

# HOUSE BILL 773

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CF SB 666

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By: **The Speaker (By Request – Office of the Attorney General)**

Introduced and read first time: February 8, 2023

Assigned to: Judiciary and Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland False Claims Act and Maryland False Health Claims Act – Revisions**

3 FOR the purpose of authorizing certain persons to continue with actions under the  
4 Maryland False Claims Act and the Maryland False Health Claims Act when the  
5 governmental entity or the State elects not to proceed with the action; authorizing  
6 the governmental entity or the State to serve certain subpoenas under the Maryland  
7 False Claims Act and the Maryland False Health Claims Act; establishing certain  
8 minimum penalties under the Maryland False Claims Act and the Maryland False  
9 Health Claims Act; and generally relating to the Maryland False Claims Act and the  
10 Maryland False Health Claims Act.

11 BY repealing and reenacting, with amendments,  
12 Article – General Provisions  
13 Section 8–102, 8–103, 8–104, and 8–105(a)  
14 Annotated Code of Maryland  
15 (2019 Replacement Volume and 2022 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – Health – General  
18 Section 2–602, 2–603, 2–604, and 2–605(a)  
19 Annotated Code of Maryland  
20 (2019 Replacement Volume and 2022 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
22 That the Laws of Maryland read as follows:

23 **Article – General Provisions**

24 8–102.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) This section does not apply to claims, records, or statements related to State  
2 or local taxes.

3 (b) A person may not:

4 (1) knowingly present or cause to be presented a false or fraudulent claim  
5 for payment or approval;

6 (2) knowingly make, use, or cause to be made or used a false record or  
7 statement material to a false or fraudulent claim;

8 (3) conspire to commit a violation under this title;

9 (4) have possession, custody, or control of money or other property used or  
10 to be used by or on behalf of a governmental entity and knowingly deliver or cause to be  
11 delivered to the governmental entity less than all of that money or other property;

12 (5) (i) be authorized to make or deliver a receipt or other document  
13 certifying receipt of money or other property used or to be used by a governmental entity;  
14 and

15 (ii) make or deliver a receipt or document intending to defraud the  
16 governmental entity, knowing that the information contained in the receipt or document is  
17 not true;

18 (6) knowingly buy or receive as a pledge of an obligation or a debt publicly  
19 owned property from an officer, employee, or agent of a governmental entity who lawfully  
20 may not sell or pledge the property;

21 (7) knowingly make, use, or cause to be made or used a false record or  
22 statement material to an obligation to pay or transmit money or other property to a  
23 governmental entity;

24 (8) knowingly conceal, or knowingly and improperly avoid or decrease, an  
25 obligation to pay or transmit money or other property to a governmental entity, including  
26 misrepresenting the time at which a trade was made to make the transaction appear less  
27 favorable; or

28 (9) knowingly make any other false or fraudulent claim against a  
29 governmental entity.

30 (c) (1) A person that is found to have violated subsection (b) of this section is  
31 liable to the governmental entity for:

32 (i) a civil penalty of **NOT LESS THAN \$5,000 AND** not more than  
33 \$10,000 for each violation; and

1 (ii) an additional amount of not more than three times the amount  
2 of damages that the governmental entity sustains as a result of the acts of that person in  
3 violation of subsection (b) of this section.

4 (2) The total amount owed by a person under paragraph (1) of this  
5 subsection may not be less than the amount of the actual damages the governmental entity  
6 incurs as a result of the person's violation of subsection (b) of this section.

7 (d) In determining the appropriate amount of fines and damages under  
8 subsection (c) of this section, the court shall consider:

9 (1) the number, nature, and severity of the violations of this title for which  
10 the person has been found liable;

11 (2) the number, nature, and severity of any previous violations of this title;

12 (3) the degree of loss suffered by the governmental entity;

13 (4) the person's history of billing compliance;

14 (5) whether the person has a compliance program in place;

15 (6) the extent to which the person has taken steps to address and correct  
16 the violation since the person became aware of the violation;

17 (7) any funds previously returned to the governmental entity in compliance  
18 with federal requirements regarding overpayments, to the extent the funds represented  
19 losses to the governmental entity caused by the violation;

20 (8) (i) whether the person self-reported the violation;

21 (ii) the timeliness of the self-reporting;

22 (iii) the extent to which the person otherwise cooperated in the  
23 investigation of the violation; and

24 (iv) the extent to which the person had prior knowledge of an  
25 investigation or other action relating to the violation; and

26 (9) any other factor as justice requires.

27 (e) The penalties provided in subsection (c) of this section are in addition to any  
28 criminal, civil, or administrative penalties provided under any other State or federal  
29 statute or regulation.

1 (a) If a governmental entity finds that a person has violated or is violating §  
2 8–102 of this title, the governmental entity may file a civil action in a court of competent  
3 jurisdiction within the State against the person.

4 (b) In filing **OR INTERVENING IN** a civil action under this [section] **TITLE**, the  
5 governmental entity may seek:

6 (1) the penalties provided under § 8–102(c) of this title; and

7 (2) subject to the guidelines under [§ 8–105(b)(4)] **§ 8–105(A)(5)** of this  
8 subtitle, court costs and attorney’s fees.

9 (c) A governmental entity may not maintain an action under this section if the  
10 governmental entity has filed a civil action based on the same underlying act under §  
11 2–603 of the Health – General Article or has sought enforcement by the Attorney General  
12 under § 11–205 or § 11–205.1 of the State Finance and Procurement Article.

13 8–104.

14 (a) (1) (i) A person may file a civil action on behalf of the person and the  
15 governmental entity in a court of competent jurisdiction within the State against a person  
16 who has acted or is acting in violation of § 8–102 of this title.

17 (ii) A civil action filed under subparagraph (i) of this paragraph shall  
18 be brought in the name of the governmental entity.

19 (2) A person filing an action under this section may seek:

20 (i) the penalties provided under § 8–102(c) of this title; and

21 (ii) subject to the guidelines set forth in [§ 8–105(a)(4)] **§**  
22 **8–105(A)(5)** of this title, court costs and attorney’s fees.

23 (3) (i) The person shall serve on the governmental entity a copy of the  
24 complaint and a written disclosure of substantially all material evidence and information  
25 that the person possesses, in accordance with the provisions of Title 2 of the Maryland  
26 Rules for serving process on the State or a local entity.

27 (ii) 1. The complaint shall be filed in camera and shall remain  
28 under seal for at least 60 days.

29 2. The complaint may not be served on the defendant until  
30 the complaint is unsealed and the court orders the complaint served.

31 3. Within 60 days after the governmental entity is served  
32 with the complaint and the material evidence and information, the governmental entity  
33 may elect to intervene and proceed with the action.

1           (4) (i) For good cause shown, the governmental entity may move the  
2 court for extensions of the time during which the complaint remains under seal under  
3 paragraph (3)(i)1 of this subsection.

4           (ii) Any motions made under subparagraph (i) of this paragraph may  
5 be supported by affidavits or other submissions in camera.

6           (5) (i) The defendant may not be required to answer a complaint filed  
7 under this section until after the complaint is:

8                   1. unsealed and ordered by the court to be served; and

9                   2. served on the defendant in accordance with Title 2 of the  
10 Maryland Rules.

11           (ii) When answering a complaint filed under this section, a  
12 defendant shall follow the time frames and other provisions for filing answers to a  
13 complaint as required under Title 2, Chapter 300 of the Maryland Rules.

14           (iii) During the period in which the complaint is under seal, if the  
15 governmental entity's investigation reveals that the act, transaction, or occurrence that  
16 gave rise to the alleged violation of this title is reasonably likely to be continuing, the  
17 governmental entity shall notify the defendant as soon as practicable without jeopardizing  
18 the course and conduct of the governmental entity's or the federal government's  
19 investigation of the violation, compromising the development of evidence, or violating any  
20 State or federal law.

21           (6) Before the later of the expiration of the 60-day period during which the  
22 complaint remains under seal under paragraph (3)(i)1 of this subsection or any extension  
23 of the 60-day period obtained under paragraph (4) of this subsection, the governmental  
24 entity shall:

25                   (i) intervene and proceed with the action in a court of competent  
26 jurisdiction within the State; or

27                   (ii) notify the court that it will not intervene and proceed with the  
28 action.

29           [(7) If the governmental entity does not elect to intervene and proceed with  
30 the action under paragraph (6) of this subsection, before unsealing the complaint, the court  
31 shall dismiss the action.]

32           [(8) (7) If a person initiates an action under this section, no person other  
33 than the governmental entity may intervene in the action or initiate a related action based  
34 on the facts underlying the pending action.

1 (b) (1) If the governmental entity intervenes and proceeds with the action  
2 under subsection (a)(6)(i) of this section:

3 (i) the governmental entity shall have the primary responsibility for  
4 proceeding with the action and may not be bound by any act of the person who initiated the  
5 action; and

6 (ii) subject to paragraphs (3) through (6) of this subsection, the  
7 person who initiated the action may continue as a party to the action.

8 (2) (i) During an investigation by the governmental entity conducted  
9 either independently or in conjunction with a civil action filed under this title, [the  
10 governmental entity shall have the same rights of discovery as a civil litigant in the circuit  
11 court under Title 2, Chapter 400 of the Maryland Rules] **IF THE GOVERNMENTAL ENTITY  
12 HAS REASON TO BELIEVE THAT A PERSON HAS POSSESSION, CUSTODY, OR CONTROL  
13 OF ANY RELEVANT DOCUMENTARY MATERIAL, OR THAT THE PERSON HAS  
14 INFORMATION RELEVANT TO THE INVESTIGATION, THE GOVERNMENTAL ENTITY  
15 MAY, BEFORE THE INSTITUTION OF A CIVIL PROCEEDING, ISSUE IN WRITING AND  
16 CAUSE TO BE SERVED ON THE PERSON A SUBPOENA REQUIRING THE PERSON TO:**

17 **1. PRODUCE THE DOCUMENTARY MATERIAL FOR  
18 INSPECTION AND COPYING OR REPRODUCTION;**

19 **2. ANSWER, UNDER OATH AND IN WRITING, WRITTEN  
20 INTERROGATORIES;**

21 **3. GIVE SWORN ORAL TESTIMONY CONCERNING THE  
22 DOCUMENTARY MATERIAL OR INFORMATION; OR**

23 **4. PROVIDE ANY COMBINATION OF MATERIAL, ANSWERS,  
24 OR TESTIMONY UNDER ITEMS 1 THROUGH 3 OF THIS SUBPARAGRAPH.**

25 (ii) [A person from whom the governmental entity seeks discovery  
26 shall be considered a party under Title 2, Chapter 400 of the Maryland Rules] **A  
27 SUBPOENA ISSUED UNDER THIS PARAGRAPH MAY BE SERVED IN THE SAME MANNER  
28 AS A SUBPOENA ISSUED BY A CIRCUIT COURT.**

29 (3) (i) Notwithstanding the objections of the person initiating the  
30 action, the governmental entity may elect at any point to withdraw its intervention as a  
31 party to the action.

32 (ii) If the governmental entity elects to withdraw as a party to the  
33 action[:

1                           1.] the governmental entity shall notify the court and the  
2 party initiating the action[; and

3                           2. the court shall dismiss the action].

4                   (4) Notwithstanding the objections of the person initiating the action, if the  
5 court determines after a hearing that a proposed settlement is fair, adequate, and  
6 reasonable under the circumstances, the governmental entity may settle a civil action filed  
7 under this section.

8                   (5) On motion of the governmental entity or the defendant or on the court's  
9 own motion, the court may impose limitations on the participation of the person initiating  
10 an action under this section if:

11                   (i) the governmental entity shows that the person's unrestricted  
12 participation in the action would:

13                           1. interfere with or unduly delay the governmental entity in  
14 its pursuit of the civil action; or

15                           2. be repetitious, irrelevant, or harassing to the defendant;  
16 or

17                   (ii) the defendant shows that unrestricted participation by the  
18 person initiating the action would harass the defendant or cause the defendant undue  
19 burden or unnecessary expense.

20                   (6) Limitations imposed by the court under paragraph (5) of this subsection  
21 may include:

22                           (i) a limitation on the number of witnesses the person may call to  
23 testify;

24                           (ii) a limitation on the length of the testimony of witnesses called by  
25 the person;

26                           (iii) a limitation on the person's cross-examination of witnesses; and

27                           (iv) a limitation on the participation of the person in the litigation.

28                   **(7) (I) IF THE GOVERNMENTAL ENTITY DOES NOT PROCEED WITH**  
29 **OR WITHDRAWS FROM THE ACTION, THE PERSON INITIATING THE ACTION MAY**  
30 **PROCEED WITH THE ACTION.**

1                   **(II) IF THE GOVERNMENTAL ENTITY SO REQUESTS, IT SHALL BE**  
2 **SERVED WITH COPIES OF ALL PLEADINGS FILED IN THE ACTION AND SUPPLIED WITH**  
3 **COPIES OF ALL DEPOSITION TRANSCRIPTS.**

4                   **(III) NOTWITHSTANDING THE GOVERNMENTAL ENTITY'S**  
5 **DECISION NOT TO PROCEED WITH OR TO WITHDRAW FROM THE ACTION, IF THE**  
6 **PERSON INITIATING THE ACTION PROCEEDS WITH THE ACTION, THE COURT SHALL**  
7 **ALLOW THE GOVERNMENTAL ENTITY TO INTERVENE AT A LATER DATE.**

8                   **(IV) ON MOTION BY THE GOVERNMENTAL ENTITY, THE COURT**  
9 **MAY DISMISS THE ACTION NOTWITHSTANDING THE OBJECTIONS OF THE PERSON**  
10 **INITIATING THE ACTION IF:**

11                   **1. THE PERSON HAS BEEN NOTIFIED BY THE**  
12 **GOVERNMENTAL ENTITY OF THE FILING OF THE MOTION; AND**

13                   **2. THE COURT HAS PROVIDED THE PERSON WITH AN**  
14 **OPPORTUNITY FOR A HEARING ON THE MOTION.**

15           (c)   (1)   On a showing in camera by the governmental entity that certain actions  
16 of discovery by the person initiating the action would interfere with the governmental  
17 entity's investigation or prosecution of a criminal or civil matter arising out of the same  
18 facts, the court may stay the discovery for a period of not more than 60 days.

19                   (2)   The court may extend the 60-day period on a further showing in camera  
20 that:

21                   (i)   the governmental entity has pursued the criminal or civil  
22 investigation or proceeding with reasonable diligence; and

23                   (ii)   any proposed discovery in the civil action will interfere with the  
24 ongoing criminal or civil investigation or proceeding.

25 8–105.

26           (a)   (1)   If the governmental entity intervenes and proceeds with an action filed  
27 under § 8–104 of this title and the governmental entity prevails, the court shall award the  
28 person initiating the action an amount that is:

29                   (i)   not less than 15% and not more than 25% of the proceeds of the  
30 action or settlement of the claim; and

31                   (ii)   proportional to the amount of time and effort that the person  
32 substantially contributed to the final resolution of the civil action.



1           **(2) IF THE GOVERNMENTAL ENTITY DOES NOT INTERVENE AND THE**  
2 **PERSON INITIATING THE ACTION PROCEEDS WITH THE ACTION UNDER § 8-104 OF**  
3 **THIS SUBTITLE AND PREVAILS, THE COURT SHALL AWARD THE PERSON INITIATING**  
4 **THE ACTION AN AMOUNT THAT IS:**

5                   **(I) NOT LESS THAN 25% AND NOT MORE THAN 30% OF THE**  
6 **PROCEEDS OF THE ACTION OR SETTLEMENT OF THE CLAIM; AND**

7                   **(II) PROPORTIONAL TO THE AMOUNT OF TIME AND EFFORT**  
8 **THAT THE PERSON SUBSTANTIALLY CONTRIBUTED TO THE FINAL RESOLUTION OF**  
9 **THE CIVIL ACTION.**

10           **[(2)] (3)** (i) If the court finds that the action is based primarily on  
11 disclosures of specific information relating to allegations or transactions in a criminal, a  
12 civil, or an administrative hearing, in a legislative or an administrative report, a hearing,  
13 an audit, or an investigation, or from the news media, the court may make an award to the  
14 person initiating the action that:

15                   1. the court considers appropriate, taking into account the  
16 significance of the information and the role of the person initiating the action in advancing  
17 the case to litigation; and

18                   2. does not exceed 10% of the proceeds of the action.

19                   (ii) The information described in subparagraph (i) of this paragraph  
20 does not include information disclosed and provided by the person initiating the action.

21           **[(3)] (4)** Any payment to a person under **[paragraph] PARAGRAPHS (1)**  
22 **[or (2)] THROUGH (3)** of this subsection shall be made from the proceeds of the action.

23           **[(4)] (5)** (i) In addition to the amount provided under paragraphs (1)  
24 **[and (2)] THROUGH (3)** of this subsection, a court may award the person initiating the  
25 action:

26                   1. an amount for reasonable expenses that the court finds to  
27 have been necessarily incurred; and

28                   2. reasonable attorney's fees and costs.

29                   (ii) In determining the amount of any award under subparagraph (i)  
30 of this paragraph, the court shall consider the amount of any penalties and damages  
31 recovered in the action and any other factor as justice may require.

32                   (iii) Any expenses, fees, and costs awarded under this paragraph  
33 shall be awarded against the defendant.

## Article – Health – General

1  
2 2–602.

3 (a) A person may not:

4 (1) Knowingly present or cause to be presented a false or fraudulent claim  
5 for payment or approval;

6 (2) Knowingly make, use, or cause to be made or used a false record or  
7 statement material to a false or fraudulent claim;

8 (3) Conspire to commit a violation under this subtitle;

9 (4) Have possession, custody, or control of money or other property used by  
10 or on behalf of the State under a State health plan or a State health program and knowingly  
11 deliver or cause to be delivered to the State less than all of that money or other property;

12 (5) (i) Be authorized to make or deliver a receipt or other document  
13 certifying receipt of money or other property used or to be used by the State under a State  
14 health plan or a State health program; and

15 (ii) Intending to defraud the State or the Department, make or  
16 deliver a receipt or document knowing that the information contained in the receipt or  
17 document is not true;

18 (6) Knowingly buy or receive as a pledge of an obligation or debt publicly  
19 owned property from an officer, employee, or agent of a State health plan or a State health  
20 program who lawfully may not sell or pledge the property;

21 (7) Knowingly make, use, or cause to be made or used, a false record or  
22 statement material to an obligation to pay or transmit money or other property to the State;

23 (8) Knowingly conceal, or knowingly and improperly avoid or decrease, an  
24 obligation to pay or transmit money or other property to the State; or

25 (9) Knowingly make any other false or fraudulent claim against a State  
26 health plan or a State health program.

27 (b) (1) A person who is found to have violated subsection (a) of this section is  
28 liable to the State for:

29 (i) A civil penalty of **NOT LESS THAN \$5,000 AND** not more than  
30 \$10,000 for each violation of subsection (a) of this section; and

1                   (ii)    An additional amount of not more than three times the amount  
2 of damages that the State sustains as a result of the acts of that person in violation of  
3 subsection (a) of this section.

4                   (2)    The total amount owed by a person under paragraph (1) of this  
5 subsection may not be less than the amount of the actual damages the State health plan or  
6 State health program incurs as a result of the person's violation of subsection (a) of this  
7 section.

8           (c)    (1)    In determining the appropriate amount of fines and damages under  
9 subsection (b) of this section, the court shall consider:

10                   (i)    The number, nature, and severity of the violations of this subtitle  
11 for which the person has been found liable;

12                   (ii)   The number, nature, and severity of any previous violations of  
13 this subtitle;

14                   (iii)   The degree of loss suffered by the State health plan or State  
15 health program;

16                   (iv)   The person's history of billing compliance;

17                   (v)    Whether the person has a compliance program in place;

18                   (vi)   The extent to which the person has taken steps to address and  
19 correct the violation since the person became aware of the violation;

20                   (vii)   The extent to which the violation caused harm or detriment to  
21 patients or consumers of the State health plan or State health program;

22                   (viii)   Any funds previously returned to the State health plan or State  
23 health program in compliance with federal requirements regarding overpayments, to the  
24 extent the funds represented losses to the State health plan or State health program caused  
25 by the violation;

26                   (ix)   Whether the person self-reported the violation, the timeliness of  
27 the self-reporting, the extent to which the person otherwise cooperated in the investigation  
28 of the violation, and the extent to which the person had prior knowledge of an investigation  
29 or other action relating to the violation; and

30                   (x)    Any other factor as justice requires.

31                   (2)    In weighing the factors set forth in paragraph (1) of this subsection, the  
32 court shall, where appropriate, give special consideration to:

1 (i) The extent to which the person's size, operations, or financial  
2 condition may have affected each of the factors set forth in paragraph (1) of this subsection;  
3 and

4 (ii) The extent to which the person's size, operations, or financial  
5 condition may affect the person's ability to provide care and continue operations after  
6 payment of damages and fines.

7 (d) The penalties provided in subsection (b) of this section are in addition to any  
8 criminal, civil, or administrative penalties provided under any other State or federal  
9 statute or regulation.

10 2-603.

11 (a) If the State finds that a person has violated or is violating § 2-602(a) of this  
12 subtitle, the State may file a civil action in a court of competent jurisdiction within the  
13 State against the person.

14 (b) In filing **OR INTERVENING IN** a civil action under this [section] **TITLE**, the  
15 State may seek:

16 (1) The penalties provided under § 2-602(b) of this subtitle; and

17 (2) Subject to the guidelines set forth in [§ 2-605(a)(4)] **§ 2-605(A)(5)** of  
18 this subtitle, court costs and attorney's fees.

19 2-604.

20 (a) (1) (i) A person may file a civil action on behalf of the person and the  
21 State in a court of competent jurisdiction within the State against a person who has acted  
22 or is acting in violation of § 2-602(a) of this subtitle.

23 (ii) A civil action filed under subparagraph (i) of this paragraph shall  
24 be brought in the name of the State.

25 (2) A person filing an action under this section may seek:

26 (i) The penalties provided under § 2-602(b) of this subtitle; and

27 (ii) Subject to the guidelines set forth in [§ 2-605(a)(4)] **§**  
28 **2-605(A)(5)** of this subtitle, court costs and attorney's fees.

29 (3) (i) The person shall serve on the State a copy of the complaint and  
30 a written disclosure of substantially all material evidence and information that the person  
31 possesses, in accordance with the provisions of Title 2 of the Maryland Rules for serving  
32 process on the State.

1 (ii) 1. The complaint shall be filed in camera and shall remain  
2 under seal for at least 60 days.

3 2. The complaint may not be served on the defendant until  
4 the complaint is unsealed and the court orders the complaint served.

5 3. Within 60 days after the State receives the complaint and  
6 the material evidence and information, the State may elect to intervene and proceed with  
7 the action.

8 (4) (i) For good cause shown, the State may move the court for  
9 extensions of the time during which the complaint remains under seal under paragraph  
10 (3)(i)1 of this subsection.

11 (ii) Any motions made under subparagraph (i) of this paragraph may  
12 be supported by affidavits or other submissions in camera.

13 (5) (i) The defendant may not be required to answer a complaint filed  
14 under this section until after the complaint is:

15 1. Unsealed and ordered by the court to be served; and

16 2. Served on the defendant in accordance with Title 2 of the  
17 Maryland Rules.

18 (ii) When answering a complaint filed under this section, a  
19 defendant shall follow the time frames and other provisions for filing answers to a  
20 complaint as required under Title 2, Chapter 300 of the Maryland Rules.

21 (iii) During the period in which the complaint is under seal, if the  
22 State's investigation reveals that the act, transaction, or occurrence that gave rise to the  
23 alleged violation of this subtitle is reasonably likely to be continuing, the State shall notify  
24 the defendant as soon as practicable without jeopardizing the course and conduct of the  
25 State's or the federal government's investigation of the violation, compromising the  
26 development of evidence, or violating any State or federal law.

27 (6) Before the later of the expiration of the 60-day period during which the  
28 complaint remains under seal under paragraph (3)(i)1 of this subsection or any extension  
29 of the 60-day period obtained under paragraph (4) of this subsection, the State shall:

30 (i) Intervene and proceed with the action in a court of competent  
31 jurisdiction within the State; or

32 (ii) Notify the court that it will not intervene and proceed with the  
33 action.

1            [(7) If the State does not elect to intervene and proceed with the action  
2 under paragraph (6) of this subsection, before unsealing the complaint, the court shall  
3 dismiss the action.]

4            [(8)] (7) If a person initiates an action under this section, no person other  
5 than the State may intervene in the action or initiate a related action based on the facts  
6 underlying the pending action.

7            (b) (1) If the State intervenes and proceeds with the action under subsection  
8 (a)(6)(i) of this section:

9                    (i) The State shall have the primary responsibility for proceeding  
10 with the action and may not be bound by any act of the person who initiated the action; and

11                    (ii) Subject to paragraphs (3) through (6) of this subsection, the  
12 person who initiated the action may continue as a party to the action.

13            (2) (i) During an investigation by the State conducted either  
14 independently or in conjunction with a civil action filed under this subtitle, [the Attorney  
15 General shall have the same rights of discovery as a civil litigant in the circuit court under  
16 Title 2, Chapter 400 of the Maryland Rules] **IF THE ATTORNEY GENERAL HAS REASON  
17 TO BELIEVE THAT A PERSON HAS POSSESSION, CUSTODY, OR CONTROL OF ANY  
18 RELEVANT DOCUMENTARY MATERIAL, OR THAT THE PERSON HAS INFORMATION  
19 THAT MAY BE RELEVANT TO THE INVESTIGATION, THE ATTORNEY GENERAL MAY,  
20 BEFORE THE INSTITUTION OF A CIVIL PROCEEDING, ISSUE IN WRITING AND CAUSE  
21 TO BE SERVED ON THE PERSON A SUBPOENA REQUIRING THE PERSON TO:**

22                            **1. PRODUCE THE DOCUMENTARY MATERIAL FOR  
23 INSPECTION AND COPYING OR REPRODUCTION;**

24                            **2. ANSWER, UNDER OATH AND IN WRITING, WRITTEN  
25 INTERROGATORIES;**

26                            **3. GIVE SWORN ORAL TESTIMONY CONCERNING THE  
27 DOCUMENTARY MATERIAL OR INFORMATION; OR**

28                            **4. PROVIDE ANY COMBINATION OF MATERIAL,  
29 ANSWERS, OR TESTIMONY UNDER ITEMS 1 THROUGH 3 OF THIS SUBPARAGRAPH.**

30                    (ii) [A person from whom the Attorney General seeks discovery shall  
31 be considered a party under Title 2, Chapter 400 of the Maryland Rules] **A SUBPOENA  
32 ISSUED UNDER THIS PARAGRAPH MAY BE SERVED IN THE SAME MANNER AS A  
33 SUBPOENA ISSUED BY A CIRCUIT COURT.**

1           (3)   (i)   Notwithstanding the objections of the person initiating the  
2 action, the State may elect at any point to withdraw its intervention as a party to the action.

3                   (ii)   If the State elects to withdraw as a party to the action[:

4                           1.    The] **THE** State shall notify the court and the party  
5 initiating the action[; and

6                           2.    The court shall dismiss the action].

7           (4)   Notwithstanding the objections of the person initiating the action, if the  
8 court determines after a hearing that a proposed settlement is fair, adequate, and  
9 reasonable under the circumstances, the State may settle a civil action filed under this  
10 section.

11           (5)   On motion of the State or the defendant or on the court's own motion,  
12 the court may impose limitations on the participation of the person initiating an action  
13 under this section if:

14                   (i)    The State shows that the person's unrestricted participation in  
15 the action would:

16                           1.    Interfere with or unduly delay the State in its pursuit of  
17 the civil action; or

18                           2.    Be repetitious, irrelevant, or harassing to the defendant;  
19 or

20                   (ii)   The defendant shows that unrestricted participation by the  
21 person initiating the action would harass the defendant or cause the defendant undue  
22 burden or unnecessary expense.

23           (6)   Limitations imposed by the court under paragraph (5) of this subsection  
24 may include:

25                   (i)    A limitation on the number of witnesses the person may call to  
26 testify;

27                   (ii)   A limitation on the length of the testimony of witnesses called by  
28 the person;

29                   (iii)   A limitation on the person's cross-examination of witnesses; or

30                   (iv)   A limitation on the participation of the person in the litigation.

1           **(7) (I) IF THE STATE DOES NOT PROCEED WITH OR WITHDRAWS**  
2 **FROM THE ACTION, THE PERSON INITIATING THE ACTION MAY PROCEED WITH THE**  
3 **ACTION.**

4           **(II) IF THE STATE SO REQUESTS, IT SHALL BE SERVED WITH**  
5 **COPIES OF ALL PLEADINGS FILED IN THE ACTION AND SUPPLIED WITH COPIES OF**  
6 **ALL DEPOSITION TRANSCRIPTS.**

7           **(III) NOTWITHSTANDING THE STATE'S DECISION NOT TO**  
8 **PROCEED WITH OR TO WITHDRAW FROM THE ACTION, IF THE PERSON INITIATING**  
9 **THE ACTION PROCEEDS WITH THE ACTION, THE COURT SHALL ALLOW THE STATE TO**  
10 **INTERVENE AT A LATER DATE.**

11           **(IV) ON MOTION BY THE STATE, THE COURT MAY DISMISS THE**  
12 **ACTION NOTWITHSTANDING THE OBJECTIONS OF THE PERSON INITIATING THE**  
13 **ACTION IF:**

14                   **1. THE PERSON HAS BEEN NOTIFIED BY THE STATE OF**  
15 **THE FILING OF THE MOTION; AND**

16                   **2. THE COURT HAS PROVIDED THE PERSON WITH AN**  
17 **OPPORTUNITY FOR A HEARING ON THE MOTION.**

18           (c) (1) Instead of proceeding with a civil action filed under this subtitle, the  
19 State may pursue any alternative remedy available to the State, including any appropriate  
20 administrative proceeding to determine a civil money penalty.

21           (2) If the State seeks an alternative remedy in another proceeding after  
22 intervening in a civil action filed under this section, the person initiating the action shall  
23 have the same rights in the alternative proceeding as the person would have had if the civil  
24 action had continued under this section.

25           (3) (i) A finding of fact or conclusion of law made in any alternative  
26 proceeding that has become final shall be conclusive on all parties to an action filed under  
27 this subtitle.

28                   (ii) For purposes of subparagraph (i) of this paragraph, a finding or  
29 conclusion is final if:

30                           1. It has been finally determined on appeal to the  
31 appropriate court of the State;

32                           2. All time for filing the appeal with respect to the finding or  
33 conclusion has expired; or



1                        3.        The finding or conclusion is not subject to judicial review.

2                (d)    (1)    On a showing in camera by the State that certain actions of discovery  
3 by the person initiating the action would interfere with the State's investigation or  
4 prosecution of a criminal or civil matter arising out of the same facts, the court may stay  
5 the discovery for a period of not more than 60 days.

6                (2)    The court may extend the 60-day period on a further showing in camera  
7 that:

8                        (i)    The State has pursued the criminal or civil investigation or  
9 proceeding with reasonable diligence; and

10                      (ii)    Any proposed discovery in the civil action will interfere with the  
11 ongoing criminal or civil investigation or proceeding.

12    2-605.

13                (a)    (1)    If the State intervenes and proceeds with an action filed under § 2-604  
14 of this subtitle and the State prevails, the court shall award the person initiating the action  
15 an amount that is:

16                      (i)    Not less than 15% and not more than 25% of the proceeds of the  
17 action or settlement of the claim; and

18                      (ii)    Proportional to the amount of time and effort that the person  
19 substantially contributed to the final resolution of the civil action.

20                      **(2)    IF THE STATE DOES NOT INTERVENE AND THE PERSON**  
21 **INITIATING THE ACTION PROCEEDS WITH THE ACTION UNDER § 2-604 OF THIS**  
22 **SUBTITLE AND PREVAILS, THE COURT SHALL AWARD THE PERSON INITIATING THE**  
23 **ACTION AN AMOUNT THAT IS:**

24                      **(I)    NOT LESS THAN 25% AND NOT MORE THAN 30% OF THE**  
25 **PROCEEDS OF THE ACTION OR SETTLEMENT OF THE CLAIM; AND**

26                      **(II)    PROPORTIONAL TO THE AMOUNT OF TIME AND EFFORT**  
27 **THAT THE PERSON SUBSTANTIALLY CONTRIBUTED TO THE FINAL RESOLUTION OF**  
28 **THE CIVIL ACTION.**

29                      ~~[(2)]~~ **(3)**    (i)    If the court finds that the action is based primarily on  
30 disclosures of specific information relating to allegations or transactions in a criminal, civil,  
31 or administrative hearing, in a legislative or administrative report, hearing, audit, or  
32 investigation, or from the news media, the court may make an award to the person  
33 initiating the action that:

1                                   1.     The court considers appropriate, taking into account the  
2 significance of the information and the role of the person initiating the action in advancing  
3 the case to litigation; and

4                                   2.     Does not exceed 10% of the proceeds of the action.

5                                   (ii)    The information described in subparagraph (i) of this paragraph  
6 does not include information disclosed and provided by the person initiating the action.

7                                   **[(3)] (4)**     Any payment to a person under **[paragraph] PARAGRAPHS (1)**  
8 **[or (2)] THROUGH (3)** of this subsection shall be made from the proceeds of the action.

9                                   **[(4)] (5)**     (i)     In addition to the amount provided under paragraphs (1)  
10 **[and (2)] THROUGH (3)** of this subsection, a court may award the person initiating the  
11 action:

12                                   1.     An amount for reasonable expenses that the court finds to  
13 have been necessarily incurred; and

14                                   2.     Reasonable attorney's fees and costs.

15                                   (ii)    In determining the amount of any award under subparagraph (i)  
16 of this paragraph, the court shall consider the amount of any penalties and damages  
17 recovered in the action and any other factor as justice may require.

18                                   (iii)   Any expenses, fees, and costs awarded under this paragraph  
19 shall be awarded against the defendant.

20                                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2023.