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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - FALSE CLAIM ACT

Introduced By: Representatives DeSimone, Slater, and Carnevale

Date Introduced: March 14, 2012

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 9-1.1-2, 9-1.1-4, 9-1.1-6 and 9-1.1-8 of the General Laws in  
2 Chapter 9-1.1 entitled "The State False Claim Act" are hereby amended to read as follows:

3 **9-1.1-2. Definitions.** -- As used in this chapter:

4 (a) "State" means the state of Rhode Island; any agency of state government; and any  
5 political subdivision meaning any city, town, county or other governmental entity authorized or  
6 created by state law, including public corporations and authorities.

7 (b) "Guard" means the Rhode Island National Guard.

8 (c) "Investigation" means any inquiry conducted by any investigator for the purpose of  
9 ascertaining whether any person is or has been engaged in any violation of this chapter.

10 (d) "Investigator" means a person who is charged by the Rhode Island attorney general,  
11 [solicitor](#) or ~~his or her~~ designee with the duty of conducting any investigation under this act, or any  
12 officer or employee of the State acting under the direction and supervision of the department of  
13 attorney general.

14 (e) "Documentary material" includes the original or any copy of any book, record, report,  
15 memorandum, paper, communication, tabulation, chart, or other document, or data compilations  
16 stored in or accessible through computer or other information retrieval systems, together with  
17 instructions and all other materials necessary to use or interpret such data compilations, and any  
18 product of discovery.

19 (f) "Custodian" means the custodian, or any deputy custodian, designated by the attorney

1 general or [solicitor](#) under section 9-1.1-6 of the ~~Rhode Island~~ general laws.

2 (g) "Product of discovery" includes:

3 (1) The original or duplicate of any deposition, interrogatory, document, thing, result of  
4 the inspection of land or other property, examination, or admission, which is obtained by any  
5 method of discovery in any judicial or administrative proceeding of an adversarial nature;

6 (2) Any digest, analysis, selection, compilation, or derivation of any item listed in  
7 paragraph (1); and

8 (3) Any index or other manner of access to any item listed in paragraph (1).

9 [\(h\) "Solicitor" means a municipality, acting though its city or town solicitor or other duly](#)  
10 [appointed legal counsel.](#)

11 **9-1.1-4. Civil actions for false claims.** -- (a) Responsibilities of the attorney general [and](#)  
12 [solicitor](#). - The attorney general diligently shall investigate a violation under section 9-1.1-3 ~~of~~  
13 ~~this section~~. If ~~under this section~~ the attorney general finds that a person has violated or is  
14 violating section 9-1.1-3, the attorney general [or solicitor](#) may bring a civil action under this  
15 section against the person.

16 (b) Actions by private persons.

17 (1) A person may bring a civil action for a violation of section 9-1.1-3 for the person and  
18 for the state. The action shall be brought in the name of the state. The action may be dismissed  
19 only if the court and the attorney general give written consent to the dismissal and their reasons  
20 for consenting.

21 (2) A copy of the complaint and written disclosure of substantially all material evidence  
22 and information the person possesses shall be served on the state upon the attorney general. The  
23 complaint shall be filed in camera, shall remain under seal for at least sixty (60) days, and shall  
24 not be served on the defendant until the court so orders. The state may elect to intervene and  
25 proceed with the action within sixty (60) days after it receives both the complaint and the material  
26 evidence and information.

27 (3) The state may, for good cause shown, move the court for extensions of the time  
28 during which the complaint remains under seal under paragraph (2). Any such motions may be  
29 supported by affidavits or other submissions in camera. The defendant shall not be required to  
30 respond to any complaint filed under this section until twenty (20) days after the complaint is  
31 unsealed and served upon the defendant.

32 (4) Before the expiration of the sixty (60) day period or any extensions obtained under  
33 paragraph (3), the state shall:

34 (A) Proceed with the action, in which case the action shall be conducted by the state; or

1 (B) Notify the court that it declines to take over the action, in which case the person  
2 bringing the action shall have the right to conduct the action.

3 (5) When a person brings an action under this subsection (b), no person other than the  
4 state may intervene or bring a related action based on the facts underlying the pending action.

5 (c) Rights of the parties to Qui Tam actions.

6 (1) If the state proceeds with the action, it shall have the primary responsibility for  
7 prosecuting the action, and shall not be bound by an act of the person bringing the action. Such  
8 person shall have the right to continue as a party to the action, subject to the limitations set forth  
9 in paragraph (2).

10 (2) (A) The state may dismiss the action notwithstanding the objections of the person  
11 initiating the action if the person has been notified by the state of the filing of the motion and the  
12 court has provided the person with an opportunity for a hearing on the motion.

13 (B) The state may settle the action with the defendant notwithstanding the objections of  
14 the person initiating the action if the court determines, after a hearing, that the proposed  
15 settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good  
16 cause, such hearing may be held in camera.

17 (C) Upon a showing by the state that unrestricted participation during the course of the  
18 litigation by the person initiating the action would interfere with or unduly delay the state's  
19 prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the  
20 court may, in its discretion, impose limitations on the person's participation, such as:

21 (i) Limiting the number of witnesses the person may call:

22 (ii) Limiting the length of the testimony of such witnesses;

23 (iii) Limiting the person's cross-examination of witnesses; or

24 (iv) Otherwise limiting the participation by the person in the litigation.

25 (D) Upon a showing by the defendant that unrestricted participation during the course of  
26 the litigation by the person initiating the action would be for purposes of harassment or would  
27 cause the defendant undue burden or unnecessary expense, the court may limit the participation  
28 by the person in the litigation.

29 (3) If the state elects not to proceed with the action, the person who initiated the action  
30 shall have the right to conduct the action. If the state so requests, it shall be served with copies of  
31 all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at  
32 the state's expense). When a person proceeds with the action, the court, without limiting the status  
33 and rights of the person initiating the action, may nevertheless permit the State to intervene at a  
34 later date upon a showing of good cause.

1           (4) Whether or not the state proceeds with the action, upon a showing by the state that  
2 certain actions of discovery by the person initiating the action would interfere with the state's  
3 investigation or prosecution of a criminal or civil matter arising out of the same facts, the court  
4 may stay such discovery for a period of not more than sixty (60) days. Such a showing shall be  
5 conducted in camera. The court may extend the sixty (60) day period upon a further showing in  
6 camera that the state has pursued the criminal or civil investigation or proceedings with  
7 reasonable diligence and any proposed discovery in the civil action will interfere with the  
8 ongoing criminal or civil investigation or proceedings.

9           (5) Notwithstanding subsection (b), the state may elect to pursue its claim through any  
10 alternate remedy available to the state, including any administrative proceeding to determine a  
11 civil money penalty. If any such alternate remedy is pursued in another proceeding, the person  
12 initiating the action shall have the same rights in such proceeding as such person would have had  
13 if the action had continued under this section. Any finding of fact or conclusion of law made in  
14 such other proceeding that has become final shall be conclusive on all parties to an action under  
15 this section. For purposes of the preceding sentence, a finding or conclusion is final if it has been  
16 finally determined on appeal to the appropriate court, if all time for filing such an appeal with  
17 respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to  
18 judicial review.

19           (d) Award to Qui Tam plaintiff.

20           (1) If the State proceeds with an action brought by a person under subsection 9-1.1-4(b),  
21 such person shall, subject to the second sentence of this paragraph, receive at least fifteen percent  
22 (15%) but not more than twenty-five percent (25%) of the proceeds of the action or settlement of  
23 the claim, depending upon the extent to which the person substantially contributed to the  
24 prosecution of the action. Where the action is one which the court finds to be based primarily on  
25 disclosures of specific information (other than information provided by the person bringing the  
26 action) relating to allegations or transactions in a criminal, civil, or administrative hearing, in a  
27 legislative, administrative, or Auditor General's report, hearing, audit, or investigation, or from  
28 the news media, the court may award such sums as it considers appropriate, but in no case more  
29 than ten percent (10%) of the proceeds, taking into account the significance of the information  
30 and the role of the person bringing the action in advancing the case to litigation. Any payment to  
31 a person under the first or second sentence of this paragraph (1) shall be made from the proceeds.  
32 Any such person shall also receive an amount for reasonable expenses which the court finds to  
33 have been necessarily incurred, plus reasonable attorneys' fees and costs. The state shall also  
34 receive an amount for reasonable expenses which the court finds to have been necessarily

1 incurred by the attorney general, including reasonable attorneys' fees and costs, and the amount  
2 received shall be deposited in the false claims act fund created under this chapter. All such  
3 expenses, fees, and costs shall be awarded against the defendant.

4 (2) If the state does not proceed with an action under this section, the person bringing the  
5 action or settling the claim shall receive an amount which the court decides is reasonable for  
6 collecting the civil penalty and damages. The amount shall be not less than twenty-five percent  
7 (25%) and not more than thirty percent (30%) of the proceeds of the action or settlement and shall  
8 be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses  
9 which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs.  
10 All such expenses, fees, and costs shall be awarded against the defendant.

11 (3) Whether or not the state proceeds with the action, if the court finds that the action  
12 was brought by a person who planned and initiated the violation of section 9-1.1-3 upon which  
13 the action was brought, then the court may, to the extent the court considers appropriate, reduce  
14 the share of the proceeds of the action which the person would otherwise receive under paragraph  
15 (1) or (2) of this subsection (d), taking into account the role of that person in advancing the case  
16 to litigation and any relevant circumstances pertaining to the violation. If the person bringing the  
17 action is convicted of criminal conduct arising from his or her role in the violation of section 9-  
18 1.1-3, that person shall be dismissed from the civil action and shall not receive any share of the  
19 proceeds of the action. Such dismissal shall not prejudice the right of the state to continue the  
20 action.

21 (4) If the state does not proceed with the action and the person bringing the action  
22 conducts the action, the court may award to the defendant its reasonable attorneys' fees and  
23 expenses if the defendant prevails in the action and the court finds that the claim of the person  
24 bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of  
25 harassment.

26 (e) Certain actions barred.

27 (1) No court shall have jurisdiction over an action brought by a former or present  
28 member of the guard under subsection 9-1.1-4(b) (actions by private persons) against a member  
29 of the guard arising out of such person's service in the guard.

30 (2) No court shall have jurisdiction over an action brought pursuant to subsection 9-1.1-  
31 4(b) (actions by private persons) against the governor, lieutenant governor, the attorney general,  
32 members of the general assembly, a member of the judiciary, the treasurer, secretary of state, the  
33 auditor general, any director of a state agency, and any other individual appointed to office by the  
34 governor if the action is based on evidence or information known to the state when the action was

1 brought.

2 (3) In no event may a person bring an action under subsection 9-1.1-4(b) which is based  
3 upon allegations or transactions which are the subject of a civil suit or an administrative civil  
4 money penalty proceeding in which the state is already a party.

5 (4) (A) No court shall have jurisdiction over an action under this section based upon the  
6 public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a  
7 legislative, administrative, or auditor general's report, hearing, audit, or investigation, or from the  
8 news media, unless the action is brought by the attorney general or the person bringing the action  
9 is an original source of the information.

10 (B) For purposes of this exclusion, "original source" means an individual who has direct  
11 and independent knowledge of the information on which the allegations are based and has  
12 voluntarily provided the information to the state before filing an action under this section which is  
13 based on the information.

14 (f) State not liable for certain expenses. - The state is not liable for expenses which a  
15 person incurs in bringing an action under this section.

16 (g) Any employee who is discharged, demoted, suspended, threatened, harassed, or in  
17 any other manner discriminated against in the terms and conditions of employment by his or her  
18 employer because of lawful acts done by the employee on behalf of the employee or others in  
19 furtherance of an action under this section, including investigation for, initiation of, testimony for,  
20 or assistance in an action filed or to be filed under this section, shall be entitled to all relief  
21 necessary to make the employee whole. Such relief shall include reinstatement with the seniority  
22 status such employee would have had but for the discrimination, two (2) times the amount of  
23 back pay, interest on the back pay, and compensation for any special damages sustained as a  
24 result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee  
25 may bring an action in the appropriate superior court for the relief provided in this subsection 9-  
26 1.1-4(g).

27 **9-1.1-6. Subpoenas.** -- (a) In general:

28 (1) Issuance and service. - Whenever the attorney general [or solicitor](#) has reason to  
29 believe that any person may be in possession, custody, or control of any documentary material or  
30 information relevant to an investigation, the attorney general [or solicitor](#) may, before  
31 commencing a civil proceeding under this act, issue in writing and cause to be served upon such  
32 person, a subpoena requiring such person:

33 (A) To produce such documentary material for inspection and copying,

34 (B) To answer, in writing, written interrogatories with respect to such documentary

1 material or information,

2 (C) To give oral testimony concerning such documentary material or information, or

3 (D) To furnish any combination of such material, answers, or testimony.

4 The attorney general may delegate the authority to issue subpoenas under this subsection

5 (a) to the state police subject to conditions as the attorney general deems appropriate. Whenever a

6 subpoena is an express demand for any product of discovery, the attorney general, [solicitor](#) or

7 [respective his or her](#) delegate shall cause to be served, in any manner authorized by this section, a

8 copy of such demand upon the person from whom the discovery was obtained and shall notify the

9 person to whom such demand is issued of the date on which such copy was served.

10 (2) Where a subpoena requires the production of documentary material, the respondent

11 shall produce the original of the documentary material, provided, however, that the attorney

12 general [or solicitor](#) may agree that copies may be substituted for the originals. All documentary

13 material kept or stored in electronic form, including electronic mail, shall be produced in hard

14 copy, unless the attorney general [or solicitor](#) agrees that electronic versions may be substituted for

15 the hard copy. The production of documentary material shall be made at the respondent's

16 expense.

17 (3) Contents and deadlines. - Each subpoena issued under paragraph (1):

18 (A) Shall state the nature of the conduct constituting an alleged violation that is under

19 investigation and the applicable provision of law alleged to be violated.

20 (B) Shall identify the individual causing the subpoena to be served and to whom

21 communications regarding the subpoena should be directed.

22 (C) Shall state the date, place, and time at which the person is required to appear,

23 produce written answers to interrogatories, produce documentary material or give oral testimony.

24 The date shall not be less than ten (10) days from the date of service of the subpoena. Compliance

25 with the subpoena shall be at the office of the attorney general [or solicitor](#).

26 (D) If the subpoena is for documentary material or interrogatories, shall describe the

27 documents or information requested with specificity.

28 (E) Shall notify the person of the right to be assisted by counsel.

29 (F) Shall advise that the person has twenty (20) days from the date of service or up until

30 the return date specified in the demand, whichever date is earlier, to move, modify, or set aside

31 the subpoena pursuant to subparagraph (j)(2)(A) of this section.

32 (b) Protected material or information.

33 (1) In general. - A subpoena issued under subsection (a) may not require the production

34 of any documentary material, the submission of any answers to written interrogatories, or the

1 giving of any oral testimony if such material, answers, or testimony would be protected from  
2 disclosure under:

3 (A) The standards applicable to subpoenas or subpoenas duces tecum issued by a court  
4 of this state to aid in a grand jury investigation; or

5 (B) The standards applicable to discovery requests under the Rhode Island superior court  
6 rules of civil procedure, to the extent that the application of such standards to any such subpoena  
7 is appropriate and consistent with the provisions and purposes of this section.

8 (2) Effect on other orders, rules, and laws. - Any such subpoena which is an express  
9 demand for any product of discovery supersedes any inconsistent order, rule, or provision of law  
10 (other than this section) preventing or restraining disclosure of such product of discovery to any  
11 person. Disclosure of any product of discovery pursuant to any such subpoena does not constitute  
12 a waiver of any right or privilege which the person making such disclosure may be entitled to  
13 invoke to resist discovery of trial preparation materials.

14 (c) Service in general. - Any subpoena issued under subsection (a) may be served by any  
15 person so authorized by the attorney general or by any person authorized to serve process on  
16 individuals within Rhode Island, through any method prescribed in the Rhode Island superior  
17 court rules of civil procedure or as otherwise set forth in this chapter.

18 (d) Service upon legal entities and natural persons.

19 (1) Legal entities. - Service of any subpoena issued under subsection (a) or of any  
20 petition filed under subsection (j) may be made upon a partnership, corporation, association, or  
21 other legal entity by:

22 (A) Delivering an executed copy of such subpoena or petition to any partner, executive  
23 officer, managing agent, general agent, or registered agent of the partnership, corporation,  
24 association or entity;

25 (B) Delivering an executed copy of such subpoena or petition to the principal office or  
26 place of business of the partnership, corporation, association, or entity; or

27 (C) Depositing an executed copy of such subpoena or petition in the United States mails  
28 by registered or certified mail, with a return receipt requested, addressed to such partnership,  
29 corporation, association, or entity as its principal office or place of business.

30 (2) Natural person. - Service of any such subpoena or petition may be made upon any  
31 natural person by:

32 (A) Delivering an executed copy of such subpoena or petition to the person; or

33 (B) Depositing an executed copy of such subpoena or petition in the United States mails  
34 by registered or certified mail, with a return receipt requested, addressed to the person at the



1 person's residence or principal office or place of business.

2 (e) Proof of service. - A verified return by the individual serving any subpoena issued  
3 under subsection (a) or any petition filed under subsection (j) setting forth the manner of such  
4 service shall be proof of such service. In the case of service by registered or certified mail, such  
5 return shall be accompanied by the return post office receipt of delivery of such subpoena.

6 (f) Documentary material.

7 (1) Sworn certificates. - The production of documentary material in response to a  
8 subpoena served under this Section shall be made under a sworn certificate, in such form as the  
9 subpoena designates, by:

10 (A) In the case of a natural person, the person to whom the subpoena is directed, or

11 (B) In the case of a person other than a natural person, a person having knowledge of the  
12 facts and circumstances relating to such production and authorized to act on behalf of such  
13 person. The certificate shall state that all of the documentary material required by the demand and  
14 in the possession, custody, or control of the person to whom the subpoena is directed has been  
15 produced and made available to the attorney general [or solicitor](#).

16 (2) Production of materials. - Any person upon whom any subpoena for the production  
17 of documentary material has been served under this section shall make such material available for  
18 inspection and copying to the attorney general [or solicitor](#) at the place designated in the subpoena,  
19 or at such other place as the attorney general [or solicitor](#) and the person thereafter may agree and  
20 prescribe in writing, or as the court may direct under subsection (j)(1). Such material shall be  
21 made so available on the return date specified in such subpoena, or on such later date as the  
22 attorney general [or solicitor](#) may prescribe in writing. Such person may, upon written agreement  
23 between the person and the attorney general [or solicitor](#), substitute copies for originals of all or  
24 any part of such material.

25 (g) Interrogatories. - Each interrogatory in a subpoena served under this section shall be  
26 answered separately and fully in writing under oath and shall be submitted under a sworn  
27 certificate, in such form as the subpoena designates by:

28 (1) In the case of a natural person, the person to whom the subpoena is directed, or

29 (2) In the case of a person other than a natural person, the person or persons responsible  
30 for answering each interrogatory. If any interrogatory is objected to, the reasons for the objection  
31 shall be stated in the certificate instead of an answer. The certificate shall state that all  
32 information required by the subpoena and in the possession, custody, control, or knowledge of the  
33 person to whom the demand is directed has been submitted. To the extent that any information is  
34 not furnished, the information shall be identified and reasons set forth with particularity regarding

1 the reasons why the information was not furnished.

2 (h) Oral examinations.

3 (1) Procedures. - The examination of any person pursuant to a subpoena for oral  
4 testimony served under this section shall be taken before an officer authorized to administer oaths  
5 and affirmations by the laws of this state or of the place where the examination is held. The  
6 officer before whom the testimony is to be taken shall put the witness on oath or affirmation and  
7 shall, personally or by someone acting under the direction of the officer and in the officer's  
8 presence, record the testimony of the witness. The testimony shall be taken stenographically and  
9 shall be transcribed. When the testimony is fully transcribed, the officer before whom the  
10 testimony is taken shall promptly transmit a certified copy of the transcript of the testimony in  
11 accordance with the instructions of the attorney general [or solicitor](#). This subsection shall not  
12 preclude the taking of testimony by any means authorized by, and in a manner consistent with,  
13 the Rhode Island superior court rules of civil procedure.

14 (2) Persons present. - The investigator conducting the examination shall exclude from  
15 the place where the examination is held all persons except the person giving the testimony, the  
16 attorney for and any other representative of the person giving the testimony, the attorney for the  
17 state, any person who may be agreed upon by the attorney for the state and the person giving the  
18 testimony, the officer before whom the testimony is to be taken, and any stenographer taking such  
19 testimony.

20 (3) Where testimony taken. - The oral testimony of any person taken pursuant to a  
21 subpoena served under this section shall be taken in the county within which such person resides,  
22 is found, or transacts business, or in such other place as may be agreed upon by the attorney  
23 general and such person.

24 (4) Transcript of testimony. - When the testimony is fully transcribed, the attorney  
25 general, [solicitor](#) or the officer before whom the testimony is taken shall afford the witness, who  
26 may be accompanied by counsel, a reasonable opportunity to review and correct the transcript, in  
27 accordance with the rules applicable to deposition witnesses in civil cases. Upon payment of  
28 reasonable charges, the attorney general [or solicitor](#) shall furnish a copy of the transcript to the  
29 witness, except that the attorney general [or solicitor](#) may, for good cause, limit the witness to  
30 inspection of the official transcript of the witness' testimony.

31 (5) Conduct of oral testimony.

32 (A) Any person compelled to appear for oral testimony under a subpoena issued under  
33 subsection (a) may be accompanied, represented, and advised by counsel, who may raise  
34 objections based on matters of privilege in accordance with the rules applicable to depositions in

1 civil cases. If such person refuses to answer any question, a petition may be filed in superior court  
2 under subsection (j)(1) for an order compelling such person to answer such question.

3 (B) If such person refuses any question on the grounds of the privilege against self-  
4 incrimination, the testimony of such person may be compelled in accordance with rules of  
5 criminal procedure.

6 (6) Witness fees and allowances. - Any person appearing for oral testimony under a  
7 subpoena issued under subsection 9-1.1-6(a) shall be entitled to the same fees and allowances  
8 which are paid to witnesses in the superior court.

9 (7) Custodians of documents, answers, and transcripts.

10 (A) Designation. - The attorney general, solicitor or ~~his or her~~ their respective delegate  
11 shall serve as custodian of documentary material, answers to interrogatories, and transcripts of  
12 oral testimony received under this section.

13 (B) Except as otherwise provided in this section, no documentary material, answers to  
14 interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the  
15 custodian, shall be available for examination by any individual, except as determined necessary  
16 by the attorney general or solicitor and subject to the conditions imposed by him or her for  
17 effective enforcement of the laws of this state, or as otherwise provided by court order.

18 (C) Conditions for return of material. - If any documentary material has been produced  
19 by any person in the course of any investigation pursuant to a subpoena under this section and:

20 (i) Any case or proceeding before the court or grand jury arising out of such  
21 investigation, or any proceeding before any state agency involving such material, has been  
22 completed, or

23 (ii) No case or proceeding in which such material may be used has been commenced  
24 within a reasonable time after completion of the examination and analysis of all documentary  
25 material and other information assembled in the course of such investigation, the custodian shall,  
26 upon written request of the person who produced such material, return to such person any such  
27 material which has not passed into the control of any court, grand jury, or agency through  
28 introduction into the record of such case or proceeding.

29 (j) Judicial proceedings.

30 (1) Petition for enforcement. - Whenever any person fails to comply with any subpoena  
31 issued under subsection (a), or whenever satisfactory copying or reproduction of any material  
32 requested in such demand cannot be done and such person refuses to surrender such material, the  
33 attorney general or solicitor may file, in the superior court of the county in which such person  
34 resides, is found, or transacts business, or the superior court in the he county in which an action

1 filed pursuant to section 9-1.1-4 is pending if the action relates to the subject matter of the  
2 subpoena and serve upon such person a petition for an order of such court for the enforcement of  
3 the subpoena.

4 (2) Petition to modify or set aside subpoena.

5 (A) Any person who has received a subpoena issued under subsection (a) may file, in the  
6 superior court of any county within which such person resides, is found, or transacts business, and  
7 serve upon the attorney general [or solicitor](#) a petition for an order of the court to modify or set  
8 aside such subpoena. In the case of a petition addressed to an express demand for any product of  
9 discovery, a petition to modify or set aside such demand may be brought only in the superior  
10 court of the county in which the proceeding in which such discovery was obtained is or was last  
11 pending. Any petition under this subparagraph (a) must be filed:

12 (i) Within twenty (20) days after the date of service of the subpoena, or at any time  
13 before the return date specified in the subpoena, whichever date is earlier, or

14 (ii) Within such longer period as may be prescribed in writing by the attorney general [or](#)  
15 [solicitor](#).

16 (B) The petition shall specify each ground upon which the petitioner relies in seeking  
17 relief under subparagraph (a), and may be based upon any failure of the subpoena to comply with  
18 the provisions of this section or upon any constitutional or other legal right or privilege of such  
19 person. During the pendency of the petition in the court, the court may stay, as it deems proper,  
20 the running of the time allowed for compliance with the subpoena, in whole or in part, except that  
21 the person filing the petition shall comply with any portion of the subpoena not sought to be  
22 modified or set aside.

23 (3) Petition to modify or set aside demand for product of discovery. In the case of any  
24 subpoena issued under subsection (a) which is an express demand for any product of discovery,  
25 the person from whom such discovery was obtained may file, in the superior court of the county  
26 in which the proceeding in which such discovery was obtained is or was last pending, a petition  
27 for an order of such court to modify or set aside those portions of the subpoena requiring  
28 production of any such product of discovery, subject to the same terms, conditions, and  
29 limitations set forth in subparagraph (j)(2) of this section.

30 (4) Jurisdiction. - Whenever any petition is filed in any superior court under this  
31 subsection (j), such court shall have jurisdiction to hear and determine the matter so presented,  
32 and to enter such orders as may be required to carry out the provisions of this section. Any final  
33 order so entered shall be subject to appeal in the same manner as appeals of other final orders in  
34 civil matters. Any disobedience of any final order entered under this section by any court shall be

1 punished as a contempt of the court.

2 (k) Disclosure exemption. - Any documentary material, answers to written  
3 interrogatories, or oral testimony provided under any subpoena issued under subsection (a) shall  
4 be exempt from disclosure under the Rhode Island access to public records law, section 38-2-2.

5 **9-1.1-8. Funds. --** There is hereby created a separate fund entitled the false claims act  
6 fund. All proceeds of an action or settlement of a claim brought under this chapter shall be  
7 deposited in the fund, with the exception of actions brought directly by a solicitor, in which case  
8 the proceeds of an action or settlement of a claim brought under this chapter shall be provided to  
9 the respective municipality.

10 SECTION 2. Chapter 9-1.1 of the General Laws entitled "The State False Claim Act" is  
11 hereby amended by adding thereto the following section:

12 **9-1.1-9. Powers. --** All powers conferred under this chapter upon the attorney general  
13 with regard to the state are conferred upon solicitors with regard to their respective  
14 municipalities.

15 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO COURTS AND CIVIL PROCEDURE - FALSE CLAIM ACT

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- 1           This act would authorize city and town solicitors to bring civil actions under “The State
- 2 False Claim Act.”
- 3           This act would take effect upon passage.

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