) of section 101(f)” for “201(f)”.

1988—Subsec. (c)(4). Pub. L. 100-700, §9(b)(1), which directed amendment of section 3730 of title 28 by substituting “with the action” for “with action” in subsec. (c)(4), was executed to subsec. (c)(4) of this section as the probable intent of Congress.

Subsec. (d)(3). Pub. L. 100-700, §9(a)(1), (2), added par. (3). Former par. (3) redesignated (4).

Subsec. (d)(4). Pub. L. 100-700, §9(b)(2), which directed amendment of section 3730 of title 28 by substituting “claim of the person bringing the action” for “claim of the person bringing the actions” in subsec. (d)(4), was executed to subsec. (d)(4) of this section as the probable intent of Congress.

Pub. L. 100-700, §9(a)(1), redesignated former par. (3) as (4).

1986—Pub. L. 99-562, §3, amended section generally, revising and expanding provisions of subsecs. (a) to (c), adding subsecs. (d) and (e), redesignating former subsec. (d) as (f), and adding subsec. (g).

Subsec. (h). Pub. L. 99-562, §4, added subsec. (h).

## EFFECTIVE DATE OF 1990 AMENDMENT

Section 10(c) of Pub. L. 101-280 provided that: “The amendments made by subsections (a) and (b) [amending this section and section 2397a of Title 10, Armed Forces] shall take effect on January 1, 1991.”

**§ 3731. False claims procedure**

(a) A subpoena requiring the attendance of a witness at a trial or hearing conducted under

section 3730 of this title may be served at any place in the United States.

(b) A civil action under section 3730 may not be brought—

(1) more than 6 years after the date on which the violation of section 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) In any action brought under section 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.

(d) 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.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 979; Pub. L. 99-562, §5, Oct. 27, 1986, 100 Stat. 3158.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3731(a) .....	31:232(F).	R.S. §3491(F); added Nov. 2, 1978, Pub. L. 95-582, §1, 92 Stat. 2479.
3731(b) .....	31:235.	R.S. §3494.

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

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (d), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

The Federal Rules of Evidence, referred to in subsec. (d), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1986—Subsecs. (b) to (d). Pub. L. 99-562 added subsecs. (b) to (d) and struck out former subsec. (b) which read as follows: "A civil action under section 3730 of this title must be brought within 6 years from the date the violation is committed."

§ 3732. False claims jurisdiction

(a) ACTIONS UNDER SECTION 3730.—Any action under section 3730 may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in which any act proscribed by section 3729 occurred. A summons as required by the Federal Rules of Civil Procedure shall be issued by the appropriate district court and served at any place within or outside the United States.

(b) CLAIMS UNDER STATE LAW.—The district courts shall have jurisdiction over any action brought under the laws of any State for the recovery of funds paid by a State or local government if the action arises from the same transaction or occurrence as an action brought under section 3730.

(Added Pub. L. 99-562, §6(a), Oct. 21, 1986, 100 Stat. 3158.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (a), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 3733. Civil investigative demands

(a) IN GENERAL.—

(1) ISSUANCE AND SERVICE.—Whenever the Attorney General has reason to believe that any person may be in possession, custody, or control of any documentary material or information relevant to a false claims law investigation, the Attorney General may, before commencing a civil proceeding under section 3730 or other false claims law, issue in writing and cause to be served upon such person, a civil investigative demand requiring such person—

- (A) to produce such documentary material for inspection and copying,
- (B) to answer in writing written interrogatories with respect to such documentary material or information,
- (C) to give oral testimony concerning such documentary material or information, or
- (D) to furnish any combination of such material, answers, or testimony.

The Attorney General may not delegate the authority to issue civil investigative demands under this subsection. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served.

(2) CONTENTS AND DEADLINES.—

(A) Each civil investigative demand issued under paragraph (1) shall state the nature of the conduct constituting the alleged violation of a false claims law which is under investigation, and the applicable provision of law alleged to be violated.

(B) If such demand is for the production of documentary material, the demand shall—

- (i) describe each class of documentary material to be produced with such definiteness and certainty as to permit such material to be fairly identified;
- (ii) prescribe a return date for each such class which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying; and
- (iii) identify the false claims law investigator to whom such material shall be made available.

(C) If such demand is for answers to written interrogatories, the demand shall—