

Committee Substitute for Senate Bill No. 2312

An act relating to false claims; amending s. 68.081, F.S.; providing that the purpose of the Florida False Claims Act is to prevent the state from paying false and fraudulent claims; amending s. 68.082, F.S.; redefining the term “claim” to include claims filed electronically; providing that a person is liable for a civil penalty if he or she files a false or fraudulent claim; amending s. 68.083, F.S.; reducing time limits for false claim proceedings; amending s. 68.084, F.S.; revising the period in which a stay to conduct discovery may be granted; amending s. 68.085, F.S.; providing an award to the agency injured by the false or fraudulent claim; amending s. 68.089, F.S.; revising the time periods in which a civil action may be filed under the False Claims Act; providing an effective date.

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

Section 1. Subsection (2) of section 68.081, Florida Statutes, is amended to read:

68.081 Florida False Claims Act; short title; purpose.—

(2) The purpose of the Florida False Claims Act is to deter persons from knowingly causing or assisting in causing state government to pay claims that are false or fraudulent, and to provide remedies for obtaining treble damages and civil penalties for state government when money is obtained from state government by reason of a false or fraudulent claim.

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

68.082 False claims against the state; definitions; liability.—

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

(b) “Claim” includes any written or electronically submitted request or demand, under a contract or otherwise, for money, property, or services, which is made to any employee, officer, or agent of an agency, or to any contractor, grantee, or other recipient if the agency provides any portion of the money or property requested or demanded, or if the agency will reimburse the contractor, grantee, or other recipient for any portion of the money or property requested or demanded.

(2) Any person who:

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

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

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

(d) Has possession, custody, or control of property or money used or to be used by an agency and, intending to deceive the agency or knowingly conceal the property, delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt;

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

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

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

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

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

68.083 Civil actions for false claims.—

(3) The complaint shall be identified on its face as a qui tam action and shall be filed in the circuit court of the Second Judicial Circuit, in and for Leon County. Immediately upon the filing of the complaint, a copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Attorney General, as head of the department, and on the Chief Financial Officer, as head of the Department of Financial Services, by registered mail, return receipt requested. The department, or the Department of Financial Services under the circumstances specified in subsection (4), may elect to intervene and proceed with the action, on behalf of the state, within 60 ~~90~~ days after it receives both the complaint and the material evidence and information.

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

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

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

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

68.084 Rights of the parties in civil actions.—

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

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

68.085 Awards to plaintiffs bringing action.—

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

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

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

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

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

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

Approved by the Governor June 27, 2007.

Filed in Office Secretary of State June 27, 2007.