

SENATE BILL 114

D3, P3, B1

(PRE-FILED)

2lr0582
CF HB 391

By: **Senator Waldstreicher**

Requested: September 27, 2021

Introduced and read first time: January 12, 2022

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 8, 2022

CHAPTER _____

1 AN ACT concerning

2 **False Claims – Civil Penalties or Damages – ~~Exceptions~~ Authorization to**
3 **Recover and Exceptions to General Fund Deposit by Comptroller**

4 FOR the purpose of authorizing a governmental entity to recover certain costs and fees of
5 certain actions; requiring that the Comptroller deposit civil penalties or damages
6 collected by the State under the Maryland False Claims Act or under certain
7 provisions of law prohibiting false claims against State health plans and health
8 programs into certain funds or special funds rather than the General Fund of the
9 State under certain circumstances; requiring that funds deposited by the
10 Comptroller under this Act be on a pro rata basis under certain circumstances;
11 establishing the False Claims Fund as a special, nonlapsing fund; requiring interest
12 earnings of the Fund to be credited to the Fund; and generally relating to the
13 Maryland False Claims Act.

14 BY repealing and reenacting, with amendments,
15 Article – General Provisions
16 Section ~~8–103 and~~ 8–109(c)
17 Annotated Code of Maryland
18 (2019 Replacement Volume and 2021 Supplement)

19 BY adding to
20 Article – General Provisions
21 Section 8–109(d)
22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2019 Replacement Volume and 2021 Supplement)

2 BY repealing and reenacting, with amendments,
 3 Article – Health – General
 4 Section 2–610(c)
 5 Annotated Code of Maryland
 6 (2019 Replacement Volume and 2021 Supplement)

7 BY repealing and reenacting, without amendments,
 8 Article – State Finance and Procurement
 9 Section ~~7–302~~ 6–226(a)(2)(i), ~~7–302~~, and ~~7–304~~
 10 Annotated Code of Maryland
 11 (2021 Replacement Volume)

12 BY repealing and reenacting, with amendments,
 13 Article – State Finance and Procurement
 14 Section 6–226(a)(2)(ii)144. and 145.
 15 Annotated Code of Maryland
 16 (2021 Replacement Volume)

17 BY adding to
 18 Article – State Finance and Procurement
 19 Section 6–226(a)(2)(ii)146.
 20 Annotated Code of Maryland
 21 (2021 Replacement Volume)

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

24 **Article – General Provisions**

25 8–103.

26 (a) If a governmental entity finds that a person has violated or is violating §
 27 8–102 of this title, the governmental entity may file a civil action in a court of competent
 28 jurisdiction within the State against the person.

29 (b) In filing a civil action under this section, the governmental entity may seek:

30 **(1) the penalties provided under § 8–102(c) of this title; AND**

31 **(2) SUBJECT TO THE GUIDELINES UNDER § 8–105(B)(4) OF THIS**
 32 **SUBTITLE, COURT COSTS AND ATTORNEY’S FEES.**

33 (c) A governmental entity may not maintain an action under this section if the
 34 governmental entity has filed a civil action based on the same underlying act under §

1 2-603 of the Health – General Article or has sought enforcement by the Attorney General
2 under § 11-205 or § 11-205.1 of the State Finance and Procurement Article.

3 8-109.

4 (c) (1) [The] **EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS**
5 **SUBSECTION, THE Comptroller shall deposit any civil penalty or damages collected by the**
6 **State under this title into the General Fund of the State.**

7 (2) (I) **IF A VIOLATION OF THIS TITLE AFFECTS ANY OF THE**
8 **FOLLOWING FUNDS, THE COMPTROLLER SHALL DEPOSIT ANY CIVIL PENALTY OR**
9 **DAMAGES COLLECTED BY THE STATE UNDER THIS TITLE INTO THE AFFECTED FUND:**

10 1. **A FUND THAT IS NOT SUBJECT TO § 7-302 OF THE**
11 **STATE FINANCE AND PROCUREMENT ARTICLE;**

12 2. **A SPECIAL FUND REQUIRING THE REVERSION OF**
13 **APPROPRIATED FUNDS TO THE SPECIAL FUND UNDER § 7-304 OF THE STATE**
14 **FINANCE AND PROCUREMENT ARTICLE;**

15 3. **A FUND UNDER THE JURISDICTION OF THE BOARD OF**
16 **TRUSTEES FOR THE STATE RETIREMENT AND PENSION SYSTEM; OR**

17 4. **A FUND UNDER THE JURISDICTION OF THE STATE**
18 **EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFITS PROGRAM.**

19 (II) **IF MORE THAN ONE FUND IS AFFECTED BY A VIOLATION OF**
20 **THIS TITLE, THE COMPTROLLER SHALL DEPOSIT ANY CIVIL PENALTY OR DAMAGES**
21 **COLLECTED BY THE STATE INTO THE APPROPRIATE FUND OR THE GENERAL FUND**
22 **OF THE STATE ON A PRO RATA BASIS.**

23 (D) (1) **THERE IS A FALSE CLAIMS FUND.**

24 (2) **THE PURPOSE OF THE FUND IS TO SUPPORT THE OPERATIONS OF**
25 **THE ATTORNEY GENERAL IN CARRYING OUT THIS TITLE.**

26 (3) **THE ATTORNEY GENERAL SHALL ADMINISTER THE FUND.**

27 (4) (I) **THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**
28 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

29 (II) **THE STATE TREASURER SHALL HOLD THE FUND**
30 **SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

31 (5) **THE FUND CONSISTS OF:**

1 **(I) ALL ATTORNEY'S FEES AND COSTS COLLECTED BY THE**
 2 **STATE BY JUDGMENT, SETTLEMENT, AGREEMENT, OR OTHERWISE UNDER THIS**
 3 **TITLE;**

4 **(II) MONEY APPROPRIATED IN THE STATE BUDGET TO THE**
 5 **FUND;**

6 **(III) INTEREST EARNINGS; AND**

7 **(IV) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED**
 8 **FOR THE BENEFIT OF THE FUND.**

9 **(6) THE FUND MAY BE USED ONLY FOR THE ATTORNEY GENERAL TO**
 10 **INVESTIGATE AND LITIGATE SUSPECTED VIOLATIONS OF THIS TITLE.**

11 **(7) (I) THE STATE TREASURER SHALL INVEST THE MONEY OF THE**
 12 **FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

13 **(II) ANY INTEREST EARNINGS OF THE FUND SHALL BE**
 14 **CREDITED TO THE FUND.**

15 **(8) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN**
 16 **ACCORDANCE WITH THE STATE BUDGET.**

17 **(9) MONEY EXPENDED FROM THE FUND IS SUPPLEMENTAL TO AND IS**
 18 **NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE**
 19 **APPROPRIATED FOR THE ATTORNEY GENERAL.**

20 **Article – Health – General**

21 2–610.

22 (c) **(1) [The] EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS**
 23 **SUBSECTION, THE** Comptroller shall deposit any civil penalty or damages collected under
 24 **this subtitle in the General Fund of the State.**

25 **(2) (I) IF A VIOLATION OF THIS SUBTITLE AFFECTS ANY OF THE**
 26 **FOLLOWING FUNDS, THE COMPTROLLER SHALL DEPOSIT ANY CIVIL PENALTY OR**
 27 **DAMAGES COLLECTED BY THE STATE UNDER THIS TITLE INTO THE AFFECTED FUND:**

28 **1. A FUND THAT IS NOT SUBJECT TO § 7–302 OF THE**
 29 **STATE FINANCE AND PROCUREMENT ARTICLE;**

1 2. A SPECIAL FUND REQUIRING THE REVERSION OF
2 APPROPRIATED FUNDS TO THE SPECIAL FUND UNDER § 7-304 OF THE STATE
3 FINANCE AND PROCUREMENT ARTICLE;

4 3. A FUND UNDER THE JURISDICTION OF THE BOARD OF
5 TRUSTEES FOR THE STATE RETIREMENT AND PENSION SYSTEM; OR

6 4. A FUND UNDER THE JURISDICTION OF THE STATE
7 EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFITS PROGRAM.

8 (ii) IF MORE THAN ONE FUND IS AFFECTED BY A VIOLATION OF
9 THIS SUBTITLE, THE COMPTROLLER SHALL DEPOSIT ANY CIVIL PENALTY OR
10 DAMAGES COLLECTED BY THE STATE INTO THE APPROPRIATE FUND OR THE
11 GENERAL FUND OF THE STATE ON A PRO RATA BASIS.

12 Article – State Finance and Procurement

13 6-226.

14 (a) (2) (i) Notwithstanding any other provision of law, and unless
15 inconsistent with a federal law, grant agreement, or other federal requirement or with the
16 terms of a gift or settlement agreement, net interest on all State money allocated by the
17 State Treasurer under this section to special funds or accounts, and otherwise entitled to
18 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General
19 Fund of the State.

20 (ii) The provisions of subparagraph (i) of this paragraph do not apply
21 to the following funds:

22 144. the Health Equity Resource Community Reserve Fund;

23 [and]

24 145. the Access to Counsel in Evictions Special Fund; AND

25 146. THE FALSE CLAIMS FUND.

26 7-302.

27 Except as otherwise provided by law, at the end of a fiscal year, the unspent balance
28 of each appropriation that was made for that fiscal year to an officer or unit of the State
29 government or to an institution reverts to the General Fund of the State.

30 7-304.

1 At the end of a fiscal year, the unspent part of an appropriation from a source that
2 State law or an Act of Congress dedicates to a specific purpose does not revert to the General
3 Fund of the State but reverts to the appropriate special fund.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.