

**FILE NUMBER:** H.F. 8

**DATE:** January 20, 2009

**Version:** As Introduced

**Authors:** Simon and others

**Subject:** False Claims Act

**Analyst:** Mark Shepard (651-296-5051)

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: [www.house.mn/hrd](http://www.house.mn/hrd).

### Overview

**Imposes civil penalties for persons who make false or fraudulent claims to the state or political subdivisions. Authorizes the Attorney General to enforce the false claims provisions. Provides conditions under which a private plaintiff may bring actions to enforce these provisions, and specifies the relative rights and responsibilities of the Attorney General and private plaintiffs. Provides conditions under which expenses and fees may be awarded, and in which private plaintiffs will share in recoveries under this law. Forbids employers from discriminating against employees who cooperate with investigations and actions under this law.**

#### Section

- 1 Definitions.** Defines terms, including:
  - “claim” is defined to mean a request or demand made to a contractor, grantee, or other recipient if the state provides any of the money or property requested or demanded.
  - “state” is defined to include state agencies and political subdivisions.
- 2 Liability for certain acts.** Provides that a person who commits any of the acts listed in this section is liable to the state for a civil penalty of between \$5,500 and \$11,000 per false claim, plus three times the amount of damages the state sustains because of the act. The specified acts relate to making various types of false claims for payment or approval to the state, or falsely avoiding or decreasing obligations to transmit money or property to the state. “State” is defined in section 1 to include any political subdivision of the state.

Specifies circumstances in which a court may assess not less than two times (instead of three times) the amount of damages the state sustains because of an act.

Provides that violators are also liable to the state for the costs of a civil action.

- 3 Exclusion.** Provides that this chapter does not apply to taxation.
- 4 Responsibilities of attorney general.** Authorizes the Attorney General to investigate violations and to bring civil actions to enjoin violations and to recover damages and penalties. Provides that the Attorney General need not prove actual damages. Provides for the state to recover attorney fees, investigative expenses, and costs.
- 5 Private remedies.** Authorizes any person to maintain an action on behalf of the person and a public entity if state or political subdivision money, property, or services are involved. Provides that if an action is brought under this section, no other person (including the state) may bring another action under this section based on the same facts.
- Specifies conditions under which actions cannot be brought under this section, including actions based on: evidence already known to the state; allegations or transactions that are already the subject of a state proceeding; disclosures made in criminal, civil, or administrative hearings or legislative investigations; public auditor or governing body investigations; or disclosures from the news media.
- Requires a person filing a complaint under this section to notify the Attorney General, including a written disclosure of material evidence. Provides that the person's complaint must remain sealed for at least 60 days.
- 6 Attorney General intervention.** Provides that within 120 days after receiving a complaint and disclosure, the Attorney General may intervene or decide not to. Regardless of whether or not the Attorney General intervenes, the Attorney General may pursue alternative remedies available to the state. If the Attorney General does this, the person initiating the action has the same rights in that proceeding as if the action had continued under this section. Findings and conclusions in the other proceeding are conclusive on all parties to an action under this section.
- 7 Service of unsealed complaint.** Provides that when unsealed, the complaint must be served on the defendant, and the defendant must respond within 20 days.
- 8 Attorney General and private party roles.** Provides that if the Attorney General does not intervene, the private party has the same rights in conducting the action as the Attorney General would have had. Provides conditions for later intervention by the Attorney General. Provides that if the Attorney General intervenes, the Attorney General has primary responsibility for prosecuting the action. Provides that the private person remains a party, and specifies the role of the private party.
- 9 Stay of discovery.** Provides for stay of discovery by a private person if the Attorney General shows this would interfere with prosecution or a civil or criminal matter arising out of the same facts.
- 10 Court-imposed limits upon participation of private plaintiff.** Allows a court to limit the private person's participation in an action in which the Attorney General has intervened.
- 11 Limitation of actions.** Provides that actions under this section must be brought within three years of the date of discovery of fraudulent activity by the Attorney General, or within six years after the fraudulent activity occurred, but not more than 10 years after the violation occurred. Specifies the effect of a guilty plea in a criminal action upon an action under this

section. Provides that remedies under this section are not exclusive.

- 12 Award of expenses and attorney fees.** Provides that if the Attorney General or a person bringing an action prevails in or settles an action, the court may authorize the person to recover costs, attorney fees, and expert consultant and witness fees from a defendant other than the state or a political subdivision. If the Attorney General does not intervene, and if the defendant prevails, the court may award expenses and attorney fees against the party or parties who participated in the action if the action was clearly frivolous or brought for harassment.
- 13 Distribution to private plaintiff.** Provides that when the Attorney General intervenes at the outset of an action brought by another person, the person shall receive not less than 15 percent or more than 25 percent of any recovery in proportion to the person's contribution to the conduct of the action. If the Attorney General does not intervene at the outset, the person must receive between 25 and 30 percent of any recovery or settlement, as the court determines to be reasonable.
- 14 Employer restrictions.** Forbids an employer from forbidding an employee to disclose information to a public entity in furtherance of an action under this section or from discriminating against an employee in terms or conditions of employment because of these disclosures. Specifies civil liability for employer violations.