

Chapter 608

(House Bill 391)

AN ACT concerning

False Claims – Civil Penalties or Damages – ~~Exceptions~~ Authorization to Recover and Exceptions to General Fund Deposit by Comptroller

FOR the purpose of authorizing a governmental entity to recover certain costs and fees of certain actions; requiring that the Comptroller deposit civil penalties or damages collected by the State under the Maryland False Claims Act or under certain provisions of law prohibiting false claims against State health plans and health programs into certain funds or special funds rather than the General Fund of the State under certain circumstances; requiring that funds deposited by the Comptroller under this Act be on a pro rata basis under certain circumstances; establishing the False Claims Fund as a special, nonlapsing fund; requiring interest earnings of the Fund to be credited to the Fund; and generally relating to ~~the Maryland False Claims Act~~ false claims.

BY repealing and reenacting, with amendments,
 Article – General Provisions
 Section ~~8–103~~ and 8–109(c)
 Annotated Code of Maryland
 (2019 Replacement Volume and 2021 Supplement)

BY adding to
Article – General Provisions
Section 8–109(d)
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,
 Article – Health – General
 Section 2–610(c)
 Annotated Code of Maryland
 (2019 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,
 Article – State Finance and Procurement
 Section ~~7–302~~ 6–226(a)(2)(i), ~~7–302~~, and 7–304
 Annotated Code of Maryland
 (2021 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)144. and 145.

Annotated Code of Maryland
(2021 Replacement Volume)

BY adding to

Article – State Finance and Procurement
Section 6–226(a)(2)(ii)146.
Annotated Code of Maryland
(2021 Replacement Volume)

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

Article – General Provisions

8–103.

(a) If a governmental entity finds that a person has violated or is violating § 8–102 of this title, the governmental entity may file a civil action in a court of competent jurisdiction within the State against the person.

(b) In filing a civil action under this section, the governmental entity may seek:

(1) the penalties provided under § 8–102(c) of this title; AND

(2) SUBJECT TO THE GUIDELINES UNDER § 8–105(B)(4) OF THIS SUBTITLE, COURT COSTS AND ATTORNEY’S FEES.

(c) A governmental entity may not maintain an action under this section if the governmental entity has filed a civil action based on the same underlying act under § 2–603 of the Health – General Article or has sought enforcement by the Attorney General under § 11–205 or § 11–205.1 of the State Finance and Procurement Article.

8–109.

(c) **(1) [The] EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE** Comptroller shall deposit any civil penalty or damages collected by the State under this title into the General Fund of the State.

(2) (I) IF A VIOLATION OF THIS TITLE AFFECTS ANY OF THE FOLLOWING FUNDS, THE COMPTROLLER SHALL DEPOSIT ANY CIVIL PENALTY OR DAMAGES COLLECTED BY THE STATE UNDER THIS TITLE INTO THE AFFECTED FUND:

1. A FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

2. A SPECIAL FUND REQUIRING THE REVERSION OF APPROPRIATED FUNDS TO THE SPECIAL FUND UNDER § 7-304 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

3. A FUND UNDER THE JURISDICTION OF THE BOARD OF TRUSTEES FOR THE STATE RETIREMENT AND PENSION SYSTEM; OR

4. A FUND UNDER THE JURISDICTION OF THE STATE EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFITS PROGRAM.

(II) IF MORE THAN ONE FUND IS AFFECTED BY A VIOLATION OF THIS TITLE, THE COMPTROLLER SHALL DEPOSIT ANY CIVIL PENALTY OR DAMAGES COLLECTED BY THE STATE INTO THE APPROPRIATE FUND OR THE GENERAL FUND OF THE STATE ON A PRO RATA BASIS.

(D) (1) THERE IS A FALSE CLAIMS FUND.

(2) THE PURPOSE OF THE FUND IS TO SUPPORT THE OPERATIONS OF THE ATTORNEY GENERAL IN CARRYING OUT THIS TITLE.

(3) THE ATTORNEY GENERAL SHALL ADMINISTER THE FUND.

(4) (I) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(II) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(5) THE FUND CONSISTS OF:

(I) ALL ATTORNEY'S FEES AND COSTS COLLECTED BY THE STATE BY JUDGMENT, SETTLEMENT, AGREEMENT, OR OTHERWISE UNDER THIS TITLE;

(II) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(III) INTEREST EARNINGS; AND

(IV) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(6) THE FUND MAY BE USED ONLY FOR THE ATTORNEY GENERAL TO INVESTIGATE AND LITIGATE SUSPECTED VIOLATIONS OF THIS TITLE.

(7) (I) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(II) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

(8) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

(9) MONEY EXPENDED FROM THE FUND IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR THE ATTORNEY GENERAL.

Article – Health – General

2–610.

(c) **(1) [The] EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE Comptroller shall deposit any civil penalty or damages collected under this subtitle in the General Fund of the State.**

(2) (I) IF A VIOLATION OF THIS SUBTITLE AFFECTS ANY OF THE FOLLOWING FUNDS, THE COMPTROLLER SHALL DEPOSIT ANY CIVIL PENALTY OR DAMAGES COLLECTED BY THE STATE UNDER THIS TITLE INTO THE AFFECTED FUND:

1. A FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

2. A SPECIAL FUND REQUIRING THE REVERSION OF APPROPRIATED FUNDS TO THE SPECIAL FUND UNDER § 7–304 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

3. A FUND UNDER THE JURISDICTION OF THE BOARD OF TRUSTEES FOR THE STATE RETIREMENT AND PENSION SYSTEM; OR

4. A FUND UNDER THE JURISDICTION OF THE STATE EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFITS PROGRAM.

(II) IF MORE THAN ONE FUND IS AFFECTED BY A VIOLATION OF THIS SUBTITLE, THE COMPTROLLER SHALL DEPOSIT ANY CIVIL PENALTY OR DAMAGES COLLECTED BY THE STATE INTO THE APPROPRIATE FUND OR THE GENERAL FUND OF THE STATE ON A PRO RATA BASIS.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

144. the Health Equity Resource Community Reserve Fund;
[and]

145. the Access to Counsel in Evictions Special Fund; AND

146. THE FALSE CLAIMS FUND.

7–302.

Except as otherwise provided by law, at the end of a fiscal year, the unspent balance of each appropriation that was made for that fiscal year to an officer or unit of the State government or to an institution reverts to the General Fund of the State.

7–304.

At the end of a fiscal year, the unspent part of an appropriation from a source that State law or an Act of Congress dedicates to a specific purpose does not revert to the General Fund of the State but reverts to the appropriate special fund.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 29, 2022.