

Illinois False Claims Act

I. Summary:

- A.** The Illinois False Claims Act, known as the Illinois Whistleblower Reward and Protection Act, was originally enacted in 1991 to protect against fraudulent action committed by state government employees, politicians, and independent contractors. The act was amended thereafter in 1995, making the act applicable to local public bodies.
- B.** The Illinois Whistleblower Reward is largely identical to the Federal False Claims Act.
 - 1. Liability:** According to **740 IL. Comp. Stat. 175/3**, under the Illinois FCA, liability is attached to (among other actions detailed in the text below):
 - a) Knowingly submitting a false claim or causing a false claim to be submitted for payment to the state
 - b) Knowingly making or using a false record or statement material to a false claim
 - c) Knowingly delivers less money or causes less money to be delivered to the state government after having custody, control, or possession of property to be used or to be used by the statement
 - d) Knowingly receives as an pledge of an obligation or buys public property from a party associated with the state that is legally not authorized to to sell or pledge sale of such property
 - e) Creates or submits receipt of property used, or to be used by the State as an authorized individual without knowing if the receipt is [completely] true and with the intention of defrauding the State;
 - f) Creating or causes false records to be created and using said false record material to an obligation to repay the state.
 - g) Conspiring to commit any of the aforementioned actions
 - 2. Qui Tam Provision?** Yes, according to [740 IL. Comp. Stat. 175/4](#), a private citizen or person can bring a lawsuit under the Illinois False Claims Act on behalf of the Illinois State Government.
 - 3. Anti Retaliation provision?** Yes, according to [740 IL. Comp. Stat. 175/4](#), if an employee, contractor, or agent is retaliated against due to their involvement and efforts to stop violations of the Illinois False claims act, then they are entitled to reinstatement, two-times the amount of backpay, interest on the back pay, and compensation for any damages incurred as a result of the discrimination they experienced. The statute of limitations for a civil action to address retaliation is three years.
 - 4. Statute of Limitations:** There is a six year statute of limitations on actions brought under the Illinois FCA. However, in certain cases, the time may be extended up to ten years.
 - 5. Initial Sealing Period:** After an action is filed under the IFCA, the claim remains sealed for a minimum period of 60 days.

6. **Whistleblower Reward:** If the government intervenes and the Attorney General files a suit, a whistleblower is entitled to 15 to 25 percent of the damage award. If the government does not intervene and the whistleblower files a civil case independently, they are entitled to 25 to 30 percent of the damage award, court costs, and legal fees.
7. **Damages:** If a party violates the Illinois False Claims Act, they are liable to the state for a civil penalty of no less than \$5,500 and not more than \$11,000, in addition to three times the amount sustained by the state government as a result of the action.
8. **Important notes:**
 - a) The city of Chicago has its own False Claims Act.
 - b) The Illinois False Claims Act largely mirrors the Federal False Claims Act and therefore, there are no concrete items to note to distinguish this state act from the federal act in place.

II. The Text:

[740 IL. Comp. Stat. 175/3](#)

(740 ILCS 175/3) (from Ch. 127, par. 4103)

Sec. 3. False claims.

(a) Liability for certain acts.

(1) In general, any person who:

(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

(B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

(C) conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G);

(D) has possession, custody, or control of property or money used, or to be used, by the State and knowingly delivers, or causes to be delivered, less than all the money or property;

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

(F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the State, or a member of the Guard, who lawfully may not sell or pledge property; or

(G) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the State, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the State, is liable to the State for a civil penalty of not less than the minimum amount and not more than the maximum amount allowed for a civil penalty for a violation of the federal False Claims Act (31 U.S.C. 3729 et seq.) as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461), plus 3 times the amount of damages which the State sustains because of the act of that person. Notwithstanding any other provision, a person is liable to the State for a civil penalty of not less than \$5,500 and not more than \$11,000, plus 3 times the amount of damages which the State sustains because of the act of that person, when: (i) the civil action was brought by a private person pursuant to paragraph (1) of subsection (b) of Section 4;

(ii) the State did not elect to intervene pursuant to paragraph (2) of subsection (b) of Section 4; (iii) the actual amount of the tax owed to the State is equal to or less than \$50,000, which does not include interest, penalties, attorney's fees, costs, or any other amounts owed or paid pursuant to this Act; and (iv) the violation of this Act relates to or involves a false claim regarding a tax administered by the Department of Revenue, excluding claims, records, or statements made under the Property Tax Code. The penalties in this Section are intended to be remedial rather than punitive, and shall not preclude, nor be precluded by, a criminal prosecution for the same conduct.

(2) A person violating this subsection shall also be liable to the State for the costs of a civil action brought to recover any such penalty or damages.

Qui Tam & Anti-Retaliation Provisions : 740 IL. Comp. Stat. 175/4

(740 ILCS 175/4) (from Ch. 127, par. 4104)

Sec. 4. Civil actions for false claims.

(a) Responsibilities of the Attorney General. The Attorney General shall diligently investigate a civil violation under Section 3. If the Attorney General finds that a person violated or is violating Section 3, the Attorney General may bring a civil action under this Section against the person.

The State shall receive an amount for reasonable expenses that the court finds to have been necessarily incurred by the Attorney General, including reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. The court may award amounts from the proceeds of an action or settlement that it considers appropriate to any governmental entity or program that has been adversely affected by a defendant. The Attorney General, if necessary, shall direct the State Treasurer to make a disbursement of funds as provided in court orders or settlement agreements.

(b) Actions by private persons.

(1) A person may bring a civil action for a violation of Section 3 for the person and for the State. The action shall be brought in the name of the State. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the State. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The State may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.

(3) The State may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this Section until 20 days after the complaint is unsealed and served upon the defendant.

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

(A) proceed with the action, in which case the action shall be conducted by the State; or

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

(5) When a person brings an action under this subsection (b), no person other than the State may intervene or bring a related action based on the facts underlying the pending action.

(c) Rights of the parties to Qui Tam actions.

(1) If the State proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (2).

(2)(A) The State may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the State of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.

(B) The State may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.

(C) Upon a showing by the State that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the State's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as:

- (i) limiting the number of witnesses the person may call;
- (ii) limiting the length of the testimony of such witnesses;
- (iii) limiting the person's cross-examination of witnesses; or
- (iv) otherwise limiting the participation by the person in the litigation.

(D) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

(3) If the State elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the State so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the State's expense). When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the State to intervene at a later date upon a showing of good cause.

(4) Whether or not the State proceeds with the action, upon a showing by the State that certain actions of discovery by the person initiating the action would interfere with the State's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the State has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

(5) Notwithstanding subsection (b), the State may elect to pursue its claim through any alternate remedy available to the State, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had

if the action had continued under this Section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this Section. For purposes of the preceding sentence, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

(d) Award to Qui Tam plaintiff.

(1) If the State proceeds with an action brought by a person under subsection (b), such person shall, subject to the second sentence of this paragraph, receive at least 15% but not more than 25% of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one which the court finds to be based primarily on disclosures of specific information (other than information provided by the person bringing the action) relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative, administrative, or Auditor General's report, hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10% of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person under the first or second sentence of this paragraph (1) shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. The State shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred by the Attorney General, including reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. The court may award amounts from the proceeds of an action or settlement that it considers appropriate to any governmental entity or program that has been adversely affected by a defendant. The Attorney General, if necessary, shall direct the State Treasurer to make a disbursement of funds as provided in court orders or settlement agreements.

(2) If the State does not proceed with an action under this Section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25% and not more than 30% of the proceeds of the action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. The court may award amounts from the proceeds of an action or settlement that it considers appropriate to any governmental entity or program that has been adversely affected by a defendant. The Attorney General, if necessary, shall direct the State Treasurer to make a disbursement of funds as provided in court orders or settlement agreements.

(3) Whether or not the State proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of Section 3 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection (d), taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of Section 3, that person

shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the State to continue the action, represented by the Attorney General.

(4) If the State does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

(e) Certain actions barred.

(1) No court shall have jurisdiction over an action brought by a former or present member of the Guard under subsection (b) of this Section against a member of the Guard arising out of such person's service in the Guard.

(2)(A) No court shall have jurisdiction over an action brought under subsection (b) against a member of the General Assembly, a member of the judiciary, or an exempt official if the action is based on evidence or information known to the State when the action was brought.

(B) For purposes of this paragraph (2), "exempt official" means any of the following officials in State service: directors of departments established under the Civil Administrative Code of Illinois, the Adjutant General, the Assistant Adjutant General, the Director of the State Emergency Services and Disaster Agency, members of the boards and commissions, and all other positions appointed by the Governor by and with the consent of the Senate.

(3) In no event may a person bring an action under subsection (b) which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the State is already a party.

(4)(A) The court shall dismiss an action or claim under this Section, unless opposed by the State, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed:

- (i) in a criminal, civil, or administrative hearing in which the State or its agent is a party;
- (ii) in a State legislative, State Auditor General, or other State report, hearing, audit, or investigation; or
- (iii) from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.

(B) For purposes of this paragraph (4), "original source" means an individual who either (i) prior to a public disclosure under subparagraph (A) of this paragraph (4), has voluntarily disclosed to the State the information on which allegations or transactions in a claim are based, or (ii) has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and who has voluntarily provided the information to the State before filing an action under this Section.

(f) State not liable for certain expenses. The State is not liable for expenses which a person incurs in bringing an action under this Section.

(g) Relief from retaliatory actions.

(1) In general, any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee,

contractor, agent, or associated others in furtherance of an action under this Section or other efforts to stop one or more violations of this Act.

(2) Relief under paragraph (1) shall include reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An action under this subsection (g) may be brought in the appropriate circuit court for the relief provided in this subsection (g).

(3) A civil action under this subsection may not be brought more than 3 years after the date when the retaliation occurred.

(Source: P.A. 102-538, eff. 8-20-21; 103-145, eff. 10-1-23.)

III. Links to Government Agencies

A. [Illinois Department of Healthcare and Family Services](#)

B. [Illinois State Board of Education](#)

IV. What are some big cases that have been a result of the state's false claims act?

- A. Wyeth: In July 2013, Wyeth agreed to settle claims that they had illegally marketed an organ transplant anti-rejection drug for unauthorized uses, resulting in millions of dollars in false claims to Medicaid programs by paying \$491 Million/
- B. Blue Cross Blue Shield of Illinois: In February 2011, after allegedly violating the Illinois and federal FCA, along with other statutes, by removing sick children from its insurance rolls and billing associated costs to Medicaid, Blue Cross Blue Shield of Illinois agree to pay \$25 million to settle claims.

Chicago False Claims Act

I. The Text

[1-22-020 False Claims](#)

(a) Any person who:

(1) knowingly presents, or causes to be presented, to an official or employee of the city a false or fraudulent claim for payment or approval;

(2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the city;

(3) conspires to defraud the city by getting a false or fraudulent claim allowed or paid;

(4) has possession, custody, or control of property or money used, or to be used, by the city and knowingly delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;

(5) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the city and, intending to defraud the city, makes or delivers the receipt without complete knowledge that the information on the receipt is true;

(6) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the city who lawfully may not sell or pledge the property;

(7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the city; or

(8) knowingly violates 42 U.S.C. § 1320a-7b in connection with the provision of items or services included in a claim to the city is liable to the city for a civil penalty of not less than \$5,000.00 and not more than \$10,000.00, plus three times the amount of damages which the city sustains because of the act of that person. A person violating this section shall also be liable to the city for the attorneys' fees and costs of a civil action brought to recover any such penalty or damages.

(b) *Reduced damages.* If a court adjudicating a violation of this section finds that:

(1) the person committing the violation furnished officials of the city responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the person first obtained the information;

(2) such person fully cooperated with any city investigation of such violation; and

(3) at the time such person furnished the city with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this chapter with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation, the court may assess not less than two times the amount of damages which the city sustains because of the act of that person.

(Added Coun. J. 12-15-04, p. 39918, § 1; Amend Coun. J. 11-7-18, p. 88797, § 1)civil actionsi

1-22-030 Civil actions for false claims

(a) The corporation counsel may bring a civil action under this section against any person who has violated or is violating Section 1-22-020.

(b) *Actions by private persons.*

(1) A person may bring a civil action against a city contractor for a violation of Section 1-22-020 for the person and for the city. The action shall be brought in the name of the city. The action may be dismissed only if the court and the corporation counsel give written consent to the dismissal and their reasons for consenting.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the city. In all such actions, service upon the city shall be made by leaving a copy with the city clerk. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The city may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.

(3) The city may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant.

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

(A) proceed with the action, in which case the action shall be conducted by the city; or

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

(5) When a person brings an action under this subsection (b), no person other than the city may intervene or bring a related action based on the facts underlying the pending action.

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

(1) If the city proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (2).

(2) (A) The city may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the city of the filing of the motion to dismiss and the court has provided the person with an opportunity for a hearing on the motion.

(B) The city may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.

(C) Upon a showing by the city that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the city's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as:

- (i) limiting the number of witnesses the person may call;
- (ii) limiting the length of the testimony of such witnesses;
- (iii) limiting the person's cross-examination of the witnesses; or
- (iv) otherwise limiting the participation by the person in the litigation.

(D) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

(3) If the city elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the city so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all discovery and deposition transcripts at the city's expense. When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the city to intervene at a later date upon a showing of good cause.

(4) Whether or not the city proceeds with the action, upon a showing by the city that certain actions of discovery by the person initiating the action would interfere with the city's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the city has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceeding.

(5) Notwithstanding any other provision in subsection (b), the city may elect to pursue its claim through any alternate remedy available to the city, including an administrative proceeding in the department of administrative hearings. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the preceding sentence, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

(d) *Award to qui tam plaintiff.*

(1) If the city proceeds with an action brought by a person under this section, such person shall, subject to the second sentence of this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one which the court finds to be based primarily on disclosures of specific information (other than information provided by the person bringing the action) relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative, administrative, or inspector general's report, hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than ten percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation.

(2) If the city does not proceed with an action under this section and the action is successfully brought or the claim is settled by another person, that person shall, subject to the exception set forth in this paragraph, receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the action or settlement and shall be paid out of such proceeds.

(3) Any person entitled to an award under paragraphs (1) and (2) of this subsection (d) shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. The city shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred by the corporation counsel, including reasonable attorney's fees and costs. All such expenses, fees and costs awarded pursuant to this subsection (d) shall be awarded against the defendant.

(4) Whether or not the city proceeds with the action, if the court finds that the action was brought by a person who planned, initiated or participated in the violation of Section [1-22-020](#) upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of Section [1-22-020](#), that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the city to continue the action.

(5) If the city does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

(e) In no event may a person bring an action under subsection (b) which (i) is based upon allegations or transactions which are the subject of a civil suit or an administrative proceeding in which the city is already a party or (ii) concerns the application, interpretation or enforcement of any tax ordinance, as that term is defined in Section [3-4-020](#) of this Code.

(f) No court shall have jurisdiction over an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a legislative, administrative, or Inspector General's report, hearing, audit, or investigation, or from the news media, unless the action is brought by the corporation counsel or the person bringing the action is an original source of the information. For purposes of this subsection (f), "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the city before filing an action under this section which is based on the information.

(g) The city is not liable for expenses, including attorney's fees, which a person incurs in bringing an action under this section.

(Added Coun. J. 12-15-04, p. 39918, § 1; Amend Coun. J. 11-8-12, p. 38867, § 1)

[1-22-050 Subpoenas](#)
