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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1493 Session of  
2013

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INTRODUCED BY NEUMAN, DeLUCA, FREEMAN, WHITE, KOTIK,  
CALTAGIRONE, CUTLER, MCNEILL, READSHAW, SCHLOSSBERG, O'BRIEN,  
SANTARSIERO, PASHINSKI, COHEN, GROVE, KORTZ, MOUL, M. DALEY,  
McGEEHAN, MUNDY, SNYDER, LONGIETTI, MILLARD, MULLERY,  
MIRABITO, PAINTER, HARHAI, BRIGGS, SABATINA, KULA, DERMODY,  
GINGRICH, D. COSTA, MILNE, HANNA AND MURT, JUNE 10, 2013

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REFERRED TO COMMITTEE ON JUDICIARY, JUNE 10, 2013

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

7 TABLE OF CONTENTS

8 Chapter 1. Preliminary Provisions

9 Section 101. Short title.

10 Section 102. Declaration of policy.

11 Section 103. Definitions.

12 Chapter 3. False Claims

13 Section 301. Acts subjecting persons to liability.

14 Section 302. Attorney General investigations and prosecutions;  
15 civil actions by qui tam plaintiffs.

16 Section 303. Statute of limitations; burden of proof; estoppel.

17 Section 304. Miscellaneous provisions.

1 Section 305. Appropriation.

2 Section 306. Effective date.

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

5 CHAPTER 1

6 PRELIMINARY PROVISIONS

7 Section 101. Short title.

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

10 Section 102. Declaration of policy.

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

16 Section 103. Definitions.

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

20 "Claim." As follows:

21 (1) A request or demand for money or property, whether  
22 under contract or otherwise and regardless of whether the  
23 Commonwealth has title to the money or property, which meets  
24 any of the following:

25 (i) Is presented to an employee, officer or agent of  
26 the Commonwealth.

27 (ii) Is made to a contractor, grantee or other  
28 recipient and any portion of the money or property will  
29 be spent or used on the Commonwealth's behalf or to  
30 advance a program or interest of the Commonwealth, and

1 the Commonwealth:

2 (A) provides or has provided any portion of the  
3 money or property requested or demanded; or

4 (B) will reimburse the contractor, grantee or  
5 other recipient for any portion of the money or  
6 property which is requested or demanded.

7 (2) The term does not include requests or demands for  
8 money or property the Commonwealth has paid to an individual  
9 as compensation for employment or as an income subsidy with  
10 no restrictions on the individual's use of the money or  
11 property.

12 (3) To the extent it is not connected to a request or  
13 demand for money or property, a filing with a Commonwealth  
14 agency pursuant to the Commonwealth's insurance laws shall  
15 not constitute a claim.

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

20 "Knowingly." (1) Whenever a person, with respect to  
21 information, does any of the following:

22 (i) Has actual knowledge of the information.

23 (ii) Acts in deliberate ignorance of the truth or  
24 falsity of the information.

25 (iii) Acts in reckless disregard of the truth or  
26 falsity of the information.

27 (2) Proof of specific intent to defraud is not required.

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

30 "Obligation." An established duty, whether or not fixed,

1 arising from any of the following:

- 2 (1) An express or implied contract.
- 3 (2) A grantor-grantee relationship.
- 4 (3) A licensor-licensee relationship.
- 5 (4) A fee-based or similar relationship.
- 6 (5) A statute or regulation.
- 7 (6) The retention of an overpayment.

8 "Official use." Any use that is consistent with the law and  
9 the regulations and policies of the Office of Attorney General  
10 including the following:

- 11 (1) Use in connection with internal memoranda and  
12 reports.
- 13 (2) Communications between the Office of Attorney  
14 General and a Federal, State or local government agency or a  
15 contractor of a Federal, State or local government agency,  
16 undertaken in furtherance of an investigation or prosecution  
17 of an action.
- 18 (3) Interviews of a qui tam plaintiff or other witness.
- 19 (4) Oral examinations.
- 20 (5) Depositions.
- 21 (6) Preparation for and response to civil discovery  
22 requests.
- 23 (7) Introduction into the record of an action or  
24 proceeding.
- 25 (8) Applications, motions, memoranda and briefs  
26 submitted to a court or other tribunal.
- 27 (9) Communications with investigators, auditors,  
28 consultants and experts, the counsel of other parties,  
29 arbitrators and mediators, concerning an investigation,  
30 action or proceeding.

1 "Original source." An individual who:

2 (1) prior to a public disclosure in the news media or in  
3 a publicly disseminated governmental report, has voluntarily  
4 disclosed to the Commonwealth the information on which  
5 allegations or transactions in a claim are based; or

6 (2) has knowledge that is independent of and materially  
7 adds to the publicly disclosed allegations or transactions  
8 and who has voluntarily provided the information to the  
9 Commonwealth before filing an action under section 302.

10 "Person." A natural person, corporation, firm, association,  
11 organization, partnership, business or trust.

12 "Qui tam plaintiff." A person bringing a civil action under  
13 section 302.

14 CHAPTER 3

15 FALSE CLAIMS

16 Section 301. Acts subjecting persons to liability.

17 (a) Liability.--A person who commits an act prohibited in  
18 subsection (b) shall be liable to the Commonwealth for three  
19 times the amount of damages which the Commonwealth sustains  
20 because of the act of that person.

21 (b) Prohibited acts.--A person who commits any of the  
22 following acts shall also be liable to the Commonwealth for a  
23 civil penalty of not less than \$5,500 and not more than \$11,000  
24 for each violation:

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

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

30 (3) 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 (4) 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 (5) Knowingly buys or receives as a pledge of an  
9 obligation or debt, property owned by the Commonwealth from  
10 any person who lawfully may not sell or pledge the property.

11 (6) 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 (7) Knowingly fails to disclose a fact, event or  
18 occurrence material to an obligation to pay or transmit money  
19 or property to the Commonwealth.

20 (8) Is a beneficiary of an inadvertent submission of a  
21 false claim, subsequently discovers the falsity of the claim  
22 and fails to disclose the false claim to the Commonwealth  
23 within a reasonable time after discovery of the false claim.

24 (9) Conspires to commit a violation of paragraph (1),  
25 (2), (3), (4), (5), (6), (7) or (8).

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

1           (1) The person committing the violation furnished the  
2 Commonwealth officials who are responsible for investigating  
3 false claims violations with all information known to that  
4 person about the violation within 30 days after the date on  
5 which the person first obtained the information.

6           (2) The person fully cooperated with any investigation  
7 by the Commonwealth.

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

14       (d) Exclusion.--This section does not apply to claims,  
15 records or statements made under the act of March 4, 1971  
16 (P.L.6, No.2), known as the Tax Reform Code of 1971.

17       (e) Actions to recover damages and adjustment of  
18 penalties.--A person who is liable for the damages or penalties  
19 assessed under subsections (a) and (b) shall also be liable to  
20 the Commonwealth for the costs of a civil action, including  
21 reasonable outside and in house attorneys' fees of the Attorney  
22 General, brought to recover any of those damages or penalties.  
23 The civil penalties payable under subsection (b) shall be  
24 adjusted from time to time as provided in the Federal Civil  
25 Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note;  
26 Public Law 104-410).  
27 Section 302. Attorney General investigations and prosecutions;  
28           civil actions by qui tam plaintiffs.

29       (a) Responsibilities of the Attorney General.--The Attorney  
30 General shall diligently investigate a violation of section 301.

1 If the Attorney General finds that a person has violated or is  
2 violating section 301, the Attorney General may bring a civil  
3 action in Commonwealth Court under this section against that  
4 person.

5 (b) Actions by qui tam plaintiffs.--

6 (1) A qui tam plaintiff may bring a civil action in  
7 Commonwealth Court for a violation of this act for the qui  
8 tam plaintiff and for the Commonwealth in the name of the  
9 Commonwealth. Once filed, the action shall be dismissed only  
10 with the written consent of the court, taking into account  
11 the best interest of the parties involved and the policy of  
12 this act.

13 (2) A copy of the complaint and written disclosure of  
14 substantially all material evidence and information the qui  
15 tam plaintiff possesses shall be served on the Attorney  
16 General. The complaint shall be filed in camera and shall  
17 remain under seal for at least 60 days and shall not be  
18 served on the defendant until the court orders the service.  
19 The Commonwealth may elect to intervene and proceed with the  
20 action within 60 days after it receives the complaint and the  
21 material evidence and information.

22 (3) The Commonwealth may, for good cause shown, move the  
23 court for extensions of the time during which the complaint  
24 remains under seal under paragraph (2). The motions may be  
25 supported by affidavits or other submissions in camera. The  
26 defendant shall not be required to respond to any complaint  
27 filed under this section until the complaint is unsealed and  
28 served upon the defendant under the Pennsylvania Rules of  
29 Civil Procedure.

30 (4) Before the expiration of the 60-day period or any

1 extensions obtained under paragraph (3), the Commonwealth  
2 shall:

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

5 (ii) notify the court it declines to take over the  
6 action, in which case the qui tam plaintiff shall have  
7 the right to conduct the action.

8 (c) Intervention.--When a qui tam plaintiff brings a valid  
9 action under this subsection, no person other than the  
10 Commonwealth may intervene or bring a related action based on  
11 the facts underlying the pending action.

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

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

19 (2) (i) The Commonwealth may move to dismiss the action  
20 for good cause despite the objections of the qui tam  
21 plaintiff if the qui tam plaintiff has been notified by  
22 the Commonwealth of the filing of the motion and the  
23 court has provided the qui tam plaintiff with an  
24 opportunity to oppose the motion and present evidence at  
25 a hearing.

26 (ii) The Commonwealth may settle the action with the  
27 defendant despite the objections of the qui tam plaintiff  
28 if the court determines, after a hearing providing the  
29 qui tam plaintiff an opportunity to present evidence, the  
30 proposed settlement is fair, adequate and reasonable

1 under the circumstances.

2 (iii) Upon a showing by the Commonwealth that  
3 unrestricted participation during the course of the  
4 action by the qui tam plaintiff would interfere with or  
5 unduly delay the Commonwealth's prosecution of the case  
6 or would be repetitious, irrelevant or harassment, the  
7 court may, in its discretion, impose limitations on the  
8 qui tam plaintiff's participation by:

9 (A) limiting the number of witnesses the qui tam  
10 plaintiff may call;

11 (B) limiting the length of the testimony of the  
12 witnesses;

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

15 (D) otherwise limiting the participation by the  
16 qui tam plaintiff in the action.

17 (iv) Upon a showing by the defendant that  
18 unrestricted participation during the action by the qui  
19 tam plaintiff would be for purposes of harassment or  
20 would cause the defendant undue burden or unnecessary  
21 expense, the court may limit the participation by the qui  
22 tam plaintiff in the action.

23 (3) If the Commonwealth elects not to proceed with the  
24 action, the qui tam plaintiff shall have the right to conduct  
25 the action. If the Commonwealth requests, it shall be served  
26 with copies of all pleadings filed in the action and shall be  
27 supplied with copies of all deposition transcripts at the  
28 Commonwealth's expense. The court, without limiting the  
29 status and rights of the qui tam plaintiff, may permit the  
30 Commonwealth to intervene at a later date upon a showing of

1 good cause.

2 (4) Whether or not the Commonwealth proceeds with the  
3 action, upon a showing by the Commonwealth that certain  
4 actions of discovery by the qui tam plaintiff would interfere  
5 with the Commonwealth's investigation or prosecution of a  
6 criminal or civil matter arising out of the same facts, the  
7 court may stay the discovery for a period of not more than 60  
8 days. The showing shall be conducted in camera. The court may  
9 extend the 60-day period upon a further showing in camera  
10 that the Commonwealth has pursued the criminal or civil  
11 investigation or proceedings with reasonable diligence and  
12 the discovery proposed in the civil action will interfere  
13 with the ongoing criminal or civil investigations or  
14 proceedings.

15 (5) Notwithstanding subsection (b), the Commonwealth may  
16 elect to pursue its claim through an alternate remedy  
17 available to the Commonwealth, including an administrative  
18 proceeding to determine a civil money penalty. If the  
19 alternate remedy is pursued in another proceeding, the qui  
20 tam plaintiff shall have the same rights in the proceeding as  
21 if the action continued under this section. A finding of fact  
22 or conclusion of law made in the other proceeding that has  
23 become final shall be conclusive on all parties to an action  
24 under this section. A finding or conclusion is final if it  
25 has been finally determined on appeal to the appropriate  
26 court of the Commonwealth, if the time for filing the appeal  
27 regarding the finding or conclusion has expired without an  
28 appeal having been filed or if the finding or conclusion is  
29 not subject to judicial review.

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

1           (1) If the Commonwealth proceeds with an action brought  
2 by a qui tam plaintiff, the qui tam plaintiff shall, subject  
3 to the provisions of this paragraph, receive at least 15% but  
4 not more than 25% of the proceeds of the action or settlement  
5 of the claim, depending upon the extent to which either or  
6 both the qui tam plaintiff and counsel for the qui tam  
7 plaintiff substantially contributed to the prosecution of the  
8 action. Where the court finds the action is based primarily  
9 on disclosures of specific information, other than  
10 information provided by the qui tam plaintiff, relating to  
11 allegations or transactions specifically in a criminal, civil  
12 or administrative hearing or in a legislative or  
13 administrative report, hearing, audit or investigation or  
14 from the news media, the court may award a sum it considers  
15 appropriate, but in no case more than 10% of the proceeds,  
16 taking into account the significance of the information and  
17 the role of the qui tam plaintiff in advancing the action. A  
18 payment to a qui tam plaintiff under the first or second  
19 sentence of this paragraph shall be made from the proceeds.  
20 The qui tam plaintiff shall also receive an amount for  
21 reasonable expenses which the court finds was necessarily  
22 incurred, plus reasonable attorney fees and costs. The  
23 expenses, fees and costs shall be awarded against the  
24 defendant.

25           (2) If the Commonwealth does not proceed with an action  
26 under this section, the qui tam plaintiff shall receive at  
27 least 25% but not more than 30% of the proceeds of the action  
28 or settlement of the claim, as the court deems reasonable.  
29 The amount shall be paid from the proceeds. The qui tam  
30 plaintiff shall also receive an amount for reasonable

1 expenses which the court finds to have been necessarily  
2 incurred, plus reasonable attorney fees and costs. The  
3 expenses, fees and costs shall be awarded against the  
4 defendant.

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

20 (4) If the Commonwealth does not proceed with the action  
21 and the qui tam plaintiff conducts the action, the court may  
22 award to the defendant its reasonable attorney fees and  
23 expenses if the defendant prevails in the action and the  
24 court finds the claim of the qui tam plaintiff was clearly  
25 frivolous, clearly vexatious or brought primarily for  
26 purposes of harassment.

27 (5) Fifteen percent of the Commonwealth's share of  
28 proceeds of an action or settlement of a claim under this  
29 section shall be deposited into the False Claims Prosecution  
30 Fund established in subsection (k).

1 (f) Limitations on actions.--

2 (1) An action may not be filed under this section  
3 against the Commonwealth or an officer or employee thereof,  
4 including a member of the General Assembly or the judiciary,  
5 acting in the officer's, employee's or member's official  
6 capacity.

7 (2) Unless opposed by the Attorney General or unless the  
8 qui tam plaintiff is the original source of the information,  
9 the court shall dismiss an action brought under subsection  
10 (b) if substantially the same allegations or transactions  
11 alleged in the action were publicly disclosed in:

12 (i) the news media;

13 (ii) a criminal, civil or administrative hearing in  
14 which the Commonwealth is or was a party; or

15 (iii) a State legislative or other State report,  
16 hearing, audit or investigation.

17 (g) Commonwealth not liable for certain expenses.--The  
18 Commonwealth is not liable for expenses which a qui tam  
19 plaintiff incurs in bringing an action under this section.

20 (h) Private action for retaliation.--An employee, contractor  
21 or agent who is discharged, demoted, suspended, threatened,  
22 harassed or in any other manner discriminated against in the  
23 terms and conditions of employment, contract or agency because  
24 of lawful acts by the employee, contractor or agent on behalf of  
25 the employee, contractor or agent or associated others in  
26 furtherance of an action under this section or efforts to stop  
27 one or more violations of this act, including investigation for,  
28 initiation of, testimony for or assistance in an action filed or  
29 to be filed under this section, shall be entitled to all relief  
30 necessary to make the employee, contractor or agent whole. The

1 relief shall include reinstatement with the same seniority  
2 status the employee, contractor or agent would have had but for  
3 the discrimination, two times the amount of back pay, interest  
4 on the back pay, and compensation for any special damages  
5 sustained as a result of the discrimination, including  
6 litigation costs and reasonable attorney fees. The Commonwealth  
7 Court shall have exclusive jurisdiction for all actions seeking  
8 relief under this subsection.

9 (i) Civil investigative demand.--

10 (1) (i) The Attorney General shall have the authority  
11 to issue civil investigative demands under paragraph (2).

12 (ii) Nothing in this subsection shall be construed  
13 to limit the regulatory or investigative authority of any  
14 department or agency of the Commonwealth whose functions  
15 may relate to persons, enterprises or matters falling  
16 within the scope of this chapter.

17 (2) (i) Whenever the Attorney General has reason to  
18 believe that any person may be in possession, custody or  
19 control of documentary material relevant to an  
20 investigation under this chapter, the Attorney General  
21 may issue in writing, and cause to be served upon the  
22 person, a civil investigative demand requiring the  
23 production of the material for examination.

24 (ii) Each demand shall:

25 (A) state the nature of the conduct constituting  
26 the alleged violation which is under investigation,  
27 the applicable provision of law and the connection  
28 between the documentary material demanded and the  
29 conduct under investigation;

30 (B) describe the class or classes of documentary

1 material to be produced with sufficient definiteness  
2 and certainty to permit the material to be fairly  
3 identified;

4 (C) state the demand is returnable or prescribe  
5 a return date which will provide a reasonable time  
6 period within which the material demanded may be  
7 assembled and made available for inspection and  
8 copying or reproduction;

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

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

16 (iii) The demand shall not:

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

21 (B) require the production of documentary  
22 evidence which would be privileged from disclosure if  
23 demanded by a subpoena duces tecum issued by a court  
24 in connection with a grand jury investigation of the  
25 alleged violation.

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

30 (v) A verified return by the individual serving a

1 demand or petition setting forth the manner of the  
2 service shall be prima facie proof of the service. In the  
3 case of service by registered or certified mail, the  
4 return shall be accompanied by the return post office  
5 receipt of delivery of the demand.

6 (vi) (A) Any person upon whom any demand issued  
7 under this subsection has been duly served shall make  
8 the material available for inspection and copying or  
9 reproduction to the investigator designated at the  
10 principal place of business of the person, or at any  
11 other place as the investigator and person may agree  
12 or as the court may direct under this paragraph, on  
13 the return date specified in the demand. The person  
14 may upon agreement of the investigator substitute  
15 copies of all or any part of the material for the  
16 originals.

17 (B) The investigator to whom documentary  
18 material is delivered shall take physical possession  
19 of it and shall be responsible for the use for which  
20 it is made and for its return under this paragraph.  
21 The investigator may cause the preparation of copies  
22 of the documentary material as may be required for  
23 official use. While in the possession of the  
24 investigator, no material produced shall be available  
25 for examination without the consent of the person who  
26 produced the material by an individual other than the  
27 Attorney General or investigator. Under reasonable  
28 terms and conditions as the Attorney General shall  
29 prescribe, documentary material while in the  
30 possession of the investigator shall be available for

1 examination by the person who produced the material  
2 or a duly authorized representative of the person.

3 (C) Upon completion of the investigation for  
4 which documentary material was produced under this  
5 paragraph and any case or proceeding arising from the  
6 investigation, the investigator shall return to the  
7 person who produced the material all the material  
8 other than copies made under this paragraph which  
9 have not passed into the control of any court or  
10 grand jury through introduction into the record of  
11 the case or proceeding.

12 (D) When documentary material has been produced  
13 by a person under this paragraph for use in an  
14 investigation and no case or proceeding arising  
15 therefrom has been instituted within a reasonable  
16 time after completion of the examination and analysis  
17 of all evidence assembled in the course of the  
18 investigation, the person shall be entitled, upon  
19 written demand made upon the Attorney General, to the  
20 return of all documentary material, other than copies  
21 made under this paragraph, produced by the person.

22 (vii) Whenever a person fails to comply with a civil  
23 investigative demand duly served upon the person under  
24 this paragraph or whenever satisfactory copying or  
25 reproduction of the material cannot be done and the  
26 person refuses to surrender the material, the Attorney  
27 General may file, in Commonwealth Court, and serve upon  
28 the person a petition for an order of the court for the  
29 enforcement of this paragraph.

30 (viii) Within 20 days after the service of the

1 demand upon a person, or at any time before the return  
2 date specified in the demand, whichever period is  
3 shorter, the person may file, in Commonwealth Court, and  
4 serve upon the Attorney General a petition for an order  
5 of the court modifying or setting aside the demand. The  
6 time allowed for compliance with the demand in whole or  
7 in part as deemed proper and ordered by the court shall  
8 not run during the pendency of the petition in the court.  
9 The petition shall specify each ground upon which the  
10 petitioner relies in seeking the relief, and may be based  
11 upon a failure of the demand to comply with the  
12 provisions of this paragraph or upon a constitutional or  
13 other legal right or privilege of the person.

14 (ix) When the Attorney General is in custody or  
15 control of documentary material delivered by a person in  
16 compliance with a demand, the person may file, in  
17 Commonwealth Court, and serve upon the Attorney General a  
18 petition for an order of the court requiring the  
19 performance of a duty imposed by this paragraph.

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

26 (3) Whenever an individual refuses, on the basis of the  
27 individual's Fifth Amendment privilege against self-  
28 incrimination, to comply with a civil investigative demand  
29 issued under paragraph (2), the Attorney General may invoke  
30 the provisions of 42 Pa.C.S. § 5947 (relating to immunity of

1 witnesses).

2 (4) The Attorney General may delegate the authority to  
3 issue civil investigative demands under this subsection. If a  
4 civil investigative demand is an express demand for the  
5 production of discovery, the Attorney General or the Attorney  
6 General's designee shall cause to be served, in any manner  
7 authorized under this subsection, a copy of the demand upon  
8 the person from whom the discovery was obtained and shall  
9 notify the person to whom the demand is issued of the date on  
10 which the copy was served. Any information obtained by the  
11 Attorney General or the Attorney General's designee under  
12 this subsection may be shared with a qui tam plaintiff if the  
13 Attorney General or the Attorney General's designee  
14 determines it is necessary as part of an investigation of a  
15 claim.

16 (j) Cooperation by agencies.--Commonwealth agencies shall  
17 cooperate in the investigation and prosecution of false claims  
18 under this section, whether the claims are brought by the  
19 Attorney General or a qui tam plaintiff.

20 (k) False Claims Prosecution Fund.--There is hereby  
21 established in the State Treasury a special fund to be known as  
22 the False Claims Prosecution Fund. The money deposited into the  
23 fund shall be utilized by the Attorney General for the exclusive  
24 purpose of investigating and prosecuting false claims under this  
25 act. The money in the fund may not lapse and is continuously  
26 appropriated for the purposes set forth in this subsection.  
27 Section 303. Statute of limitations; burden of proof; estoppel.

28 (a) Statute of limitations.--

29 (1) Except for an action brought under section 302(h), a  
30 civil action under section 302 may not be brought more than

1 ten years after the date on which the violation was  
2 committed. An action under section 302(h) may not be brought  
3 more than three years after the date the retaliation  
4 occurred.

5 (2) (i) If the Commonwealth elects to intervene and  
6 proceed with an action brought under section 302(b), the  
7 Commonwealth may file its own complaint or amend the  
8 complaint of the qui tam plaintiff who brought the action  
9 in order to clarify or add detail to the claims and to  
10 add any additional claims with respect to which the  
11 Commonwealth contends it is entitled to relief.

12 (ii) If the Commonwealth makes an election under  
13 subparagraph (i), any such Commonwealth pleading shall  
14 relate back to the filing date of the complaint of the  
15 qui tam plaintiff to the extent that the claim of the  
16 Commonwealth arises out of the conduct, transactions or  
17 occurrences set forth, or attempted to be set forth, in  
18 the qui tam plaintiff's complaint.

19 (b) Burden of proof.--In any action brought under section  
20 302, the Commonwealth or the qui tam plaintiff shall be required  
21 to prove all essential elements of the cause of action,  
22 including damages, by a preponderance of the evidence.

23 (c) Estoppel.--Notwithstanding any other provision of law, a  
24 guilty verdict rendered in a criminal proceeding charging false  
25 statements or fraud, whether upon a verdict after trial or upon  
26 a plea of guilty or nolo contendere, shall estop the defendant  
27 from denying the essential elements of the offense in any action  
28 which involves the same transaction as in the criminal  
29 proceeding and which is brought under section 302(a) or (b).

30 Section 304. Miscellaneous provisions.

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

5 (b) Liberality of legislative construction.--This act shall  
6 be liberally construed and applied to promote the public  
7 interest.

8 (c) Regulations.--The Attorney General shall have the power  
9 and authority to promulgate rules and regulations which may be  
10 necessary to carry out the purposes set forth in this act.

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

24 Section 305. Appropriation.

25 The sum of \$3,000,000 is hereby appropriated to the Office of  
26 Attorney General for the fiscal period July 1, 2013, to June 30,  
27 2015, to be used by the Office of Attorney General to implement  
28 and administer the provisions of this act. This appropriation is  
29 a two-year appropriation that may not lapse until June 30, 2015.

30 Section 306. Effective date.

1 This act shall take effect immediately.