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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1113 Session of  
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INTRODUCED BY WILLIAMS, D. WHITE, FONTANA, FERLO, O'PAKE,  
BRUBAKER, ERICKSON, M. WHITE, DINNIMAN, FARNESE, BOSCOLA,  
RAFFERTY, GORDNER, TARTAGLIONE, FOLMER, LEACH, PIPPY AND  
WARD, OCTOBER 8, 2009

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REFERRED TO JUDICIARY, OCTOBER 8, 2009

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AN ACT

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

5 TABLE OF CONTENTS

6 Chapter 1. Preliminary Provisions

7 Section 101. Short title.

8 Section 102. Declaration of policy.

9 Section 103. Definitions.

10 Chapter 3. False Claims

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

13 Section 302. Attorney General investigations and prosecutions;  
14 powers of prosecuting authority; civil actions by  
15 individuals as qui tam plaintiff and as private  
16 citizen; jurisdiction of courts; service; information  
17 sharing.

18 Section 303. Limitation of actions; prior activities; burden of

1 proof.  
2 Section 304. Remedies under other laws; severability of  
3 provisions; liberality of legislative construction.

4 Section 305. Regulations.

5 Chapter 21. Miscellaneous Provisions

6 Section 2101. Effective date.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 CHAPTER 1

10 PRELIMINARY PROVISIONS

11 Section 101. Short title.

12 This act shall be known and may be cited as the False Claims  
13 Act.

14 Section 102. Declaration of policy.

15 The General Assembly declares that this act adopts the intent  
16 of Congress in enacting the Federal False Claims Act (Public Law  
17 97-258, 31 U.S.C. §§ 3729-3733) on September 13, 1982, including  
18 the amendments (Public Law 99-562, 100 Stat. 3153) enacted  
19 October 27, 1986.

20 Section 103. Definitions.

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

24 "Claim." A request or demand for money, property or  
25 services, regardless of whether the Commonwealth has title to  
26 the money or services, made to any employee, officer or agent of  
27 the Commonwealth, or to any contractor, grantee or other  
28 recipient, if the money or property is to be spent or used on  
29 the Commonwealth's behalf or to advance a program or interest,  
30 regardless of whether under contract or not, if any portion of

1 the money, property or services requested or demanded, issued  
2 from or was provided using Commonwealth funds, or if the  
3 Commonwealth will reimburse the contractor, grantee or other  
4 recipient for any portion of the money or property requested or  
5 demanded. To the extent it is not connected to a request or  
6 demand for reimbursement from the Commonwealth or its political  
7 subdivisions or a request or demand for a contract or grant with  
8 the Commonwealth or its political subdivisions, a filing with a  
9 Commonwealth agency shall not constitute a claim. The term also  
10 does not include requests or demands for money or property the  
11 Commonwealth has paid to an individual as compensation for  
12 employment or as an income subsidy with no restrictions on the  
13 individual's use of the money or property.

14 "Employer." A natural person, corporation, firm,  
15 association, organization, partnership, business, trust or  
16 Commonwealth-affiliated entity involved in a nongovernmental  
17 function, including State universities and State hospitals.

18 "Knowingly." Whenever a person, with respect to information,  
19 does any of the following:

20 (1) Has actual knowledge of the information.

21 (2) Acts in deliberate ignorance of the truth or falsity  
22 of the information.

23 (3) Acts in reckless disregard of the truth or falsity  
24 of the information. Proof of specific intent to defraud is  
25 not required.

26 "Material." A natural tendency to influence, or be capable  
27 of influencing, the payment or receipt of money or property.

28 "Obligation." An established duty, whether or not fixed,  
29 arising from an express or implied contractual, grantor-grantee  
30 or licensor-licensee relationship, from a fee-based or similar

1 relationship, from statute or regulation, or from the retention  
2 of any overpayment.

3 "Person." A natural person, corporation, firm, association,  
4 organization, partnership, business or trust.

5 "Qui tam plaintiff." A person bringing a civil action under  
6 section 301.

7 CHAPTER 3

8 FALSE CLAIMS

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

11 (a) Liability.--A person who commits acts prohibited in  
12 subsection (b) shall be liable to the Commonwealth for three  
13 times the amount of damages which the Commonwealth sustains  
14 because of the act of that person.

15 (b) Prohibited acts.--A person who commits any of the  
16 following acts shall also be liable to the Commonwealth for the  
17 costs of a civil action brought to recover any of those  
18 penalties or damages and shall be liable to the Commonwealth for  
19 a civil penalty of not less than \$5,000 and not more than  
20 \$10,000, as adjusted by the Federal Civil Penalties Inflation  
21 Adjustment Act of 1990 (Public Law 101-410, 104 Stat. 890), for  
22 each violation:

23 (1) Knowingly presents or causes to be presented a false  
24 or fraudulent claim for payment or approval.

25 (2) Knowingly makes, uses or causes to be made or used,  
26 a false record or statement material to get a false or  
27 fraudulent claim.

28 (3) Conspires to commit a violation of paragraph (1),  
29 (2), (4), (5), (6) or (7).

30 (4) Has possession, custody or control of public

1 property or money used or to be used by the Commonwealth and  
2 knowingly delivers or causes to be delivered less than all of  
3 the money or property.

4 (5) Is authorized to make or deliver a document  
5 certifying receipt of property used or to be used by the  
6 Commonwealth and knowingly makes or delivers a receipt that  
7 falsely represents the property used or to be used.

8 (6) Knowingly buys or receives as a pledge of an  
9 obligation or debt, public property from any person who  
10 lawfully may not sell or pledge the property.

11 (7) Knowingly makes, uses or causes to be made or used,  
12 a false record or statement material to an obligation to pay  
13 or transmit money or property to the Commonwealth or  
14 knowingly conceals or knowingly and improperly avoids or  
15 decreases an obligation to pay or transmit money or property  
16 to the Commonwealth.

17 (8) Is a beneficiary of an inadvertent submission of a  
18 false claim to any employee, officer or agent of the  
19 Commonwealth or to any contractor, grantee or other recipient  
20 of Commonwealth funds, subsequently discovers the falsity of  
21 the claim and fails to disclose the false claim to the  
22 Commonwealth within a reasonable time after discovery of the  
23 false claim.

24 (c) Damages limitation.--Notwithstanding subsection (a), the  
25 court may assess not less than two times the amount of damages  
26 which the Commonwealth sustains because of the act of the person  
27 described in that subsection and no civil penalty if the court  
28 finds all of the following:

29 (1) The person committing the violation furnished the  
30 Commonwealth officials who are responsible for investigating

1 false claims violations with all information known to that  
2 person about the violation within 30 days after the date on  
3 which the person first obtained the information.

4 (2) The person fully cooperated with any investigation  
5 by the Commonwealth.

6 (3) At the time the person furnished the Commonwealth  
7 with information about the violation, no criminal  
8 prosecution, civil action or administrative action has  
9 commenced with respect to the violation, and the person did  
10 not have actual knowledge of the existence of an  
11 investigation into the violation.

12 (d) Exclusion.--This section does not apply to claims,  
13 records or statements made under the act of March 4, 1971  
14 (P.L.6, No.2), known as the Tax Reform Code of 1971.  
15 Section 302. Attorney General investigations and prosecutions;  
16 powers of prosecuting authority; civil actions by  
17 individuals as qui tam plaintiff and as private  
18 citizen; jurisdiction of courts; services;  
19 information sharing.

20 (a) Responsibilities of the Attorney General.--The Attorney  
21 General shall diligently investigate a violation of section 301.  
22 If the Attorney General finds that a person has violated or is  
23 violating section 301, the Attorney General may bring a civil  
24 action under this section against that person.

25 (b) Actions by private persons.--

26 (1) A person may bring a civil action for a violation of  
27 this act for the person and for the Commonwealth in the name  
28 of the Commonwealth. The person bringing the action shall be  
29 referred to as the qui tam plaintiff. Once filed, the action  
30 shall be dismissed only with the written consent of the

1 court, taking into account the best interest of the parties  
2 involved and the policy of this act.

3 (2) A copy of the complaint and written disclosure of  
4 substantially all material evidence and information the qui  
5 tam plaintiff possesses shall be served on the Attorney  
6 General. The complaint shall be filed in camera and shall  
7 remain under seal for at least 60 days and shall not be  
8 served on the defendant until the court orders the service.  
9 The Commonwealth may elect to intervene and proceed with the  
10 action within 60 days after it receives the complaint and the  
11 material evidence and information.

12 (3) The Commonwealth may, for good cause shown, move the  
13 court for extensions of the time during which the complaint  
14 remains under seal under paragraph (2). The motions may be  
15 supported by affidavits or other submissions in camera. The  
16 defendant shall not be required to respond to any complaint  
17 filed under this section until the complaint is unsealed and  
18 served upon the defendant under the Pennsylvania Rules of  
19 Civil Procedure.

20 (4) Before the expiration of the 60-day period or any  
21 extensions obtained under paragraph (3), the Commonwealth  
22 shall:

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

25 (ii) notify the court it declines to take over the  
26 action, in which case the person bringing the action  
27 shall have the right to conduct the action.

28 (c) Intervention.--When a person brings a valid action under  
29 this subsection, no person other than the Commonwealth may  
30 intervene or bring a related action based on the facts

1 underlying the pending action.

2 (d) Rights of the parties to qui tam actions.--

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

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

16 (ii) The Commonwealth may settle the action with the  
17 defendant despite the objections of the qui tam plaintiff  
18 if the court determines, after a hearing providing the  
19 qui tam plaintiff an opportunity to present evidence, the  
20 proposed settlement is fair, adequate and reasonable  
21 under the circumstances.

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

29 (A) limiting the number of witnesses the person  
30 may call;



1 (B) limiting the length of the testimony of the  
2 witnesses;

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

5 (D) otherwise limiting the participation by the  
6 person in the litigation.

7 (iv) Upon a showing by the defendant that  
8 unrestricted participation during the litigation by the  
9 qui tam plaintiff initiating the action would be for  
10 purposes of harassment or would cause the defendant undue  
11 burden or unnecessary expense, the court may limit the  
12 participation by the qui tam plaintiff in the litigation.

13 (3) If the Commonwealth elects not to proceed with the  
14 action, the qui tam plaintiff shall have the right to conduct  
15 the action. If the Commonwealth requests, it shall be served  
16 with copies of all pleadings filed in the action and shall be  
17 supplied with copies of all deposition transcripts at the  
18 Commonwealth's expense. When a person proceeds with the  
19 action, the court, without limiting the status and rights of  
20 the qui tam plaintiff, may permit the Commonwealth to  
21 intervene at a later date upon a showing of 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 the discovery for a period of not more than 60  
28 days. The showing shall be conducted in camera. The court may  
29 extend the 60-day period upon a further showing in camera  
30 that the Commonwealth has pursued the criminal or civil

1 investigation or proceedings with reasonable diligence and  
2 the discovery proposed 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 an alternate remedy  
7 available to the Commonwealth, including an administrative  
8 proceeding to determine a civil money penalty. If the  
9 alternate remedy is pursued in another proceeding, the qui  
10 tam plaintiff shall have the same rights in the proceeding as  
11 if the action continued under this section. A finding of fact  
12 or conclusion of law made in the other proceeding that has  
13 become final shall be conclusive on all parties to an action  
14 under this section. A finding or conclusion is final if it  
15 has been finally determined on appeal to the appropriate  
16 court of the Commonwealth, if the time for filing the appeal  
17 regarding the finding or conclusion has expired or if the  
18 finding or conclusion is not subject to judicial review.

19 (e) Award to qui tam plaintiff.--

20 (1) If the Commonwealth proceeds with an action brought  
21 by a qui tam plaintiff, the qui tam plaintiff shall, subject  
22 to the provisions of this paragraph, receive at least 15% but  
23 not more than 25% of the proceeds of the action or settlement  
24 of the claim, including damages, civil penalties, payments  
25 for costs of compliance and any other economic benefit  
26 realized by the Commonwealth as a result of the action,  
27 depending upon the extent to which either or both the person  
28 and his counsel substantially contributed to the prosecution  
29 of the action. Where the court finds the action is based  
30 primarily on disclosures of specific information, other than

1 information provided by the qui tam plaintiff, relating to  
2 allegations or transactions specifically in a criminal, civil  
3 or administrative hearing or in a legislative or  
4 administrative report, hearing, audit or investigation or  
5 from the news media, the court may award the sums as it  
6 considers appropriate, but in no case more than 10% of the  
7 proceeds, taking into account the significance of the  
8 information and the role of the person bringing the action in  
9 advancing the case to litigation. A payment to a person under  
10 the first or second sentence of this paragraph shall be made  
11 from the proceeds. The person shall also receive an amount  
12 for reasonable expenses which the appropriate judge finds was  
13 necessarily incurred, plus reasonable attorney fees and  
14 costs. The expenses, fees and costs shall be awarded against  
15 the defendant.

16 (2) If the Commonwealth does not proceed with an action  
17 under this section, the qui tam plaintiff shall receive an  
18 amount which the court decides is reasonable for collecting  
19 the civil penalty and damages. The amount shall not be less  
20 than 25% and not more than 30% of the proceeds of the action  
21 or settlement and shall be paid out of the proceeds, which  
22 includes damages, civil penalties, payments for costs of  
23 compliance and any other economic benefit realized by the  
24 government as a result of the action. The person shall also  
25 receive an amount for reasonable expenses which the  
26 appropriate Commonwealth court judge finds to have been  
27 necessarily incurred, plus reasonable attorney fees and  
28 costs. All the expenses, fees and costs shall be awarded  
29 against the defendant.

30 (3) Whether or not the Commonwealth proceeds with the

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

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

22 (f) Certain actions barred.--

23 (1) No court shall have jurisdiction over an action  
24 brought under subsection (b) against a member of the  
25 legislative branch, a member of the judiciary or a senior  
26 executive branch official if the action is based on evidence  
27 or information known to the Commonwealth when the action was  
28 brought.

29 (2) In no event may a person bring an action under  
30 subsection (b) which is based upon allegations or

1 transactions which are the subject of a civil suit or an  
2 administrative civil penalty proceeding for money in which  
3 the Commonwealth is already a party.

4 (3) Upon the motion of the Attorney General, the court  
5 may, in consideration of all the equities, dismiss a relator  
6 of the elements of the actionable false claims alleged in the  
7 qui tam complaint which have been publicly disclosed,  
8 specifically in the news media or in a publicly disseminated  
9 governmental report, at the time the complaint is filed.

10 (g) Commonwealth not liable for certain expenses.--The  
11 Commonwealth is not liable for expenses which a person incurs in  
12 bringing an action under this section.

13 (h) Private action for retaliation action.--An employee,  
14 contractor or agent who is discharged, demoted, suspended,  
15 threatened, harassed or in any other manner discriminated  
16 against in the terms and conditions of employment by the  
17 employer because of lawful acts by the employee, contractor or  
18 agent on behalf of the employee, contractor or agent or  
19 associated others in furtherance of other efforts to stop one or  
20 more violations of this act shall be entitled to all relief  
21 necessary to make the employee whole. The relief shall include  
22 reinstatement with the same seniority status the employee,  
23 contractor or agent would have had but for the discrimination,  
24 two times the amount of back pay, interest on the back pay and  
25 compensation for any special damages sustained as a result of  
26 the discrimination, including litigation costs and reasonable  
27 attorney fees. An action under this subsection shall be brought  
28 in an appropriate court of this Commonwealth for the relief  
29 provided in this subsection.

30 (i) Civil investigative demand.--

1 (1) (i) The Attorney General or designee for the  
2 purposes of this subsection shall have the authority to  
3 issue civil investigative demands under paragraph (2).

4 (ii) Nothing in this subsection shall be construed  
5 to limit the regulatory or investigative authority of any  
6 department or agency of the Commonwealth whose functions  
7 may relate to persons, enterprises or matters falling  
8 within the scope of this chapter.

9 (2) (i) Whenever the Attorney General has reason to  
10 believe that any person or enterprise may be in  
11 possession, custody or control of documentary material  
12 relevant to an investigation under this chapter, the  
13 Attorney General may issue in writing, and cause to be  
14 served upon the person or enterprise, a civil  
15 investigative demand requiring the production of the  
16 material for examination.

17 (ii) Each demand shall:

18 (A) state the nature of the conduct constituting  
19 the alleged violation which is under investigation,  
20 the applicable provision of law and the connection  
21 between the documentary material demanded and the  
22 conduct under investigation;

23 (B) describe the class or classes of documentary  
24 material to be produced with sufficient definiteness  
25 and certainty to permit the material to be fairly  
26 identified;

27 (C) state the demand is returnable or prescribe  
28 a return date which will provide a reasonable time  
29 period within which the material demanded may be  
30 assembled and made available for inspection and

1 copying or reproduction;

2 (D) identify an investigator to whom the  
3 material shall be made available; and

4 (E) contain the following statement printed  
5 conspicuously at the top of the demand: "You have the  
6 right to seek the assistance of an attorney and he  
7 may represent you in all phases of the investigation  
8 of which this civil investigative demand is a part."

9 (iii) The demand shall not:

10 (A) contain a requirement which would be held to  
11 be unreasonable if contained in a subpoena duces  
12 tecum issued by any court in connection with a grand  
13 jury investigation of such alleged violation; or

14 (B) require the production of documentary  
15 evidence which would be privileged from disclosure if  
16 demanded by a subpoena duces tecum issued by a court  
17 in connection with a grand jury investigation of the  
18 alleged violation.

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

23 (v) A verified return by the individual serving a  
24 demand or petition setting forth the manner of the  
25 service shall be prima facie proof of the service. In the  
26 case of service by registered or certified mail, the  
27 return shall be accompanied by the return post office  
28 receipt of delivery of the demand.

29 (vi) (A) Any party upon whom any demand issued  
30 under this subsection has been duly served shall make

1 the material available for inspection and copying or  
2 reproduction to the investigator designated at the  
3 principal place of business of the party, or at the  
4 other place as the investigator and party may agree  
5 or as the court may direct under this paragraph, on  
6 the return date specified in the demand. The party  
7 may upon agreement of the investigator substitute  
8 copies of all or any part of the material for the  
9 originals.

10 (B) The investigator to whom documentary  
11 material is delivered shall take physical possession  
12 of it and shall be responsible for the use for which  
13 it is made and for its return under this paragraph.  
14 The investigator may cause the preparation of copies  
15 of the documentary material as may be required for  
16 official use. While in the possession of the  
17 investigator, no material produced shall be available  
18 for examination without the consent of the party who  
19 produced the material by an individual other than the  
20 Attorney General or investigator. Under reasonable  
21 terms and conditions as the Attorney General shall  
22 prescribe, documentary material while in the  
23 possession of the investigator shall be available for  
24 examination by the party who produced the material or  
25 a duly authorized representative of the party.

26 (C) Upon completion of the investigation for  
27 which documentary material was produced under this  
28 paragraph and any case or proceeding arising from the  
29 investigation, the investigator shall return to the  
30 party who produced the material all the material



1 other than copies made under this paragraph which  
2 have not passed into the control of any court or  
3 grand jury through introduction into the record of  
4 the case or proceeding.

5 (D) When documentary material has been produced  
6 by a party under this paragraph for use in an  
7 investigation and no case or proceeding arising  
8 therefrom has been instituted within a reasonable  
9 time after completion of the examination and analysis  
10 of all evidence assembled in the course of the  
11 investigation, the party shall be entitled, upon  
12 written demand made upon the Attorney General, to the  
13 return of all documentary material, other than copies  
14 made under this paragraph, produced by the party.

15 (vii) Whenever a person or enterprise fails to  
16 comply with a civil investigative demand duly served upon  
17 him under this paragraph or whenever satisfactory copying  
18 or reproduction of the material cannot be done and the  
19 party refuses to surrender the material, the Attorney  
20 General may file, in the court of common pleas, for a  
21 county in which the party resides or transacts business,  
22 and serve upon the party a petition for an order of the  
23 court for the enforcement of this paragraph, except that  
24 if the person transacts business in more than one county  
25 the petition shall be filed in the county in which the  
26 party maintains its principal place of business.

27 (viii) Within 20 days after the service of the  
28 demand upon a person or enterprise, or at any time before  
29 the return date specified in the demand, whichever period  
30 is shorter, the party may file, in the court of common

1           pleas of the county within which the party resides or  
2           transacts business, and serve upon the Attorney General a  
3           petition for an order of the court modifying or setting  
4           aside the demand. The time allowed for compliance with  
5           the demand in whole or in part as deemed proper and  
6           ordered by the court shall not run during the pendency of  
7           the petition in the court. The petition shall specify  
8           each ground upon which the petitioner relies in seeking  
9           the relief, and may be based upon a failure of the demand  
10          to comply with the provisions of this paragraph or upon a  
11          constitutional or other legal right or privilege of the  
12          party.

13                 (ix) When the Attorney General is in custody or  
14          control of documentary material delivered by a party in  
15          compliance with a demand, the party may file, in the  
16          court of common pleas of the county within which the  
17          documentary material was delivered, and serve upon the  
18          Attorney General a petition for an order of the court  
19          requiring the performance of a duty imposed by this  
20          paragraph.

21                 (x) Whenever a petition is filed in a court of  
22          common pleas under this paragraph, the court shall have  
23          jurisdiction to hear and determine the matter so  
24          presented, and, after a hearing at which all parties are  
25          represented, to enter an order as may be required to  
26          carry into effect the provisions of this paragraph.

27                 (3) Whenever an individual refuses, on the basis of his  
28          Fifth Amendment privilege against self-incrimination, to  
29          comply with a civil investigative demand issued under  
30          paragraph (2), the Attorney General may invoke the provisions

1 of 42 Pa.C.S. § 5947 (relating to immunity of witnesses).

2 (j) Service on State or local authorities.--With respect to  
3 a State or local government that is named as a coplaintiff with  
4 the United States in an action brought under this act, a seal on  
5 the action ordered by the court under section 302(b) shall not  
6 preclude the United States or the person bringing the action  
7 from serving the complaint, any other pleadings, or the written  
8 disclosure of substantially all material evidence and  
9 information possessed by the person bringing the action on the  
10 law enforcement authorities that are authorized under the law of  
11 this Commonwealth or local government to investigate and  
12 prosecute the actions on behalf of the governments, except that  
13 the seal applies to the law enforcement authorities served to  
14 the same extent as the seal applies to other parties in the  
15 action.

16 (k) Information sharing.--Information obtained by the  
17 Attorney General or a designee of the Attorney General under  
18 this subsection may be shared with a qui tam realtor if the  
19 Attorney General or designee determines it is necessary as part  
20 of an investigation under this act.

21 Section 303. Limitation of actions; prior activities; burden of  
22 proof.

23 (a) Statute of limitations.--A civil action under section  
24 302 may not be brought more than ten years after the date on  
25 which the violation was committed.

26 (b) Burden of proof.--In any action brought under section  
27 302, the Commonwealth or the qui tam plaintiff shall be required  
28 to prove all essential elements of the cause of action,  
29 including damages, by a preponderance of the evidence.

30 (c) Estoppel.--Notwithstanding any other provision of law, a

1 guilty verdict rendered in a criminal proceeding charging false  
2 statements or fraud, whether upon a verdict after trial or upon  
3 a plea of guilty or nolo contendere, shall estop the defendant  
4 from denying the essential elements of the offense in any action  
5 which involves the same transaction as in the criminal  
6 proceeding and which is brought under section 302(a) or (b).

7 (d) Intervention by the Commonwealth.--If the Commonwealth  
8 elects to intervene and proceed with an action brought under  
9 section 302(b), the Commonwealth may file its own complaint or  
10 amend the complaint of a person who has brought an action under  
11 section 302(b) to clarify or add detail to the claims in which  
12 the Commonwealth is intervening and to add any additional claims  
13 with respect to which the Commonwealth contends it is entitled  
14 to relief. For statute of limitations purposes, any such  
15 Commonwealth pleading shall relate back to the filing date of  
16 the complaint of the person who originally brought the action,  
17 to the extent that the claim of the Commonwealth arises out of  
18 the conduct, transactions or occurrences set forth, or attempted  
19 to be set forth, in the prior complaint of that person.

20 Section 304. Remedies under other laws; severability of  
21 provisions; liberality of legislative construction.

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

26 (b) Liberality of legislative construction.--This chapter  
27 shall be liberally construed and applied to promote the public  
28 interest.

29 Section 305. Regulations.

30 (a) General rule.--The Attorney General shall have the power

1 and authority to promulgate rules and regulations which may be  
2 necessary to carry out the purposes set forth in this chapter.

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

17 CHAPTER 21

18 MISCELLANEOUS PROVISIONS

19 Section 2101. Effective date.

20 This act shall take effect in 60 days.