
A BILL FOR AN ACT

RELATING TO FALSE CLAIMS TO THE STATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 1909 of the Social Security Act, title
2 42 United States Code section 1396h, provides a ten-percentage-
3 point increase in a state's share of any amounts recovered under
4 a false claims act if the state's false claims act meets the
5 requirements set forth in section 1909 to qualify for the
6 financial incentive. Section 1909(b)(4) of the Social Security
7 Act requires the civil penalty for false claims to the State to
8 be not less than the amount of the civil penalty authorized
9 under the federal False Claims Act, title 31 United States Code
10 section 3729, as that civil monetary penalty amount may increase
11 pursuant to the federal Civil Penalties Inflation Adjustment Act
12 of 1990, P.L. 101-410, title 31 United States Code section 3717.
13 The Inspector General of the United States Department of Health
14 and Human Services has determined that Hawaii's false claims act
15 no longer meets the requirements of section 1909 of the Social
16 Security Act because the penalty amounts in Hawaii's false
17 claims act are less than the increased penalty amounts



1 authorized by federal rule pursuant to the federal False Claims
2 Act. The Department of Justice adopted this rule pursuant to
3 federal law inflation adjustment provisions based on the United
4 States Consumer Price Index for all urban consumers, as
5 published by the United States Department of Labor Bureau of
6 Labor Statistics and the cost-of-living inflation multiplier
7 determined by the United States Office of Management and Budget.

8 The purpose of this Act is to continue to meet the
9 qualifying financial incentive requirements provided by section
10 1909 of the Social Security Act by:

- 11 (1) Increasing penalty amounts for false claims to the
12 State to be the same as the penalty amounts for 2019
13 under the federal False Claims Act; and
- 14 (2) Providing that the penalty amounts in Hawaii's false
15 claims act for the year 2020 and thereafter shall be
16 the same amounts and for the same effective dates as
17 the penalty amounts adjusted and adopted by the United
18 States Department of Justice for the federal False
19 Claims Act.

20 SECTION 2. Section 661-21, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



- 1 "(a) Notwithstanding section 661-7 to the contrary, any
2 person who:
- 3 (1) Knowingly presents, or causes to be presented, a false
4 or fraudulent claim for payment or approval;
- 5 (2) Knowingly makes, uses, or causes to be made or used, a
6 false record or statement material to a false or
7 fraudulent claim;
- 8 (3) Has possession, custody, or control of property or
9 money used, or to be used, by the State and, intending
10 to defraud the State or to wilfully conceal the
11 property, delivers, or causes to be delivered, less
12 property than the amount for which the person receives
13 a certificate or receipt;
- 14 (4) Is authorized to make or deliver a document certifying
15 receipt of property used, or to be used by the State
16 and, intending to defraud the State, makes or delivers
17 the receipt without completely knowing that the
18 information on the receipt is true;
- 19 (5) Knowingly buys, or receives as a pledge of an
20 obligation or debt, public property from any officer



1 or employee of the State who is not lawfully
2 authorized to sell or pledge the property;

3 (6) Knowingly makes, uses, or causes to be made or used, a
4 false record or statement material to an obligation to
5 pay or transmit money or property to the State, or
6 knowingly conceals, or knowingly and improperly avoids
7 or decreases an obligation to pay or transmit money or
8 property to the State;

9 (7) Is a beneficiary of an inadvertent submission of a
10 false claim to the State, who subsequently discovers
11 the falsity of the claim, and fails to disclose the
12 false claim to the State within a reasonable time
13 after discovery of the false claim; or

14 (8) Conspires to commit any of the conduct described in
15 this subsection,

16 shall be liable to the State for a civil penalty of not less
17 than [~~\$5,500~~] \$11,463 and not more than [~~\$11,000,~~] \$22,927, plus
18 three times the amount of damages that the State sustains due to
19 the act of that person[-]; provided that for 2020 and annually
20 thereafter, the minimum and maximum penalty amounts shall be the
21 same as the minimum and maximum civil monetary penalty amounts



1 authorized for the federal False Claims Act, title 31 United
2 States Code section 3729, adjusted for cost-of-living
3 adjustments and for the same effective dates, as adopted by the
4 United States Department of Justice by federal rule in title 28
5 Code of Federal Regulations part 85, pursuant to the federal
6 Civil Penalties Inflation Adjustment Act of 1990, P.L. 101-410,
7 title 31 United States Code section 3717."

8 SECTION 3. The increased minimum and maximum civil penalty
9 amounts in section 661-21(a), Hawaii Revised Statutes, as
10 amended pursuant to section 2 of this Act shall apply to
11 violations that occurred after November 2, 2015, and to
12 assessments of civil penalties made after the effective date of
13 this Act.

14 SECTION 4. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

False Claims to the State; Civil Penalties; Increase; Federal Law

Description:

Amends the false claims statute, section 661-21(a), Hawaii Revised Statutes, to increase civil monetary penalty minimum and maximum amounts to maintain consistency with federal law so that the State can continue to maximize its recoveries in cases where state money is taken illegally and False Claims Act prosecution is successful. (SB1176 HD1)

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