

By Senator Oelrich

14-1360-07

1 A bill to be entitled

2 An act relating to false claims; amending s.

3 68.081, F.S.; providing that the purpose of the

4 Florida False Claims Act is to prevent the

5 state from paying false and fraudulent claims;

6 amending s. 68.082, F.S.; redefining the term

7 "claim" to include claims filed electronically;

8 providing that a person is liable for a civil

9 penalty if he or she files a false or

10 fraudulent claim; amending s. 68.083, F.S.;

11 reducing time limits for false claim

12 proceedings; amending s. 68.084, F.S.; revising

13 the period in which a stay to conduct discovery

14 may be granted; amending s. 68.085, F.S.;

15 providing an award to the agency injured by the

16 false or fraudulent claim; amending s. 68.089,

17 F.S.; revising the time periods in which a

18 civil action may be filed under the False

19 Claims Act; providing an effective date.

20

21 Be It Enacted by the Legislature of the State of Florida:

22

23 Section 1. Subsection (2) of section 68.081, Florida

24 Statutes, is amended to read:

25 68.081 Florida False Claims Act; short title;

26 purpose.--

27 (2) The purpose of the Florida False Claims Act is to

28 deter persons from knowingly causing or assisting in causing

29 state government to pay claims that are false or fraudulent,

30 and to provide remedies for obtaining treble damages and civil

31

1 penalties for state government when money is obtained from
2 state government by reason of a false or fraudulent claim.

3 Section 2. Paragraph (b) of subsection (1) and
4 subsection (2) of section 68.082, Florida Statutes, are
5 amended to read:

6 68.082 False claims against the state; definitions;
7 liability.--

8 (1) As used in this section, the term:

9 (b) "Claim" includes any written or electronically
10 submitted request or demand, under a contract or otherwise,
11 for money, property, or services, which is made to any
12 employee, officer, or agent of an agency, or to any
13 contractor, grantee, or other recipient if the agency provides
14 any portion of the money or property requested or demanded, or
15 if the agency will reimburse the contractor, grantee, or other
16 recipient for any portion of the money or property requested
17 or demanded.

18 (2) Any person who:

19 (a) Knowingly presents or causes to be presented to an
20 officer or employee of an agency a false or fraudulent claim
21 for payment or approval;

22 (b) Knowingly makes, uses, or causes to be made or
23 used a false record or statement to get a false or fraudulent
24 claim paid or approved by an agency;

25 (c) Conspires to submit a false or fraudulent claim to
26 an agency or to deceive an agency for the purpose of getting a
27 false or fraudulent claim allowed or paid;

28 (d) Has possession, custody, or control of property or
29 money used or to be used by an agency and, intending to
30 deceive the agency or knowingly conceal the property, delivers
31

1 or causes to be delivered less property than the amount for
2 which the person receives a certificate or receipt;

3 (e) Is authorized to make or deliver a document
4 certifying receipt of property used or to be used by an agency
5 and, intending to deceive the agency, makes or delivers the
6 receipt without knowing that the information on the receipt is
7 true;

8 (f) Knowingly buys or receives, as a pledge of an
9 obligation or a debt, public property from an officer or
10 employee of an agency who may not sell or pledge the property
11 lawfully; or

12 (g) Knowingly makes, uses, or causes to be made or
13 used a false record or statement to conceal, avoid, or
14 decrease an obligation to pay or transmit money or property to
15 an agency,

16
17 is liable to the state for a civil penalty of not less than
18 ~~\$5,500~~~~\$5,000~~ and not more than~~\$11,000~~~~\$10,000~~ and for treble
19 the amount of damages the agency sustains because of the act
20 or omission of that person.

21 Section 3. Subsections (3) and (6) of section 68.083,
22 Florida Statutes, are amended to read:

23 68.083 Civil actions for false claims.--

24 (3) The complaint shall be identified on its face as a
25 qui tam action and shall be filed in the circuit court of the
26 Second Judicial Circuit, in and for Leon County. Immediately
27 upon the filing of the complaint, it becomes automatically
28 sealed, and a copy of the complaint and written disclosure of
29 substantially all material evidence and information the person
30 possesses shall be served on the Attorney General, as head of
31 the department, and on the Chief Financial Officer, as head of

1 | the Department of Financial Services, by registered mail,
2 | return receipt requested. The department, or the Department of
3 | Financial Services under the circumstances specified in
4 | subsection (4), may elect to intervene and proceed with the
5 | action, on behalf of the state, within 60 ~~90~~ days after it
6 | receives both the complaint and the material evidence and
7 | information.

8 | (6) Before the expiration of the 60-day ~~90-day~~ period
9 | or any extensions obtained under subsection (5), the
10 | department shall:

11 | (a) Proceed with the action, in which case the action
12 | is conducted by the department on behalf of the state; or

13 | (b) Notify the court that it declines to take over the
14 | action, in which case the person bringing the action has the
15 | right to conduct the action.

16 | Section 4. Subsection (4) of section 68.084, Florida
17 | Statutes, is amended to read:

18 | 68.084 Rights of the parties in civil actions.--

19 | (4) Whether or not the department proceeds with the
20 | action, upon a showing by the department that certain actions
21 | of discovery by the person initiating the action would
22 | interfere with an investigation by state government or the
23 | prosecution of a criminal or civil matter arising out of the
24 | same facts, the court may stay such discovery for a period of
25 | not more than 60 ~~90~~ days. Such a showing shall be conducted in
26 | camera. The court may extend the 60-day ~~90-day~~ period upon a
27 | further showing in camera by the department that the criminal
28 | or civil investigation or proceeding has been pursued with
29 | reasonable diligence and any proposed discovery in the civil
30 | action will interfere with an ongoing criminal or civil
31 | investigation or proceeding.

1 Section 5. Subsection (4) of section 68.085, Florida
2 Statutes, is amended to read:

3 68.085 Awards to plaintiffs bringing action.--

4 (4) Following any distributions under subsection (1),
5 subsection (2), or subsection (3), the agency injured by the
6 submission of a false or fraudulent claim shall be awarded an
7 amount not to exceed its compensatory damages. Any remaining
8 proceeds, including civil penalties awarded under s. 68.082,
9 shall be deposited in the General Revenue Fund.

10 Section 6. Section 68.089, Florida Statutes, is
11 amended to read:

12 68.089 Limitation of actions.--A civil action under
13 this act may not be brought:

14 (1) More than 6 ~~5~~ years after the date on which the
15 violation of s. 68.082 is committed; or

16 (2) More than 3 ~~2~~ years after the date when facts
17 material to the right of action are known or reasonably should
18 have been known by the state official charged with
19 responsibility to act in the circumstances, but in no event
20 more than 10 ~~7~~ years after the date on which the violation is
21 committed, whichever occurs last.

22 Section 7. This act shall take effect July 1, 2007.

23 *****

24
25 SENATE SUMMARY

26 States that the purpose of the Florida False Claims Act
27 is to prevent the state from paying false and fraudulent
28 claims. Revises the definition of "claim" to include
29 claims filed electronically. Provides that a person is
30 liable for a civil penalty if he or she files a false or
31 fraudulent claim. Revises the time period in which a stay
to conduct discovery may be granted. Revises the time
periods in which a civil action might be filed under the
False Claims Act.