



General Assembly

Substitute Bill No. 5205

February Session, 2006

* HB05205GAE 032006 *

AN ACT CONCERNING RECOVERY OF MISAPPROPRIATED STATE FUNDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) For purposes of sections 1 to
2 4, inclusive, of this act:

3 (1) "Claim" means any request or demand for money or property
4 made (A) to a state official, state employee, state agent or any other
5 representative of the state, or (B) to a contractor, subcontractor, grantee
6 or other person if the state provides any portion of the money or
7 property requested or demanded, or if the state will reimburse directly
8 or indirectly such contractor, subcontractor, grantee or other person for
9 any portion of the money or property requested or demanded;

10 (2) "Knowing" and "knowingly" means when a person, with respect
11 to information, does any of the following: (A) Has actual knowledge of
12 the information, (B) acts in deliberate ignorance of the truth or falsity
13 of the information, or (C) acts in reckless disregard of the truth or
14 falsity of the information;

15 (3) "Original source" means an individual who has direct and
16 independent knowledge of information that the individual has
17 voluntarily provided to the Attorney General or the Auditors of Public
18 Accounts, without public disclosure, and upon which the Attorney

19 General has based an action brought pursuant to section 3 of this act;

20 (4) "Person" means any natural person, corporation, partnership,
21 association, trust or other business or legal entity; and

22 (5) "State" means any state agency in the executive, legislative or
23 judicial branch, and any quasi-public agency, as defined in section 1-
24 120 of the general statutes.

25 Sec. 2. (NEW) (*Effective from passage*) (a) A person defrauds the state
26 when such person:

27 (1) Knowingly presents, or causes to be presented, to any state
28 official or state employee a false or fraudulent claim;

29 (2) Knowingly makes, uses or causes to be made or used, a false
30 record or statement to obtain payment or approval of a claim by the
31 state;

32 (3) Conspires to defraud the state through the allowance or payment
33 of a false or fraudulent claim;

34 (4) Pursuant to a certificate or receipt, has possession, custody or
35 control of property or money used, or to be used, by the state and
36 knowingly delivers, or causes to be delivered, to the state less property
37 than the amount indicated on such certificate or receipt with the intent
38 to knowingly conceal the property;

39 (5) Is authorized to make or deliver a document certifying receipt of
40 property used, or to be used, by the state and, with the intent to
41 deceive the state, knowingly makes or delivers the receipt without
42 verifying that the information on the receipt is true;

43 (6) Buys, or receives as a pledge of an obligation or debt, public
44 property from an official or employee of the state knowing that such
45 official or employee may not lawfully sell or pledge the property;

46 (7) Enters into an agreement, contract or understanding with an

47 official or employee of the state knowing the information contained in
48 such agreement, contract or understanding is false;

49 (8) Knowingly makes, uses or causes to be made or used a false
50 record or statement to conceal, avoid or decrease an obligation to pay
51 or transmit money or property to the state; or

52 (9) Is a beneficiary of an inadvertent submission of a false claim to
53 the state and subsequently discovers the falsity of the claim but
54 knowingly fails to disclose the false claim to the state within a
55 reasonable time after discovery of the falsity of the claim.

56 (b) This section shall not be construed to apply to an act that would
57 constitute workers' compensation fraud pursuant to section 31-290c of
58 the general statutes, an act that violates any provision of title 12 of the
59 general statutes or an act where the alleged loss to the state is less than
60 twenty-five thousand dollars.

61 Sec. 3. (NEW) (*Effective from passage*) (a) Whenever the Attorney
62 General has reason to believe that a person may have defrauded the
63 state, pursuant to section 2 of this act, the Attorney General may
64 investigate such act and bring a civil action in the Superior Court
65 against such person to recover civil penalties and damages as provided
66 in this section and to obtain such equitable relief as the court deems
67 appropriate.

68 (b) Proof that a person has acted with the specific intent to defraud
69 the state shall not be required for a finding that such person has
70 defrauded the state pursuant to section 2 of this act. Innocent mistake
71 shall be an affirmative defense to any action brought pursuant to this
72 section. The state shall prove all essential elements of such cause of
73 action, including damages, by a preponderance of the evidence. A
74 corporation, limited liability corporation, partnership or other person
75 shall be liable to the state for the acts of its agent where the agent acted
76 with apparent authority to defraud the state pursuant to section 2 of
77 this act.

78 (c) Any person who is found by the court to have defrauded the
79 state pursuant to section 2 of this act shall be liable to the state for (1)
80 three times the amount of damages that the state sustained due to the
81 fraudulent act, (2) a civil penalty of not less than five thousand dollars
82 and not more than ten thousand dollars for each act that constitutes
83 defrauding the state pursuant to section 2 of this act, and (3)
84 reasonable attorney's fees and costs.

85 (d) Notwithstanding the provisions of subsection (c) of this section,
86 the court may, within its discretion, reduce an award of damages to the
87 state upon finding that a person has defrauded the state pursuant to
88 section 2 of this act, provided such award includes an award for the
89 consequential damages the state sustained as a result of the
90 defendant's violation. The court may, within its discretion, decide not
91 to impose a civil penalty against such defendant provided the court
92 finds each of the following:

93 (1) The defendant committing the violation provided the Attorney
94 General with all the information known to such person about the
95 defrauding of the state not later than thirty days after the date on
96 which the person first obtained the information;

97 (2) The defendant fully cooperated with any state investigation of
98 such defrauding; and

99 (3) At the time such defendant provided the Attorney General with
100 such information, no criminal prosecution, civil action or
101 administrative action had commenced with respect to the defrauding
102 of the state, and the defendant did not have actual knowledge of the
103 existence of an investigation into the defrauding of the state.

104 Sec. 4. (NEW) (*Effective from passage*) (a) The court shall approve any
105 settlement of an action brought under section 3 of this act. In
106 approving a settlement of, or rendering a judgment in, an action
107 brought under section 3 of this act, the court, upon application by the
108 Attorney General, may award to an original source not more than five

109 per cent of the award of actual damages paid to the state, taking into
110 consideration the significance of the information provided by the
111 original source to the court's finding of a defrauding of the state
112 pursuant to section 2 of this act or the settlement of the action.

113 (b) Notwithstanding the provisions of subsection (a) of this section,
114 an original source is not entitled to receive a portion of any court
115 judgment or settlement if: (1) The action brought pursuant to section 3
116 of this act is based on allegations or transactions that are the subject of
117 another criminal, civil, administrative or legislative proceeding; (2) the
118 information provided by the original source is based on the public
119 disclosure of allegations or transactions in a criminal, civil,
120 administrative or legislative proceeding or hearing or from the news
121 media; (3) the original source is an individual who is or was employed
122 by the state whose scope of employment includes investigating or
123 prosecuting fraud against the state and the information was gathered
124 in the course of such employment; or (4) the original source planned,
125 initiated or knowingly participated in the defrauding of the state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section

Statement of Legislative Commissioners:

In sections 3 and 4, references to "a court of competent jurisdiction", "a court" and "Superior Court" were changed to "the court" for purposes of consistency and clarity.

GAE *Joint Favorable Subst.-LCO*