

HOUSE BILL 509

D3

3lr0449

By: **Delegates Arora, Smigiel, Afzali, Anderson, Barkley, Carter, Conaway, Dumais, Elliott, Frush, McDermott, Niemann, Reznik, B. Robinson, Rosenberg, and Sophocleus**

Introduced and read first time: January 30, 2013

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland False Claims Act of 2013**

3 FOR the purpose of prohibiting certain actions constituting false claims against a
4 governmental entity; providing certain penalties for making false claims;
5 requiring the court to consider and give special attention to certain factors in
6 determining the amount of fines and penalties provided for in certain provisions
7 of this Act; authorizing a person and the governmental entity to file a civil
8 action against a person who makes a certain false claim under certain
9 circumstances; providing for the procedures to be followed in the civil action and
10 for certain remedies under the action; requiring the governmental entity to
11 investigate a certain civil action; requiring the governmental entity to make
12 certain efforts to coordinate certain investigations and to establish a certain
13 objective for the governmental entity; authorizing the governmental entity to
14 intervene and proceed with a certain civil action with or without the person who
15 initiated the action; requiring the court to dismiss the action if the
16 governmental entity elects not to intervene in the action; authorizing the
17 governmental entity to pursue certain alternative remedies; providing certain
18 limitations on civil actions filed under this Act; prohibiting a person from taking
19 retaliatory action against an employee, contractor, or agent under certain
20 circumstances; authorizing an employee, contractor, or agent to file a civil
21 action against a person who takes retaliatory action against the employee,
22 contractor, or agent under certain circumstances; providing certain remedies for
23 retaliatory action; requiring an employer to make certain disclosures to
24 employees; establishing that certain remedies provided under this Act are in
25 addition to certain other appropriate legal and equitable relief; requiring the
26 Comptroller to deposit a certain penalty or damages into the General Fund of
27 the State; requiring the Office of the Attorney General and the attorney for each
28 county and Baltimore City to report certain information annually to the General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Assembly; defining certain terms; and generally relating to false claims against
2 governmental entities.

3 BY adding to

4 Article – State Government

5 Section 12–601 through 12–611 to be under the new subtitle “Subtitle 6. False
6 Claims”

7 Annotated Code of Maryland

8 (2009 Replacement Volume and 2012 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
10 MARYLAND, That the Laws of Maryland read as follows:

11 **Article – State Government**

12 **SUBTITLE 6. FALSE CLAIMS.**

13 **12–601.**

14 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
15 **INDICATED.**

16 **(B) (1) “CLAIM” MEANS A REQUEST OR DEMAND, UNDER A CONTRACT**
17 **OR OTHERWISE, FOR MONEY OR OTHER PROPERTY, WHETHER OR NOT THE**
18 **GOVERNMENTAL ENTITY HAS TITLE TO THE MONEY OR PROPERTY, THAT IS:**

19 **(I) PRESENTED TO AN OFFICER, EMPLOYEE, OR AGENT OF**
20 **THE GOVERNMENTAL ENTITY; OR**

21 **(II) MADE TO A CONTRACTOR, A GRANTEE, OR ANOTHER**
22 **RECIPIENT, IF THE MONEY OR OTHER PROPERTY IS TO BE SPENT OR USED ON**
23 **THE GOVERNMENTAL ENTITY’S BEHALF OR TO ADVANCE AN INTEREST OF THE**
24 **GOVERNMENTAL ENTITY, AND THE GOVERNMENTAL ENTITY:**

25 **1. PROVIDES OR HAS PROVIDED ANY PORTION OF**
26 **THE MONEY OR OTHER PROPERTY REQUESTED OR DEMANDED; OR**

27 **2. WILL REIMBURSE THE CONTRACTOR, GRANTEE,**
28 **OR OTHER RECIPIENT FOR ANY PORTION OF THE MONEY OR OTHER PROPERTY**
29 **THAT IS REQUESTED OR DEMANDED.**

30 **(2) “CLAIM” DOES NOT INCLUDE REQUESTS OR DEMANDS FOR**
31 **MONEY OR OTHER PROPERTY THAT THE GOVERNMENTAL ENTITY HAS PAID TO**
32 **AN INDIVIDUAL AS COMPENSATION FOR EMPLOYMENT OR AS AN INCOME**

1 SUBSIDY WITH NO RESTRICTIONS ON THAT INDIVIDUAL'S USE OF THE MONEY OR
2 OTHER PROPERTY.

3 (C) "EMPLOYEE" MEANS AN INDIVIDUAL WHO PERFORMS SERVICES:

4 (1) FOR AND UNDER THE CONTROL AND DIRECTION OF AN
5 EMPLOYER; AND

6 (2) UNDER AN EMPLOYER'S PROMISE OR IMPLIED PROMISE OF
7 PAYMENT OF WAGES OR OTHER REMUNERATION.

8 (D) "EMPLOYER" MEANS A PERSON OR GROUP OF PERSONS WHO,
9 ACTING DIRECTLY OR INDIRECTLY ON BEHALF OF ANOTHER PERSON OR GROUP
10 OF PERSONS:

11 (1) ALLOWS AN EMPLOYEE TO PERFORM SERVICES UNDER THE
12 EMPLOYER'S CONTROL AND DIRECTION; AND

13 (2) PROMISES OR IMPLIES THAT THE EMPLOYEE WILL RECEIVE
14 WAGES OR OTHER REMUNERATION IN PAYMENT FOR THE PERFORMANCE OF
15 THOSE SERVICES.

16 (E) "GOVERNMENTAL ENTITY" MEANS:

17 (1) THE STATE;

18 (2) A COUNTY; OR

19 (3) BALTIMORE CITY.

20 (F) (1) "KNOWING" OR "KNOWINGLY" MEANS, WITH RESPECT TO
21 INFORMATION AND WITHOUT REQUIRING PROOF OF SPECIFIC INTENT TO
22 DEFRAUD, THAT A PERSON:

23 (I) HAS ACTUAL KNOWLEDGE OF THE INFORMATION;

24 (II) ACTS IN DELIBERATE IGNORANCE OF THE TRUTH OR
25 FALSITY OF THE INFORMATION; OR

26 (III) ACTS IN RECKLESS DISREGARD OF THE TRUTH OR
27 FALSITY OF THE INFORMATION.

1 **(2) “KNOWING” OR “KNOWINGLY” DOES NOT MEAN, WITH**
2 **RESPECT TO INFORMATION, THAT A PERSON ACTS IN A MANNER THAT**
3 **CONSTITUTES MISTAKE OR NEGLIGENCE.**

4 **(G) “MATERIAL” MEANS HAVING A NATURAL TENDENCY TO INFLUENCE**
5 **OR BE CAPABLE OF INFLUENCING THE PAYMENT OR RECEIPT OF MONEY OR**
6 **OTHER PROPERTY.**

7 **(H) “OBLIGATION” MEANS AN ESTABLISHED DUTY, WHETHER OR NOT**
8 **FIXED, ARISING FROM:**

9 **(1) AN EXPRESS OR IMPLIED:**

10 **(I) CONTRACTUAL RELATIONSHIP;**

11 **(II) GRANTOR–GRANTEE RELATIONSHIP; OR**

12 **(III) LICENSOR–LICENSEE RELATIONSHIP;**

13 **(2) A FEE–BASED OR SIMILAR RELATIONSHIP;**

14 **(3) STATUTE OR REGULATION; OR**

15 **(4) THE RETENTION OF AN OVERPAYMENT.**

16 **(I) “PUBLIC BODY” MEANS:**

17 **(1) THE GENERAL ASSEMBLY OR ANY OTHER ELECTED BODY;**

18 **(2) A MEMBER OR AN EMPLOYEE OF THE GENERAL ASSEMBLY OR**
19 **OTHER ELECTED BODY;**

20 **(3) A STATE COURT;**

21 **(4) A MEMBER OR AN EMPLOYEE OF A STATE COURT;**

22 **(5) A STATE OR LOCAL REGULATORY, ADMINISTRATIVE, OR**
23 **PUBLIC AGENCY OR AUTHORITY;**

24 **(6) AN INSTRUMENTALITY OF A STATE OR LOCAL REGULATORY,**
25 **ADMINISTRATIVE, OR PUBLIC AGENCY OR AUTHORITY;**

1 **(7) A STATE OR LOCAL LAW ENFORCEMENT AGENCY,**
2 **PROSECUTORIAL OFFICE, OR POLICE OR PEACE OFFICER;**

3 **(8) A STATE OR LOCAL DEPARTMENT OF AN EXECUTIVE BRANCH**
4 **OF GOVERNMENT; OR**

5 **(9) A DIVISION, A BOARD, A BUREAU, AN OFFICE, A COMMITTEE,**
6 **OR A COMMISSION OF ANY OF THE PUBLIC BODIES LISTED IN THIS SUBSECTION.**

7 **(J) “RETALIATORY ACTION” MEANS:**

8 **(1) DISCHARGING, SUSPENDING, DEMOTING, THREATENING,**
9 **HARASSING, OR DISCRIMINATING AGAINST AN EMPLOYEE, A CONTRACTOR, OR**
10 **AN AGENT; OR**

11 **(2) ANY OTHER ADVERSE ACTION TAKEN AGAINST AN EMPLOYEE,**
12 **A CONTRACTOR, OR AN AGENT RELATING TO THE CONDITIONS OF**
13 **EMPLOYMENT, CONTRACT, OR AGENCY.**

14 **(K) “SUPERVISOR” MEANS AN INDIVIDUAL WITHIN AN EMPLOYER’S**
15 **ORGANIZATION WHO HAS THE AUTHORITY TO:**

16 **(1) DIRECT AND CONTROL THE WORK PERFORMANCE OF AN**
17 **EMPLOYEE; OR**

18 **(2) TAKE CORRECTIVE ACTION REGARDING THE VIOLATION OF A**
19 **LAW OR REGULATION THAT IS THE SUBJECT OF A COMPLAINT OR CHARGE**
20 **UNDER THIS SUBTITLE.**

21 **12-602.**

22 **(A) A PERSON MAY NOT:**

23 **(1) KNOWINGLY PRESENT OR CAUSE TO BE PRESENTED A FALSE**
24 **OR FRAUDULENT CLAIM FOR PAYMENT OR APPROVAL;**

25 **(2) KNOWINGLY MAKE, USE, OR CAUSE TO BE MADE OR USED A**
26 **FALSE RECORD OR STATEMENT MATERIAL TO A FALSE OR FRAUDULENT CLAIM;**

27 **(3) CONSPIRE TO COMMIT A VIOLATION UNDER THIS SUBTITLE;**

28 **(4) HAVE POSSESSION, CUSTODY, OR CONTROL OF MONEY OR**
29 **OTHER PROPERTY USED OR TO BE USED BY OR ON BEHALF OF THE**

1 GOVERNMENTAL ENTITY AND KNOWINGLY DELIVER OR CAUSE TO BE
2 DELIVERED TO THE GOVERNMENTAL ENTITY LESS THAN ALL OF THAT MONEY
3 OR OTHER PROPERTY;

4 (5) (I) BE AUTHORIZED TO MAKE OR DELIVER A RECEIPT OR
5 OTHER DOCUMENT CERTIFYING RECEIPT OF MONEY OR OTHER PROPERTY USED
6 OR TO BE USED BY THE GOVERNMENTAL ENTITY; AND

7 (II) INTENDING TO DEFRAUD THE GOVERNMENTAL ENTITY,
8 MAKE OR DELIVER A RECEIPT OR DOCUMENT KNOWING THAT THE
9 INFORMATION CONTAINED IN THE RECEIPT OR DOCUMENT IS NOT TRUE;

10 (6) KNOWINGLY BUY OR RECEIVE AS A PLEDGE OF AN
11 OBLIGATION OR DEBT PUBLICLY OWNED PROPERTY FROM AN OFFICER,
12 EMPLOYEE, OR AGENT OF THE GOVERNMENTAL ENTITY WHO LAWFULLY MAY
13 NOT SELL OR PLEDGE THE PROPERTY;

14 (7) KNOWINGLY MAKE, USE, OR CAUSE TO BE MADE OR USED A
15 FALSE RECORD OR STATEMENT MATERIAL TO AN OBLIGATION TO PAY OR
16 TRANSMIT MONEY OR OTHER PROPERTY TO THE GOVERNMENTAL ENTITY;

17 (8) KNOWINGLY CONCEAL, OR KNOWINGLY AND IMPROPERLY
18 AVOID OR DECREASE, AN OBLIGATION TO PAY OR TRANSMIT MONEY OR OTHER
19 PROPERTY TO THE GOVERNMENTAL ENTITY; OR

20 (9) KNOWINGLY MAKE ANY OTHER FALSE OR FRAUDULENT CLAIM
21 AGAINST THE GOVERNMENTAL ENTITY.

22 (B) (1) A PERSON WHO IS FOUND TO HAVE VIOLATED SUBSECTION (A)
23 OF THIS SECTION IS LIABLE TO THE GOVERNMENTAL ENTITY FOR:

24 (I) A CIVIL PENALTY OF NOT MORE THAN \$10,000 FOR
25 EACH VIOLATION; AND

26 (II) AN ADDITIONAL AMOUNT OF NOT MORE THAN THREE
27 TIMES THE AMOUNT OF DAMAGES THAT THE GOVERNMENTAL ENTITY SUSTAINS
28 AS A RESULT OF THE ACTS OF THAT PERSON IN VIOLATION OF SUBSECTION (A)
29 OF THIS SECTION.

30 (2) THE TOTAL AMOUNT OWED BY A PERSON UNDER PARAGRAPH
31 (1) OF THIS SUBSECTION MAY NOT BE LESS THAN THE AMOUNT OF THE ACTUAL
32 DAMAGES THE GOVERNMENTAL ENTITY INCURS AS A RESULT OF THE PERSON'S
33 VIOLATION OF SUBSECTION (A) OF THIS SECTION.

1 **(C) IN DETERMINING THE APPROPRIATE AMOUNT OF FINES AND**
2 **DAMAGES UNDER SUBSECTION (B) OF THIS SECTION, THE COURT SHALL**
3 **CONSIDER:**

4 **(1) THE NUMBER, NATURE, AND SEVERITY OF THE VIOLATIONS OF**
5 **THIS SUBTITLE FOR WHICH THE PERSON HAS BEEN FOUND LIABLE;**

6 **(2) THE NUMBER, NATURE, AND SEVERITY OF ANY PREVIOUS**
7 **VIOLATIONS OF THIS SUBTITLE;**

8 **(3) THE DEGREE OF LOSS SUFFERED BY THE GOVERNMENTAL**
9 **ENTITY;**

10 **(4) THE PERSON'S HISTORY OF BILLING COMPLIANCE;**

11 **(5) WHETHER THE PERSON HAS A COMPLIANCE PROGRAM IN**
12 **PLACE;**

13 **(6) THE EXTENT TO WHICH THE PERSON HAS TAKEN STEPS TO**
14 **ADDRESS AND CORRECT THE VIOLATION SINCE THE PERSON BECAME AWARE OF**
15 **THE VIOLATION;**

16 **(7) ANY FUNDS PREVIOUSLY RETURNED TO THE GOVERNMENTAL**
17 **ENTITY IN COMPLIANCE WITH FEDERAL REQUIREMENTS REGARDING**
18 **OVERPAYMENTS, TO THE EXTENT THE FUNDS REPRESENTED LOSSES TO THE**
19 **GOVERNMENTAL ENTITY CAUSED BY THE VIOLATION;**

20 **(8) WHETHER THE PERSON SELF-REPORTED THE VIOLATION,**
21 **THE TIMELINESS OF THE SELF-REPORTING, THE EXTENT TO WHICH THE**
22 **PERSON OTHERWISE COOPERATED IN THE INVESTIGATION OF THE VIOLATION,**
23 **AND THE EXTENT TO WHICH THE PERSON HAD PRIOR KNOWLEDGE OF AN**
24 **INVESTIGATION OR OTHER ACTION RELATING TO THE VIOLATION; AND**

25 **(9) ANY OTHER FACTOR AS JUSTICE REQUIRES.**

26 **(D) THE PENALTIES PROVIDED IN SUBSECTION (B) OF THIS SECTION**
27 **ARE IN ADDITION TO ANY CRIMINAL, CIVIL, OR ADMINISTRATIVE PENALTIES**
28 **PROVIDED UNDER ANY OTHER STATE OR FEDERAL STATUTE OR REGULATION.**

29 **12-603.**

1 **(A) IF THE GOVERNMENTAL ENTITY FINDS THAT A PERSON HAS**
2 **VIOLATED OR IS VIOLATING § 12-602 OF THIS SUBTITLE, THE GOVERNMENTAL**
3 **ENTITY MAY FILE A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION**
4 **WITHIN THE STATE AGAINST THE PERSON.**

5 **(B) IN FILING A CIVIL ACTION UNDER THIS SECTION, THE**
6 **GOVERNMENTAL ENTITY MAY SEEK:**

7 **(1) THE PENALTIES PROVIDED UNDER § 12-602(B) OF THIS**
8 **SUBTITLE; AND**

9 **(2) SUBJECT TO THE GUIDELINES SET FORTH IN § 12-605(A)(4)**
10 **OF THIS SUBTITLE, COURT COSTS AND ATTORNEY'S FEES.**

11 **12-604.**

12 **(A) (1) (I) A PERSON MAY FILE A CIVIL ACTION ON BEHALF OF THE**
13 **PERSON AND THE GOVERNMENTAL ENTITY IN A COURT OF COMPETENT**
14 **JURISDICTION WITHIN THE STATE AGAINST A PERSON WHO HAS ACTED OR IS**
15 **ACTING IN VIOLATION OF § 12-602 OF THIS SUBTITLE.**

16 **(II) A CIVIL ACTION FILED UNDER SUBPARAGRAPH (I) OF**
17 **THIS PARAGRAPH SHALL BE BROUGHT IN THE NAME OF THE GOVERNMENTAL**
18 **ENTITY.**

19 **(2) A PERSON FILING AN ACTION UNDER THIS SECTION MAY**
20 **SEEK:**

21 **(I) THE PENALTIES PROVIDED UNDER § 12-602(B) OF THIS**
22 **SUBTITLE; AND**

23 **(II) SUBJECT TO THE GUIDELINES SET FORTH IN §**
24 **12-605(A)(4) OF THIS SUBTITLE, COURT COSTS AND ATTORNEY'S FEES.**

25 **(3) (I) THE PERSON SHALL SERVE ON THE GOVERNMENTAL**
26 **ENTITY A COPY OF THE COMPLAINT AND A WRITTEN DISCLOSURE OF**
27 **SUBSTANTIALLY ALL MATERIAL EVIDENCE AND INFORMATION THAT THE**
28 **PERSON POSSESSES, IN ACCORDANCE WITH THE PROVISIONS OF TITLE 2 OF**
29 **THE MARYLAND RULES FOR SERVING PROCESS ON THE STATE.**

30 **(II) 1. THE COMPLAINT SHALL BE FILED IN CAMERA AND**
31 **SHALL REMAIN UNDER SEAL FOR AT LEAST 60 DAYS.**

1 **2. THE COMPLAINT MAY NOT BE SERVED ON THE**
2 **DEFENDANT UNTIL THE COMPLAINT IS UNSEALED AND THE COURT ORDERS THE**
3 **COMPLAINT SERVED.**

4 **3. WITHIN 60 DAYS AFTER THE GOVERNMENTAL**
5 **ENTITY RECEIVES THE COMPLAINT AND THE MATERIAL EVIDENCE AND**
6 **INFORMATION, THE GOVERNMENTAL ENTITY MAY ELECT TO INTERVENE AND**
7 **PROCEED WITH THE ACTION.**

8 **(4) (I) FOR GOOD CAUSE SHOWN, THE GOVERNMENTAL ENTITY**
9 **MAY MOVE THE COURT FOR EXTENSIONS OF THE TIME DURING WHICH THE**
10 **COMPLAINT REMAINS UNDER SEAL UNDER PARAGRAPH (3)(II)1 OF THIS**
11 **SUBSECTION.**

12 **(II) ANY MOTIONS MADE UNDER SUBPARAGRAPH (I) OF**
13 **THIS PARAGRAPH MAY BE SUPPORTED BY AFFIDAVITS OR OTHER SUBMISSIONS**
14 **IN CAMERA.**

15 **(5) (I) THE DEFENDANT MAY NOT BE REQUIRED TO ANSWER A**
16 **COMPLAINT FILED UNDER THIS SECTION UNTIL AFTER THE COMPLAINT IS:**

17 **1. UNSEALED AND ORDERED BY THE COURT TO BE**
18 **SERVED; AND**

19 **2. SERVED ON THE DEFENDANT IN ACCORDANCE**
20 **WITH TITLE 2 OF THE MARYLAND RULES.**

21 **(II) WHEN ANSWERING A COMPLAINT FILED UNDER THIS**
22 **SECTION, A DEFENDANT SHALL FOLLOW THE TIME FRAMES AND OTHER**
23 **PROVISIONS FOR FILING ANSWERS TO A COMPLAINT AS REQUIRED UNDER**
24 **TITLE 2, CHAPTER 300 OF THE MARYLAND RULES.**

25 **(III) DURING THE PERIOD IN WHICH THE COMPLAINT IS**
26 **UNDER SEAL, IF THE GOVERNMENTAL ENTITY'S INVESTIGATION REVEALS THAT**
27 **THE ACT, TRANSACTION, OR OCCURRENCE THAT GAVE RISE TO THE ALLEGED**
28 **VIOLATION OF THIS SUBTITLE IS REASONABLY LIKELY TO BE CONTINUING, THE**
29 **GOVERNMENTAL ENTITY SHALL NOTIFY THE DEFENDANT AS SOON AS**
30 **PRACTICABLE WITHOUT JEOPARDIZING THE COURSE AND CONDUCT OF THE**
31 **GOVERNMENTAL ENTITY'S OR THE FEDERAL GOVERNMENT'S INVESTIGATION OF**
32 **THE VIOLATION, COMPROMISING THE DEVELOPMENT OF EVIDENCE, OR**
33 **VIOLATING ANY STATE OR FEDERAL LAW.**

1 **(6) BEFORE THE LATER OF THE EXPIRATION OF THE 60-DAY**
2 **PERIOD DURING WHICH THE COMPLAINT REMAINS UNDER SEAL UNDER**
3 **PARAGRAPH (3)(II)1 OF THIS SUBSECTION OR ANY EXTENSION OF THE 60-DAY**
4 **PERIOD OBTAINED UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE**
5 **GOVERNMENTAL ENTITY SHALL:**

6 **(I) INTERVENE AND PROCEED WITH THE ACTION IN A**
7 **COURT OF COMPETENT JURISDICTION WITHIN THE STATE; OR**

8 **(II) NOTIFY THE COURT THAT IT WILL NOT INTERVENE AND**
9 **PROCEED WITH THE ACTION.**

10 **(7) IF THE GOVERNMENTAL ENTITY DOES NOT ELECT TO**
11 **INTERVENE AND PROCEED WITH THE ACTION UNDER PARAGRAPH (6) OF THIS**
12 **SUBSECTION, BEFORE UNSEALING THE COMPLAINT, THE COURT SHALL DISMISS**
13 **THE ACTION.**

14 **(8) IF A PERSON INITIATES AN ACTION UNDER THIS SECTION, NO**
15 **PERSON OTHER THAN THE GOVERNMENTAL ENTITY MAY INTERVENE IN THE**
16 **ACTION OR INITIATE A RELATED ACTION BASED ON THE FACTS UNDERLYING**
17 **THE PENDING ACTION.**

18 **(B) (1) IF THE GOVERNMENTAL ENTITY INTERVENES AND PROCEEDS**
19 **WITH THE ACTION UNDER SUBSECTION (A)(6)(I) OF THIS SECTION:**

20 **(I) THE GOVERNMENTAL ENTITY SHALL HAVE THE**
21 **PRIMARY RESPONSIBILITY FOR PROCEEDING WITH THE ACTION AND MAY NOT**
22 **BE BOUND BY ANY ACT OF THE PERSON WHO INITIATED THE ACTION; AND**

23 **(II) SUBJECT TO PARAGRAPHS (3) THROUGH (6) OF THIS**
24 **SUBSECTION, THE PERSON WHO INITIATED THE ACTION MAY CONTINUE AS A**
25 **PARTY TO THE ACTION.**

26 **(2) (I) DURING AN INVESTIGATION BY THE GOVERNMENTAL**
27 **ENTITY CONDUCTED EITHER INDEPENDENTLY OR IN CONJUNCTION WITH A**
28 **CIVIL ACTION FILED UNDER THIS SUBTITLE, THE GOVERNMENTAL ENTITY**
29 **SHALL HAVE THE SAME RIGHTS OF DISCOVERY AS A CIVIL LITIGANT IN THE**
30 **CIRCUIT COURT UNDER TITLE 2, CHAPTER 400 OF THE MARYLAND RULES.**

31 **(II) A PERSON FROM WHOM THE GOVERNMENTAL ENTITY**
32 **SEEKS DISCOVERY SHALL BE CONSIDERED A PARTY UNDER TITLE 2, CHAPTER**
33 **400 OF THE MARYLAND RULES.**

1 **(3) (I) NOTWITHSTANDING THE OBJECTIONS OF THE PERSON**
2 **INITIATING THE ACTION, THE GOVERNMENTAL ENTITY MAY ELECT AT ANY**
3 **POINT TO WITHDRAW ITS INTERVENTION AS A PARTY TO THE ACTION.**

4 **(II) IF THE GOVERNMENTAL ENTITY ELECTS TO WITHDRAW**
5 **AS A PARTY TO THE ACTION:**

6 **1. THE GOVERNMENTAL ENTITY SHALL NOTIFY THE**
7 **COURT AND THE PARTY INITIATING THE ACTION; AND**

8 **2. THE COURT SHALL DISMISS THE ACTION.**

9 **(4) NOTWITHSTANDING THE OBJECTIONS OF THE PERSON**
10 **INITIATING THE ACTION, IF THE COURT DETERMINES AFTER A HEARING THAT A**
11 **PROPOSED SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE UNDER THE**
12 **CIRCUMSTANCES, THE GOVERNMENTAL ENTITY MAY SETTLE A CIVIL ACTION**
13 **FILED UNDER THIS SECTION.**

14 **(5) ON MOTION OF THE GOVERNMENTAL ENTITY OR THE**
15 **DEFENDANT OR ON THE COURT'S OWN MOTION, THE COURT MAY IMPOSE**
16 **LIMITATIONS ON THE PARTICIPATION OF THE PERSON INITIATING AN ACTION**
17 **UNDER THIS SECTION IF:**

18 **(I) THE GOVERNMENTAL ENTITY SHOWS THAT THE**
19 **PERSON'S UNRESTRICTED PARTICIPATION IN THE ACTION WOULD:**

20 **1. INTERFERE WITH OR UNDULY DELAY THE**
21 **GOVERNMENTAL ENTITY IN ITS PURSUIT OF THE CIVIL ACTION; OR**

22 **2. BE REPETITIOUS, IRRELEVANT, OR HARASSING TO**
23 **THE DEFENDANT; OR**

24 **(II) THE DEFENDANT SHOWS THAT UNRESTRICTED**
25 **PARTICIPATION BY THE PERSON INITIATING THE ACTION WOULD HARASS THE**
26 **DEFENDANT OR CAUSE THE DEFENDANT UNDUE BURDEN OR UNNECESSARY**
27 **EXPENSE.**

28 **(6) LIMITATIONS IMPOSED BY THE COURT UNDER PARAGRAPH**
29 **(5) OF THIS SUBSECTION MAY INCLUDE:**

30 **(I) A LIMITATION ON THE NUMBER OF WITNESSES THE**
31 **PERSON MAY CALL TO TESTIFY;**

1 **(II) A LIMITATION ON THE LENGTH OF THE TESTIMONY OF**
2 **WITNESSES CALLED BY THE PERSON;**

3 **(III) A LIMITATION ON THE PERSON'S CROSS-EXAMINATION**
4 **OF WITNESSES; OR**

5 **(IV) A LIMITATION ON THE PARTICIPATION OF THE PERSON**
6 **IN THE LITIGATION.**

7 **(C) (1) INSTEAD OF PROCEEDING WITH A CIVIL ACTION FILED UNDER**
8 **THIS SUBTITLE, THE GOVERNMENTAL ENTITY MAY PURSUE ANY ALTERNATIVE**
9 **REMEDY AVAILABLE TO THE GOVERNMENTAL ENTITY, INCLUDING ANY**
10 **APPROPRIATE ADMINISTRATIVE PROCEEDING TO DETERMINE A CIVIL MONEY**
11 **PENALTY.**

12 **(2) IF THE GOVERNMENTAL ENTITY SEEKS AN ALTERNATIVE**
13 **REMEDY IN ANOTHER PROCEEDING AFTER INTERVENING IN A CIVIL ACTION**
14 **FILED UNDER THIS SECTION, THE PERSON INITIATING THE ACTION SHALL HAVE**
15 **THE SAME RIGHTS IN THE ALTERNATIVE PROCEEDING AS THE PERSON WOULD**
16 **HAVE HAD IF THE CIVIL ACTION HAD CONTINUED UNDER THIS SECTION.**

17 **(3) (I) A FINDING OF FACT OR CONCLUSION OF LAW MADE IN**
18 **ANY ALTERNATIVE PROCEEDING THAT HAS BECOME FINAL SHALL BE**
19 **CONCLUSIVE ON ALL PARTIES TO AN ACTION FILED UNDER THIS SUBTITLE.**

20 **(II) FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS**
21 **PARAGRAPH, A FINDING OR CONCLUSION IS FINAL IF:**

22 **1. IT HAS BEEN FINALLY DETERMINED ON APPEAL**
23 **TO THE APPROPRIATE COURT OF THE STATE;**

24 **2. ALL TIME FOR FILING THE APPEAL WITH RESPECT**
25 **TO THE FINDING OR CONCLUSION HAS EXPIRED; OR**

26 **3. THE FINDING OR CONCLUSION IS NOT SUBJECT TO**
27 **JUDICIAL REVIEW.**

28 **(D) (1) ON A SHOWING IN CAMERA BY THE GOVERNMENTAL ENTITY**
29 **THAT CERTAIN ACTIONS OF DISCOVERY BY THE PERSON INITIATING THE**
30 **ACTION WOULD INTERFERE WITH THE GOVERNMENTAL ENTITY'S**
31 **INVESTIGATION OR PROSECUTION OF A CRIMINAL OR CIVIL MATTER ARISING**
32 **OUT OF THE SAME FACTS, THE COURT MAY STAY THE DISCOVERY FOR A PERIOD**
33 **OF NOT MORE THAN 60 DAYS.**

1 **(2) THE COURT MAY EXTEND THE 60-DAY PERIOD ON A FURTHER**
2 **SHOWING IN CAMERA THAT:**

3 **(I) THE GOVERNMENTAL ENTITY HAS PURSUED THE**
4 **CRIMINAL OR CIVIL INVESTIGATION OR PROCEEDING WITH REASONABLE**
5 **DILIGENCE; AND**

6 **(II) ANY PROPOSED DISCOVERY IN THE CIVIL ACTION WILL**
7 **INTERFERE WITH THE ONGOING CRIMINAL OR CIVIL INVESTIGATION OR**
8 **PROCEEDING.**

9 **12-605.**

10 **(A) (1) IF THE GOVERNMENTAL ENTITY INTERVENES AND PROCEEDS**
11 **WITH AN ACTION FILED UNDER § 12-604 OF THIS SUBTITLE AND THE**
12 **GOVERNMENTAL ENTITY PREVAILS, THE COURT SHALL AWARD THE PERSON**
13 **INITIATING THE ACTION AN AMOUNT THAT IS:**

14 **(I) NOT LESS THAN 15% AND NOT MORE THAN 25% OF THE**
15 **PROCEEDS OF THE ACTION OR SETTLEMENT OF THE CLAIM; AND**

16 **(II) PROPORTIONAL TO THE AMOUNT OF TIME AND EFFORT**
17 **THAT THE PERSON SUBSTANTIALLY CONTRIBUTED TO THE FINAL RESOLUTION**
18 **OF THE CIVIL ACTION.**

19 **(2) (I) IF THE COURT FINDS THAT THE ACTION IS BASED**
20 **PRIMARILY ON DISCLOSURES OF SPECIFIC INFORMATION RELATING TO**
21 **ALLEGATIONS OR TRANSACTIONS IN A CRIMINAL, A CIVIL, OR AN**
22 **ADMINISTRATIVE HEARING, IN A LEGISLATIVE OR AN ADMINISTRATIVE REPORT,**
23 **A HEARING, AN AUDIT, OR AN INVESTIGATION, OR FROM THE NEWS MEDIA, THE**
24 **COURT MAY MAKE AN AWARD TO THE PERSON INITIATING THE ACTION THAT:**

25 **1. THE COURT CONSIDERS APPROPRIATE, TAKING**
26 **INTO ACCOUNT THE SIGNIFICANCE OF THE INFORMATION AND THE ROLE OF**
27 **THE PERSON INITIATING THE ACTION IN ADVANCING THE CASE TO LITIGATION;**
28 **AND**

29 **2. DOES NOT EXCEED 10% OF THE PROCEEDS OF**
30 **THE ACTION.**

1 **(II) THE INFORMATION DESCRIBED IN SUBPARAGRAPH (I)**
2 **OF THIS PARAGRAPH DOES NOT INCLUDE INFORMATION DISCLOSED AND**
3 **PROVIDED BY THE PERSON INITIATING THE ACTION.**

4 **(3) ANY PAYMENT TO A PERSON UNDER PARAGRAPH (1) OR (2) OF**
5 **THIS SUBSECTION SHALL BE MADE FROM THE PROCEEDS OF THE ACTION.**

6 **(4) (I) IN ADDITION TO THE AMOUNT PROVIDED UNDER**
7 **PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, A COURT MAY AWARD THE**
8 **PERSON INITIATING THE ACTION:**

9 **1. AN AMOUNT FOR REASONABLE EXPENSES THAT**
10 **THE COURT FINDS TO HAVE BEEN NECESSARILY INCURRED; AND**

11 **2. REASONABLE ATTORNEY'S FEES AND COSTS.**

12 **(II) IN DETERMINING THE AMOUNT OF ANY AWARD UNDER**
13 **SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COURT SHALL CONSIDER THE**
14 **AMOUNT OF ANY PENALTIES AND DAMAGES RECOVERED IN THE ACTION AND**
15 **ANY OTHER FACTOR AS JUSTICE MAY REQUIRE.**

16 **(III) ANY EXPENSES, FEES, AND COSTS AWARDED UNDER**
17 **THIS PARAGRAPH SHALL BE AWARDED AGAINST THE DEFENDANT.**

18 **(B) (1) IF A COURT FINDS THAT THE ACTION IS INITIATED BY A**
19 **PERSON WHO PLANNED AND INITIATED OR OTHERWISE DELIBERATELY**
20 **PARTICIPATED IN THE VIOLATION ON WHICH THE ACTION WAS BASED, THE**
21 **COURT MAY, TO THE EXTENT IT CONSIDERS APPROPRIATE, REDUCE THE SHARE**
22 **OF THE PROCEEDS OF THE ACTION THAT THE PERSON OTHERWISE WOULD HAVE**
23 **RECEIVED UNDER THIS SECTION.**

24 **(2) IN REDUCING THE SHARE OF THE PROCEEDS OF THE PERSON**
25 **INITIATING THE ACTION UNDER THIS SUBSECTION, THE COURT SHALL**
26 **CONSIDER:**

27 **(I) THE ROLE OF THE PERSON IN ADVANCING THE CASE TO**
28 **LITIGATION; AND**

29 **(II) ANY RELEVANT CIRCUMSTANCES RELATING TO THE**
30 **UNDERLYING VIOLATION.**

31 **(3) (I) IF THE PERSON INITIATING A CIVIL ACTION UNDER §**
32 **12-604 OF THIS SUBTITLE IS CONVICTED OF CRIMINAL CONDUCT ARISING FROM**

1 THE PERSON'S PARTICIPATION IN THE VIOLATION ON WHICH THE ACTION WAS
2 BASED PRIOR TO A FINAL DETERMINATION OF THE ACTION, THE PERSON:

3 1. SHALL BE DISMISSED FROM THE ACTION; AND

4 2. MAY NOT RECEIVE ANY SHARE OF THE PROCEEDS
5 OF THE ACTION.

6 (II) THE DISMISSAL OF THE PERSON INITIATING THE
7 ACTION IN ACCORDANCE WITH THIS PARAGRAPH DOES NOT PREJUDICE THE
8 RIGHT OF THE GOVERNMENTAL ENTITY TO CONTINUE THE ACTION.

9 (4) IF THE PERSON INITIATING A CIVIL ACTION UNDER § 12-604
10 OF THIS SUBTITLE IS CONVICTED OF CRIMINAL CONDUCT ARISING FROM THE
11 PERSON'S PARTICIPATION IN THE VIOLATION ON WHICH THE ACTION WAS
12 BASED AFTER THE PROCEEDS FROM THE ACTION ARE AWARDED TO THAT
13 PERSON, THE COURT SHALL ORDER THE PERSON TO REPAY THE PROCEEDS
14 PREVIOUSLY AWARDED.

15 (C) A COURT MAY AWARD REASONABLE ATTORNEY'S FEES AND
16 EXPENSES TO A DEFENDANT AND AGAINST THE PERSON INITIATING THE ACTION
17 IF:

18 (1) THE DEFENDANT PREVAILS IN THE ACTION; AND

19 (2) THE COURT FINDS THAT THE CLAIM OF THE PERSON
20 INITIATING THE ACTION WAS BROUGHT PRIMARILY FOR PURPOSES OF
21 HARASSMENT OR OTHERWISE WAS BROUGHT IN BAD FAITH.

22 12-606.

23 (A) NO COURT IN THIS STATE SHALL HAVE JURISDICTION OVER AN
24 ACTION FILED UNDER § 12-604 OF THIS SUBTITLE AGAINST ANY MEMBER OF
25 THE LEGISLATIVE BRANCH OR THE JUDICIARY OF THE STATE, ANY MEMBER OF
26 THE GOVERNOR'S EXECUTIVE COUNCIL, THE ATTORNEY GENERAL, THE
27 COMPTROLLER, OR THE STATE TREASURER IF THE ACTION IS BASED ON
28 EVIDENCE OR INFORMATION KNOWN TO THE GOVERNMENTAL ENTITY WHEN
29 THE ACTION WAS FILED.

30 (B) A CIVIL ACTION MAY NOT BE BROUGHT UNDER THIS SUBTITLE BY A
31 PERSON WHO IS OR WAS A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL IF THE
32 ALLEGATIONS OF THE ACTION ARE BASED SUBSTANTIALLY ON:

1 **(1) ALLEGATIONS OF WRONGDOING OR MISCONDUCT THAT THE**
2 **PERSON HAD A DUTY OR OBLIGATION TO REPORT OR INVESTIGATE WITHIN THE**
3 **SCOPE OF THE PERSON’S PUBLIC EMPLOYMENT OR OFFICE; OR**

4 **(2) INFORMATION OR RECORDS TO WHICH THE PERSON HAD**
5 **ACCESS AS A RESULT OF THE PERSON’S PUBLIC EMPLOYMENT OR OFFICE.**

6 **(C) A PERSON MAY NOT BRING AN ACTION UNDER § 12-604 OF THIS**
7 **SUBTITLE THAT IS BASED ON ALLEGATIONS OR TRANSACTIONS THAT ARE THE**
8 **SUBJECT OF A CIVIL SUIT OR AN ADMINISTRATIVE CIVIL MONEY PENALTY**
9 **PROCEEDING IN WHICH THE GOVERNMENTAL ENTITY IS ALREADY A PARTY.**

10 **(D) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS**
11 **SUBSECTION, NO COURT IN THIS STATE SHALL HAVE JURISDICTION OVER AN**
12 **ACTION FILED UNDER § 12-604 OF THIS SUBTITLE THAT IS BASED ON THE**
13 **PUBLIC DISCLOSURE OF ALLEGATIONS OR TRANSACTIONS:**

14 **(I) IN A CRIMINAL, A CIVIL, OR AN ADMINISTRATIVE**
15 **HEARING;**

16 **(II) IN A LEGISLATIVE OR AN ADMINISTRATIVE REPORT, A**
17 **HEARING, AN AUDIT, OR AN INVESTIGATION; OR**

18 **(III) FROM THE NEWS MEDIA.**

19 **(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF**
20 **THE ACTION IS INITIATED BY A PERSON WHO:**

21 **(I) HAS DIRECT AND INDEPENDENT KNOWLEDGE OF THE**
22 **INFORMATION ON WHICH THE ALLEGATIONS ARE BASED; AND**

23 **(II) HAS VOLUNTARILY PROVIDED THE INFORMATION TO**
24 **THE GOVERNMENTAL ENTITY BEFORE FILING AN ACTION UNDER § 12-604 OF**
25 **THIS SUBTITLE THAT IS BASED ON THE INFORMATION.**

26 **(3) THE GOVERNMENTAL ENTITY, THROUGH THE ATTORNEY**
27 **GENERAL, MAY FILE A CIVIL ACTION UNDER § 12-603 OF THIS SUBTITLE BASED**
28 **ON THE PUBLIC DISCLOSURE DESCRIBED IN PARAGRAPH (1) OF THIS**
29 **SUBSECTION.**

30 **(E) THE GOVERNMENTAL ENTITY IS NOT LIABLE FOR EXPENSES THAT A**
31 **PERSON INCURS IN BRINGING AN ACTION UNDER § 12-604 OF THIS SUBTITLE.**

1 **(F) A PERSON WHO IS OR WAS EMPLOYED BY THE STATE, A LOCAL**
2 **GOVERNMENT, OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE AS AN**
3 **AUDITOR, AN INVESTIGATOR, AN ATTORNEY, A FINANCIAL OFFICER, OR A**
4 **CONTRACTING OFFICER MAY NOT BRING AN ACTION UNDER § 12-604 OF THIS**
5 **SUBTITLE THAT IS BASED ON ALLEGATIONS OR TRANSACTIONS THAT THE**
6 **PERSON DISCOVERED OR LEARNED OF WHILE ACTING IN THE PERSON'S**
7 **CAPACITY AS AN AUDITOR, AN INVESTIGATOR, AN ATTORNEY, A FINANCIAL**
8 **OFFICER, OR A CONTRACTING OFFICER FOR THE STATE, LOCAL GOVERNMENT,**
9 **OR OTHER POLITICAL SUBDIVISION OF THE STATE.**

10 **12-607.**

11 **(A) A PERSON MAY NOT TAKE A RETALIATORY ACTION AGAINST AN**
12 **EMPLOYEE, A CONTRACTOR, OR A GRANTEE BECAUSE THE EMPLOYEE,**
13 **CONTRACTOR, OR GRANTEE:**

14 **(1) ACTS LAWFULLY IN FURTHERANCE OF AN ACTION FILED**
15 **UNDER THIS SUBTITLE, INCLUDING AN INVESTIGATION FOR, AN INITIATION OF,**
16 **A TESTIMONY FOR, OR ASSISTANCE IN AN ACTION FILED OR TO BE FILED UNDER**
17 **THIS SUBTITLE;**

18 **(2) DISCLOSES OR THREATENS TO DISCLOSE TO A SUPERVISOR**
19 **OR TO A PUBLIC BODY AN ACTIVITY, A POLICY, OR A PRACTICE OF THE PERSON**
20 **THAT THE EMPLOYEE, CONTRACTOR, OR GRANTEE REASONABLY BELIEVES IS IN**
21 **VIOLATION OF § 12-602 OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER**
22 **THIS SUBTITLE;**

23 **(3) PROVIDES INFORMATION TO, OR TESTIFIES BEFORE, A PUBLIC**
24 **BODY CONDUCTING AN INVESTIGATION, A HEARING, OR AN INQUIRY INTO A**
25 **VIOLATION OF § 12-602 OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER**
26 **THIS SUBTITLE THAT IS ALLEGEDLY OR ACTUALLY COMMITTED BY THE PERSON;**
27 **OR**

28 **(4) OBJECTS TO OR REFUSES TO PARTICIPATE IN ANY ACTIVITY,**
29 **POLICY, OR PRACTICE THAT THE EMPLOYEE, CONTRACTOR, OR GRANTEE**
30 **REASONABLY BELIEVES IS IN VIOLATION OF § 12-602 OF THIS SUBTITLE OR A**
31 **REGULATION ADOPTED UNDER THIS SUBTITLE.**

32 **(B) (1) AN EMPLOYEE, A CONTRACTOR, OR A GRANTEE MAY FILE A**
33 **CIVIL ACTION AGAINST A PERSON OTHER THAN A SUPERVISOR IN STATE**
34 **GOVERNMENT, AN APPOINTING AUTHORITY IN STATE GOVERNMENT, OR THE**
35 **HEAD OF A PRINCIPAL UNIT IN STATE GOVERNMENT IF THE PERSON TAKES A**

1 RETALIATORY ACTION AGAINST THE EMPLOYEE, CONTRACTOR, OR GRANTEE IN
2 VIOLATION OF SUBSECTION (A) OF THIS SECTION.

3 (2) THE EMPLOYEE, CONTRACTOR, OR GRANTEE MAY SEEK IN
4 THE CIVIL ACTION:

5 (I) AN INJUNCTION TO RESTRAIN A CONTINUING
6 VIOLATION OF SUBSECTION (A) OF THIS SECTION;

7 (II) REINSTATEMENT TO THE SAME SENIORITY STATUS
8 HELD BEFORE THE RETALIATORY ACTION;

9 (III) REINSTATEMENT OF FULL FRINGE BENEFITS AND
10 SENIORITY RIGHTS;

11 (IV) TWO TIMES THE AMOUNT OF LOST WAGES, BENEFITS,
12 AND OTHER REMUNERATION, INCLUDING ANY INTEREST ACCUMULATED;

13 (V) PAYMENT BY THE PERSON OF REASONABLE COSTS AND
14 ATTORNEY'S FEES;

15 (VI) PUNITIVE DAMAGES;

16 (VII) AN ASSESSMENT OF A CIVIL PENALTY:

17 1. NOT EXCEEDING \$1,000 FOR THE FIRST
18 VIOLATION; AND

19 2. NOT EXCEEDING \$5,000 FOR EACH SUBSEQUENT
20 VIOLATION; AND

21 (VIII) ANY OTHER RELIEF NECESSARY TO MAKE THE
22 EMPLOYEE, CONTRACTOR, OR GRANTEE WHOLE.

23 (3) THE REMEDIES PROVIDED UNDER THIS SECTION DO NOT
24 DIMINISH OR AFFECT THE RIGHTS, PRIVILEGES, OR REMEDIES AVAILABLE TO
25 THE EMPLOYEE, CONTRACTOR, OR GRANTEE UNDER:

26 (I) ANY OTHER FEDERAL OR STATE STATUTE OR
27 REGULATION; OR

28 (II) ANY COLLECTIVE BARGAINING AGREEMENT OR
29 EMPLOYEE CONTRACT.

1 **(C) A STATE EMPLOYEE WHO IS SUBJECT TO RETALIATORY ACTION IN**
2 **VIOLATION OF SUBSECTION (A) OF THIS SECTION MAY FILE A COMPLAINT**
3 **UNDER TITLE 5, SUBTITLE 3 OF THE STATE PERSONNEL AND PENSIONS**
4 **ARTICLE.**

5 **12-608.**

6 **AN EMPLOYER SHALL:**

7 **(1) CONSPICUOUSLY DISPLAY NOTICES OF THE PROTECTIONS**
8 **PROVIDED TO AND OBLIGATIONS REQUIRED OF ITS EMPLOYEES UNDER THIS**
9 **SUBTITLE; AND**

10 **(2) USE ANY APPROPRIATE MEANS TO INFORM ITS EMPLOYEES OF**
11 **THE PROTECTIONS AND OBLIGATIONS PROVIDED UNDER THIS SUBTITLE.**

12 **12-609.**

13 **(A) A CIVIL ACTION FILED UNDER THIS SUBTITLE MAY NOT BE FILED**
14 **AFTER THE LATER OF:**

15 **(1) 6 YEARS AFTER THE DATE ON WHICH THE UNDERLYING**
16 **VIOLATION OF § 12-602 OF THIS SUBTITLE OCCURRED; OR**

17 **(2) 3 YEARS AFTER THE DATE WHEN FACTS MATERIAL TO THE**
18 **RIGHT OF ACTION ARE KNOWN OR REASONABLY SHOULD HAVE BEEN KNOWN BY**
19 **THE OFFICIAL OF THE GOVERNMENTAL ENTITY CHARGED WITH**
20 **RESPONSIBILITY FOR ACTING UNDER THE CIRCUMSTANCES.**

21 **(B) A CIVIL ACTION MAY BE FILED UNDER THIS SUBTITLE FOR ACTIVITY**
22 **THAT OCCURRED PRIOR TO OCTOBER 1, 2013, IF THE LIMITATIONS PERIOD**
23 **UNDER SUBSECTION (A) OF THIS SECTION HAS NOT LAPSED.**

24 **(C) IF THE GOVERNMENTAL ENTITY ELECTS TO INTERVENE AND**
25 **PROCEED WITH AN ACTION BROUGHT UNDER THIS SUBTITLE, THE**
26 **GOVERNMENTAL ENTITY, THROUGH THE OFFICE OF THE ATTORNEY GENERAL,**
27 **MAY:**

28 **(1) FILE ITS OWN COMPLAINT; OR**

1 **(2)** AMEND THE COMPLAINT OF THE PERSON WHO BROUGHT THE
2 ACTION TO CLARIFY, ADD DETAIL TO THE COMPLAINT, OR ADD ADDITIONAL
3 CLAIMS TO THE COMPLAINT.

4 **(D)** TO THE EXTENT THAT THE CLAIM OF THE GOVERNMENTAL ENTITY
5 ARISES OUT OF THE CONDUCT, TRANSACTIONS, OR OCCURRENCES SET FORTH,
6 OR ATTEMPTED TO BE SET FORTH BY A PERSON, A PLEADING BY THE
7 GOVERNMENTAL ENTITY RELATES BACK TO THE FILING DATE OF THE
8 COMPLAINT OF THE PERSON WHO ORIGINALLY BROUGHT THE ACTION.

9 **(E)** IN AN ACTION FILED UNDER THIS SUBTITLE, ALL ESSENTIAL
10 ELEMENTS OF THE CAUSE OF ACTION, INCLUDING DAMAGES, SHALL BE PROVEN
11 BY A PREPONDERANCE OF THE EVIDENCE.

12 **(F)** NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR RULE OF
13 PROCEDURE OR EVIDENCE IN THE MARYLAND RULES, A FINAL JUDGMENT
14 RENDERED IN FAVOR OF THE GOVERNMENTAL ENTITY IN ANY CRIMINAL
15 PROCEEDING CHARGING FRAUD OR FALSE STATEMENTS, WHETHER ON A
16 VERDICT AFTER TRIAL OR ON A PLEA OF GUILTY OR NOLO CONTENDERE, SHALL
17 STOP THE DEFENDANT FROM DENYING THE ESSENTIAL ELEMENTS OF THE
18 OFFENSE IN ANY ACTION FILED UNDER THIS SUBTITLE THAT INVOLVES THE
19 SAME ACT, TRANSACTION, OR OCCURRENCE AS IN THE CRIMINAL PROCEEDING.

20 **12-610.**

21 **(A)** ANY REMEDY PROVIDED UNDER THIS SUBTITLE IS IN ADDITION TO
22 ANY OTHER APPROPRIATE LEGAL OR EQUITABLE RELIEF PROVIDED UNDER ANY
23 OTHER APPLICABLE STATE OR FEDERAL STATUTE OR REGULATION.

24 **(B) (1)** THE GOVERNMENTAL ENTITY SHALL MAKE ALL REASONABLE
25 EFFORTS TO COORDINATE ANY INVESTIGATION OF AN ALLEGED VIOLATION
26 UNDER THIS SUBTITLE WITH ANY INVESTIGATION CONDUCTED BY THE FEDERAL
27 GOVERNMENT INVOLVING THE SAME VIOLATION.

28 **(2)** THE GOVERNMENTAL ENTITY'S OBJECTIVE SHALL BE TO
29 AVOID UNNECESSARY DUPLICATION OF EFFORT ON THE PART OF THE PERSON
30 ALLEGED TO HAVE COMMITTED THE VIOLATION AND TO MINIMIZE THE BURDEN
31 OF THE INVESTIGATION ON THE PERSON.

32 **(C)** THE COMPTROLLER SHALL DEPOSIT ANY CIVIL PENALTY OR
33 DAMAGES COLLECTED UNDER THIS SUBTITLE INTO THE GENERAL FUND OF
34 THE STATE.

1 12-611.

2 (A) BEGINNING OCTOBER 1, 2014, THE OFFICE OF THE ATTORNEY
3 GENERAL AND THE ATTORNEY FOR EACH COUNTY AND BALTIMORE CITY SHALL
4 REPORT ANNUALLY TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH §
5 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE FOLLOWING INFORMATION
6 FOR THE PREVIOUS FISCAL YEAR:

7 (1) THE NUMBER OF CIVIL ACTIONS FILED UNDER THIS SUBTITLE;

8 (2) THE NUMBER OF CIVIL ACTIONS UNDER THIS SUBTITLE IN
9 WHICH A JUDGMENT WAS ENTERED, WHETHER BY SETTLEMENT OR
10 ADJUDICATION; AND

11 (3) THE NUMBER OF CLAIMS MADE BY THE GOVERNMENTAL
12 ENTITY BASED ON ALLEGED VIOLATIONS OF § 12-602 OF THIS SUBTITLE THAT
13 ARE SETTLED WITHOUT THE FILING OF A CIVIL ACTION UNDER THIS SUBTITLE.

14 (B) UNLESS THE ACTION IS UNDER SEAL IN ACCORDANCE WITH §
15 12-604 OF THIS SUBTITLE, FOR EACH CIVIL ACTION REPORTED UNDER
16 SUBSECTION (A)(1) OR (2) OF THIS SECTION, THE REPORT SHALL STATE:

17 (1) WHETHER THE ACTION WAS FILED BY THE GOVERNMENTAL
18 ENTITY OR BY A PERSON ON BEHALF OF THE GOVERNMENTAL ENTITY AND, IF
19 FILED BY A PERSON, WHETHER THE GOVERNMENTAL ENTITY INTERVENED AND
20 PROCEEDED WITH THE ACTION;

21 (2) THE NAME OF THE DEFENDANT;

22 (3) A DESCRIPTION OF THE VIOLATION OR ALLEGED VIOLATION
23 OF § 12-602 OF THIS SUBTITLE; AND

24 (4) THE AMOUNT SOUGHT IN THE ACTION AND, IF APPLICABLE,
25 THE AMOUNT FOR WHICH THE DEFENDANT IS LIABLE UNDER A SETTLEMENT
26 AGREEMENT OR COURT ORDER.

27 (C) FOR EACH CLAIM REPORTED UNDER SUBSECTION (A)(3) OF THIS
28 SECTION, THE REPORT SHALL STATE:

29 (1) A DESCRIPTION OF THE VIOLATION OR ALLEGED VIOLATION
30 OF § 12-602 OF THIS SUBTITLE;

31 (2) THE RESOLUTION OF THE CLAIM;

1 **(3) THE AMOUNT, IF ANY, THE PERSON AGAINST WHOM THE**
2 **CLAIM WAS MADE AGREED TO PAY IN SETTLEMENT OF THE CLAIM; AND**

3 **(4) THE AMOUNT, IF ANY, COLLECTED BY THE GOVERNMENTAL**
4 **ENTITY.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2013.