

HB5300



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5300

by Rep. David McSweeney

SYNOPSIS AS INTRODUCED:

740 ILCS 175/3

from Ch. 127, par. 4103

Amends the Illinois False Claims Act. Provides that a Section imposing liability for certain acts does not apply to any taxes imposed, collected, or administered by the State of Illinois (instead of to claims, records, or statements made under the Illinois Income Tax Act).

LRB100 17866 HEP 33050 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois False Claims Act is amended by
5 changing Section 3 as follows:

6 (740 ILCS 175/3) (from Ch. 127, par. 4103)

7 Sec. 3. False claims.

8 (a) Liability for certain acts.

9 (1) In general, any person who:

10 (A) knowingly presents, or causes to be presented,
11 a false or fraudulent claim for payment or approval;

12 (B) knowingly makes, uses, or causes to be made or
13 used, a false record or statement material to a false
14 or fraudulent claim;

15 (C) conspires to commit a violation of
16 subparagraph (A), (B), (D), (E), (F), or (G);

17 (D) has possession, custody, or control of
18 property or money used, or to be used, by the State and
19 knowingly delivers, or causes to be delivered, less
20 than all the money or property;

21 (E) is authorized to make or deliver a document
22 certifying receipt of property used, or to be used, by
23 the State and, intending to defraud the State, makes or

1 delivers the receipt without completely knowing that
2 the information on the receipt is true;

3 (F) knowingly buys, or receives as a pledge of an
4 obligation or debt, public property from an officer or
5 employee of the State, or a member of the Guard, who
6 lawfully may not sell or pledge property; or

7 (G) knowingly makes, uses, or causes to be made or
8 used, a false record or statement material to an
9 obligation to pay or transmit money or property to the
10 State, or knowingly conceals or knowingly and
11 improperly avoids or decreases an obligation to pay or
12 transmit money or property to the State,

13 is liable to the State for a civil penalty of not less than
14 the minimum amount and not more than the maximum amount
15 allowed for a civil penalty for a violation of the federal
16 False Claims Act (31 U.S.C. 3729 et seq.) as adjusted by
17 the Federal Civil Penalties Inflation Adjustment Act of
18 1990 (28 U.S.C. 2461), plus 3 times the amount of damages
19 which the State sustains because of the act of that person.
20 Notwithstanding any other provision, a person is liable to
21 the State for a civil penalty of not less than \$5,500 and
22 not more than \$11,000, plus 3 times the amount of damages
23 which the State sustains because of the act of that person,
24 when: (i) the civil action was brought by a private person
25 pursuant to paragraph (1) of subsection (b) of Section 4;
26 (ii) the State did not elect to intervene pursuant to

1 paragraph (2) of subsection (b) of Section 4; (iii) the
2 actual amount of the tax owed to the State is equal to or
3 less than \$50,000, which does not include interest,
4 penalties, attorney's fees, costs, or any other amounts
5 owed or paid pursuant to this Act; and (iv) the violation
6 of this Act relates to or involves a false claim regarding
7 a tax administered by the Department of Revenue, excluding
8 claims, records, or statements made under the Property Tax
9 Code. The penalties in this Section are intended to be
10 remedial rather than punitive, and shall not preclude, nor
11 be precluded by, a criminal prosecution for the same
12 conduct.

13 (2) A person violating this subsection shall also be
14 liable to the State for the costs of a civil action brought
15 to recover any such penalty or damages.

16 (b) Definitions. For purposes of this Section:

17 (1) The terms "knowing" and "knowingly":

18 (A) mean that a person, with respect to
19 information:

20 (i) has actual knowledge of the information;

21 (ii) acts in deliberate ignorance of the truth
22 or falsity of the information; or

23 (iii) acts in reckless disregard of the truth
24 or falsity of the information, and

25 (B) require no proof of specific intent to defraud.

26 (2) The term "claim":

1 (A) means any request or demand, whether under a
2 contract or otherwise, for money or property and
3 whether or not the State has title to the money or
4 property, that

5 (i) is presented to an officer, employee, or
6 agent of the State; or

7 (ii) is made to a contractor, grantee, or other
8 recipient, if the money or property is to be spent
9 or used on the State's behalf or to advance a State
10 program or interest, and if the State:

11 (I) provides or has provided any portion
12 of the money or property requested or demanded;
13 or

14 (II) will reimburse such contractor,
15 grantee, or other recipient for any portion of
16 the money or property which is requested or
17 demanded; and

18 (B) does not include requests or demands for money
19 or property that the State has paid to an individual as
20 compensation for State employment or as an income
21 subsidy with no restrictions on that individual's use
22 of the money or property.

23 (3) The term "obligation" means an established duty,
24 whether or not fixed, arising from an express or implied
25 contractual, grantor-grantee, or licensor-licensee
26 relationship, from a fee-based or similar relationship,

1 from statute or regulation, or from the retention of any
2 overpayment.

3 (4) The term "material" means having a natural tendency
4 to influence, or be capable of influencing, the payment or
5 receipt of money or property.

6 (c) Exclusion. This Section does not apply to any taxes
7 imposed, collected, or administered by the State of Illinois
8 ~~claims, records, or statements made under the Illinois Income~~
9 ~~Tax Act.~~

10 (Source: P.A. 100-452, eff. 8-25-17.)