

AN ACT concerning civil law.

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

Section 5. The Whistleblower Act is amended by changing Sections 5 and 15 and by adding Section 40 as follows:

(740 ILCS 174/5)

Sec. 5. Definitions. As used in this Act:

"Employer" means: an individual, sole proprietorship, partnership, firm, corporation, association, and any other entity that has one or more employees in this State, including a political subdivision of the State; a unit of local government; a school district, combination of school districts, or governing body of a joint agreement of any type formed by two or more school districts; a community college district, State college or university, or any State agency whose major function is providing educational services; any authority including a department, division, bureau, board, commission, or other agency of these entities; and any person acting within the scope of his or her authority express or implied on behalf of those entities in dealing with its employees ~~except that "employer" does not include any governmental entity.~~

"Employee" means any individual who is employed on a

full-time, part-time, or contractual basis by an employer.

(Source: P.A. 93-544, eff. 1-1-04.)

(740 ILCS 174/15)

Sec. 15. Retaliation for certain disclosures prohibited.

(a) An employer may not retaliate against an employee who discloses information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation.

(b) An employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation.

(Source: P.A. 93-544, eff. 1-1-04.)

(740 ILCS 174/40 new)

Sec. 40. Home Rule Limitation. It is the public policy of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution that the provisions of this Act are the exclusive exercise by the State of powers and functions which might otherwise be exercised by other home rule units. Such powers and functions may not be exercised concurrently, either directly or indirectly by any unit of

local government, including any home rule unit except as otherwise authorized by this Act.

Section 10. The Whistleblower Reward and Protection Act is amended by changing Sections 2 and 3 as follows:

(740 ILCS 175/2) (from Ch. 127, par. 4102)

Sec. 2. Definitions. As used in this Act:

(a) "State" means the State of Illinois; any agency of State government; the system of State colleges and universities, any school district, community college district, county, municipality, municipal corporation, unit of local government, and any combination of the above under an intergovernmental agreement that includes provisions for a governing body of the agency created by the agreement. ~~and any of the following entities which may elect to adopt the provisions of this Act by ordinance or resolution, a copy of which shall be filed with the Attorney General within 30 days of its adoption: the system of State colleges and universities, any school district, any public community college district, any municipality, municipal corporations, units of local government, and any combination of the above under an intergovernmental agreement that includes provisions for a governing body of the agency created by the agreement.~~

(b) "Guard" means the Illinois National Guard.

(c) "Investigation" means any inquiry conducted by any

investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of this Act.

(d) "Investigator" means a person who is charged by the Department of State Police with the duty of conducting any investigation under this Act, or any officer or employee of the State acting under the direction and supervision of the Department of State Police, through the Division of Operations or the Division of Internal Investigation, in the course of an investigation.

(e) "Documentary material" includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret such data compilations, and any product of discovery.

(f) "Custodian" means the custodian, or any deputy custodian, designated by the Attorney General under subsection (i) (1) of Section 6.

(g) "Product of discovery" includes:

(1) the original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, which is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature;

(2) any digest, analysis, selection, compilation, or

derivation of any item listed in paragraph (1); and

(3) any index or other manner of access to any item listed in paragraph (1).

(Source: P.A. 91-760, eff. 1-1-01.)

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

Sec. 3. False claims.

(a) Liability for certain acts. Any person who:

(1) knowingly presents, or causes to be presented, to an officer or employee of the State or a member of the Guard a false or fraudulent claim for payment or approval;

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

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

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

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

the receipt is true;

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

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

(8) knowingly takes adverse employment action against an employee for disclosing information to a government or law enforcement agency, if the employee has reasonable cause to believe that the information discloses a violation of State or federal law, rule, or regulation; or

(9) knowingly retaliates against an employee who has disclosed information in a court, an administrative hearing, before a legislative commission or committee, or in another proceeding and discloses information, if the employee has reasonable cause to believe that the information discloses a violation of State or federal law, rule, or regulation,

is liable to the State for a civil penalty of not less than \$5,500 and not more than \$11,000, plus 3 times the amount of damages which the State sustains because of the act of that person. A person violating this subsection (a) shall also be liable to the State for the costs of a civil action brought to

recover any such penalty or damages.

(b) Knowing and knowingly defined. As used in this Section, the terms "knowing" and "knowingly" mean that a person, with respect to information:

(1) has actual knowledge of the information;

(2) acts in deliberate ignorance of the truth or falsity of the information; or

(3) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

(c) Claim defined. As used in this Section, "claim" includes any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the State provides any portion of the money or property which is requested or demanded, or if the State will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded. A claim also includes a request or demand for money damages or injunctive relief on behalf of an employee who has suffered an adverse employment action taken in violation of paragraphs (8) or (9) of subsection (a).

(d) Exclusion. This Section does not apply to claims, records, or statements made under the Illinois Income Tax Act.

(Source: P.A. 94-1059, eff. 7-31-06.)