

98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014HB0074

Introduced 1/9/2013, by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

705 ILCS 505/8 from Ch. 37, par. 439.8

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

740 ILCS 175/4.5 new

Amends the Illinois False Claims Act. Provides that no court has jurisdiction over a civil action relating to or involving a false claim regarding certain tax acts administered by the Department of Revenue, unless the action is brought by the Attorney General. Provides that the Department of Revenue shall have the sole authority to bring an administrative action and that the Attorney General shall have the sole authority to bring a judicial action under the Act for a false claim, statement, or record pertaining to certain taxes administered by the Department of Revenue. Contains provisions concerning reporting, investigative, and enforcement procedures for allegations of false claims pertaining to certain taxes.

Contains provisions governing the payment of rewards to persons who provide information that leads to recovery of funds under the new provisions. Provides that the appeal of a determination regarding an award may be appealed exclusively to the Court of Claims and must be filed within 30 days of the determination of the award. Makes a corresponding change in the Court of Claims Act.

LRB098 04218 HEP 34243 b

A BILL FOR

HB0074 LRB098 04218 HEP 34243 b

1 AN ACT concerning civil law.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Court of Claims Act is amended by changing
5 Section 8 as follows:

6 (705 ILCS 505/8) (from Ch. 37, par. 439.8)

7 Sec. 8. Court of Claims jurisdiction; deliberation

8 periods. The court shall have exclusive jurisdiction to hear
9 and determine the following matters:

10 (a) All claims against the State founded upon any law of
11 the State of Illinois or upon any regulation adopted thereunder
12 by an executive or administrative officer or agency; provided,
13 however, the court shall not have jurisdiction (i) to hear or
14 determine claims arising under the Workers' Compensation Act or
15 the Workers' Occupational Diseases Act, or claims for expenses
16 in civil litigation, or (ii) to review administrative decisions
17 for which a statute provides that review shall be in the
18 circuit or appellate court.

19 (b) All claims against the State founded upon any contract
20 entered into with the State of Illinois.

21 (c) All claims against the State for time unjustly served
22 in prisons of this State when the person imprisoned received a
23 pardon from the governor stating that such pardon is issued on

1 the ground of innocence of the crime for which he or she was
2 imprisoned or he or she received a certificate of innocence
3 from the Circuit Court as provided in Section 2-702 of the Code
4 of Civil Procedure; provided, the amount of the award is at the
5 discretion of the court; and provided, the court shall make no
6 award in excess of the following amounts: for imprisonment of 5
7 years or less, not more than \$85,350; for imprisonment of 14
8 years or less but over 5 years, not more than \$170,000; for
9 imprisonment of over 14 years, not more than \$199,150; and
10 provided further, the court shall fix attorney's fees not to
11 exceed 25% of the award granted. On or after the effective date
12 of this amendatory Act of the 95th General Assembly, the court
13 shall annually adjust the maximum awards authorized by this
14 subsection (c) to reflect the increase, if any, in the Consumer
15 Price Index For All Urban Consumers for the previous calendar
16 year, as determined by the United States Department of Labor,
17 except that no annual increment may exceed 5%. For the annual

18 adjustments, if the Consumer Price Index decreases during a
19 calendar year, there shall be no adjustment for that calendar
20 year. The transmission by the Prisoner Review Board or the
21 clerk of the circuit court of the information described in
22 Section 11(b) to the clerk of the Court of Claims is conclusive
23 evidence of the validity of the claim. The changes made by this
24 amendatory Act of the 95th General Assembly apply to all claims
25 pending on or filed on or after the effective date.
26 (d) All claims against the State for damages in cases

HB0074 - 3 - LRB098 04218 HEP 34243 b

1 sounding in tort, if a like cause of action would lie against a
2 private person or corporation in a civil suit, and all like
3 claims sounding in tort against the Medical Center Commission,
4 the Board of Trustees of the University of Illinois, the Board
5 of Trustees of Southern Illinois University, the Board of
6 Trustees of Chicago State University, the Board of Trustees of
7 Eastern Illinois University, the Board of Trustees of Governors
8 State University, the Board of Trustees of Illinois State

9 University, the Board of Trustees of Northeastern Illinois
10 University, the Board of Trustees of Northern Illinois
11 University, the Board of Trustees of Western Illinois
12 University, or the Board of Trustees of the Illinois
13 Mathematics and Science Academy; provided, that an award for
14 damages in a case sounding in tort, other than certain cases
15 involving the operation of a State vehicle described in this
16 paragraph, shall not exceed the sum of \$100,000 to or for the
17 benefit of any claimant. The \$100,000 limit prescribed by this
18 Section does not apply to an award of damages in any case
19 sounding in tort arising out of the operation by a State
20 employee of a vehicle owned, leased or controlled by the State.
21 The defense that the State or the Medical Center Commission or
22 the Board of Trustees of the University of Illinois, the Board
23 of Trustees of Southern Illinois University, the Board of
24 Trustees of Chicago State University, the Board of Trustees of
25 Eastern Illinois University, the Board of Trustees of Governors
26 State University, the Board of Trustees of Illinois State

1 University, the Board of Trustees of Northeastern Illinois
2 University, the Board of Trustees of Northern Illinois
3 University, the Board of Trustees of Western Illinois
4 University, or the Board of Trustees of the Illinois
5 Mathematics and Science Academy is not liable for the
6 negligence of its officers, agents, and employees in the course
7 of their employment is not applicable to the hearing and
8 determination of such claims.

9 (e) All claims for recoupment made by the State of Illinois
10 against any claimant.

11 (f) All claims pursuant to the Line of Duty Compensation
12 Act. A claim under that Act must be heard and determined within
13 one year after the application for that claim is filed with the
14 Court as provided in that Act.

15 (g) All claims filed pursuant to the Crime Victims
16 Compensation Act.

17 (h) All claims pursuant to the Illinois National
18 Guardsman's Compensation Act. A claim under that Act must be
19 heard and determined within one year after the application for
20 that claim is filed with the Court as provided in that Act.

21 (i) All claims authorized by subsection (a) of Section
22 10-55 of the Illinois Administrative Procedure Act for the
23 expenses incurred by a party in a contested case on the
24 administrative level.

25 (j) All appeals of determinations by the Department of
26 Revenue regarding awards under Section 4.5 of the Illinois

HB0074 - 5 - LRB098 04218 HEP 34243 b

1 False Claims Act.

2 (Source: P.A. 95-970, eff. 9-22-08; 96-80, eff. 7-27-09.)

3 Section 10. The Illinois False Claims Act is amended by
4 changing Section 4 and by adding Section 4.5 as follows:

5 (740 ILCS 175/4) (from Ch. 127, par. 4104)

6 Sec. 4. Civil actions for false claims.

7 (a) Responsibilities of the Attorney General and the
8 Department of State Police. The Attorney General or the
9 Department of State Police shall diligently investigate a civil
10 violation under Section 3. If the Attorney General finds that a
11 person violated or is violating Section 3, the Attorney General
12 may bring a civil action under this Section against the person.

13 The State shall receive an amount for reasonable expenses

14 that the court finds to have been necessarily incurred by the
15 Attorney General, including reasonable attorneys' fees and
16 costs. All such expenses, fees, and costs shall be awarded
17 against the defendant. The court may award amounts from the
18 proceeds of an action or settlement that it considers
19 appropriate to any governmental entity or program that has been
20 adversely affected by a defendant. The Attorney General, if
21 necessary, shall direct the State Treasurer to make a
22 disbursement of funds as provided in court orders or settlement
23 agreements.
24 (b) Actions by private persons.

HB0074 - 6 - LRB098 04218 HEP 34243 b

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

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

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

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

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

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

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

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

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

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

20 (B) The State may settle the action with the defendant
21 notwithstanding the objections of the person initiating
22 the action if the court determines, after a hearing, that

23 the proposed settlement is fair, adequate, and reasonable
24 under all the circumstances. Upon a showing of good cause,
25 such hearing may be held in camera.
26 (C) Upon a showing by the State that unrestricted

HB0074 - 8 - LRB098 04218 HEP 34243 b

1 participation during the course of the litigation by the
2 person initiating the action would interfere with or unduly
3 delay the State's prosecution of the case, or would be
4 repetitious, irrelevant, or for purposes of harassment,
5 the court may, in its discretion, impose limitations on the
6 person's participation, such as:
7 (i) limiting the number of witnesses the person may
8 call:
9 (ii) limiting the length of the testimony of such
10 witnesses;
11 (iii) limiting the person's cross-examination of
12 witnesses; or
13 (iv) otherwise limiting the participation by the

14 person in the litigation.

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

21 (3) If the State elects not to proceed with the action,
22 the person who initiated the action shall have the right to
23 conduct the action. If the State so requests, it shall be
24 served with copies of all pleadings filed in the action and
25 shall be supplied with copies of all deposition transcripts
26 (at the State's expense). When a person proceeds with the

HB0074 - 9 - LRB098 04218 HEP 34243 b

1 action, the court, without limiting the status and rights
2 of the person initiating the action, may nevertheless
3 permit the State to intervene at a later date upon a
4 showing of good cause.

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

18 (5) Notwithstanding subsection (b), the State may
19 elect to pursue its claim through any alternate remedy
20 available to the State, including any administrative
21 proceeding to determine a civil money penalty. If any such
22 alternate remedy is pursued in another proceeding, the
23 person initiating the action shall have the same rights in
24 such proceeding as such person would have had if the action
25 had continued under this Section. Any finding of fact or
26 conclusion of law made in such other proceeding that has

1 become final shall be conclusive on all parties to an
2 action under this Section. For purposes of the preceding
3 sentence, a finding or conclusion is final if it has been
4 finally determined on appeal to the appropriate court, if
5 all time for filing such an appeal with respect to the
6 finding or conclusion has expired, or if the finding or
7 conclusion is not subject to judicial review.

8 (d) Award to Qui Tam plaintiff.

9 (1) If the State proceeds with an action brought by a
10 person under subsection (b), such person shall, subject to
11 the second sentence of this paragraph, receive at least 15%
12 but not more than 25% of the proceeds of the action or
13 settlement of the claim, depending upon the extent to which
14 the person substantially contributed to the prosecution of
15 the action. Where the action is one which the court finds
16 to be based primarily on disclosures of specific
17 information (other than information provided by the person
18 bringing the action) relating to allegations or
19 transactions in a criminal, civil, or administrative
20 hearing, in a legislative, administrative, or Auditor

21 General's report, hearing, audit, or investigation, or
22 from the news media, the court may award such sums as it
23 considers appropriate, but in no case more than 10%, if
24 any, of the proceeds, taking into account the significance
25 of the information and the role of the person bringing the
26 action in advancing the case to litigation. Any payment to

HB0074 - 11 - LRB098 04218 HEP 34243 b

1 a person under the first or second sentence of this
2 paragraph (1) shall be made from the proceeds. Any such
3 person shall also receive an amount for reasonable expenses
4 which the court finds to have been necessarily incurred,
5 plus reasonable attorneys' fees and costs. The State shall
6 also receive an amount for reasonable expenses which the
7 court finds to have been necessarily incurred by the
8 Attorney General, including reasonable attorneys' fees and
9 costs. All such expenses, fees, and costs shall be awarded
10 against the defendant. The court may award amounts from the
11 proceeds of an action or settlement that it considers

12 appropriate to any governmental entity or program that has
13 been adversely affected by a defendant. The Attorney
14 General, if necessary, shall direct the State Treasurer to
15 make a disbursement of funds as provided in court orders or
16 settlement agreements.

17 (2) If the State does not proceed with an action under
18 this Section, the person bringing the action or settling
19 the claim shall receive an amount which the court decides
20 is reasonable for collecting the civil penalty and damages.
21 The amount shall be not less than 25% and not more than 30%
22 of the proceeds of the action or settlement and shall be
23 paid out of such proceeds. Such person shall also receive
24 an amount for reasonable expenses which the court finds to
25 have been necessarily incurred, plus reasonable attorneys'
26 fees and costs. All such expenses, fees, and costs shall be

HB0074 - 12 - LRB098 04218 HEP 34243 b

1 awarded against the defendant. The court may award amounts
2 from the proceeds of an action or settlement that it

3 considers appropriate to any governmental entity or
4 program that has been adversely affected by a defendant.
5 The Attorney General, if necessary, shall direct the State
6 Treasurer to make a disbursement of funds as provided in
7 court orders or settlement agreements.

8 (3) Whether or not the State proceeds with the action,
9 if the court finds that the action was brought by a person
10 who planned and initiated the violation of Section 3 upon
11 which the action was brought, then the court may, to the
12 extent the court considers appropriate and without
13 limitation, reduce the share of the proceeds of the action
14 which the person would otherwise receive under paragraph
15 (1) or (2) of this subsection (d), taking into account the
16 role of that person in advancing the case to litigation and
17 any relevant circumstances pertaining to the violation. If
18 the person bringing the action is convicted of criminal
19 conduct arising from his or her role in the violation of
20 Section 3, that person shall be dismissed from the civil
21 action and shall not receive any share of the proceeds of
22 the action. Such dismissal shall not prejudice the right of
23 the State to continue the action, represented by the
24 Attorney General.

25 (4) If the State does not proceed with the action and
26 the person bringing the action conducts the action, the

1 court may award to the defendant its reasonable attorneys'
2 fees and expenses if the defendant prevails in the action
3 and the court finds that the claim of the person bringing
4 the action was clearly frivolous, clearly vexatious, or
5 brought primarily for purposes of harassment.

6 (e) Certain actions barred.

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

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

16 (B) For purposes of this paragraph (2), "exempt
17 official" means any of the following officials in State
18 service: directors of departments established under the

19 Civil Administrative Code of Illinois, the Adjutant
20 General, the Assistant Adjutant General, the Director of
21 the State Emergency Services and Disaster Agency, members
22 of the boards and commissions, and all other positions
23 appointed by the Governor by and with the consent of the
24 Senate.

25 (3) In no event may a person bring an action under
26 subsection (b) which is based upon allegations or

HB0074 - 14 - LRB098 04218 HEP 34243 b

1 transactions which are the subject of a civil suit or an
2 administrative civil money penalty proceeding in which the
3 State is already a party.

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

8 (i) in a criminal, civil, or administrative
9 hearing in which the State or its agent is a party;

10 (ii) in a State legislative, State Auditor
11 General, or other State report, hearing, audit, or
12 investigation; or
13 (iii) from the news media,
14 unless the action is brought by the Attorney General or the
15 person bringing the action is an original source of the
16 information.

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

1 (5) No court shall have jurisdiction over a civil
2 action brought under subsection (b) that relates to or
3 involves a false claim regarding a tax administered by the
4 Department of Revenue under the Use Tax Act; the Service
5 Use Tax Act; the Service Occupation Tax Act; the Retailers'
6 Occupation Tax Act; the Cigarette Machine Operators'
7 Occupation Tax Act; the Cigarette Tax Act; the Cigarette
8 Use Tax Act; the Home Rule Cigarette Tax Restriction Act;
9 the Tobacco Products Tax Act of 1995; the Hotel Operators'
10 Occupation Tax Act; the Use and Occupation Tax Refund Act;
11 the Automobile Renting Occupation and Use Tax Act; the
12 Aircraft Use Tax Law; the Watercraft Use Tax Law; the
13 Direct Pay Permit Implementation Act; the Governmental Tax
14 Reform Validation Act; the Simplified Sales and Use Tax
15 Administration Act, the Gas Use Tax Law, the Live Adult
16 Entertainment Facility Surcharge Act; the Illinois Estate
17 and Generation-Skipping Transfer Tax Act; the Motor Fuel
18 Tax Law; the Coin-Operated Amusement Device and Redemption
19 Machine Tax Act; the Mobile Home Local Services Tax Act;
20 the Mobile Home Local Services Tax Enforcement Act; the
21 Manufactured Home Installation Act; the Cannabis and
22 Controlled Substances Tax Act; the Illinois Central
23 Railroad Tax Act; the Messages Tax Act; the Gas Revenue Tax
24 Act; the Public Utilities Revenue Act; the Water Company
25 Invested Capital Tax Act; the Telecommunications Excise

26 Tax Act; the Telecommunications Infrastructure Maintenance

HB0074 - 16 - LRB098 04218 HEP 34243 b

1 Fee Act; the Simplified Municipal Telecommunications Tax
2 Act; the Mobile Telecommunications Sourcing Conformity
3 Act; the Electricity Excise Tax Law; the Electricity
4 Infrastructure Maintenance Fee Law; Section 31 of the
5 Innovation Development and Economy Act; Sections 5-1006,
6 5-1006.5, 5-1006.7, 5-1007, 5-1008, 5-1008.5, and 5-1035.1
7 of the Counties Code; Sections 8-11-1, 8-11-2, 8-11-3,
8 8-11-4, 8-11-5, 8-11-6, 8-11-6b, 8-11-7, 8-11-8, 8-11-9,
9 8-11-11, 8-11-15, 8-11-16, 8-11-20, 8-11-21, and 11-74.3-3
10 of the Illinois Municipal Code; Section 13 of the
11 Metropolitan Pier and Exposition Authority Act; Section 30
12 of the Metro-East Park and Recreation District Act; Section
13 5.01 of the Local Mass Transit District Act; Section 4.03
14 of the Regional Transportation Authority Act; and Section 4
15 of the Water Commission Act of 1985, unless the action is
16 brought by the Attorney General. Nothing in this Section

17 affects the Income Tax Act exclusion in subsection (c) of
18 Section 3 of this Act.

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

22 (g) Relief from retaliatory actions.

23 (1) In general, any employee, contractor, or agent
24 shall be entitled to all relief necessary to make that
25 employee, contractor, or agent whole, if that employee,
26 contractor, or agent is discharged, demoted, suspended,

HB0074 - 17 - LRB098 04218 HEP 34243 b

1 threatened, harassed, or in any other manner discriminated
2 against in the terms and conditions of employment because
3 of lawful acts done by the employee, contractor, agent, or
4 associated others in furtherance of an action under this
5 Section or other efforts to stop one or more violations of
6 this Act.

7 (2) Relief under paragraph (1) shall include

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

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

20 (Source: P.A. 96-1304, eff. 7-27-10; 97-978, eff. 8-17-12.)".

21 (740 ILCS 175/4.5 new)

22 Sec. 4.5. Actions for false claims relating to certain tax

23 Acts administered by the Department of Revenue.

24 (a) The Department of Revenue shall have the sole authority

25 to bring an administrative action resulting from information

1 provided by any person alleging a false claim, statement, or
2 record, as defined in Section 3 of this Act, pertaining to any
3 tax administered by the Department of Revenue under a provision
4 identified in subdivision (e)(5) of Section 4 of this Act. The
5 Attorney General shall have the sole authority to bring a
6 judicial action under this Act for a false claim, statement, or
7 record, as defined in Section 3 of this Act, pertaining to any
8 tax administered by the Department of Revenue under a provision
9 identified in subdivision (e)(5) of Section 4 of this Act.

10 (b) A person may provide to the Department of Revenue any
11 information alleging a false claim, statement, or record, as
12 defined in Section 3 of this Act, pertaining to any tax
13 administered by the Department of Revenue under a provision
14 identified in subdivision (e)(5) of Section 4 of this Act. The
15 Department of Revenue shall establish, by rule, a procedure for
16 the reporting of any allegation of a false claim, statement, or
17 record to the Department. The Department of Revenue shall
18 notify the Attorney General within 60 days of receipt of a
19 report under this subsection (b). The Department of Revenue
20 shall investigate all allegations of a false claim, statement,
21 or record and make a recommendation to the Attorney General as
22 to whether or not the Attorney General should bring an action
23 under this Act for all applicable tax and interest the

24 Department of Revenue determines is due under the appropriate
25 tax act. The Attorney General has the ultimate authority to
26 accept or reject the Department of Revenue's recommendation.

HB0074 - 19 - LRB098 04218 HEP 34243 b

1 Nothing in this Section limits the authority of the Attorney
2 General to bring an action under this Act at any time, even in
3 the absence of a recommendation from the Department of Revenue.
4 A person found liable in an action under this Act is subject to
5 the assessment of penalties and damages as specified in Section
6 3 of this Act.

7 (c) In exercising its discretion in administering and
8 enforcing the tax laws, the Department of Revenue may determine
9 that a person's allegations of a false claim, statement, or
10 record are best handled within the course of an audit conducted
11 within the Department of Revenue's normal course of business.
12 If the Department of Revenue exercises its audit functions and
13 the audit results in a contested tax assessment, the person
14 audited shall retain all of his or her legal rights to resolve

15 the matter in any forum where jurisdiction is proper, including
16 an administrative hearing before the Department of Revenue, the
17 Independent Tax Tribunal, circuit court under the State
18 Officers and Employees Money Disposition Act, or any other
19 judicial proceeding. Under no circumstances may a person, other
20 than the person audited and his or her attorney, have any right
21 to participate in those proceedings, participate in settlement
22 negotiations, challenge the validity of any settlement between
23 the Department and any person, or review any materials subject
24 to the confidentiality provisions of the underlying tax act. If
25 the Attorney General files an action under this Act that
26 relates to or involves a false claim regarding a tax

HB0074 - 20 - LRB098 04218 HEP 34243 b

1 administered by the Department of Revenue under a provision
2 identified in subdivision (e)(5) of Section 4 of this Act, any
3 Department of Revenue administrative proceeding that seeks
4 recovery for the same conduct alleged in the Attorney General's
5 complaint shall be automatically stayed until resolution of the

6 action brought by the Attorney General under this Act. However,
7 a Department of Revenue audit or investigation may not be
8 stayed under this subsection (c).

9 (d) If the Attorney General proceeds with a judicial action
10 under this Act based on information brought to the Department
11 of Revenue's attention by a person, the person shall, subject
12 to subsection (e) of this Section, receive as an award an
13 amount equal to at least 15% but not more than 30% of the
14 collected proceeds (including penalties, interest, additions
15 to tax, and additional amounts) resulting from the action and
16 any related actions, or from any settlement in response to the
17 action, taking into account the significance of the person's
18 information and the role of the person and any legal
19 representative of the person in contributing to the action. If
20 the Department of Revenue proceeds with an administrative
21 action based on information brought to its attention by a
22 person, the person shall, subject to subsection (e) of this
23 Section, receive as an award an amount equal to at least 10%
24 but not more than 15% of the collected proceeds (including
25 penalties, interest, additions to tax, and additional amounts)
26 resulting from the action or from any settlement in response to

1 the action, taking into account the significance of the
2 person's information and the role of the person and any legal
3 representative of the person in contributing to the action. A
4 person who brings to the Department's attention information
5 alleging a false claim, statement, or record, as defined in
6 Section 3 of this Act, pertaining to any tax administered by
7 the Department of Revenue under a provision identified in
8 subdivision (e)(5) of Section 4 of this Act, may not receive
9 any amounts for expenses, attorney's fees, or costs.

10 (e) In the event the judicial or administrative action
11 described in subsection (d) is one which the Department of
12 Revenue determines to be based principally on disclosures of
13 specific allegations (other than information provided by the
14 person described in subsection (d)) resulting from a judicial
15 or administrative hearing, from a governmental report,
16 hearing, audit, or investigation, or from the news media, the
17 Department of Revenue may award to the person a sum as the
18 Department of Revenue considers appropriate, but in no case
19 more than 10%, if any, of the collected proceeds (including
20 penalties, interest, additions to tax, and additional amounts)
21 resulting from the action (including any related actions) or

22 from any settlement in response to the action, taking into
23 account the significance of the person's information and the
24 role of the person and any legal representative of the person
25 in contributing to the action. This subsection (e) does not
26 apply if the information resulting in the initiation of the

HB0074 - 22 - LRB098 04218 HEP 34243 b

1 administrative or judicial action described in subsection (d)
2 was originally provided by the person described in subsection
3 (d).
4 (f) If the Department of Revenue determines that a claim
5 for an award under subsection (d) or (e) is brought by a person
6 who planned and initiated the actions that led to the false
7 claim and any resulting underpayment of tax, the Department of
8 Revenue may reduce the award to the extent it considers
9 appropriate and without limitation. If the person is convicted
10 of criminal conduct arising from conduct described in this
11 subsection (f), the Department of Revenue may not pay any award
12 to the person.

13 (g) A determination by the Department of Revenue regarding
14 an award under this Section may be appealed exclusively to the
15 Court of Claims. An appeal under this subsection (g) must be
16 filed within 30 days of the Department of Revenue's
17 determination of an award under this Section.