# CHAPTER 15C

# FALSE CLAIMS AGAINST THE STATE


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## 15C.01 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of this chapter, the terms in this section have the meanings given them.

Subd. 2. **Claim.** "Claim" includes a request or demand, whether under a contract or otherwise, for money or property and whether or not the state or a political subdivision has title to the money or property, that:

(1) is presented to an officer, employee, or agent of the state or a political subdivision; or

(2) is made to a contractor, grantee, or other recipient if the money or property is to be spent or used on behalf of the state or the political subdivision or to advance the state's or political subdivision's program or interest, and if the state or political subdivision provides or has provided a portion of the money or property that is requested or demanded, or if the state or the political subdivision has reimbursed or will reimburse the contractor, grantee, or other recipient for a portion of the money or property that is requested or demanded.

Claim does not include requests or demands for money or property that the state or a political subdivision has paid to an individual as compensation for state or political subdivision employment, or as an income subsidy with no restrictions on that individual's use of the money or property.

Subd. 3. **Knowing and knowingly.** "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.

No proof of specific intent to defraud is required, but in no case is a person who acts merely negligently, inadvertently, or mistakenly with respect to information deemed to have acted knowingly.

Subd. 3a. **Material.** "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

Subd. 3b. **Obligation.** "Obligation" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment.

Subd. 4. **Original source.** "Original source" means a person who either:

(1) prior to a public disclosure under section 15C.05, paragraph (f), has voluntarily disclosed to the state or a political subdivision the information on which allegations or transactions in a claim are based; or

(2) has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and has voluntarily provided the information to the state or a political subdivision before filing an action under this chapter.

Subd. 5. **Person.** "Person" means a natural person, partnership, corporation, association or other legal entity but does not include the state or a political subdivision.

Subd. 6. **Political subdivision.** "Political subdivision" means a political subdivision of the state and includes a department or agency of a political subdivision.

Subd. 7. **Prosecuting attorney.** "Prosecuting attorney" means:

(1) the attorney general, if the false or fraudulent claim involves money, property, or services provided by the state; or

(2) the county attorney, city attorney, or other attorney representing a political subdivision, if the false or fraudulent claim involves money, property, or services provided by the political subdivision.

Subd. 8. **State.** "State" means the state of Minnesota and includes a department or agency of the state.

**History:** *2009 c 101 art 2 s 24; 2013 c 16 s 1*

**15C.02 LIABILITY FOR CERTAIN ACTS.**

(a) A person who commits any act described in clauses (1) to (7) is liable to the state or the political subdivision for a civil penalty in the amounts set forth in the federal False Claims Act, United States Code, title 31, section 3729, and as modified by the federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, plus three times the amount of damages that the state or the political subdivision sustains because of the act of that person, except as otherwise provided in paragraph (b):

(1) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

(2) knowingly makes or uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

(3) knowingly conspires to commit a violation of clause (1), (2), (4), (5), (6), or (7);

(4) has possession, custody, or control of property or money used, or to be used, by the state or a political subdivision and knowingly delivers or causes to be delivered less than all of that money or property;

(5) is authorized to make or deliver a document certifying receipt for money or property used, or to be used, by the state or a political subdivision and, intending to defraud the state or a political subdivision, 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 political subdivision who lawfully may not sell or pledge the property; or

(7) knowingly makes or uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the state or a political subdivision, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state or a political subdivision.

(b) Notwithstanding paragraph (a), the court may assess not less than two times the amount of damages that the state or the political subdivision sustains because of the act of the person if:

(1) the person committing a violation under paragraph (a) furnished an officer or employee of the state or the political subdivision responsible for investigating the false or fraudulent claim violation with all information known to the person about the violation within 30 days after the date on which the person first obtained the information;

(2) the person fully cooperated with any investigation by the state or the political subdivision of the violation; and

(3) at the time the person furnished the state or the political subdivision with information about the violation, no criminal prosecution, civil action, or administrative action had been commenced under this chapter with respect to the violation and the person did not have actual knowledge of the existence of an investigation into the violation.

(c) A person violating this section is also liable to the state or the political subdivision for the costs of a civil action brought to recover any penalty or damages.

(d) A person is not liable under this section for mere negligence, inadvertence, or mistake with respect to activities involving a false or fraudulent claim.

**History:** *2009 c 101 art 2 s 25; 2013 c 16 s 2; 1Sp2019 c 9 art 2 s 5*

**15C.03 EXCLUSION.**

This chapter does not apply to claims, records, or statements made under portions of Minnesota Statutes relating to taxation.

**History:** *2009 c 101 art 2 s 26*

**15C.04 RESPONSIBILITIES OF PROSECUTING ATTORNEY.**

Subdivision 1. **General.** A prosecuting attorney may investigate violations of section 15C.02. If a prosecuting attorney finds that a person has violated or is violating section 15C.02, the prosecuting attorney may bring a civil action under this chapter against the person to enjoin an act in violation of section 15C.02 and to recover damages and penalties.

Subd. 2. **Attorney general investigatory powers.** In connection with an investigation under this section, the attorney general has the powers listed in section 8.31, subdivisions 2 and 3.

**History:** *2009 c 101 art 2 s 27*

**15C.05 PRIVATE REMEDIES; COMPLAINT UNDER SEAL; COPY OF COMPLAINT AND WRITTEN DISCLOSURE OF EVIDENCE TO BE SENT TO PROSECUTING ATTORNEY.**

(a) Except as otherwise provided in this section, a person may maintain an action under this chapter on the person's own account and that of the state; the person's own account and that of a political subdivision; or on the person's own account and that of both the state and a political subdivision. After an action is

commenced, it may be voluntarily dismissed only if the court and the prosecuting attorney give written consent to the dismissal and their reasons for consenting.

(b) If an action is brought under this section, no other person may bring another action under this section based on the same facts that are the subject of the pending action.

(c) An action may not be maintained under this section:

(1) against the state, the legislature, the judiciary, the executive branch, or a political subdivision, or respective officers, members, or employees if the action is based on evidence or information known to the state or political subdivision when the action was brought; or

(2) if the action is based upon allegations or transactions that are the subject of a civil action or an administrative proceeding for a monetary penalty to which the state or a political subdivision is already a party.

(d) A complaint in an action under this section must be commenced by filing the complaint with the court in chambers and the court must place it under seal for at least 60 days. No service may be made upon the defendant until the complaint is unsealed.

(e) If a complaint is filed under this section, the plaintiff shall serve a copy of the complaint on the prosecuting attorney in accordance with the Minnesota Rules of Civil Procedure and at the same time shall serve a written disclosure of all material evidence and information the plaintiff possesses.

(f) A court must dismiss an action or claim under this section, unless opposed by the prosecuting attorney, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed:

(1) in a criminal, civil, or administrative hearing in which the state or a political subdivision or its agent is a party;

(2) in a report, hearing, audit, or investigation of the legislature, the governing body of a political subdivision, the legislative auditor, or the state auditor; or

(3) by the news media.

This paragraph does not apply if the action or claim is brought by the prosecuting attorney or the person bringing the action or claim is an original source of the information.

**History:** *2009 c 101 art 2 s 28; 2013 c 16 s 3*

**15C.06 PROSECUTING ATTORNEY INTERVENTION; MOTION TO EXTEND TIME; UNSEALING OF COMPLAINT.**

(a) Within 60 days after receiving a complaint and disclosure under section 15C.05, the prosecuting attorney shall intervene or decline intervention or, for good cause shown, move the court to extend the time for doing so. The motion may be supported by affidavits or other submissions in chambers.

(b) The complaint must be unsealed after the prosecuting attorney decides whether or not to intervene.

(c) Notwithstanding the prosecuting attorney's decision regarding intervention in an action brought by a plaintiff under section 15C.05, the prosecuting attorney may pursue the claim through any alternate remedy available to the state, including an administrative proceeding to determine a civil monetary penalty. If the prosecuting attorney pursues an alternate remedy in another proceeding, the person initiating the action has the same rights in that proceeding as if the action had continued under section 15C.05. A finding of fact or

conclusion of law made in the other proceeding that has become final is conclusive on all parties to an action under section 15C.05. For purposes of this paragraph, a finding or conclusion is final if it has been finally determined on appeal to the appropriate state court, if the time for filing an appeal has expired, or if the finding or conclusion is not subject to judicial review.

**History:** *2009 c 101 art 2 s 29*

**15C.07 SERVICE OF UNSEALED COMPLAINT AND RESPONSE BY DEFENDANT.**

When unsealed, the complaint must be served on the defendant pursuant to rule 3 of the Minnesota Rules of Civil Procedure. The defendant must respond to the complaint within 20 days after it is served on the defendant.

**History:** *2009 c 101 art 2 s 30*

**15C.08 PROSECUTING ATTORNEY AND PRIVATE PARTY ROLES.**

(a) Except as otherwise provided by this section, if the prosecuting attorney does not intervene at the outset in an action brought by a person under section 15C.05, the person has the same rights in conducting the action as the prosecuting attorney would have. A copy of each pleading or other paper filed in the action and a copy of the transcript of each deposition taken must be mailed to the prosecuting attorney if the prosecuting attorney so requests and pays the cost of doing so.

(b) If the prosecuting attorney elects not to intervene at the outset of the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the prosecuting attorney to intervene at a later date, upon a showing of good cause. If the prosecuting attorney so intervenes, the prosecuting attorney subsequently has primary responsibility for conducting the action.

(c) If the prosecuting attorney elects at the outset of the action to intervene, the prosecuting attorney has the primary responsibility for prosecuting the action. The person who initially brought the action remains a party but the person's acts do not bind the prosecuting attorney.

(d) If the prosecuting attorney elects to intervene, either at the outset or subsequently, the prosecuting attorney may file the prosecuting attorney's own complaint or amend the complaint of the person who initially brought the action to clarify or add details to the claims in which the prosecuting attorney is intervening and to add any additional claims with respect to which the prosecuting attorney contends the prosecuting attorney is entitled to relief. For statute of limitations purposes, any prosecuting attorney pleading relates back to the filing date of the complaint of the person who originally brought the action, to the extent that the claim of the prosecuting attorney arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the prior complaint of that person.

(e) Whether or not the prosecuting attorney intervenes in the action, the prosecuting attorney may move to dismiss the action for good cause. The person who brought the action must be notified of the filing of the motion and may oppose it and present evidence at the hearing. The prosecuting attorney may also settle the action. If the prosecuting attorney intends to settle the action, the prosecuting attorney shall notify the person who brought the action. The state or the political subdivision may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, the hearing may be held in chambers.

**History:** *2009 c 101 art 2 s 31; 2013 c 16 s 4*

**15C.09 STAY OF DISCOVERY; EXTENSION.**

(a) The court may stay discovery by a person who brought an action under section 15C.05 for not more than 60 days if the prosecuting attorney shows that the proposed discovery would interfere with the investigation or prosecution of a civil or criminal matter arising out of the same facts, whether or not the prosecuting attorney participates in the action.

(b) The court may extend the stay upon a further showing that the prosecuting attorney has pursued the civil or criminal investigation or proceeding with reasonable diligence and that the proposed discovery would interfere with its continuation. Discovery may not be stayed for a total of more than six months over the objection of the person who brought the action, except for good cause shown by the prosecuting attorney.

(c) A showing made pursuant to this section must be made in chambers.

**History:** *2009 c 101 art 2 s 32*

**15C.10 COURT-IMPOSED LIMITATION UPON PARTICIPATION OF PRIVATE PLAINTIFF IN ACTION.**

Upon a showing by the prosecuting attorney in an action in which the prosecuting attorney has intervened that unrestricted participation by a person under this chapter would interfere with or unduly delay the conduct of the action, or would be repetitious, irrelevant, or solely for harassment, the court may limit the person's participation by limiting the number of witnesses, the length of the testimony of the witnesses, the cross-examination of witnesses by the person, or by other measures.

**History:** *2009 c 101 art 2 s 33*

**15C.11 LIMITATION OF ACTIONS; REMEDIES.**

(a) An action under this chapter may not be commenced more than three years after the date of discovery of the fraudulent activity by the prosecuting attorney or more than six years after the fraudulent activity occurred, whichever occurs later, but in no event more than ten years after the date on which the violation is committed.

(b) A finding of guilt in a criminal proceeding charging a false statement or fraud, whether upon a verdict of guilty or a plea of guilty or nolo contendere, stops the person found guilty from denying an essential element of that offense in an action under this chapter based upon the same transaction as the criminal proceeding.

(c) In an action under this chapter, the state or the political subdivision and any plaintiff under section 15C.05 must prove the essential elements of the cause of action, including damages, by a preponderance of the evidence.

**History:** *2009 c 101 art 2 s 34*

**15C.12 AWARD OF EXPENSES AND ATTORNEY FEES.**

If the prosecuting attorney or a person who brought an action under section 15C.05 prevails in or settles an action under this chapter, the court shall award the prosecuting attorney or person reasonable costs, reasonable attorney fees, and the reasonable fees of expert consultants and expert witnesses. These expenses must be awarded against the defendant and are not allowed against the state or a political subdivision. If the prosecuting attorney does not intervene in the action and the person bringing the action conducts the action and the defendant prevails in the action, the court shall award to the defendant reasonable expenses and

attorney fees against the person bringing the action if it finds that the action was clearly frivolous or vexatious or brought in substantial part for harassment. The state or a political subdivision is not liable for expenses, attorney fees, or other costs incurred by a person in bringing or defending an action under this chapter.

**History:** *2009 c 101 art 2 s 35; 2013 c 16 s 5*

**15C.13 DISTRIBUTION TO PRIVATE PLAINTIFF IN CERTAIN ACTIONS.**

If the prosecuting attorney intervenes at the outset in an action brought by a person under section 15C.05, the person is entitled to receive not less than 15 percent or more than 25 percent of any recovery of the civil penalty and damages or settlement, depending on the extent to which the person substantially contributed to the conduct of the action. If the prosecuting attorney does not intervene in the action at any time, the person is entitled to receive not less than 25 percent or more than 30 percent of any recovery of the civil penalty and damages, or settlement, as the court determines is reasonable. If the prosecuting attorney does not intervene in the action at the outset but subsequently intervenes, the person is entitled to receive not less than 15 percent or more than 30 percent of any recovery of the civil penalty and damages or settlement, as the court determines, depending on the extent to which the person substantially contributed to the prosecution of the action. For recoveries whose distribution is governed by federal code or rule, the basis for calculating the portion of the recovery the person is entitled to receive shall not include amounts reserved for distribution to the federal government or designated in their use by federal code or rule.

**History:** *2009 c 101 art 2 s 36; 2010 c 310 art 14 s 1; 2013 c 16 s 6*

**15C.14** MS 2012 [Repealed, 2013 c 16 s 8]

**15C.145 RELIEF FROM RETALIATORY ACTIONS.**

(a) An employee, contractor, or agent is entitled to all relief necessary to make that employee, contractor, or agent whole if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action under this chapter or other efforts to stop one or more violations of this chapter.

(b) Relief under paragraph (a) shall include reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney fees.

(c) A civil action under this section may not be brought more than three years after the date when the retaliation occurred.

**History:** *2013 c 16 s 7*

**15C.15 DEPOSIT OF STATE FUNDS; FALSE CLAIMS ACCOUNT.**

Subdivision 1. **Deposit of funds.** The net proceeds received by the state in an action under this chapter, after distributions made to private plaintiffs and as otherwise required by federal law, must be deposited in the state treasury and credited as follows:

(1) the portion of net proceeds equal to the amount of the actual damages that the state sustains because of an act specified in section 15C.02 must be credited to the fund that sustained the damages;

(2) the portion of net proceeds equal to the additional recovery of federal money authorized by United States Code, title 42, section 1396h, for a recovery under this chapter, as determined by the commissioner of management and budget, must be credited to the false claims account under subdivision 2, provided that the amount credited may not exceed $1,000,000 in a fiscal year; and

(3) the remainder of the net proceeds must be credited to the general fund.

Subd. 2. **False claims account.** A false claims account is established in the special revenue fund in the state treasury. The commissioner of management and budget may enter into interagency agreements to deposit up to $2,055,000 for litigation and related expenses under this chapter. Money in the account deposited through interagency agreement or under subdivision 1 is annually appropriated to the attorney general for purposes of this chapter.

**History:** *2009 c 101 art 2 s 38,109*

**15C.16 REPORTING.**

The attorney general shall report to the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over state government finance by January 15 each year, on activities under this chapter during the prior calendar year. The report must include:

(1) the number of complaints received by the attorney general under section 15C.05;

(2) the number of times the attorney general intervened and declined to intervene after receiving a complaint;

(3) an estimate of the amount of time spent by attorneys in the attorney general's office and an estimate of the amount of time spent by other staff in the attorney general's office on activities under this chapter; and

(4) net proceeds received by the state in each action under this chapter.

**History:** *2009 c 101 art 2 s 39*