



Rep. Jay Hoffman

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10000HB1685ham001

LRB100 03379 HEP 24126 a

1 AMENDMENT TO HOUSE BILL 1685

2 AMENDMENT NO. _____. Amend House Bill 1685 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Insurance Claims Fraud Prevention Act is
5 amended by changing Section 25 as follows:

6 (740 ILCS 92/25)

7 Sec. 25. Costs and proceeds of action.

8 (a) If the State's Attorney or Attorney General proceeds
9 with an action brought by a person under Section 15, that
10 person is entitled to receive an amount that the court
11 determines is reasonable based upon the extent to which the
12 person contributed to the prosecution of the action. Subject to
13 subsection (d), the amount awarded to the person who brought
14 the action shall not be less than 30% of the proceeds of the
15 action or settlement of the claim, and shall be paid from the
16 proceeds.

1 (b) If the State's Attorney or Attorney General does not
2 proceed with an action brought by a person under Section 15,
3 that person shall receive an amount that the court decides is
4 reasonable for collecting the civil penalty and damages.
5 Subject to subsection (d), the amount shall not be less than
6 40% of the proceeds of the action or settlement, and shall be
7 paid from the proceeds.

8 (c) If the person bringing the action as a result of a
9 violation of this Act has paid money to the defendant or to an
10 attorney acting on behalf of the defendant in the underlying
11 claim, then he or she shall be entitled to up to double the
12 amount paid to the defendant or the attorney if that amount is
13 greater than 50% of the proceeds.

14 (d) Where the action is one that the court finds to be
15 based primarily on disclosures of specific information, other
16 than information provided by the person bringing the action
17 under Section 15, relating to allegations or transactions in a
18 criminal, civil, or administrative hearing, in a legislative or
19 administrative report, hearing, audit, or investigation, or
20 from the news media, the court may award those sums that it
21 considers appropriate, but in no case more than 10% of the
22 proceeds, taking into account the significance of the
23 information and the role of the person bringing the action in
24 advancing the case to litigation.

25 (e) Any payment to a person under subsection (a), (b), (c),
26 or (d) shall be made from the proceeds. The person shall also

1 receive an amount for reasonable expenses that the court finds
2 to have been necessarily incurred, plus reasonable attorney's
3 fees and costs. All of those expenses, fees, and costs shall be
4 awarded against the defendant.

5 (f) If a local State's Attorney has proceeded with an
6 action under this Act, the Treasurer of the County where the
7 action was brought shall receive an amount for reasonable
8 expenses that the court finds to have been necessarily incurred
9 by the State's Attorney, including reasonable attorney's fees
10 and costs, plus 50% of the funds not awarded to a private
11 party. Those amounts shall be used to investigate and prosecute
12 insurance fraud, augmenting existing budgets rather than
13 replacing them. All remaining funds shall go to the State and
14 be deposited in the General Revenue Fund and, when
15 appropriated, shall be allocated to appropriate State agencies
16 for enhanced insurance fraud investigation, prosecution, and
17 prevention efforts.

18 (g) If the Attorney General has proceeded with an action
19 under this Act, all funds not awarded to a private party, shall
20 go to the State and be deposited in the General Revenue Fund
21 and, when appropriated, shall be allocated to appropriate State
22 agencies for enhanced insurance fraud investigation,
23 prosecution, and prevention efforts.

24 (h) If neither a local State's Attorney or the Attorney
25 General has proceeded with an action under this Act, 50% of the
26 funds not awarded to a private party shall be deposited with

1 the Treasurer of the County where the action was brought and
2 shall be disbursed to the State's Attorney of the County where
3 the action was brought. Those funds shall be used by the
4 State's Attorney solely to investigate, prosecute, and prevent
5 crime insurance fraud, augmenting existing budgets rather than
6 replacing them. All remaining funds shall go to the State and
7 be deposited in the General Revenue Fund and, when
8 appropriated, shall be allocated to appropriate State agencies
9 for enhanced crime insurance fraud investigation, prosecution,
10 and prevention efforts.

11 (i) Whether or not the State's Attorney or Attorney General
12 proceeds with the action, if the court finds that the action
13 was brought by a person who planned and initiated the violation
14 of this Act, that person shall be dismissed from the civil
15 action and shall not receive any share of the proceeds of the
16 action. The dismissal shall not prejudice the right of the
17 State's Attorney or Attorney General to continue the action on
18 behalf of the State.

19 (j) If the State's Attorney or Attorney General does not
20 proceed with the action, and the person bringing the action
21 conducts the action, the court may award to the defendant its
22 reasonable attorney's fees and expenses if the defendant
23 prevails in the action and the court finds that the claim of
24 the person bringing the action was clearly frivolous, clearly
25 vexatious, or brought primarily for purposes of harassment.

26 (Source: P.A. 92-233, eff. 1-1-02.)".