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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2509 Session of  
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INTRODUCED BY GERBER, KENNEY, ADOLPH, BELFANTI, BRENNAN,  
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RUBLEY, SANTONI, SIPTROTH, VULAKOVICH, WATSON, SURRA, SAYLOR  
AND J. WHITE, MAY 7, 2008

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REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES, MAY 7, 2008

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AN ACT

1 Providing for liability for false claims, for treble damages,  
2 costs and civil penalties, for powers of the Attorney  
3 General, for qui tam actions and for adoption of legislative  
4 history of the Federal False Claims Act.

5 TABLE OF CONTENTS

6 Chapter 1. Preliminary Provisions

7 Section 101. Short title.

8 Section 102. Definitions.

9 Chapter 3. False Claims

10 Section 301. Acts subjecting persons to liability for treble  
11 damages, costs and civil penalties; exceptions.

12 Section 302. Civil actions for false claims.

13 Section 303. False claims procedure.

14 Section 304. Remedies under other laws; severability of  
15 provisions; liberality of legislative  
16 construction; adoption of legislative history.

1 Section 305. Regulations.

2 Chapter 21. Miscellaneous Provisions

3 Section 2101. Effective date.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 CHAPTER 1

7 PRELIMINARY PROVISIONS

8 Section 101. Short title.

9 This act shall be known and may be cited as the False Claims  
10 Act.

11 Section 102. Definitions.

12 The following words and phrases when used in this act shall  
13 have the meanings given to them in this section unless the  
14 context clearly indicates otherwise:

15 "Attorney General." The Attorney General of the  
16 Commonwealth.

17 "Claim." Any request or demand for money, property or  
18 services made to any employee, officer or agent of the  
19 Commonwealth, or to any contractor, grantee or other recipient,  
20 whether under contract or not, if any portion of the money,  
21 property or services requested or demanded, issued from or was  
22 provided by the Commonwealth, or if the Commonwealth will  
23 reimburse such contractor, grantee or other recipient for any  
24 portion of the money or property which is requested or demanded.

25 "Commonwealth." The Commonwealth of Pennsylvania and any  
26 department, board, bureau, division, commission, committee,  
27 public benefit corporation, public authority, council, office or  
28 other government entity performing a governmental or proprietary  
29 function for the Commonwealth.

30 "Employer." Any natural person, corporation, firm,

1 association, organization, partnership, business, trust or  
2 Commonwealth-affiliated entity involved in a nongovernmental  
3 function, including State universities and State hospitals.

4 "Executive-level State employee." The meaning ascribed to it  
5 in 65 Pa.C.S. § 1102 (relating to definitions).

6 "Knowing" and "knowingly." Whenever a person, with respect  
7 to information, does any of the following:

8 (1) Has actual knowledge of the information.

9 (2) Acts in deliberate ignorance of the truth or falsity  
10 of the information.

11 (3) Acts in reckless disregard of the truth or falsity  
12 of the information.

13 Proof of specific intent to defraud is not required.

14 "Qui tam plaintiff." A person who initiates an action  
15 pursuant to section 302(b).

### 16 CHAPTER 3

### 17 FALSE CLAIMS

18 Section 301. Acts subjecting persons to liability for treble  
19 damages, costs and civil penalties; exceptions.

20 (a) Liability.--Any person who commits any of the following  
21 acts shall be liable to the Commonwealth for three times the  
22 amount of damages which the Commonwealth sustains because of the  
23 act of that person. A person who commits any of the following  
24 acts shall also be liable to the Commonwealth for the costs of a  
25 civil action brought to recover any of those penalties or  
26 damages and shall be liable to the Commonwealth for a civil  
27 penalty of not less than \$5,000 and not more than \$10,000 for  
28 each violation:

29 (1) Knowingly presents or causes to be presented to any  
30 employee, officer or agent of the Commonwealth or to any

1 contractor, grantee or other recipient of Commonwealth funds,  
2 a false or fraudulent claim for payment or approval.

3 (2) Knowingly makes, uses or causes to be made or used,  
4 a false record or statement to get a false or fraudulent  
5 claim paid or approved.

6 (3) Conspires to defraud the Commonwealth by getting a  
7 false claim allowed or paid or conspires to defraud the  
8 Commonwealth by knowingly making, using or causing to be made  
9 or used, a false record or statement to conceal, avoid or  
10 decrease an obligation to pay or transmit money or property  
11 to the Commonwealth.

12 (4) Has possession, custody or control of public  
13 property or money used or to be used by the Commonwealth and  
14 knowingly delivers or causes to be delivered less property  
15 than the amount for which the person receives a certificate  
16 or receipt.

17 (5) Is authorized to make or deliver a document  
18 certifying receipt of property used or to be used by the  
19 Commonwealth and knowingly makes or delivers the receipt  
20 without completely knowing that the information on the  
21 receipt is true.

22 (6) Knowingly buys or receives as a pledge of an  
23 obligation or debt, public property from an officer or  
24 employee of the Commonwealth who lawfully may not sell or  
25 pledge the property.

26 (7) Knowingly makes, uses or causes to be made or used,  
27 a false record or statement to conceal, avoid or decrease an  
28 obligation to pay or transmit money or property to the  
29 Commonwealth.

30 (8) Is a beneficiary of an inadvertent submission of a

1 false claim to any employee, officer or agent of the  
2 Commonwealth or to any contractor, grantee or other recipient  
3 of Commonwealth funds, subsequently discovers the falsity of  
4 the claim and fails to disclose the false claim to the  
5 Commonwealth within a reasonable time after discovery of the  
6 false claim.

7 (9) Having a duty to make disclosure of a fact, event or  
8 occurrence, knowingly fails to disclose such fact, event or  
9 occurrence in order to conceal, avoid or decrease an  
10 obligation to pay or transmit money or property to the  
11 Commonwealth.

12 (b) Damages limitation.--The court may limit the damages  
13 assessed under subsection (a) to not less than two times the  
14 amount of damages which the Commonwealth sustains because of the  
15 act of the person described in that subsection if the court  
16 finds all of the following:

17 (1) The person committing the violation furnished  
18 officials of the Commonwealth who are responsible for  
19 investigating false claims violations with all information  
20 known to that person about the violation within 30 days after  
21 the date on which the person first obtained the information.

22 (2) The person fully cooperated with any investigation  
23 by the Commonwealth of the violation.

24 (3) At the time the person furnished the Commonwealth  
25 with information about the violation, no criminal  
26 prosecution, civil action or administrative action has  
27 commenced with respect to the violation, and the person did  
28 not have actual knowledge of the existence of an  
29 investigation into the violation.

30 (c) Exclusion.--This section does not apply to claims,

1 records or statements made pursuant to the act of March 4, 1971  
2 (P.L.6, No.2), known as the Tax Reform Code of 1971.

3 (d) Right-to-Know Law exemption.--Any information furnished  
4 pursuant to subsection (b) shall be exempt from public access  
5 under the act of February 14, 2008 (P.L. , No.3), known as the  
6 Right-to-Know Law.

7 Section 302. Civil actions for false claims.

8 (a) Responsibilities of the Attorney General.--The Attorney  
9 General diligently shall investigate a violation under section  
10 301. If the Attorney General finds that a person has violated or  
11 is violating section 301, the Attorney General may bring a civil  
12 action under this section against that person. No action may be  
13 filed pursuant to this subsection against the Commonwealth or  
14 any officer or employee thereof acting in his official capacity.  
15 Sections 204(c), 301(6) and 303 of the act of October 15, 1980  
16 (P.L.950, No.164), known as the Commonwealth Attorneys Act,  
17 shall apply to civil actions that may be brought by the Attorney  
18 General under this subsection.

19 (b) Actions by private persons.--

20 (1) A person may bring a civil action for a violation of  
21 section 301 for the person and for the Commonwealth. The  
22 action shall be brought in the name of the Commonwealth. Once  
23 filed, the action may be dismissed only if the court gives  
24 written consent to the dismissal, taking into account the  
25 best interests of the parties involved and the public  
26 purposes behind this chapter.

27 (2) A copy of the complaint and written disclosure of  
28 substantially all material evidence and information the  
29 person possesses shall be served on the Attorney General  
30 pursuant to applicable rules of the Pennsylvania Rules of

1 Civil Procedure. The complaint shall be filed in camera and  
2 shall remain under seal for at least 60 days and shall not be  
3 served on the defendant until the court so orders. The  
4 Commonwealth may elect to intervene and proceed with the  
5 action within 60 days after it receives both the complaint  
6 and the material evidence and information.

7 (3) The Commonwealth may, for good cause shown, move the  
8 court for extensions of the time during which the complaint  
9 remains under seal under paragraph (2). Any such motions may  
10 be supported by affidavits or other submissions in camera.  
11 The defendant shall not be required to respond to any  
12 complaint filed under this section until 30 days after the  
13 complaint is unsealed and served upon the defendant pursuant  
14 to the Pennsylvania Rules of Civil Procedure.

15 (4) Before the expiration of the 60-day period or any  
16 extensions obtained under paragraph (3), the Commonwealth  
17 shall:

18 (i) proceed with the action, in which case the  
19 action shall be conducted by the Commonwealth; or

20 (ii) notify the court that it declines to take over  
21 the action, in which case the person bringing the action  
22 shall have the right to conduct the action.

23 (5) When a person brings a valid action under this  
24 subsection, no person other than the Commonwealth may  
25 intervene or bring a related action based on the facts  
26 underlying the pending action.

27 (6) No action may be filed pursuant to this subsection  
28 against the Commonwealth or any officer or employee thereof  
29 acting in his official capacity.

30 (c) Rights of the parties to qui tam actions.--

1           (1) If the Commonwealth proceeds with the action, it  
2 shall have the primary responsibility for prosecuting the  
3 action and shall not be bound by an act of the qui tam  
4 plaintiff. The qui tam plaintiff shall have the right to  
5 continue as a party to the action, subject to the limitations  
6 set forth in paragraph (2).

7           (2) (i) The Commonwealth may seek to dismiss the action  
8 for good cause notwithstanding the objections of the qui  
9 tam plaintiff if the qui tam plaintiff has been notified  
10 by the Commonwealth of the filing of the motion and the  
11 court has provided the qui tam plaintiff with an  
12 opportunity to oppose the motion and present evidence at  
13 a hearing.

14           (ii) The Commonwealth may settle the action with the  
15 defendant notwithstanding the objections of the qui tam  
16 plaintiff if the court determines, after a hearing, that  
17 the proposed settlement is fair, adequate and reasonable  
18 under all of the circumstances. Upon a showing of good  
19 cause, such hearing may be held in camera.

20           (iii) Upon a showing by the Commonwealth that the  
21 qui tam plaintiff's unrestricted participation during the  
22 course of the litigation would interfere with or unduly  
23 delay the Commonwealth's prosecution of the case or would  
24 be repetitious, irrelevant or for purposes of harassment,  
25 the court may, in its discretion, impose limitations on  
26 the person's participation, such as:

27                   (A) limiting the number of witnesses the person  
28 may call;

29                   (B) limiting the length of the testimony of such  
30 witnesses;



1 (C) limiting the qui tam plaintiff's cross-  
2 examination of witnesses; or

3 (D) otherwise limiting the participation by the  
4 qui tam plaintiff in the litigation.

5 (iv) Upon a showing by the defendant that the qui  
6 tam plaintiff's unrestricted participation during the  
7 course of the litigation would be for purposes of  
8 harassment or would cause the defendant undue burden or  
9 unnecessary expense, the court may limit the  
10 participation by the qui tam plaintiff in the litigation  
11 in the same manner set forth in subparagraph (iii).

12 (3) If the Commonwealth elects not to proceed with the  
13 action, the qui tam plaintiff shall have the right to conduct  
14 the action. If the Commonwealth so requests, it shall be  
15 served with copies of all pleadings filed in the action and  
16 shall be supplied with copies of all deposition transcripts  
17 at the Commonwealth's expense. When a qui tam plaintiff  
18 proceeds with the action, the court, without limiting the  
19 status and rights of the qui tam plaintiff, may permit the  
20 Commonwealth to intervene at a later date upon a showing of  
21 good cause.

22 (4) Whether or not the Commonwealth proceeds with the  
23 action, upon a showing by the Commonwealth that certain  
24 actions of discovery by the qui tam plaintiff would interfere  
25 with the Commonwealth's investigation or prosecution of a  
26 criminal or civil matter arising out of the same facts, the  
27 court may stay such discovery for a period of not more than  
28 60 days. Such a showing shall be conducted in camera. The  
29 court may extend the 60-day period upon a further showing in  
30 camera that the Commonwealth has pursued the criminal or

1 civil investigation or proceedings with reasonable diligence  
2 and any proposed discovery in the civil action will interfere  
3 with the ongoing criminal or civil investigations or  
4 proceedings.

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

21 (d) Award to qui tam plaintiff.--

22 (1) (i) If the Commonwealth proceeds with an action  
23 brought by a qui tam plaintiff under subsection (b), the  
24 qui tam plaintiff shall, subject to subparagraph (ii),  
25 receive at least 15% but not more than 25% of the  
26 proceeds of the action or settlement of the claim,  
27 depending upon the extent to which either the qui tam  
28 plaintiff or his counsel, or both, substantially  
29 contributed to the prosecution of the action.

30 (ii) Where the action is one which the court finds

1 to be based primarily on disclosures of specific  
2 information, other than information provided by the qui  
3 tam plaintiff, relating to allegations or transactions in  
4 a criminal, civil or administrative hearing or in a  
5 legislative or administrative report, hearing, audit or  
6 investigation or from the news media, the court may award  
7 such sums as it considers appropriate but in no case more  
8 than 10% of the proceeds, taking into account the  
9 significance of the information and the role of the qui  
10 tam plaintiff in advancing the case to litigation.

11 (iii) Any payment to a qui tam plaintiff under  
12 subparagraph (i) or (ii) shall be made from the proceeds.

13 (iv) The qui tam plaintiff shall also receive an  
14 amount for reasonable expenses which the court finds to  
15 have been necessarily incurred, plus reasonable attorney  
16 fees and costs. All such expenses, fees and costs shall  
17 be awarded against the defendant.

18 (2) If the Commonwealth does not proceed with an action  
19 under this section, the qui tam plaintiff shall receive an  
20 amount which the court decides is reasonable for collecting  
21 the civil penalty and damages. The amount shall not be less  
22 than 25% and not more than 30% of the proceeds of the action  
23 or settlement and shall be paid out of the proceeds. The qui  
24 tam plaintiff shall also receive an amount for reasonable  
25 expenses which the court finds to have been necessarily  
26 incurred, plus reasonable attorney fees and costs. All such  
27 expenses, fees and costs shall be awarded against the  
28 defendant.

29 (3) Whether or not the Commonwealth proceeds with the  
30 action, if the court finds that the qui tam plaintiff planned

1 and initiated the violation of section 301 upon which the  
2 action was brought, then the court may, to the extent the  
3 court considers appropriate, reduce the share of the proceeds  
4 of the action which the qui tam plaintiff would otherwise  
5 receive under paragraph (1) or (2), taking into account the  
6 role of the qui tam plaintiff in advancing the case to  
7 litigation and any relevant circumstances pertaining to the  
8 violation. If the qui tam plaintiff is convicted of criminal  
9 conduct arising from his role in the violation of section  
10 301, that person shall be dismissed from the civil action and  
11 shall not receive any share of the proceeds of the action.  
12 Such dismissal shall not prejudice the right of the  
13 Commonwealth to continue the action.

14 (4) If the Commonwealth does not proceed with the action  
15 and the qui tam plaintiff conducts the action, the court may  
16 award to the defendant its reasonable attorney fees and  
17 expenses if the defendant prevails in the action and the  
18 court finds that the claim of the qui tam plaintiff was  
19 clearly frivolous, clearly vexatious or brought primarily for  
20 purposes of harassment.

21 (e) Certain actions barred.--

22 (1) No court shall have jurisdiction over an action  
23 brought under subsection (b) against a member of the General  
24 Assembly, a member of the judiciary or an executive-level  
25 State employee if the action is based on evidence or  
26 information known to the Commonwealth when the action was  
27 brought.

28 (2) In no event may a person bring an action under  
29 subsection (b) which is based upon allegations or  
30 transactions which are the subject of a civil suit or an

1 administrative civil money penalty proceeding in which the  
2 Commonwealth is already a party.

3 (3) (i) Upon timely motion of the Attorney General, a  
4 court shall dismiss an action brought under subsection  
5 (b) if the allegations relating to the essential elements  
6 of the action are based exclusively on the public  
7 disclosure of allegations or transactions in a criminal,  
8 civil or administrative hearing, in a legislative or  
9 administrative report, audit or investigation or from the  
10 news media.

11 (ii) For purposes of this paragraph:

12 (A) The term "public disclosure" includes only  
13 disclosures made on the public record or that have  
14 otherwise been disseminated broadly to the general  
15 public.

16 (B) The qui tam plaintiff does not create a  
17 public disclosure by obtaining information from the  
18 act of February 14, 2008 (P.L. , No.3), known as the  
19 Right-to-Know Law, or from information exchanges with  
20 law enforcement and other Commonwealth employees if  
21 such information would not otherwise be considered  
22 publicly disclosed.

23 (C) An action is "based exclusively on a public  
24 disclosure" only if the qui tam plaintiff derived his  
25 knowledge of all essential elements of liability of  
26 the action alleged in his complaint from the public  
27 disclosure.

28 (f) Commonwealth not liable for certain expenses.--The  
29 Commonwealth is not liable for expenses which a person incurs in  
30 bringing an action under subsection (b).

1 (g) Private action for retaliation action.--Any employee who  
2 is discharged, demoted, suspended, threatened, harassed or in  
3 any other manner discriminated against in the terms and  
4 conditions of employment by his or her employer because of  
5 lawful acts done by the employee on behalf of the employee or  
6 others in furtherance of an action under this section, including  
7 investigation for, initiation of, testimony for or assistance in  
8 an action filed or to be filed under this section, shall be  
9 entitled to all relief necessary to make the employee whole.  
10 Such relief shall include reinstatement with the same seniority  
11 status such employee would have had but for the discrimination,  
12 two times the amount of back pay, interest on the back pay and  
13 compensation for any special damages sustained as a result of  
14 the discrimination, including litigation costs and reasonable  
15 attorney fees. An employee may bring an action in the  
16 appropriate court of common pleas of this Commonwealth for the  
17 relief provided in this subsection.

18 (h) Civil investigative demand.--

19 (1) (i) The Attorney General shall have the authority  
20 to issue civil investigative demands pursuant to  
21 paragraph (2).

22 (ii) Nothing contained in this subsection shall be  
23 construed to limit the regulatory or investigative  
24 authority of any department or agency of the Commonwealth  
25 whose functions might relate to persons, enterprises, or  
26 matters falling within the scope of this chapter.

27 (2) (i) Whenever the Attorney General has reason to  
28 believe that any person or enterprise may be in  
29 possession, custody, or control of any documentary  
30 material relevant to an investigation under this chapter,

1 the Attorney General may issue in writing, and cause to  
2 be served upon such person or enterprise, a civil  
3 investigative demand requiring the production of such  
4 material for examination.

5 (ii) Each such demand shall do all of the following:

6 (A) State the nature of the conduct constituting  
7 the alleged violation which is under investigation,  
8 the provision of law applicable thereto and the  
9 connection between the documentary material demanded  
10 and the conduct under investigation.

11 (B) Describe the class or classes of documentary  
12 material to be produced thereunder with such  
13 definiteness and certainty as to permit such material  
14 to be fairly identified.

15 (C) State that the demand is returnable  
16 forthwith or prescribe a return date which will  
17 provide a reasonable period of time within which the  
18 material so demanded may be assembled and made  
19 available for inspection and copying or reproduction.

20 (D) Identify an investigator to whom such  
21 material shall be made available.

22 (E) Contain the following statement printed  
23 conspicuously at the top of the demand: "You have the  
24 right to seek the assistance of any attorney and he  
25 may represent you in all phases of the investigation  
26 of which this civil investigative demand is a part."

27 (iii) No such demand shall:

28 (A) contain any requirement which would be held  
29 to be unreasonable if contained in a subpoena duces  
30 tecum issued by any court in connection with a grand

1 jury investigation of such alleged violation; or

2 (B) require the production of any documentary  
3 evidence which would be privileged from disclosure if  
4 demanded by a subpoena duces tecum issued by any  
5 court in connection with a grand jury investigation  
6 of such alleged violation.

7 (iv) Service of any such demand or any petition  
8 filed under this paragraph shall be made in the manner  
9 prescribed by the Pennsylvania Rules of Civil Procedure  
10 for service of writs and complaints.

11 (v) A verified return by the individual serving any  
12 such demand or petition setting forth the manner of such  
13 service shall be prima facie proof of such service. In  
14 the case of service by registered or certified mail, such  
15 return shall be accompanied by the return post office  
16 receipt of delivery of such demand.

17 (vi) (A) Any party upon whom any demand issued  
18 under this subsection has been duly served shall make  
19 such material available for inspection and copying or  
20 reproduction to the investigator designated therein  
21 at the principal place of business of such party, or  
22 at such other place as such investigator and such  
23 party thereafter may agree or as the court may direct  
24 pursuant to this paragraph, on the return date  
25 specified in such demand. Such party may upon  
26 agreement of the investigator substitute copies of  
27 all or any part of such material for the originals  
28 thereof.

29 (B) The investigator to whom any documentary  
30 material is so delivered shall take physical



1 possession thereof, and shall be responsible for the  
2 use made thereof and for its return pursuant to this  
3 paragraph. The investigator may cause the preparation  
4 of such copies of such documentary material as may be  
5 required for official use. While in the possession of  
6 the investigator, no material so produced shall be  
7 available for examination, without the consent of the  
8 party who produced such material, by any individual  
9 other than the Attorney General or the investigator.  
10 Under such reasonable terms and conditions as the  
11 Attorney General shall prescribe, documentary  
12 material while in the possession of the investigator  
13 shall be available for examination by the party who  
14 produced such material or any duly authorized  
15 representatives of such party.

16 (C) Upon completion of the investigation for  
17 which any documentary material was produced under  
18 this paragraph and any case or proceeding arising  
19 from such investigation, the investigator shall  
20 return to the party who produced such material all  
21 such material other than copies thereof made pursuant  
22 to this paragraph which have not passed into the  
23 control of any court or grand jury through  
24 introduction into the record of such case or  
25 proceeding.

26 (D) When any documentary material has been  
27 produced by any party under this paragraph for use in  
28 any investigation, and no case or proceeding arising  
29 therefrom has been instituted within a reasonable  
30 time after completion of the examination and analysis

1 of all evidence assembled in the course of such  
2 investigation, such party shall be entitled, upon  
3 written demand made upon the Attorney General, to the  
4 return of all documentary material, other than copies  
5 thereof made pursuant to this paragraph, so produced  
6 by such party.

7 (vii) Whenever any person or enterprise fails to  
8 comply with any civil investigative demand duly served  
9 upon him under this paragraph or whenever satisfactory  
10 copying or reproduction of any such material cannot be  
11 done and such party refuses to surrender such material,  
12 the Attorney General may file, in the court of common  
13 pleas for any county in which such party resides or  
14 transacts business, and serve upon such party a petition  
15 for an order of such court for the enforcement of this  
16 paragraph, except that if such person transacts business  
17 in more than one county such petition shall be filed in  
18 the county in which party maintains the party's principal  
19 place of business.

20 (viii) Within 20 days after the service of any such  
21 demand upon any person or enterprise, or at any time  
22 before the return date specified in the demand, whichever  
23 period is shorter, such party may file, in the court of  
24 common pleas of the county within which such party  
25 resides or transacts business, and serve upon the  
26 Attorney General a petition for an order of such court  
27 modifying or setting aside such demand. The time allowed  
28 for compliance with the demand in whole or in part as  
29 deemed proper and ordered by the court shall not run  
30 during the pendency of such petition in the court. Such

1 petition shall specify each ground upon which the  
2 petitioner relies in seeking such relief, and may be  
3 based upon any failure of such demand to comply with the  
4 provisions of this paragraph or upon any constitutional  
5 or other legal right or privilege of such party.

6 (ix) At any time during which the Attorney General  
7 is in custody or control of any documentary material  
8 delivered by any party in compliance with any such  
9 demand, such party may file, in the court of common pleas  
10 of the county within which such documentary material was  
11 delivered, and serve upon the Attorney General a petition  
12 for an order of such court requiring the performance of  
13 any duty imposed by this paragraph.

14 (x) Whenever any petition is filed in any court of  
15 common pleas under this paragraph, such court shall have  
16 jurisdiction to hear and determine the matter so  
17 presented, and, after a hearing at which all parties are  
18 represented, to enter such order or orders as may be  
19 required to carry into effect the provisions of this  
20 paragraph.

21 (3) Whenever any individual refuses, on the basis of his  
22 privilege against self-incrimination, to comply with a civil  
23 investigative demand issued pursuant to paragraph (2), the  
24 Attorney General may invoke the provisions of 42 Pa.C.S. §  
25 5947 (relating to immunity of witnesses).

26 Section 303. False claims procedure.

27 (a) Statute of limitations.--A civil action under section  
28 302 may not be brought more than ten years after the date on  
29 which the violation of section 301 was committed.

30 (b) Burden of proof.--In any action brought under section

1 302, the Commonwealth or the qui tam plaintiff shall be required  
2 to prove all essential elements of the cause of action,  
3 including damages, by a preponderance of the evidence.

4 (c) Estoppel.--Notwithstanding any other provision of law, a  
5 final judgment rendered in favor of the Commonwealth in a  
6 criminal proceeding charging false statements or fraud, whether  
7 upon a verdict after trial or upon a plea of guilty or nolo  
8 contendere, shall estop the defendant from denying the essential  
9 elements of the offense in any action which involves the same  
10 transaction as in the criminal proceeding and which is brought  
11 under section 302(a) or (b).

12 Section 304. Remedies under other laws; severability of  
13 provisions; liberality of legislative  
14 construction; adoption of legislative history.

15 (a) Remedies under other laws.--The provisions of this act  
16 are not exclusive and the remedies provided for in this act  
17 shall be in addition to any other remedies provided for in any  
18 other law or available under common law.

19 (b) Liberality of legislative construction and adoption of  
20 legislative history.--This chapter shall be liberally construed  
21 and applied to promote the public interest. This chapter also  
22 adopts the congressional intent behind the Federal False Claims  
23 Act (Public Law 97-258, 31 U.S.C. §§ 3729-3733), including the  
24 legislative history underlying the 1986 amendments to the  
25 Federal False Claims Act.

26 Section 305. Regulations.

27 (a) General rule.--The Attorney General shall have the power  
28 and authority to promulgate rules and regulations which may be  
29 necessary to carry out the purposes set forth in this chapter.

30 (b) Guidelines.--In order to facilitate the speedy

1 implementation of this chapter, the Attorney General shall have  
2 the power and authority to promulgate, adopt and use guidelines  
3 which shall be published in the Pennsylvania Bulletin. The  
4 guidelines shall not be subject to review under section 205 of  
5 the act of July 31, 1968 (P.L.769, No.240), referred to as the  
6 Commonwealth Documents Law, sections 204(b) and 301(10) of the  
7 act of October 15, 1980 (P.L.950, No.164), known as the  
8 Commonwealth Attorneys Act, or the act of June 25, 1982  
9 (P.L.633, No.181), known as the Regulatory Review Act. The  
10 guidelines shall be effective for a period of not more than two  
11 years from the effective date of this chapter. After the  
12 expiration of the two-year period, the guidelines, with such  
13 changes as the Attorney General deems appropriate, shall be  
14 promulgated as regulations according to law.

15 CHAPTER 21

16 MISCELLANEOUS PROVISIONS

17 Section 2101. Effective date.

18 This act shall take effect in 60 days.