

SENATE BILL 916

Q7

11r2059
CF HB 804

By: **Senator McCray**

Introduced and read first time: February 9, 2021

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Taxes – Whistleblower Reward Program and Statute of Limitations for Tax**
3 **Collections**

4 FOR the purpose of establishing a certain whistleblower reward program within the Office
5 of the Comptroller; providing that a certain whistleblower who voluntarily provides
6 certain information to the Comptroller shall be entitled to receive a certain monetary
7 award under certain circumstances; providing that the determination of the amount
8 of the award shall be solely in the discretion of the Comptroller; requiring the
9 Comptroller to consider certain factors in determining the amount of the award;
10 authorizing a determination of the Comptroller under this Act to be challenged in
11 accordance with certain provisions of law under certain circumstances; prohibiting a
12 contract with the Comptroller or certain agencies from being required in order for a
13 whistleblower to receive an award under this Act; requiring a whistleblower to be
14 represented by counsel under certain circumstances; requiring a whistleblower to
15 disclose certain information before the payment of an award claimed anonymously;
16 requiring the Comptroller to provide certain notification to the whistleblower or the
17 whistleblower's attorney in a certain manner under certain circumstances; providing
18 that certain information is not subject to disclosure under the Maryland Public
19 Information Act; prohibiting the Comptroller from disclosing certain information
20 except under certain circumstances; authorizing the provision of certain information
21 to certain regulatory and law enforcement authorities under certain circumstances
22 and subject to certain conditions; prohibiting certain employers, contractors, or
23 agents from taking certain adverse actions against an individual because of certain
24 lawful acts by that individual; authorizing an individual who is subject to certain
25 adverse actions to bring an action for certain relief; prohibiting the waiver of certain
26 rights and remedies provided under this Act; prohibiting an action to recover certain
27 salary and wages earned by a whistleblower under certain circumstances; requiring
28 the Comptroller to report certain information on the whistleblower enforcement
29 program to the General Assembly on or before a certain date each year; requiring
30 the Comptroller to adopt certain regulations; altering the period of time after which
31 certain taxes may not be collected; making a stylistic change; defining certain terms;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 providing for the application and construction of certain provisions of this Act; and
2 generally relating to the collection and enforcement of State taxes.

3 BY adding to

4 Article – Tax – General

5 Section 1–401 through 1–408 to be under the new subtitle “Subtitle 4. Whistleblower
6 Reward Program”

7 Annotated Code of Maryland

8 (2016 Replacement Volume and 2020 Supplement)

9 BY repealing and reenacting, with amendments,

10 Article – Tax – General

11 Section 13–1103

12 Annotated Code of Maryland

13 (2016 Replacement Volume and 2020 Supplement)

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

16 **Article – Tax – General**

17 **SUBTITLE 4. WHISTLEBLOWER REWARD PROGRAM.**

18 **1–401.**

19 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (B) “COVERED ENFORCEMENT ACTION” MEANS AN ENFORCEMENT ACTION
22 BROUGHT BY THE COMPTROLLER UNDER THIS ARTICLE THAT CONCERNS:

23 (1) (I) THE INCOME TAX LIABILITY OF AN INDIVIDUAL TAXPAYER
24 OR A COUPLE THAT IS MARRIED AND FILES JOINTLY WHOSE FEDERAL ADJUSTED
25 GROSS INCOME IS AT LEAST \$250,000; OR

26 (II) THE TAX LIABILITY OF A BUSINESS THE ANNUAL GROSS
27 RECEIPTS OF WHICH ARE AT LEAST \$2,000,000; AND

28 (2) TAXES, PENALTIES, AND INTEREST IN DISPUTE EXCEEDING
29 \$250,000.

30 (C) “ORIGINAL INFORMATION” MEANS INFORMATION THAT:

31 (1) IS DERIVED FROM THE INDEPENDENT KNOWLEDGE OR ANALYSIS
32 OF A WHISTLEBLOWER;

1 **(2) IS NOT KNOWN TO THE COMPTROLLER FROM ANY OTHER SOURCE,**
2 **UNLESS THE WHISTLEBLOWER IS THE ORIGINAL SOURCE OF THE INFORMATION;**

3 **(3) IS NOT EXCLUSIVELY DERIVED FROM AN ALLEGATION MADE IN A**
4 **JUDICIAL OR ADMINISTRATIVE HEARING, IN A GOVERNMENTAL REPORT, HEARING,**
5 **AUDIT, OR INVESTIGATION OR FROM THE NEWS MEDIA, UNLESS THE**
6 **WHISTLEBLOWER IS A SOURCE OF THE INFORMATION; AND**

7 **(4) IS PROVIDED TO THE COMPTROLLER FOR THE FIRST TIME ON OR**
8 **AFTER OCTOBER 1, 2021.**

9 **(D) “RELATED ACTION” MEANS ANY JUDICIAL OR ADMINISTRATIVE ACTION**
10 **BROUGHT BY A STATE OR LOCAL AGENCY OR ENTITY BASED ON THE ORIGINAL**
11 **INFORMATION PROVIDED BY A WHISTLEBLOWER TO THE COMPTROLLER UNDER**
12 **THIS SUBTITLE.**

13 **(E) (1) “WHISTLEBLOWER” MEANS AN INDIVIDUAL OR ENTITY WHO**
14 **PROVIDES, OR TWO OR MORE INDIVIDUALS OR ENTITIES ACTING JOINTLY WHO**
15 **PROVIDE, IN ACCORDANCE WITH THIS SUBTITLE, INFORMATION TO THE**
16 **COMPTROLLER RELATING TO A VIOLATION OF STATE TAX LAW, INCLUDING A RULE**
17 **OR REGULATION, THAT HAS OCCURRED, IS ONGOING, OR IS ABOUT TO OCCUR.**

18 **(2) “WHISTLEBLOWER” INCLUDES AN INDIVIDUAL WHO PROVIDES**
19 **INFORMATION TO A LAW ENFORCEMENT AGENCY BEFORE PROVIDING THE**
20 **INFORMATION TO THE COMPTROLLER.**

21 **1-402.**

22 **(A) SUBJECT TO THE LIMITATIONS OF THIS SUBTITLE AND EXCEPT AS**
23 **PROVIDED IN SUBSECTION (B) OF THIS SECTION, A WHISTLEBLOWER WHO**
24 **VOLUNTARILY PROVIDES ORIGINAL INFORMATION TO THE COMPTROLLER THAT**
25 **WAS THE BASIS FOR A SUCCESSFUL COVERED ENFORCEMENT ACTION, OR A**
26 **RELATED ACTION, SHALL BE ENTITLED TO RECEIVE A MONETARY AWARD OF AT**
27 **LEAST 15% BUT NOT EXCEEDING 30% OF THE TAXES, PENALTIES, AND INTEREST**
28 **COLLECTED THROUGH THE ENFORCEMENT ACTION.**

29 **(B) A WHISTLEBLOWER WHO PROVIDES INFORMATION TO THE**
30 **COMPTROLLER THAT IS RELATED TO ORIGINAL INFORMATION PREVIOUSLY**
31 **REPORTED TO THE COMPTROLLER BY ANOTHER WHISTLEBLOWER WHO IS ELIGIBLE**
32 **FOR AN AWARD UNDER SUBSECTION (A) OF THIS SECTION MAY NOT BE ENTITLED TO**
33 **AN AWARD UNLESS THE INFORMATION PROVIDED BY THE WHISTLEBLOWER**
34 **MATERIALLY ADDS TO THE INFORMATION PREVIOUSLY REPORTED TO THE**

1 **COMPTROLLER.**

2 **1-403.**

3 **(A) (1) THE DETERMINATION OF THE AMOUNT OF AN AWARD MADE IN**
4 **ACCORDANCE WITH § 1-402 OF THIS SUBTITLE SHALL BE SOLELY IN THE**
5 **DISCRETION OF THE COMPTROLLER.**

6 **(2) IN DETERMINING THE AMOUNT OF THE AWARD, THE**
7 **COMPTROLLER SHALL CONSIDER:**

8 **(I) THE SIGNIFICANCE OF THE INFORMATION PROVIDED BY**
9 **THE WHISTLEBLOWER TO THE SUCCESS OF THE COVERED ENFORCEMENT ACTION**
10 **OR RELATED ACTION;**

11 **(II) THE DEGREE OF ASSISTANCE PROVIDED BY THE**
12 **WHISTLEBLOWER AND ANY LEGAL REPRESENTATIVE OF THE WHISTLEBLOWER IN**
13 **THE COVERED ENFORCEMENT ACTION OR RELATED ACTION;**

14 **(III) THE AMOUNT OF THE UNPAID TAXES OWED THE STATE THAT**
15 **MAY BE RECOVERED UNDER THE COVERED ENFORCEMENT ACTION;**

16 **(IV) THE INTEREST OF THE STATE IN DETERRING VIOLATIONS**
17 **OF THIS ARTICLE AND PROMOTING THE REPORTING BY WHISTLEBLOWERS OF**
18 **INFORMATION RELATING TO THOSE VIOLATIONS; AND**

19 **(V) ANY ADDITIONAL RELEVANT FACTORS THAT THE**
20 **COMPTROLLER MAY ESTABLISH BY REGULATION.**

21 **(3) IF THE WHISTLEBLOWER PLANNED OR INITIATED THE ACTIONS**
22 **THAT RESULTED IN AN UNDERPAYMENT OF TAXES AT ISSUE UNDER THE COVERED**
23 **ENFORCEMENT ACTION, THE COMPTROLLER MAY REDUCE AN AWARD UNDER THIS**
24 **SUBTITLE.**

25 **(B) AN AWARD MAY NOT BE PROVIDED TO A WHISTLEBLOWER IF THE**
26 **COMPTROLLER DETERMINES THAT THE WHISTLEBLOWER:**

27 **(1) IS, OR WAS AT THE TIME THAT THE WHISTLEBLOWER ACQUIRED**
28 **THE ORIGINAL INFORMATION PROVIDED TO THE COMPTROLLER, A MEMBER, AN**
29 **OFFICER, OR AN EMPLOYEE OF A FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT**
30 **AGENCY RESPONSIBLE FOR THE ENFORCEMENT OF TAX-RELATED MATTERS;**

31 **(2) WAS CONVICTED OF A CRIMINAL VIOLATION RELATED TO THE**

1 COVERED ENFORCEMENT ACTION FOR WHICH THE WHISTLEBLOWER OTHERWISE
2 COULD RECEIVE AN AWARD UNDER THIS SECTION; OR

3 (3) WHEN SUBMITTING INFORMATION UNDER THIS SUBTITLE,
4 KNOWINGLY AND WILLFULLY MADE FALSE, FICTITIOUS, OR FRAUDULENT
5 STATEMENTS TO THE COMPTROLLER OR USED ANY FALSE WRITING OR DOCUMENT
6 KNOWING THE WRITING OR DOCUMENT CONTAINED A FALSE, FICTITIOUS, OR
7 FRAUDULENT STATEMENT OR ENTRY.

8 (C) A DETERMINATION OF THE COMPTROLLER UNDER THIS SECTION MAY
9 BE CHALLENGED IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE
10 GOVERNMENT ARTICLE IF THE CHALLENGE IS BROUGHT WITHIN 45 DAYS OF THE
11 DATE OF THE DETERMINATION.

12 1-404.

13 (A) A CONTRACT WITH THE COMPTROLLER, THE OFFICE OF THE
14 ATTORNEY GENERAL, OR ANY OTHER AGENCY MAY NOT BE REQUIRED IN ORDER
15 FOR A WHISTLEBLOWER TO RECEIVE AN AWARD UNDER THIS SUBTITLE.

16 (B) (1) A WHISTLEBLOWER WHO MAKES A CLAIM FOR AN AWARD UNDER
17 THIS SUBTITLE MAY BE REPRESENTED BY COUNSEL.

18 (2) (I) A WHISTLEBLOWER WHO ANONYMOUSLY MAKES A CLAIM
19 FOR AN AWARD UNDER THIS SUBTITLE SHALL BE REPRESENTED BY COUNSEL IF THE
20 WHISTLEBLOWER ANONYMOUSLY SUBMITS THE INFORMATION ON WHICH THE
21 CLAIM IS BASED.

22 (II) BEFORE PAYMENT OF AN AWARD CLAIMED IN ACCORDANCE
23 WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE WHISTLEBLOWER SHALL
24 DISCLOSE THE WHISTLEBLOWER'S IDENTITY AND PROVIDE ANY OTHER
25 INFORMATION THAT THE COMPTROLLER MAY REQUIRE, DIRECTLY OR THROUGH
26 COUNSEL.

27 (C) (1) WITHIN 15 DAYS AFTER RECEIVING ORIGINAL INFORMATION
28 PROVIDED BY A WHISTLEBLOWER, THE COMPTROLLER SHALL PROVIDE WRITTEN
29 NOTICE TO THE WHISTLEBLOWER OR, IF THE WHISTLEBLOWER IS REPRESENTED BY
30 COUNSEL, THE WHISTLEBLOWER'S ATTORNEY THAT:

31 (I) ACKNOWLEDGES THAT THE ORIGINAL INFORMATION HAS
32 BEEN RECEIVED BY THE COMPTROLLER; AND

33 (II) INDICATES THE NAME OF THE INDIVIDUAL IN THE

1 **COMPTROLLER'S OFFICE WHO SHALL SERVE AS A CONTACT WITH THE**
2 **WHISTLEBLOWER.**

3 **(2) UNLESS AN INVESTIGATION OR COVERED ENFORCEMENT ACTION**
4 **IS TERMINATED BY THE COMPTROLLER, THE COMPTROLLER SHALL:**

5 **(I) WITHIN 90 DAYS AFTER NOTICE IS PROVIDED UNDER**
6 **PARAGRAPH (1) OF THIS SUBSECTION, NOTIFY THE WHISTLEBLOWER OF THE**
7 **STATUS OF THE INVESTIGATION AND ANY ACTION TAKEN BY THE COMPTROLLER**
8 **SINCE THE RECEIPT OF THE ORIGINAL INFORMATION;**

9 **(II) AT LEAST EVERY 120 DAYS AFTER NOTICE IS PROVIDED**
10 **UNDER ITEM (I) OF THIS PARAGRAPH, NOTIFY THE WHISTLEBLOWER OF THE STATUS**
11 **OF THE INVESTIGATION AND ANY ACTION TAKEN BY THE COMPTROLLER SINCE THE**
12 **PREVIOUS NOTICE; AND**

13 **(III) NOTIFY THE WHISTLEBLOWER OF THE STATUS OF THE**
14 **INVESTIGATION AND ANY ACTION TAKEN BY THE COMPTROLLER AT ANY TIME AS**
15 **DETERMINED TO BE APPROPRIATE BY THE COMPTROLLER.**

16 **(D) (1) INFORMATION THAT COULD REASONABLY BE EXPECTED TO**
17 **REVEAL THE IDENTITY OF THE WHISTLEBLOWER IS NOT SUBJECT TO DISCLOSURE**
18 **UNDER THE PUBLIC INFORMATION ACT.**

19 **(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,**
20 **THE COMPTROLLER MAY NOT DISCLOSE ANY INFORMATION THAT COULD**
21 **REASONABLY BE EXPECTED TO REVEAL THE IDENTITY OF THE WHISTLEBLOWER**
22 **UNLESS THAT INFORMATION IS REQUIRED TO BE DISCLOSED TO A PARTY IN**
23 **CONNECTION WITH AN ACTION OR PROCEEDING BROUGHT BY THE COMPTROLLER**
24 **OR A LAWFULLY ISSUED SUBPOENA BY A FEDERAL OR STATE LAW ENFORCEMENT**
25 **AUTHORITY, OR OTHERWISE BY COURT ORDER.**

26 **(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AS**
27 **DETERMINED BY THE COMPTROLLER TO BE NECESSARY TO ACCOMPLISH THE**
28 **PURPOSES OF THIS ARTICLE, INFORMATION THAT COULD BE EXPECTED TO REVEAL**
29 **THE IDENTITY OF A WHISTLEBLOWER MAY BE MADE AVAILABLE TO APPROPRIATE**
30 **REGULATORY AND LAW ENFORCEMENT AUTHORITIES OF THIS STATE, ANOTHER**
31 **STATE, THE FEDERAL GOVERNMENT, A FOREIGN GOVERNMENT, OR**
32 **SELF-REGULATORY ORGANIZATIONS.**

33 **(II) AN AUTHORITY TO WHICH THE COMPTROLLER MAKES**
34 **INFORMATION AVAILABLE IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS**
35 **PARAGRAPH SHALL AGREE TO MAINTAIN THAT INFORMATION IN ACCORDANCE WITH**

1 ANY ASSURANCES OF CONFIDENTIALITY THAT THE COMPTROLLER DEEMS
2 APPROPRIATE.

3 1-405.

4 (A) A CURRENT OR PROSPECTIVE EMPLOYER, CONTRACTOR, OR AGENT
5 MAY NOT DISCHARGE, DEMOTE, SUSPEND, THREATEN, OR HARASS, DIRECTLY OR
6 INDIRECTLY, OR IN ANY OTHER MANNER DISCRIMINATE OR RETALIATE AGAINST AN
7 INDIVIDUAL IN THE TERMS AND CONDITIONS OF EMPLOYMENT BECAUSE OF A
8 LAWFUL ACT DONE BY THAT INDIVIDUAL:

9 (1) IN PROVIDING INFORMATION TO THE COMPTROLLER OR A LAW
10 ENFORCEMENT AGENCY CONCERNING A POSSIBLE VIOLATION OF STATE TAX LAW,
11 INCLUDING A RULE OR REGULATION, THAT HAS OCCURRED, IS ONGOING, OR IS
12 ABOUT TO OCCUR;

13 (2) IN INITIATING, TESTIFYING IN, OR ASSISTING IN AN
14 INVESTIGATION OR JUDICIAL OR ADMINISTRATIVE ACTION OF THE COMPTROLLER
15 OR LAW ENFORCEMENT AGENCY OR A RELATED ACTION;

16 (3) IN REPORTING A VIOLATION OF THIS TITLE TO ANOTHER
17 GOVERNMENTAL ENTITY OR TO A DIRECTOR, SUPERVISOR, OR COMPLIANCE
18 OFFICER OF THE EMPLOYER, CONTRACTOR, OR AGENT; OR

19 (4) IN REFUSING OR DECLINING ANY AGREEMENT THAT WOULD
20 PROVIDE FOR ARBITRATION OF CLAIMS ARISING UNDER THIS ARTICLE.

21 (B) (1) AN INDIVIDUAL WHO IS DISCHARGED, DEMOTED, SUSPENDED,
22 THREATENED, HARASSED, OR IN ANY OTHER MANNER DISCRIMINATED OR
23 RETALIATED AGAINST IN THE TERMS AND CONDITIONS OF EMPLOYMENT OR IS
24 OTHERWISE HARMED OR PENALIZED BY AN EMPLOYER OR A PROSPECTIVE
25 EMPLOYER IN VIOLATION OF SUBSECTION (A) OF THIS SECTION SHALL BE ENTITLED
26 TO ALL RELIEF NECESSARY TO MAKE THE INDIVIDUAL WHOLE, INCLUDING:

27 (I) AN INJUNCTION TO RESTRAIN CONTINUED
28 DISCRIMINATION;

29 (II) HIRING, CONTRACTING, OR REINSTATEMENT TO THE
30 POSITION THAT THE INDIVIDUAL WOULD HAVE HAD BUT FOR THE DISCRIMINATION
31 OR TO AN EQUIVALENT POSITION;

32 (III) REINSTATEMENT OF FULL FRINGE BENEFITS AND
33 SENIORITY RIGHTS;

1 (IV) COMPENSATION FOR LOST WAGES, BENEFITS, AND OTHER
2 REMUNERATION, PLUS INTEREST;

3 (V) REMOVAL OF ANY ADVERSE PERSONNEL RECORD ENTRIES
4 BASED ON OR RELATED TO THE VIOLATION; AND

5 (VI) COMPENSATION FOR ANY SPECIAL DAMAGES SUSTAINED AS
6 A RESULT OF THE DISCRIMINATION, INCLUDING LITIGATION COSTS AND
7 REASONABLE ATTORNEY'S FEES.

8 (2) AN INDIVIDUAL SEEKING RELIEF UNDER THIS SUBSECTION MAY
9 BRING AN ACTION IN THE APPROPRIATE CIRCUIT COURT FOR RELIEF.

10 (3) NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO LIMIT THE
11 RIGHTS, PRIVILEGES, OR REMEDIES OF A WHISTLEBLOWER UNDER FEDERAL OR
12 STATE LAW OR UNDER A COLLECTIVE BARGAINING AGREEMENT.

13 (C) (1) THE RIGHTS AND REMEDIES PROVIDED FOR UNDER THIS SECTION
14 MAY NOT BE WAIVED BY AN AGREEMENT, A POLICY FORM, OR A CONDITION OF
15 EMPLOYMENT.

16 (2) SALARY AND WAGES EARNED BY A WHISTLEBLOWER DURING THE
17 WHISTLEBLOWER'S EMPLOYMENT AND ANY CONSIDERATION PROVIDED TO THE
18 WHISTLEBLOWER IN CONNECTION WITH THE WHISTLEBLOWER'S SEVERANCE FROM
19 EMPLOYMENT MAY NOT BE RECOVERED BY ANY ACTION BROUGHT BY THE
20 EMPLOYER IF THE SALARY, WAGES, OR CONSIDERATION IS RELATED TO ORIGINAL
21 INFORMATION PROVIDED BY THE WHISTLEBLOWER OR THE COVERED
22 ENFORCEMENT ACTION.

23 1-406.

24 NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO:

25 (1) PREEMPT, LIMIT, OR RESTRICT THE AUTHORITY OR DISCRETION
26 OF THE COMPTROLLER TO INVESTIGATE OR ENFORCE A VIOLATION OF THIS
27 ARTICLE;

28 (2) LIMIT ANY POWER OTHERWISE GRANTED IN THIS ARTICLE OR
29 OTHER LAWS TO THE COMPTROLLER, ATTORNEY GENERAL, STATE AGENCIES, OR
30 LOCAL GOVERNMENTS TO INVESTIGATE OR ENFORCE POSSIBLE VIOLATIONS OF
31 THIS ARTICLE;

1 13-1103.

2 (a) Except as otherwise provided in this section, a tax imposed under this article
3 may not be collected after **[7] 10** years from the date the tax is due.

4 (b) If a tax collector fails to collect a tax and a receiver or trustee is appointed
5 within the period specified in subsection (a) of this section to complete the tax collection,
6 the period for collecting the tax extends for 2 years from the date that the trustee or receiver
7 is appointed.

8 (c) **(1)** If the assessment of any tax has been made within the period of
9 limitations applicable to the assessment, a tax may not be collected after **[7] 10** years from
10 the date of the assessment.

11 **(2)** Any judgment entered may be enforced or renewed as any other
12 judgment.

13 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be
14 construed to apply retroactively and shall be applied to and interpreted to affect any
15 assessment the collection of which is not barred by application of any time condition or limit
16 before October 1, 2021, but may not revive any period of collection that was barred by
17 application of any time condition or limit before October 1, 2021.

18 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2021.