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# 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 (42  
2 U.S.C. § 1396h), provides a ten-percentage-point increase in a  
3 state's share of any amounts recovered under a false claims act  
4 if the state's false claims act meets the requirements set forth  
5 in section 1909 to qualify for the financial incentive. Section  
6 1909(b)(4) of the Social Security Act requires the penalties for  
7 false claims to the State to be not less than the amounts of the  
8 civil penalty authorized under the Federal False Claims Act (31  
9 U.S.C. § 3729), as those civil monetary penalty amounts may  
10 increase pursuant to the Federal Civil Penalties Inflation  
11 Adjustment Act of 1990 (P.L. 101-410), as amended and codified  
12 at title 28 United States Code section 2461. The Inspector  
13 General of the United States Department of Health and Human  
14 Services has determined that Hawaii's false claims act no longer  
15 meets the requirements of section 1909 of the Social Security  
16 Act because the penalty amounts in Hawaii's false claims act are  
17 less than the increased penalty amounts authorized for the



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

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

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



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

3 "(a) Notwithstanding section 661-7 to the contrary, any  
4 person who:

5 (1) Knowingly presents, or causes to be presented, a false  
6 or fraudulent claim for payment or approval;

7 (2) Knowingly makes, uses, or causes to be made or used, a  
8 false record or statement material to a false or  
9 fraudulent claim;

10 (3) Has possession, custody, or control of property or  
11 money used, or to be used, by the State and, intending  
12 to defraud the State or to wilfully conceal the  
13 property, delivers, or causes to be delivered, less  
14 property than the amount for which the person receives  
15 a certificate or receipt;

16 (4) Is authorized to make or deliver a document certifying  
17 receipt of property used, or to be used by the State  
18 and, intending to defraud the State, makes or delivers  
19 the receipt without completely knowing that the  
20 information on the receipt is true;



- 1 (5) Knowingly buys, or receives as a pledge of an  
2 obligation or debt, public property from any officer  
3 or employee of the State who is not lawfully  
4 authorized to sell or pledge the property;
- 5 (6) Knowingly makes, uses, or causes to be made or used, a  
6 false record or statement material to an obligation to  
7 pay or transmit money or property to the State, or  
8 knowingly conceals, or knowingly and improperly avoids  
9 or decreases an obligation to pay or transmit money or  
10 property to the State;
- 11 (7) Is a beneficiary of an inadvertent submission of a  
12 false claim to the State, who subsequently discovers  
13 the falsity of the claim, and fails to disclose the  
14 false claim to the State within a reasonable time  
15 after discovery of the false claim; or
- 16 (8) Conspires to commit any of the conduct described in  
17 this subsection,
- 18 shall be liable to the State for a civil penalty of not less  
19 than [~~\$5,500~~] \$11,463 and not more than [~~\$11,000,~~] \$22,927, plus  
20 three times the amount of damages that the State sustains due to  
21 the act of that person[-]; provided that for 2020 and annually



1 thereafter, the minimum and maximum penalty amounts shall be the  
2 same as the minimum and maximum civil monetary penalty amounts  
3 authorized for the Federal False Claims Act (31 U.S.C. § 3729)  
4 adjusted for cost-of-living adjustments and for the same  
5 effective dates, as adopted by the United States Department of  
6 Justice by federal rule in title 28 Code of Federal Regulations  
7 part 85, pursuant to the Federal Civil Penalties Inflation  
8 Adjustment Act of 1990 (P.L. 101-410), as amended and codified  
9 at title 28 United States Code section 2461."

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

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

17 SECTION 5. This Act shall take effect upon its approval.



**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. (SD1)

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