

## New York State False Claims Act

As amended by 2023 Laws, Ch. 59

NY CLS St Fin § 186 et seq.

### § 187. Short title

This article shall be known and may be cited as the "New York false claims act".

### § 188. Definitions

As used in this article, the following terms shall mean:

#### 1. "Claim"

(a) means any request or demand, whether under a contract or otherwise, for money or property that

(i) is presented to an officer, employee or agent of the state or a local government; or

(ii) is made to a contractor, grantee, or other recipient, if the money or property



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(b) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the state pursuant to subdivision one of section three hundred seven of the civil practice law and rules. Any complaint filed in a court of the state of New York shall be filed in supreme court in camera, shall remain under seal for at least sixty days, and shall not be served on the defendant until the court so orders. The seal shall not preclude the attorney general, a local government, or the qui tam plaintiff from serving the complaint, any other pleadings, or the written disclosure of substantially all material evidence and information possessed by the person bringing the action, on relevant state or local government agencies, or on law enforcement authorities of the state, a local government, or other jurisdictions, so that the actions may be investigated or prosecuted, except that such seal applies to the agencies or authorities so served to the same extent as the seal applies to other parties in the action.

If the allegations in the complaint allege a violation of section one hundred eighty-nine of this article involving damages to a local government, then the attorney general may at any time provide a copy of such complaint and written disclosure to the attorney for such local government; provided, however, that if the allegations in the complaint involve damages only to a city with a population of one million or more, or only to the state and such a city, then the attorney general shall provide such complaint and written disclosure to the corporation counsel of such city within thirty days.

The state may elect to supersede or intervene and proceed with the action, or to authorize a local government that may have sustained damages to supersede or intervene, within sixty days after it receives both the complaint and the material evidence and information; provided, however, that if the allegations in the complaint involve damages only to a city with a population of one million or more, then the attorney general may not supersede or intervene in such action without the consent of the corporation counsel of such city. The attorney general shall consult with the office of the medicaid inspector general prior to superseding or intervening in any action related to the medicaid program. The attorney general may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under this subdivision. Any such motions may be supported by affidavits or other submissions in camera.

(c) Prior to the expiration of the sixty day period or any extensions obtained under paragraph (b) of this subdivision, the attorney general shall notify the court that he or she:

(i) intends to file a complaint against the defendant on behalf of the people of the state of New York or a local government, and thereby be substituted as the plaintiff in the action and convert the action in all respects from a qui tam civil action brought by a private person into a civil enforcement action by the attorney general under subdivision one of this section;

(ii) intends to intervene in such action, as of right, so as to aid and assist the plaintiff in the action; or

(iii) if the action involves damages sustained by a local government, intends to grant the local government permission to: (A) file and serve a complaint against the defendant, and thereby be substituted as the plaintiff in the action and convert the action in all respects from a qui tam civil action brought by a private person into a civil enforcement action by the local

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persons bringing the action in advancing the case to litigation. Where the court finds that the action was based on disclosure of specific information related to the use of government funds during a declaration of a state of emergency, the court shall increase the percentage of the proceeds to which the person commencing such qui tam civil action is entitled by up to five percent more than the maximum percentage allowed pursuant to this paragraph. Any such person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, reasonable attorneys' fees, and costs pursuant to article eighty-one of the civil practice law and rules. All such expenses, fees, and costs shall be awarded against the defendant.

(b) If the attorney general or a local government does not elect to intervene or convert the action, and the action is successful, then the person or persons who initiated the qui tam action which obtains proceeds shall be entitled to receive between twenty-five and thirty percent of the proceeds recovered in the action or settlement of the action. The court shall determine the percentage of the proceeds to which a person commencing a qui tam civil action is entitled, by considering the extent to which the plaintiff substantially contributed to the prosecution of the action. Where the court finds that the action was based on disclosure of specific information related to the use of government funds during a declaration of a state of emergency, the court shall in addition to the percentage of proceeds to which a person commencing such a qui tam civil action is entitled, award to the plaintiff reasonable attorneys' fees, and costs pursuant to article eighty-one of the civil practice law and rules. All such expenses, fees, and costs shall be awarded against the defendant.

violation. If the person bringing the qui tam civil action is convicted of criminal conduct arising from his or her role in the violation of section one hundred eighty-nine of this article, that person shall be dismissed from the qui tam civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the attorney general to supersede or intervene in such action and to civilly prosecute the same on behalf of the state or a local government.

9. Certain actions barred.

(a) The court shall dismiss a qui tam action under this article if:

(i) it is based on allegations or transactions which are the subject of a pending civil action or an administrative action in which the state or a local government is already a party;

(ii) the state or local government has reached a binding settlement or other agreement with the person who violated section one hundred eighty-nine of this article resolving the matter and such agreement has been approved in writing by the attorney general, or by the applicable local government attorney; or

(iii) against a member of the legislature, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the state when the action was brought.

(b) The court shall dismiss a qui tam action under this article, unless opposed by the state or an applicable local government, or unless the qui tam plaintiff is an original source of the information, if substantially the same allegations or transactions as alleged in the action were publicly disclosed:

(i) in a state or local government criminal, civil, or administrative hearing in which the state or a local government or its agent is a party;

(ii) in a federal, New York state or New York local government report, hearing, audit, or investigation that is made on the public record or disseminated broadly to the general public; provided that such information shall not be deemed "publicly disclosed" in a report or investigation because it was disclosed or provided pursuant to article six of the public officers law, or under any other federal, state or local law, rule or program enabling the public to request, receive or view documents or information in the possession of public officials or public agencies;

(iii) in the news media, provided that such allegations or transactions are not "publicly disclosed" in the "news media" merely because information of allegations or transactions have been posted on the internet or on a computer network.

10. Liability. Neither the state nor any local government shall be liable for any expenses which any person incurs in bringing a qui tam civil action under this article.



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§ 194. Regulations

The attorney general is authorized to adopt such rules and regulations as is necessary to effectuate the purposes of this article.