

118TH CONGRESS  
1ST SESSION

# S. 659

To amend chapter 38 of title 31, United States Code, relating to civil remedies, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 6, 2023

Mr. GRASSLEY (for himself and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend chapter 38 of title 31, United States Code, relating to civil remedies, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Administrative False  
5       Claims Act of 2023”.

6       **SEC. 2. ADMINISTRATIVE FALSE CLAIMS.**

7       (a) CHANGE IN SHORT TITLE.—

8               (1) IN GENERAL.—Subtitle B of title VI of the  
9       Omnibus Budget Reconciliation Act of 1986 (Public  
10       Law 99–509; 100 Stat. 1934) is amended—

1 (A) in the subtitle heading, by striking  
2 **“Program Fraud Civil Remedies”** and  
3 inserting **“Administrative False**  
4 **Claims”**; and

5 (B) in section 6101 (31 U.S.C. 3801 note),  
6 by striking “Program Fraud Civil Remedies Act  
7 of 1986” and inserting “Administrative False  
8 Claims Act”.

9 (2) REFERENCES.—Any reference to the Pro-  
10 gram Fraud Civil Remedies Act of 1986 in any pro-  
11 vision of law, regulation, map, document, record, or  
12 other paper of the United States shall be deemed a  
13 reference to the Administrative False Claims Act.

14 (b) REVERSE FALSE CLAIMS.—Chapter 38 of title  
15 31, United States Code, is amended—

16 (1) in section 3801(a)(3), by amending sub-  
17 paragraph (C) to read as follows:

18 “(C) made to an authority which has the  
19 effect of concealing or improperly avoiding or  
20 decreasing an obligation to pay or transmit  
21 property, services, or money to the authority,”;

22 and

23 (2) in section 3802(a)(3)—

1 (A) by striking “An assessment” and in-  
2 serting “(A) Except as provided in subpara-  
3 graph (B), an assessment”; and

4 (B) by adding at the end the following:

5 “(B) In the case of a claim described in section  
6 3801(a)(3)(C), an assessment shall not be made  
7 under the second sentence of paragraph (1) in an  
8 amount that is more than double the value of the  
9 property, services, or money that was wrongfully  
10 withheld from the authority.”.

11 (c) INCREASING DOLLAR AMOUNT OF CLAIMS.—Sec-  
12 tion 3803(c) of title 31, United States Code, is amended—

13 (1) in paragraph (1), by striking “\$150,000”  
14 each place that term appears and inserting  
15 “\$1,000,000”; and

16 (2) by adding at the end the following:

17 “(3) ADJUSTMENT FOR INFLATION.—The maximum  
18 amount in paragraph (1) shall be adjusted for inflation  
19 in the same manner and to the same extent as civil mone-  
20 tary penalties under the Federal Civil Penalties Inflation  
21 Adjustment Act (28 U.S.C. 2461 note).”.

22 (d) RECOVERY OF COSTS.—Section 3806(g)(1) of  
23 title 31, United States Code, is amended to read as fol-  
24 lows:

25 “(1)(A) Except as provided in paragraph (2)—

1           “(i) any amount collected under this chapter  
2 shall be credited first to reimburse the authority or  
3 other Federal entity that expended costs in support  
4 of the investigation or prosecution of the action, in-  
5 cluding any court or hearing costs; and

6           “(ii) amounts reimbursed under clause (i)  
7 shall—

8                   “(I) be deposited in—

9                           “(aa) the appropriations account of  
10 the authority or other Federal entity from  
11 which the costs described in subparagraph  
12 (A) were obligated;

13                           “(bb) a similar appropriations account  
14 of the authority or other Federal entity; or

15                           “(cc) if the authority or other Federal  
16 entity expended nonappropriated funds,  
17 another appropriate account; and

18                   “(II) remain available until expended.

19           “(B) Any amount remaining after reimbursements  
20 described in subparagraph (A) shall be deposited as mis-  
21 cellaneous receipts in the Treasury of the United States.”.

22           (e) SEMIANNUAL REPORTING.—Section 405(c) of  
23 title 5, United States Code, is amended—

24                   (1) in paragraph (4), by striking “and” at the  
25 end;

1           (2) by redesignating paragraph (5) as para-  
2 graph (6); and

3           (3) by inserting after paragraph (4) the fol-  
4 lowing:

5           “(5) information relating to cases under chap-  
6 ter 38 of title 31, including—

7           “(A) the number of reports submitted by  
8 investigating officials to reviewing officials  
9 under section 3803(a)(1) of such title;

10           “(B) actions taken in response to reports  
11 described in subparagraph (A), which shall in-  
12 clude statistical tables showing—

13           “(i) pending cases;

14           “(ii) resolved cases;

15           “(iii) the average length of time to re-  
16 solve each case;

17           “(iv) the number of final agency deci-  
18 sions that were appealed to a district court  
19 of the United States or a higher court; and

20           “(v) if the total number of cases in a  
21 report is greater than 2—

22           “(I) the number of cases that  
23 were settled; and

24           “(II) the total penalty or assess-  
25 ment amount recovered in each case,

1 including through a settlement or  
2 compromise; and

3 “(C) instances in which the reviewing offi-  
4 cial declined to proceed on a case reported by  
5 an investigating official; and”.

6 (f) INCREASING EFFICIENCY OF DOJ PROC-  
7 ESSING.—Section 3803(j) of title 31, United States Code,  
8 is amended—

9 (1) by inserting “(1)” before “The reviewing”;

10 and

11 (2) by adding at the end the following:

12 “(2) A reviewing official shall notify the Attorney  
13 General in writing not later than 30 days before entering  
14 into any agreement to compromise or settle allegations of  
15 liability under section 3802 and before the date on which  
16 the reviewing official is permitted to refer allegations of  
17 liability to a presiding officer under subsection (b).”.

18 (g) REVISION OF DEFINITION OF HEARING OFFI-  
19 CIALS.—

20 (1) IN GENERAL.—Chapter 38 of title 31,  
21 United States Code, is amended—

22 (A) in section 3801(a)(7)—

23 (i) in subparagraph (A), by striking  
24 “or” at the end;

1 (ii) in subparagraph (B)(vii), by add-  
2 ing “or” at the end; and

3 (iii) by adding at the end the fol-  
4 lowing:

5 “(C) a member of the board of contract  
6 appeals pursuant to section 7105 of title 41, if  
7 the authority does not employ an available pre-  
8 siding officer under subparagraph (A);”; and

9 (B) in section 3803(d)(2)—

10 (i) in subparagraph (A), by striking  
11 “and” at the end;

12 (ii) in subparagraph (B)—

13 (I) by striking “the presiding”  
14 and inserting “(i) in the case of a re-  
15 ferral to a presiding officer described  
16 in subparagraph (A) or (B) of section  
17 3801(a)(7), the presiding”;

18 (II) in clause (i), as so des-  
19 igned, by striking the period at the  
20 end and inserting “; or”; and

21 (III) by adding at the end the  
22 following:

23 “(ii) in the case of a referral to a presiding  
24 officer described in subparagraph (C) of section  
25 3801(a)(7)—

1           “(I) the reviewing official shall submit  
2 a copy of the notice required by under  
3 paragraph (1) and of the response of the  
4 person receiving such notice requesting a  
5 hearing—

6                   “(aa) to the board of contract  
7 appeals that has jurisdiction over  
8 matters arising from the agency of the  
9 reviewing official pursuant to section  
10 7105(e)(1) of title 41; or

11                   “(bb) if the Chair of the board of  
12 contract appeals declines to accept the  
13 referral, to any other board of con-  
14 tract appeals; and

15           “(II) the reviewing official shall simul-  
16 taneously mail, by registered or certified  
17 mail, or shall deliver, notice to the person  
18 alleged to be liable under section 3802 that  
19 the referral has been made to an agency  
20 board of contract appeals with an expla-  
21 nation as to where the person may obtain  
22 the relevant rules of procedure promul-  
23 gated by the board; and”;

24                   (iii) by adding at the end the fol-  
25 lowing:



1           “(C) in the case of a hearing conducted by a  
2           presiding officer described in subparagraph (C) of  
3           section 3801(a)(7)—

4                   “(i) the presiding officer shall conduct the  
5           hearing according to the rules and procedures  
6           promulgated by the board of contract appeals;  
7           and

8                   “(ii) the hearing shall not be subject to the  
9           provisions in subsection (g)(2), (h), or (i).”.

10           (2) AGENCY BOARDS.—Section 7105(e) of title  
11           41, United States Code, is amended—

12                   (A) in paragraph (1), by adding at the end  
13           the following:

14                   “(E) ADMINISTRATIVE FALSE CLAIMS  
15           ACT.—

16                           “(i) IN GENERAL.—The boards de-  
17           scribed in subparagraphs (B), (C), and (D)  
18           shall have jurisdiction to hear any case re-  
19           ferred to a board of contract appeals under  
20           section 3803(d) of title 31.

21                           “(ii) DECLINING REFERRAL.—If the  
22           Chair of a board described in subpara-  
23           graph (B), (C), or (D) determines that ac-  
24           cepting a case under clause (i) would pre-  
25           vent adequate consideration of other cases

1           being handled by the board, the Chair may  
2           decline to accept the referral.”; and

3           (B) in paragraph (2), by inserting “or, in  
4           the event that a case is filed under chapter 38  
5           of title 31, any relief that would be available to  
6           a litigant under that chapter” before the period  
7           at the end.

8           (3) REGULATIONS.—Not later than 180 days  
9           after the date of enactment of this Act, each author-  
10          ity head, as defined in section 3801 of title 31,  
11          United States Code, and each board of contract ap-  
12          peals of a board described in subparagraph (B), (C),  
13          or (D) of section 7105(e) of title 41, United States  
14          Code, shall amend procedures regarding proceedings  
15          as necessary to implement the amendments made by  
16          this subsection.

17          (h) REVISION OF LIMITATIONS.—Section 3808 of  
18          title 31, United States Code, is amended by striking sub-  
19          section (a) and inserting the following:

20           “(a) A notice to the person alleged to be liable with  
21          respect to a claim or statement shall be mailed or delivered  
22          in accordance with section 3803(d)(1) not later than the  
23          later of—

24                   “(1) 6 years after the date on which the viola-  
25          tion of section 3802 is committed; or

1           “(2) 3 years after the date on which facts mate-  
2           rial to the action are known or reasonably should  
3           have been known by the authority head, but in no  
4           event more than 10 years after the date on which  
5           the violation is committed.”.

6           (i) DEFINITIONS.—Section 3801 of title 31, United  
7 States Code, is amended—

8           (1) in subsection (a)—

9                   (A) in paragraph (8), by striking “and” at  
10           the end;

11                   (B) in paragraph (9), by striking the pe-  
12           riod at the end and inserting a semicolon; and

13                   (C) by adding at the end the following:

14                   “(10) ‘material’ has the meaning given the term  
15           in section 3729(b) of this title; and

16                   “(11) ‘obligation’ has the meaning given the  
17           term in section 3729(b) of this title.”; and

18           (2) by adding at the end the following:

19                   “(d) For purposes of subsection (a)(10), materiality  
20           shall be determined in the same manner as under section  
21           3729 of this title.”.

22           (j) PROMULGATION OF REGULATIONS.—Not later  
23           than 180 days after the date of enactment of this Act,  
24           each authority head, as defined in section 3801 of title  
25           31, United States Code, shall—

1           (1) promulgate regulations and procedures to  
2 carry out this Act and the amendments made by this  
3 Act; and

4           (2) review and update existing regulations and  
5 procedures of the authority to ensure compliance  
6 with this Act and the amendments made by this Act.

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