S T A T E O F N E W Y O R K

5195

2009-2010 Regular Sessions

I N A S S E M B L Y

February 11, 2009

Introduced by M. of A. BRODSKY -- Multi-Sponsored by -- M. of A. LIFTON -- read once and referred to the Committee on Judiciary

AN ACT to amend the state finance law, in relation to the institution of certain mechanisms to prevent fraud against the state, to investigate fraud against the state, and to punish the persons committing such fraud

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The state finance law is amended by adding a new article 17 to read as follows:

ARTICLE 17

FALSE CLAIMS AGAINST THE STATE

SECTION 250. STATEMENT OF POLICY.
251. DEFINITIONS.
252. ACTS SUBJECTING PERSONS TO TREBLE DAMAGES, COSTS, AND CIVIL PENALTIES; EXCEPTIONS.
253. CIVIL ACTIONS FOR FALSE CLAIMS.
254. CIVIL INVESTIGATIVE DEMANDS.
255. EVIDENTIARY STANDARDS.
256. PERIOD OF LIMITATIONS.
257. JURISDICTION.
258. NONEXCLUSIVITY.
259. SEVERABILITY.

S 250. STATEMENT OF POLICY. THIS ARTICLE IS ENACTED TO COMBAT AND PREVENT FRAUD AND ABUSE COMMITTED AGAINST THE STATE OF NEW YORK, ITS AGENCIES, AUTHORITIES, COMMISSIONS AND CORPORATIONS, AND THE POLITICAL SUBDIVISIONS OF THE STATE, AND TO NEGATE THE ADVERSE EFFECTS SUCH ACTIVITIES HAVE ON FISCAL AND PROGRAMMATIC INTEGRITY. THE LEGISLATURE INTENDS THE ATTORNEY GENERAL AND PRIVATE CITIZENS OF NEW YORK TO BE AGENTS OF THIS STATE WITH THE ABILITY, AUTHORITY, AND RESOURCES TO PURSUE CIVIL MONETARY PENALTIES, LIQUIDATED DAMAGES, OR OTHER REMEDIES TO PROTECT THE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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FISC FROM PERSONS WHO ENGAGE IN FRAUD, MISREPRESENTATION, ABUSE, OR OTHER IMPROPER PRACTICES.

S 251. DEFINITIONS. 1. "CLAIM" MEANS ANY REQUEST OR DEMAND, WHETHER PURSUANT TO A CONTRACT OR OTHERWISE, FOR MONEY OR PROPERTY THAT IS MADE TO AN OFFICER, EMPLOYEE, AGENT, OR OTHER REPRESENTATIVE OF THE STATE OR A POLITICAL SUBDIVISION THEREOF, OR TO A CONTRACTOR, SUBCONTRACTOR, GRANTEE, OR OTHER PERSON IF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF PROVIDES ANY PORTION OF THE MONEY OR PROPERTY THAT IS REQUESTED OR DEMANDED OR IF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF WILL REIMBURSE DIRECTLY OR INDIRECTLY SUCH CONTRACTOR, SUBCONTRACTOR, GRANTEE, OR OTHER PERSON FOR ANY PORTION OF THE MONEY OR PROPERTY WHICH IS REQUESTED OR DEMANDED.

2. "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.

3. "FALSE CLAIMS ACTION" MEANS AN ACTION FILED BY THE OFFICE OF THE ATTORNEY GENERAL OR A RELATOR PURSUANT TO THIS SECTION.

4. "FISCAL AGENT" MEANS ANY INDIVIDUAL, FIRM, CORPORATION, PROFESSIONAL ASSOCIATION, PARTNERSHIP, ORGANIZATION, OR OTHER LEGAL ENTITY FROM WHICH, THROUGH A CONTRACTUAL RELATIONSHIP WITH THE STATE OF NEW YORK OR ONE OF ITS POLITICAL SUBDIVISIONS, THE STATE OF NEW YORK RECEIVES, PROCESSES, AND PAYS CLAIMS.

5. "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 ARTICLE.

6. "INVESTIGATOR" MEANS A PERSON WHO IS CHARGED BY THE STATE POLICE OR THE ATTORNEY GENERAL WITH THE DUTY OF CONDUCTING ANY INVESTIGATION UNDER THIS ARTICLE, OR ANY OFFICER OR EMPLOYEE OF THE STATE ACTING UNDER THE DIRECTION AND SUPERVISION OF THE STATE POLICE OR THE ATTORNEY GENERAL, WITH AN INVESTIGATION.

7. "KNOWING AND KNOWINGLY" MEANS POSSESSING ACTUAL KNOWLEDGE OF RELEVANT INFORMATION, ACTING WITH DELIBERATE IGNORANCE OF THE TRUTH OR FALSITY OF THE INFORMATION, OR ACTING IN RECKLESS DISREGARD OF THE TRUTH OR FALSITY OF THE INFORMATION, AND NO PROOF OF SPECIFIC INTENT TO DEFRAUD IS REQUIRED.

8. "PERSON" INCLUDES ANY NATURAL PERSON, CORPORATION, FIRM, ASSOCIATION, ORGANIZATION, PARTNERSHIP, BUSINESS, OR TRUST, OR OTHER BUSINESS OR LEGAL ENTITY.

9. "POLITICAL SUBDIVISION" INCLUDES ANY CITY, CITY AND COUNTY, COUNTY, TAX OR ASSESSMENT DISTRICT, OR OTHER LEGALLY AUTHORIZED LOCAL GOVERNMENTAL ENTITY WITH JURISDICTIONAL BOUNDARIES OR OTHER GOVERNMENTAL ENTITY AUTHORIZED OR CREATED BY STATE LAW, INCLUDING BUT NOT LIMITED TO PUBLIC CORPORATIONS AND AUTHORITIES AND COMMISSIONS.

10. "PRODUCT OF DISCOVERY" MEANS: (A) 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;

(B) ANY DIGEST, ANALYSIS, SELECTION, COMPILATION, OR DERIVATION OF ANY ITEM LISTED IN PARAGRAPH (A) OF THIS SUBDIVISION; AND

(C) ANY INDEX OR OTHER MANNER OF ACCESS TO ANY ITEM LISTED IN PARAGRAPH (A) OF THIS SUBDIVISION.

11. "PROSECUTING AUTHORITY" REFERS TO THE CITY ATTORNEY, COUNTY COUNSEL, DISTRICT ATTORNEY, OR OTHER LOCAL GOVERNMENT OFFICIAL CHARGED WITH INVESTIGATING, FILING, AND CONDUCTING CIVIL LEGAL PROCEEDINGS ON BEHALF OF, OR IN THE NAME OF, A PARTICULAR POLITICAL SUBDIVISION.

12. "QUI TAM" MEANS AN ACTION BROUGHT BY A PRIVATE PERSON ON BEHALF OF THE STATE UNDER A STATUTE THAT ALLOWS A PRIVATE PERSON TO SUE FOR A RECOVERY, PART OF WHICH THE STATE WILL RECEIVE.

13. "RELATOR" MEANS AN INDIVIDUAL WHO BRINGS AN ACTION UNDER SUBDIVISION TWO OF SECTION TWO HUNDRED FIFTY-THREE OF THIS ARTICLE.

S 252. ACTS SUBJECTING PERSONS TO TREBLE DAMAGES, COSTS, AND CIVIL PENALTIES; EXCEPTIONS. 1. ANY PERSON WHO COMMITS ANY OF THE FOLLOWING ACTS SHALL BE LIABLE TO THE STATE OR TO THE POLITICAL SUBDIVISION FOR NO LESS THAN TWO TIMES AND NO MORE THAN FIVE TIMES THE AMOUNT OF DAMAGES, INCLUDING CONSEQUENTIAL DAMAGES, WHICH THE STATE OR THE POLITICAL SUBDIVISION SUSTAINS BECAUSE OF THE ACT OF THAT PERSON. A PERSON WHO COMMITS ANY OF THE FOLLOWING ACTS SHALL ALSO BE LIABLE TO THE STATE OR TO THE POLITICAL SUBDIVISION FOR THE COSTS OF A CIVIL ACTION BROUGHT TO RECOVER ANY OF THOSE PENALTIES OR DAMAGES, INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES, REASONABLE EXPERT'S FEES AND THE COSTS OF INVESTIGATION, AS DEFINED ABOVE. COSTS RECOVERABLE UNDER THIS ARTICLE SHALL ALSO INCLUDE THE COSTS OF ANY REVIEW OR INVESTIGATION UNDERTAKEN BY THE ATTORNEY GENERAL, BY THE COMPTROLLER, OR BY THE INSPECTOR GENERAL IN COOPERATION WITH THE ATTORNEY GENERAL. A PERSON WHO COMMITS ANY OF THE FOLLOWING ACTS SHALL ALSO BE LIABLE TO THE STATE OR POLITICAL SUBDIVISION FOR A CIVIL PENALTY OF NOT LESS THAN FIVE THOUSAND DOLLARS AND NOT MORE THAN TEN THOUSAND DOLLARS FOR EACH FALSE CLAIM:

(A) KNOWINGLY PRESENTS OR CAUSES TO BE PRESENTED TO AN OFFICER OR EMPLOYEE OF THE STATE OR OF ANY POLITICAL SUBDIVISION THEREOF A FALSE CLAIM FOR PAYMENT OR APPROVAL;

(B) KNOWINGLY MAKES, USES, OR CAUSES TO BE MADE OR USED A FALSE RECORD OR STATEMENT TO CAUSE A FALSE CLAIM TO BE PAID OR APPROVED BY THE STATE OR BY ANY POLITICAL SUBDIVISION;

(C) CONSPIRES TO DEFRAUD THE STATE OR ANY POLITICAL SUBDIVISION BY CAUSING A FALSE CLAIM TO BE ALLOWED OR PAID BY THE STATE OR BY ANY POLITICAL SUBDIVISION;

(D) HAS POSSESSION, CUSTODY, OR CONTROL OF PUBLIC PROPERTY OR MONEY USED OR TO BE USED BY THE STATE OR BY ANY POLITICAL SUBDIVISION AND KNOWINGLY DELIVERS OR CAUSES TO BE DELIVERED LESS PROPERTY THAN THE AMOUNT FOR WHICH THE PERSON RECEIVES A CERTIFICATE OR RECEIPT;

(E) IS AUTHORIZED TO MAKE OR DELIVER A DOCUMENT CERTIFYING RECEIPT OF PROPERTY USED OR TO BE USED BY THE STATE OR BY ANY POLITICAL SUBDIVISION AND KNOWINGLY MAKES OR DELIVERS A RECEIPT THAT FALSELY REPRESENTS THE PROPERTY USED OR TO BE USED;

(F) KNOWINGLY BUYS, OR RECEIVES AS A PLEDGE OF AN OBLIGATION OR DEBT, PUBLIC PROPERTY FROM ANY PERSON WHO LAWFULLY MAY NOT SELL OR PLEDGE THE PROPERTY;

(G) 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 OR TO ANY POLITICAL SUBDIVISION;

(H) IS A BENEFICIARY OF AN INADVERTENT SUBMISSION OF A FALSE CLAIM TO THE STATE OR A POLITICAL SUBDIVISION, SUBSEQUENTLY DISCOVERS THE FALSITY OF THE CLAIM, AND FAILS TO DISCLOSE THE FALSE CLAIM TO THE STATE OR THE POLITICAL SUBDIVISION WITHIN A REASONABLE TIME AFTER DISCOVERY OF THE FALSE CLAIM.

2. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION, THE COURT MAY ASSESS NOT LESS THAN TWO TIMES AND NOT MORE THAN THREE

TIMES THE AMOUNT OF DAMAGES WHICH THE STATE OR THE POLITICAL SUBDIVISION SUSTAINS BECAUSE OF THE ACT OF THE PERSON DESCRIBED IN SUBDIVISION ONE OF THIS SECTION, AND NO CIVIL PENALTY, IF THE COURT FINDS ALL OF THE FOLLOWING:

(A) THE PERSON COMMITTING THE VIOLATION FURNISHED OFFICIALS OF THE STATE OR OF THE POLITICAL SUBDIVISION RESPONSIBLE FOR INVESTIGATING FALSE CLAIMS VIOLATIONS WITH ALL INFORMATION KNOWN TO THAT PERSON ABOUT THE VIOLATION WITHIN THIRTY DAYS AFTER THE DATE ON WHICH THE PERSON FIRST OBTAINED THE INFORMATION;

(B) THE PERSON FULLY COOPERATED WITH ANY INVESTIGATION BY THE STATE OR A POLITICAL SUBDIVISION OF THE VIOLATION; AND

(C) 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 COMMENCED WITH RESPECT TO THE VIOLATION, AND THE PERSON DID NOT HAVE ACTUAL KNOWLEDGE OF THE EXISTENCE OF AN INVESTIGATION INTO THE VIOLATION.

3. LIABILITY UNDER THIS SECTION SHALL BE JOINT AND SEVERAL FOR ANY ACT COMMITTED BY TWO OR MORE PERSONS.

4. THIS SECTION DOES NOT APPLY TO ANY CONTROVERSY INVOLVING AN AMOUNT OF LESS THAN FIVE THOUSAND DOLLARS IN VALUE. FOR PURPOSES OF THIS SUBDIVISION, "CONTROVERSY" MEANS ANY ONE OR MORE FALSE CLAIMS SUBMITTED BY THE SAME PERSON IN VIOLATION OF THIS ARTICLE.

5. THIS SECTION DOES NOT APPLY TO WORKERS' COMPENSATION CLAIMS FILED PURSUANT TO THE WORKERS' COMPENSATION LAW.

6. THIS SECTION DOES NOT APPLY TO CLAIMS, RECORDS, OR STATEMENTS MADE UNDER THE TAX LAW.

S 253. CIVIL ACTIONS FOR FALSE CLAIMS. 1. THE DIVISION OF STATE POLICE SHALL DILIGENTLY INVESTIGATE ACTUAL AND ALLEGED CIVIL VIOLATIONS OF THE PROVISIONS OF SECTION TWO HUNDRED FIFTY-TWO OF THIS ARTICLE. IF THE DIVISION OF STATE POLICE FINDS THAT A PERSON HAS VIOLATED OR IS VIOLATING SECTION TWO HUNDRED FIFTY-TWO OF THIS ARTICLE, THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION UNDER THIS SECTION AGAINST SUCH PERSON.

2. (A) A PERSON MAY BRING A CIVIL ACTION FOR A VIOLATION OF SECTION TWO HUNDRED FIFTY-TWO OF THIS ARTICLE FOR SUCH PERSON AND FOR THE STATE. THE ACTION SHALL BE BROUGHT IN THE NAME OF THE STATE. THE ACTION MAY BE DISMISSED ONLY IF THE COURT AND THE ATTORNEY GENERAL GIVE WRITTEN CONSENT TO THE DISMISSAL AND THEIR REASONS FOR CONSENTING THERETO.

(B) A COPY OF THE COMPLAINT AND WRITTEN DISCLOSURE OF SUBSTANTIALLY ALL MATERIAL EVIDENCE AND INFORMATION THE PERSON POSSESSES SHALL BE SERVED ON THE STATE. THE COMPLAINT SHALL BE FILED IN CAMERA, SHALL REMAIN UNDER SEAL FOR AT LEAST SIXTY DAYS, AND SHALL NOT BE SERVED ON THE DEFENDANT UNTIL THE COURT SO ORDERS. THE STATE MAY ELECT TO INTERVENE AND PROCEED WITH THE ACTION WITHIN SIXTY DAYS AFTER IT RECEIVES BOTH THE COMPLAINT AND THE MATERIAL EVIDENCE AND INFORMATION.

(C) THE STATE MAY, FOR GOOD CAUSE SHOWN, MOVE THE COURT FOR EXTENSIONS OF THE TIME DURING WHICH THE COMPLAINT REMAINS UNDER SEAL PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION. ANY SUCH MOTIONS MAY BE SUPPORTED BY AFFIDAVITS OR OTHER SUBMISSIONS IN CAMERA. THE DEFENDANT SHALL NOT BE REQUIRED TO RESPOND TO ANY COMPLAINT FILED UNDER THIS SECTION UNTIL TWENTY DAYS AFTER THE COMPLAINT IS UNSEALED AND SERVED UPON THE DEFENDANT.

(D) BEFORE THE EXPIRATION OF THE SIXTY-DAY PERIOD OR ANY EXTENSIONS OBTAINED UNDER PARAGRAPH (C) OF THIS SUBDIVISION, THE STATE SHALL:

(1) PROCEED WITH THE ACTION, IN WHICH CASE THE ACTION SHALL BE CONDUCTED BY THE STATE, OR

(2) NOTIFY THE COURT THAT IT DECLINES TO TAKE OVER THE ACTION, IN WHICH CASE THE PERSON BRINGING THE ACTION SHALL HAVE THE RIGHT TO CONDUCT THE ACTION.

(E) WHEN A PERSON BRINGS AN ACTION UNDER THIS SUBDIVISION, NO PERSON OTHER THAN THE STATE MAY INTERVENE OR BRING A RELATED ACTION BASED ON THE FACTS UNDERLYING SUCH ACTION.

3. (A) IF THE STATE PROCEEDS WITH THE ACTION, IT SHALL HAVE THE PRIMARY RESPONSIBILITY FOR PROSECUTING THE ACTION AND SHALL NOT BE BOUND BY AN ACT OF THE PERSON BRINGING THE ACTION. SUCH PERSON SHALL HAVE THE RIGHT TO CONTINUE AS A PARTY TO THE ACTION, SUBJECT TO THE LIMITATIONS SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION.

(B)(1) THE STATE MAY MOVE TO DISMISS THE ACTION NOTWITHSTANDING THE OBJECTIONS OF THE PERSON INITIATING THE ACTION UPON NOTICE TO SUCH PERSON THEREFOR AND THE COURT'S HAVING PROVIDED THE PERSON WITH AN OPPORTUNITY FOR A HEARING ON THE MOTION.

(2) THE STATE 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, SUCH HEARING MAY BE HELD IN CAMERA.

(3) UPON A SHOWING BY THE STATE THAT UNRESTRICTED PARTICIPATION DURING THE COURSE OF THE LITIGATION BY THE PERSON INITIATING THE ACTION WOULD INTERFERE WITH OR UNDULY DELAY THE STATE'S PROSECUTION OF THE CASE, OR WOULD BE REPETITIOUS, IRRELEVANT, OR FOR PURPOSES OF HARASSMENT, THE COURT MAY, IN ITS DISCRETION, IMPOSE LIMITATIONS ON SUCH PERSON'S PARTICIPATION, INCLUDING BUT NOT LIMITED TO:

(A) LIMITING THE NUMBER OF WITNESSES THE PERSON MAY CALL;

(B) LIMITING THE LENGTH OF THE TESTIMONY OF SUCH WITNESSES;

(C) LIMITING THE PERSON'S CROSS-EXAMINATION OF WITNESSES; OR

(D) OTHERWISE LIMITING THE PARTICIPATION BY THE PERSON IN THE LITIGATION.

(4) UPON A SHOWING BY THE DEFENDANT THAT UNRESTRICTED PARTICIPATION DURING THE COURSE OF THE LITIGATION BY THE PERSON INITIATING THE ACTION WOULD BE FOR PURPOSES OF HARASSMENT OR WOULD CAUSE THE DEFENDANT UNDUE BURDEN OR UNNECESSARY EXPENSE, THE COURT MAY LIMIT THE PARTICIPATION BY SUCH PERSON IN THE LITIGATION.

(C) IF THE STATE ELECTS NOT TO PROCEED WITH THE ACTION, THE PERSON WHO INITIATED THE ACTION SHALL HAVE THE RIGHT TO CONDUCT THE ACTION. IF THE STATE SO REQUESTS, IT SHALL BE SERVED WITH COPIES OF ALL PLEADINGS FILED IN THE ACTION AND SHALL BE SUPPLIED WITH COPIES OF ALL DEPOSITION TRANSCRIPTS (AT THE STATE'S EXPENSE). WHEN SUCH PERSON PROCEEDS WITH THE ACTION, THE COURT, WITHOUT LIMITING THE STATUS AND RIGHTS OF SUCH PERSON, MAY NEVERTHELESS PERMIT THE STATE TO INTERVENE AT A LATER DATE UPON A SHOWING OF GOOD CAUSE.

(D) WHETHER OR NOT THE STATE PROCEEDS WITH THE ACTION, UPON A SHOWING BY THE STATE THAT CERTAIN ACTIONS OF DISCOVERY BY THE PERSON INITIATING THE ACTION WOULD INTERFERE WITH THE STATE'S INVESTIGATION OR PROSECUTION OF A CRIMINAL OR CIVIL MATTER ARISING OUT OF THE SAME FACTS, THE COURT MAY STAY SUCH DISCOVERY FOR A PERIOD OF NOT MORE THAN SIXTY DAYS. SUCH A SHOWING SHALL BE CONDUCTED IN CAMERA. THE COURT MAY EXTEND THE SIXTY-DAY PERIOD UPON A FURTHER SHOWING IN CAMERA THAT THE STATE HAS PURSUED THE CRIMINAL OR CIVIL INVESTIGATION OR PROCEEDINGS WITH REASONABLE DILIGENCE AND THAT ANY PROPOSED DISCOVERY IN THE CIVIL ACTION WILL INTERFERE WITH THE ONGOING CRIMINAL OR CIVIL INVESTIGATION OR PROCEEDINGS.

(E) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, THE STATE MAY ELECT TO PURSUE ITS CLAIM THROUGH ANY ALTERNATIVE REMEDY

AVAILABLE TO THE STATE, INCLUDING ANY ADMINISTRATIVE PROCEEDING TO DETERMINE A CIVIL MONEY PENALTY. IF ANY SUCH ALTERNATE REMEDY IS PURSUED IN ANOTHER PROCEEDING, THE PERSON INITIATING THE ACTION SHALL HAVE THE SAME RIGHTS IN SUCH PROCEEDING AS SUCH PERSON WOULD HAVE HAD IF THE ACTION HAD CONTINUED UNDER THIS SECTION. ANY FINDING OF FACT OR CONCLUSION OF LAW MADE IN SUCH OTHER PROCEEDING THAT HAS BECOME FINAL SHALL BE CONCLUSIVE ON ALL PARTIES TO AN ACTION UNDER THIS SECTION. FOR PURPOSES OF THE PRECEDING SENTENCE, A FINDING OR CONCLUSION IS FINAL IF IT HAS BEEN FINALLY DETERMINED ON APPEAL TO THE APPROPRIATE COURT, IF ALL TIME FOR FILING SUCH AN APPEAL WITH RESPECT TO THE FINDING OR CONCLUSION HAS EXPIRED, OR IF THE FINDING OR CONCLUSION IS NOT SUBJECT TO JUDICIAL REVIEW.

4. (A) IF THE STATE PROCEEDS WITH AN ACTION BROUGHT BY A PERSON UNDER SUBDIVISION TWO OF THIS SECTION, SUCH PERSON SHALL, SUBJECT TO THE SECOND SENTENCE OF THIS PARAGRAPH, RECEIVE AT LEAST FIFTEEN PERCENT BUT NOT MORE THAN TWENTY-FIVE PERCENT OF THE PROCEEDS OF THE ACTION OR SETTLEMENT OF THE CLAIM, DEPENDING UPON THE EXTENT TO WHICH THE PERSON SUBSTANTIALLY CONTRIBUTED TO THE PROSECUTION OF THE ACTION. WHERE THE ACTION IS ONE THAT THE COURT FINDS TO BE BASED PRIMARILY ON DISCLOSURES OF SPECIFIC INFORMATION (OTHER THAN INFORMATION PROVIDED BY THE PERSON BRINGING THE ACTION) RELATING TO ALLEGATIONS OR TRANSACTIONS IN A CRIMINAL, CIVIL, OR ADMINISTRATIVE HEARING, IN A LEGISLATIVE, ADMINISTRATIVE, OR COMPTROLLER'S REPORT, HEARING, AUDIT, OR INVESTIGATION, OR FROM THE NEWS MEDIA, THE COURT MAY AWARD SUCH SUMS AS IT CONSIDERS APPROPRIATE, BUT IN NO CASE MORE THAN TEN PERCENT OF THE PROCEEDS, TAKING INTO ACCOUNT THE SIGNIFICANCE OF THE INFORMATION AND THE ROLE OF THE PERSON BRINGING THE ACTION IN ADVANCING THE CASE TO LITIGATION. ANY PAYMENT TO A PERSON UNDER THE FIRST OR SECOND SENTENCE OF THIS PARAGRAPH SHALL BE MADE FROM THE PROCEEDS. ANY SUCH PERSON SHALL ALSO RECEIVE AN AMOUNT FOR REASONABLE EXPENSES THAT THE COURT FINDS TO HAVE BEEN NECESSARILY INCURRED, PLUS REASONABLE ATTORNEY'S FEES AND COSTS. THE STATE SHALL ALSO RECEIVE AN AMOUNT FOR REASONABLE EXPENSES THAT THE COURT FINDS TO HAVE BEEN NECESSARILY INCURRED BY THE ATTORNEY GENERAL, INCLUDING REASONABLE ATTORNEY'S FEES AND COSTS, AND THE AMOUNT RECEIVED SHALL BE DEPOSITED IN THE WHISTLEBLOWER REWARD AND PROTECTION FUND ESTABLISHED PURSUANT TO SECTION NINETY-NINE-Q OF THIS CHAPTER. ALL SUCH EXPENSES, FEES, AND COSTS SHALL BE AWARDED AGAINST THE DEFENDANT.

(B) IF THE STATE DOES NOT PROCEED WITH AN ACTION UNDER THIS SECTION, THE PERSON BRINGING THE ACTION OR SETTLING THE CLAIM SHALL RECEIVE AN AMOUNT THAT THE COURT DECIDES IS REASONABLE FOR COLLECTING THE CIVIL PENALTY AND DAMAGES. THE AMOUNT SHALL BE NOT LESS THAN TWENTY-FIVE PERCENT AND NOT MORE THAN FORTY PERCENT OF THE PROCEEDS OF THE ACTION OR SETTLEMENT AND SHALL BE PAID OUT OF SUCH PROCEEDS. SUCH PERSON SHALL ALSO RECEIVE AN AMOUNT FOR REASONABLE EXPENSES THAT THE COURT FINDS TO HAVE BEEN NECESSARILY INCURRED, PLUS REASONABLE ATTORNEY'S FEES AND COSTS. ALL SUCH EXPENSES, FEES, AND COSTS SHALL BE AWARDED AGAINST THE DEFENDANT.

(C) WHETHER OR NOT THE STATE PROCEEDS WITH THE ACTION, IF THE COURT FINDS THAT THE ACTION WAS BROUGHT BY A PERSON WHO PLANNED AND INITIATED THE VIOLATION OF SECTION TWO HUNDRED FIFTY-TWO OF THIS ARTICLE UPON WHICH THE ACTION WAS BROUGHT, THEN THE COURT MAY, TO THE EXTENT THE COURT CONSIDERS APPROPRIATE, REDUCE THE SHARE OF THE PROCEEDS OF THE ACTION THAT THE PERSON WOULD OTHERWISE RECEIVE UNDER PARAGRAPH (A) OR (B) OF THIS SUBDIVISION, TAKING INTO ACCOUNT THE ROLE OF THAT PERSON IN ADVANCING THE CASE TO LITIGATION AND ANY RELEVANT CIRCUMSTANCES PERTAINING TO THE VIOLATION. IF THE PERSON BRINGING THE ACTION IS CONVICTED OF

CRIMINAL CONDUCT ARISING FROM HIS OR HER ROLE IN THE VIOLATION OF SECTION TWO HUNDRED FIFTY-TWO OF THIS ARTICLE, SUCH PERSON SHALL BE DISMISSED FROM THE CIVIL ACTION AND SHALL NOT RECEIVE ANY SHARE OF THE PROCEEDS OF THE ACTION. SUCH DISMISSAL SHALL NOT PREJUDICE THE RIGHT OF THE STATE TO CONTINUE THE ACTION.

(D) IF THE STATE DOES NOT PROCEED WITH THE ACTION AND THE PERSON BRINGING THE ACTION CONDUCTS THE ACTION, THE COURT MAY AWARD TO THE DEFENDANT ITS REASONABLE ATTORNEY'S FEES AND EXPENSES IF THE DEFENDANT PREVAILS IN THE ACTION AND THE COURT FINDS THAT THE CLAIM OF THE PERSON BRINGING THE ACTION WAS CLEARLY FRIVOLOUS, CLEARLY VEXATIOUS, OR BROUGHT PRIMARILY FOR PURPOSES OF HARASSMENT (OR SELF-EXCULPATORY).

5. (A) (1) NO COURT SHALL HAVE JURISDICTION OVER AN ACTION BROUGHT BY A FORMER OR PRESENT MEMBER OF THE GUARD UNDER SUBDIVISION TWO OF THIS SECTION AGAINST A MEMBER OF THE GUARD ARISING OUT OF SUCH PERSON'S SERVICE IN THE GUARD.

(2) FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "GUARD" MEANS THE FORCE OF THE ORGANIZED MILITIA, AS DEFINED IN SUBDIVISION NINE OF SECTION ONE OF THE MILITARY LAW.

(B)(1) NO COURT SHALL HAVE JURISDICTION OVER AN ACTION BROUGHT UNDER SUBDIVISION TWO OF THIS SECTION AGAINST A MEMBER OF THE LEGISLATURE, A MEMBER OF THE JUDICIARY, OR AN EXEMPT OFFICIAL IF THE ACTION IS BASED ON EVIDENCE OR INFORMATION KNOWN TO THE STATE WHEN THE ACTION WAS BROUGHT.

(2) FOR PURPOSES OF THIS PARAGRAPH, "EXEMPT OFFICIAL" MEANS ANY OF THE FOLLOWING OFFICIALS IN STATE SERVICE: DIRECTORS OF DEPARTMENTS ESTABLISHED UNDER THE LAWS OF THE STATE, THE COMPTROLLER, THE DIRECTOR OF THE STATE EMERGENCY MANAGEMENT ORGANIZATION, MEMBERS OF THE PUBLIC AUTHORITIES, CORPORATIONS, BOARDS, AND COMMISSIONS, AND ALL OTHER POSITIONS APPOINTED BY THE GOVERNOR BY AND WITH THE CONSENT OF THE SENATE.

(C) IN NO EVENT MAY A PERSON BRING AN ACTION UNDER SUBDIVISION TWO OF THIS SECTION THAT IS BASED UPON ALLEGATIONS OR TRANSACTIONS THAT ARE THE SUBJECT OF A CIVIL SUIT OR AN ADMINISTRATIVE CIVIL MONEY PENALTY PROCEEDING IN WHICH THE STATE IS ALREADY A PARTY.

(D) NO COURT SHALL HAVE JURISDICTION OVER AN ACTION UNDER THIS SECTION BASED UPON THE PUBLIC DISCLOSURE OF ALLEGATIONS OR TRANSACTIONS IN A CRIMINAL, CIVIL, OR ADMINISTRATIVE HEARING, IN A LEGISLATIVE, ADMINISTRATIVE, OR COMPTROLLER'S REPORT, HEARING, AUDIT, OR INVESTIGATION, OR FROM THE NEWS MEDIA, UNLESS THE ACTION IS BROUGHT BY THE ATTORNEY GENERAL OR THE PERSON BRINGING THE ACTION IS AN ORIGINAL SOURCE OF THE INFORMATION AS SUCH TERM IS DEFINED IN SUBDIVISION TWO OF SECTION TWO HUNDRED FIFTY-SEVEN OF THIS ARTICLE.

6. THE STATE IS NOT LIABLE FOR EXPENSES OR FEES, INCLUDING ATTORNEY'S FEES, WHICH A PERSON INCURS IN BRINGING AN ACTION UNDER THIS ARTICLE, AND SHALL NOT ELECT TO PAY SUCH EXPENSES OR FEES.

7. ANY EMPLOYEE WHO IS DISCHARGED, DEMOTED, SUSPENDED, THREATENED, HARASSED, OR IN ANY OTHER MANNER DISCRIMINATED AGAINST IN THE TERMS AND CONDITIONS OF EMPLOYMENT BY HIS OR HER EMPLOYER BECAUSE OF LAWFUL ACTS DONE BY THE EMPLOYEE ON BEHALF OF THE EMPLOYEE OR OTHERS IN FURTHERANCE OF AN ACTION UNDER THIS SECTION, INCLUDING INVESTIGATION FOR, INITIATION OF, TESTIMONY FOR, OR ASSISTANCE IN AN ACTION FILED OR TO BE FILED UNDER THIS SECTION, SHALL BE ENTITLED TO ALL RELIEF NECESSARY TO MAKE THE EMPLOYEE WHOLE. SUCH RELIEF SHALL INCLUDE REINSTATEMENT WITH THE SENIORITY STATUS SUCH EMPLOYEE WOULD HAVE HAD BUT FOR THE DISCRIMINATION, NOT LESS THAN TWO TIMES AND NOT MORE THAN FIVE TIMES THE AMOUNT OF BACK PAY, INTEREST ON THE BACK PAY, AND COMPENSATION FOR ANY CONSEQUENTIAL DAMAGES SUSTAINED AS A RESULT OF THE DISCRIMINATION, INCLUDING LITIGATION COSTS

AND REASONABLE ATTORNEY'S FEES. AN EMPLOYEE MAY BRING AN ACTION IN THE SUPREME COURT FOR THE RELIEF PROVIDED IN THIS SUBDIVISION.

S 254. CIVIL INVESTIGATIVE DEMANDS. 1. (A) WHENEVER THE ATTORNEY GENERAL HAS REASON TO BELIEVE THAT ANY PERSON MAY BE IN POSSESSION, CUSTODY, OR CONTROL OF ANY DOCUMENTARY MATERIAL OR INFORMATION RELEVANT TO A POTENTIAL FALSE CLAIMS ACTION, THE ATTORNEY GENERAL MAY, IN ORDER TO DETERMINE WHETHER TO COMMENCE A CIVIL PROCEEDING PURSUANT TO THIS ARTICLE, ISSUE IN WRITING AND CAUSE TO BE SERVED UPON SUCH PERSON A CIVIL INVESTIGATIVE DEMAND REQUIRING THAT SUCH PERSON DO THE FOLLOWING:

(1) PRODUCE DOCUMENTARY MATERIAL RELEVANT TO THE CLAIM FOR INSPECTION AND COPYING;

(2) ANSWER IN WRITING WRITTEN INTERROGATORIES WITH RESPECT TO ANY DOCUMENTARY MATERIAL OR INFORMATION RELEVANT TO THE CLAIM;

(3) PROVIDE ORAL TESTIMONY CONCERNING ANY DOCUMENTARY MATERIAL OR INFORMATION RELEVANT TO THE CLAIM; OR

(4) FURNISH ANY COMBINATION OF SUCH MATERIAL, ANSWERS, OR TESTIMONY.

(B) THE ATTORNEY GENERAL MAY DELEGATE THE AUTHORITY, IN HIS OR HER ABSENCE, TO ISSUE CIVIL INVESTIGATIVE DEMANDS PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION. THE ATTORNEY GENERAL MAY NOT ISSUE A CIVIL INVESTIGATIVE DEMAND IN ORDER TO CONDUCT, OR ASSIST IN THE CONDUCTING OF, A CRIMINAL INVESTIGATION.

2. (A) EACH CIVIL INVESTIGATIVE DEMAND ISSUED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF THIS SECTION SHALL STATE THE NATURE OF THE CONDUCT CONSTITUTING THE ALLEGED VIOLATION OF SUBDIVISION ONE OF SECTION TWO HUNDRED FIFTY-TWO OF THIS ARTICLE WHICH IS UNDER INVESTIGATION, AND THE APPLICABLE PROVISION OF LAW ALLEGED TO HAVE BEEN VIOLATED.

(B) IF SUCH DEMAND IS FOR THE PRODUCTION OF DOCUMENTARY MATERIAL, THE DEMAND SHALL DO THE FOLLOWING:

(1) DESCRIBE EACH CLASS OF DOCUMENTARY MATERIAL TO BE PRODUCED WITH SUCH DEFINITENESS AND CERTAINTY AS TO PERMIT SUCH MATERIAL TO BE FAIRLY IDENTIFIED;

(2) PRESCRIBE A RETURN DATE FOR EACH SUCH CLASS THAT WILL PROVIDE A REASONABLE PERIOD OF TIME WITHIN WHICH THE MATERIAL SO DEMANDED MAY BE ASSEMBLED AND MADE AVAILABLE FOR INSPECTION AND COPYING; AND

(3) IDENTIFY THE INVESTIGATOR TO WHOM SUCH MATERIAL SHALL BE MADE AVAILABLE.

(C) IF SUCH DEMAND IS FOR ANSWERS TO WRITTEN INTERROGATORIES, THE DEMAND SHALL DO THE FOLLOWING:

(1) SET FORTH WITH SPECIFICITY THE WRITTEN INTERROGATORIES TO BE ANSWERED;

(2) PRESCRIBE DATES AT WHICH TIME ANSWERS TO WRITTEN INTERROGATORIES SHALL BE SUBMITTED; AND

(3) IDENTIFY THE INVESTIGATOR TO WHOM SUCH ANSWERS SHALL BE SUBMITTED.

(D) IF SUCH DEMAND IS FOR THE GIVING OF ORAL TESTIMONY, THE DEMAND SHALL DO THE FOLLOWING:

(1) PRESCRIBE THE DATE, TIME, AND PLACE AT WHICH ORAL TESTIMONY SHALL COMMENCE;

(2) IDENTIFY AN INVESTIGATOR WHO SHALL CONDUCT THE EXAMINATION AND THE CUSTODIAN TO WHOM THE TRANSCRIPT OF SUCH EXAMINATION SHALL BE SUBMITTED;

(3) SPECIFY THAT SUCH ATTENDANCE AND TESTIMONY ARE NECESSARY TO CONDUCT THE INVESTIGATION;

(4) NOTIFY THE PERSON RECEIVING THE DEMAND OF THE RIGHT TO BE ACCOMPANIED BY AN ATTORNEY AND ANY OTHER REPRESENTATIVE; AND

(5) DESCRIBE THE GENERAL PURPOSE FOR WHICH THE DEMAND IS BEING ISSUED AND THE GENERAL NATURE OF THE TESTIMONY, INCLUDING THE PRIMARY AREAS OF INQUIRY, WHICH WILL BE TAKEN PURSUANT TO THE DEMAND.

(E) THE DATE PRESCRIBED FOR THE COMMENCEMENT OF ORAL TESTIMONY PURSUANT TO A CIVIL INVESTIGATIVE DEMAND SHALL BE A DATE THAT IS NOT LESS THAN SEVEN DAYS AFTER THE DATE ON WHICH THE DEMAND IS RECEIVED, UNLESS THE ATTORNEY GENERAL DETERMINES THAT EXCEPTIONAL CIRCUMSTANCES ARE PRESENT THAT WARRANT THE COMMENCEMENT OF SUCH TESTIMONY WITHIN A SHORTER PERIOD OF TIME.

(F) THE ATTORNEY GENERAL SHALL NOT AUTHORIZE, PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF THIS SECTION, THE ISSUANCE OF MORE THAN ONE CIVIL INVESTIGATIVE DEMAND FOR ORAL TESTIMONY BY THE SAME PERSON UNLESS THE PERSON REQUESTS OTHERWISE OR UNLESS THE ATTORNEY GENERAL, AFTER INVESTIGATION, NOTIFIES THAT PERSON IN WRITING THAT AN ADDITIONAL DEMAND FOR ORAL TESTIMONY IS NECESSARY.

3. A CIVIL INVESTIGATIVE DEMAND MAY NOT REQUIRE THE PRODUCTION OF ANY DOCUMENTARY MATERIAL, THE SUBMISSION OF ANY ANSWERS TO WRITTEN INTERROGATORIES, OR THE GIVING OF ANY ORAL TESTIMONY IF SUCH MATERIAL, ANSWERS, OR TESTIMONY WOULD BE PROTECTED FROM DISCLOSURE UNDER:

(A) THE STANDARDS APPLICABLE TO SUBPOENAS OR SUBPOENAS DUCES TECUM ISSUED BY A COURT OF THE STATE OF NEW YORK TO AID IN A GRAND JURY INVESTIGATION; OR

(B) THE STANDARDS APPLICABLE TO DISCOVERY REQUESTS PURSUANT TO THE CIVIL PRACTICE LAW AND RULES TO THE EXTENT THAT THE APPLICATION OF SUCH STANDARDS TO ANY SUCH DEMAND IS APPROPRIATE AND CONSISTENT WITH THE PROVISIONS AND PURPOSES OF THIS SECTION.

4. (A) ANY CIVIL INVESTIGATIVE DEMAND ISSUED PURSUANT TO SUBDIVISION ONE OF THIS SECTION MAY BE SERVED BY AN INVESTIGATOR OR HIS OR HER AGENT, AT ANY PLACE WITHIN THE STATE; PROVIDED, THAT THE SUPREME COURT COULD EXERCISE JURISDICTION OVER THE RECIPIENT OF THE DEMAND CONSISTENT WITH THE DUE PROCESS CLAUSE OF THE CONSTITUTION OF THE UNITED STATES.

(B) ANY SUCH DEMAND FILED PURSUANT TO SUBDIVISION ONE OF THIS SECTION MAY BE SERVED UPON ANY PERSON WHO IS NOT FOUND WITHIN THE STATE IN SUCH MANNER AS THE CIVIL PRACTICE LAW AND RULES PRESCRIBE FOR SERVICE OUTSIDE THE STATE OR IN A FOREIGN COUNTRY; PROVIDED THAT THE SUPREME COURT COULD EXERCISE JURISDICTION OVER THE RECIPIENT OF THE DEMAND CONSISTENT WITH THE DUE PROCESS CLAUSE OF THE CONSTITUTION OF THE UNITED STATES.

5. (A) SERVICE OF ANY CIVIL INVESTIGATIVE DEMAND ISSUED PURSUANT TO SUBDIVISION ONE OF THIS SECTION MAY BE MADE UPON A PARTNERSHIP, CORPORATION, ASSOCIATION, OR OTHER LEGAL ENTITY BY THE FOLLOWING METHODS:

(1) DELIVERING AN EXECUTED COPY OF SUCH DEMAND TO ANY PARTNER, EXECUTIVE OFFICER, MANAGING AGENT, OR GENERAL AGENT OF THE PARTNERSHIP, CORPORATION, ASSOCIATION, OR ENTITY, OR TO ANY AGENT AUTHORIZED BY APPOINTMENT OR BY LAW TO RECEIVE SERVICE OF PROCESS ON BEHALF OF SUCH PARTNERSHIP, CORPORATION, ASSOCIATION, OR ENTITY;

(2) DELIVERING AN EXECUTED COPY OF SUCH DEMAND TO THE PRINCIPAL OFFICE OR PLACE OF BUSINESS OF THE PARTNERSHIP, CORPORATION, ASSOCIATION, OR ENTITY; OR

(3) DEPOSITING AN EXECUTED COPY OF SUCH DEMAND IN THE UNITED STATES MAIL BY REGISTERED OR CERTIFIED MAIL, WITH A RETURN RECEIPT REQUESTED, ADDRESSED TO SUCH PARTNERSHIP, CORPORATION, ASSOCIATION, OR ENTITY AT ITS PRINCIPAL OFFICE OR PLACE OF BUSINESS.

(B) SERVICE OF ANY SUCH DEMAND MAY BE MADE UPON ANY NATURAL PERSON BY THE FOLLOWING METHODS:

(1) DELIVERING AN EXECUTED COPY OF SUCH DEMAND TO THE PERSON; OR

(2) DEPOSITING AN EXECUTED COPY OF SUCH DEMAND IN THE UNITED STATES MAIL BY REGISTERED OR CERTIFIED MAIL, WITH A RETURN RECEIPT REQUESTED, ADDRESSED TO THE PERSON AT THE PERSON'S RESIDENCE OR PRINCIPAL OFFICE OR PLACE OF BUSINESS.

6. A VERIFIED RETURN BY THE INDIVIDUAL SERVING ANY CIVIL INVESTIGATIVE DEMAND FILED PURSUANT TO SUBDIVISION ONE OF THIS SECTION SETTING FORTH THE MANNER OF SUCH SERVICE SHALL BE PROOF OF SUCH SERVICE. IN THE CASE OF SERVICE BY REGISTERED OR CERTIFIED MAIL, SUCH RETURN SHALL BE ACCOMPANIED BY THE RETURN POST OFFICE RECEIPT OF DELIVERY OF SUCH DEMAND.

7. (A) THE PRODUCTION OF DOCUMENTARY MATERIAL IN RESPONSE TO A CIVIL INVESTIGATIVE DEMAND SHALL BE MADE UNDER A SWORN CERTIFICATE, IN SUCH FORM AS THE DEMAND DESIGNATES, BY THE FOLLOWING:

(1) IN THE CASE OF A NATURAL PERSON, BY THE PERSON TO WHOM THE DEMAND IS DIRECTED; OR

(2) IN THE CASE OF A PERSON OTHER THAN A NATURAL PERSON, BY A PERSON HAVING KNOWLEDGE OF THE FACTS AND CIRCUMSTANCES RELATING TO SUCH PRODUCTION AND AUTHORIZED TO ACT ON BEHALF OF SUCH PERSON.

(B) THE CERTIFICATE SHALL STATE THAT ALL OF THE DOCUMENTARY MATERIAL REQUIRED BY THE DEMAND AND IN THE POSSESSION, CUSTODY, OR CONTROL OF THE PERSON TO WHOM THE DEMAND IS DIRECTED HAS BEEN PRODUCED AND MADE AVAILABLE TO THE INVESTIGATOR IDENTIFIED IN THE DEMAND.

(C) ANY PERSON UPON WHOM ANY CIVIL INVESTIGATIVE DEMAND FOR THE PRODUCTION OF DOCUMENTARY MATERIAL HAS BEEN SERVED SHALL MAKE SUCH MATERIAL AVAILABLE FOR INSPECTION AND COPYING TO THE INVESTIGATOR IDENTIFIED IN SUCH DEMAND AT THE PRINCIPAL PLACE OF BUSINESS OF SUCH PERSON, OR AT SUCH OTHER PLACE AS THE INVESTIGATOR AND THE PERSON THEREAFTER MAY AGREE AND PRESCRIBE IN WRITING. SUCH MATERIAL SHALL BE MADE SO AVAILABLE ON THE RETURN DATE SPECIFIED IN SUCH DEMAND, OR ON SUCH LATER DATE AS THE INVESTIGATOR MAY PRESCRIBE IN WRITING. SUCH PERSON MAY, UPON WRITTEN AGREEMENT BETWEEN THE PERSON AND THE INVESTIGATOR, SUBSTITUTE COPIES FOR ORIGINALS OF ALL OR ANY PART OF SUCH MATERIAL.

8. (A) EACH INTERROGATORY IN A CIVIL INVESTIGATIVE DEMAND SHALL BE ANSWERED SEPARATELY AND FULLY IN WRITING UNDER OATH AND SHALL BE SUBMITTED UNDER A SWORN CERTIFICATE, IN SUCH FORM AS THE DEMAND DESIGNATES, AS FOLLOWS:

(1) IN THE CASE OF A NATURAL PERSON, BY THE PERSON TO WHOM THE DEMAND IS DIRECTED, OR

(2) IN THE CASE OF A PERSON OTHER THAN A NATURAL PERSON, BY THE PERSON OR PERSONS RESPONSIBLE FOR ANSWERING EACH INTERROGATORY.

(B) IF ANY INTERROGATORY IS OBJECTED TO, THE REASONS FOR THE OBJECTION SHALL BE STATED IN THE CERTIFICATE INSTEAD OF AN ANSWER. THE CERTIFICATE SHALL STATE THAT ALL INFORMATION REQUIRED BY THE DEMAND AND IN THE POSSESSION, CUSTODY, CONTROL, OR KNOWLEDGE OF THE PERSON TO WHOM THE DEMAND IS DIRECTED HAS BEEN SUBMITTED. TO THE EXTENT THAT ANY INFORMATION IS NOT FURNISHED, THE INFORMATION SHALL BE IDENTIFIED AND REASONS SET FORTH WITH PARTICULARITY REGARDING THE REASONS WHY THE INFORMATION WAS NOT FURNISHED.

9. (A) THE EXAMINATION OF ANY PERSON, PURSUANT TO A CIVIL INVESTIGATIVE DEMAND FOR ORAL TESTIMONY, SHALL BE CONDUCTED BEFORE AN OFFICER AUTHORIZED TO ADMINISTER OATHS AND AFFIRMATIONS BY THE LAWS OF THE UNITED STATES OR OF THE STATE OF NEW YORK OR OF THE PLACE WHERE THE EXAMINATION IS HELD. THE OFFICER BEFORE WHOM THE TESTIMONY IS TAKEN SHALL PLACE THE WITNESS UNDER OATH OR AFFIRMATION AND SHALL, PERSONALLY OR BY SOMEONE ACTING UNDER THE DIRECTION OF THE OFFICER AND IN THE OFFICER'S PRESENCE, RECORD THE TESTIMONY OF THE WITNESS. THE TESTIMONY SHALL BE TAKEN BY ANY MEANS AUTHORIZED BY, AND IN A MANNER CONSISTENT WITH, THE CIVIL PRACTICE LAW AND RULES, AND SHALL BE TRANSCRIBED.

(B) THE INVESTIGATOR CONDUCTING THE EXAMINATION SHALL EXCLUDE FROM THE PLACE WHERE THE EXAMINATION IS HELD ALL PERSONS EXCEPT THE PERSON GIVING THE TESTIMONY, THE ATTORNEY OR OTHER REPRESENTATIVE OF THE PERSON GIVING

THE TESTIMONY, THE ATTORNEY FOR THE DEPARTMENT OF LAW, ANY PERSON WHO MAY BE AGREED UPON BY THE ATTORNEY GENERAL AND THE PERSON GIVING THE TESTIMONY, THE OFFICER BEFORE WHOM THE TESTIMONY IS TO BE TAKEN, AND ANY STENOGRAPHER TAKING SUCH TESTIMONY.

(C) THE ORAL TESTIMONY OF ANY PERSON TAKEN PURSUANT TO A CIVIL INVESTIGATIVE DEMAND SHALL BE TAKEN IN THE COUNTY OF THE STATE IN WHICH SUCH PERSON RESIDES OR, IF SUCH PERSON RESIDES OUTSIDE THE STATE, IN THE JUDICIAL DISTRICT OF THE UNITED STATES WITHIN WHICH SUCH PERSON RESIDES, IS FOUND, OR TRANSACTS BUSINESS, OR IN SUCH OTHER PLACE AS MAY BE AGREED UPON BY THE INVESTIGATOR CONDUCTING THE EXAMINATION AND SUCH PERSON.

(D) WHEN THE TESTIMONY IS FULLY TRANSCRIBED, THE INVESTIGATOR OR THE OFFICER BEFORE WHOM THE TESTIMONY IS TAKEN SHALL AFFORD THE WITNESS, WHO MAY BE ACCOMPANIED BY AN ATTORNEY, A REASONABLE OPPORTUNITY TO EXAMINE AND READ THE TRANSCRIPT, UNLESS SUCH EXAMINATION AND READING ARE WAIVED BY THE WITNESS. ANY CHANGES IN FORM OR SUBSTANCE THAT THE WITNESS DESIRES SHALL BE ENTERED AND IDENTIFIED UPON THE TRANSCRIPT BY THE OFFICER OR THE INVESTIGATOR, WITH A STATEMENT OF THE REASONS GIVEN BY THE WITNESS FOR MAKING SUCH CHANGES. THE TRANSCRIPT SHALL THEN BE SIGNED BY THE WITNESS, UNLESS THE WITNESS IN WRITING WAIVES THE SIGNING, IS ILL, CANNOT BE FOUND, OR REFUSES TO SIGN. IF THE TRANSCRIPT IS NOT SIGNED BY THE WITNESS WITHIN THIRTY DAYS AFTER BEING AFFORDED A REASONABLE OPPORTUNITY TO EXAMINE IT, THE OFFICER OR THE INVESTIGATOR SHALL SIGN IT AND STATE ON THE RECORD THE FACT OF THE WAIVER, ILLNESS, ABSENCE OF THE WITNESS, OR THE REFUSAL TO SIGN, TOGETHER WITH THE REASONS, IF ANY, GIVEN THEREFOR.

(E) THE OFFICER BEFORE WHOM THE TESTIMONY IS TAKEN SHALL CERTIFY ON THE TRANSCRIPT THAT THE WITNESS WAS SWORN BY THE OFFICER AND THAT THE TRANSCRIPT IS A TRUE RECORD OF THE TESTIMONY GIVEN BY THE WITNESS. THE OFFICER OR INVESTIGATOR SHALL PROMPTLY DELIVER THE TRANSCRIPT, OR SEND THE TRANSCRIPT BY REGISTERED OR CERTIFIED MAIL, TO THE CUSTODIAN.

(F) UPON PAYMENT OF REASONABLE CHARGES THEREFOR, THE INVESTIGATOR SHALL FURNISH A COPY OF THE TRANSCRIPT TO THE WITNESS ONLY, EXCEPT THAT THE ATTORNEY GENERAL MAY, FOR GOOD CAUSE, LIMIT SUCH WITNESS TO INSPECTION OF THE OFFICIAL TRANSCRIPT OF THE WITNESS'S TESTIMONY.

(G) ANY PERSON COMPELLED TO APPEAR FOR ORAL TESTIMONY PURSUANT TO A CIVIL INVESTIGATIVE DEMAND MAY BE ACCOMPANIED, REPRESENTED, AND ADVISED BY AN ATTORNEY. THE ATTORNEY MAY ADVISE SUCH PERSON, IN CONFIDENCE, WITH RESPECT TO ANY QUESTION ASKED OF SUCH PERSON. SUCH PERSON OR ATTORNEY MAY OBJECT ON THE RECORD TO ANY QUESTION, IN WHOLE OR IN PART, AND SHALL BRIEFLY STATE FOR THE RECORD THE REASON FOR THE OBJECTION. AN OBJECTION MAY BE MADE, RECEIVED, AND ENTERED UPON THE RECORD ONLY WHEN IT IS CLAIMED THAT SUCH PERSON IS ENTITLED TO REFUSE TO ANSWER THE QUESTION ON THE GROUNDS OF ANY CONSTITUTIONAL OR OTHER LEGAL RIGHT OR PRIVILEGE, INCLUDING THE PRIVILEGE AGAINST SELF-INCRIMINATION. SUCH PERSON MAY NOT OTHERWISE OBJECT TO OR REFUSE TO ANSWER ANY QUESTION, AND MAY NOT, DIRECTLY OR THROUGH THE PERSON'S ATTORNEY, OTHERWISE INTERRUPT THE ORAL EXAMINATION. IF SUCH PERSON REFUSES TO ANSWER ANY QUESTION, A MOTION MAY BE FILED IN THE SUPREME COURT FOR AN ORDER COMPELLING SUCH PERSON TO ANSWER THE QUESTION.

(H) ANY PERSON APPEARING FOR ORAL TESTIMONY PURSUANT TO A CIVIL INVESTIGATIVE DEMAND SHALL BE ENTITLED TO THE SAME FEES AND ALLOWANCES THAT ARE PAID TO WITNESSES IN THE SUPREME COURT.

10. (A) THE ATTORNEY GENERAL SHALL DESIGNATE AN INVESTIGATOR TO SERVE AS CUSTODIAN OF DOCUMENTARY MATERIAL, ANSWERS TO INTERROGATORIES, AND TRANSCRIPTS OF ORAL TESTIMONY RECEIVED PURSUANT TO THIS SECTION, AND SHALL DESIGNATE SUCH ADDITIONAL INVESTIGATORS AS THE ATTORNEY GENERAL

DETERMINES FROM TIME TO TIME TO BE NECESSARY TO SERVE AS DEPUTIES TO THE CUSTODIAN.

(B) (1) AN INVESTIGATOR WHO RECEIVES ANY DOCUMENTARY MATERIAL, ANSWERS TO INTERROGATORIES, OR TRANSCRIPTS OF ORAL TESTIMONY PURSUANT TO THIS SECTION SHALL TRANSMIT THEM TO THE CUSTODIAN. THE CUSTODIAN SHALL TAKE PHYSICAL POSSESSION OF SUCH MATERIAL, ANSWERS, OR TRANSCRIPTS AND SHALL BE RESPONSIBLE FOR THE USE MADE OF THEM AND FOR THE RETURN OF DOCUMENTARY MATERIAL PURSUANT TO PARAGRAPH (D) OF THIS SUBDIVISION.

(2) THE CUSTODIAN MAY CAUSE THE PREPARATION OF SUCH COPIES OF SUCH DOCUMENTARY MATERIAL, ANSWERS TO INTERROGATORIES, OR TRANSCRIPTS OF ORAL TESTIMONY AS MAY BE REQUIRED FOR OFFICIAL USE BY ANY INVESTIGATOR OR ANY OTHER OFFICER OR EMPLOYEE OF THE DEPARTMENT OF LAW WHO IS AUTHORIZED FOR SUCH USE BY THE ATTORNEY GENERAL. SUCH MATERIAL, ANSWERS, AND TRANSCRIPTS MAY BE USED BY ANY AUTHORIZED INVESTIGATOR OR OTHER OFFICER OR EMPLOYEE IN CONNECTION WITH THE TAKING OF ORAL TESTIMONY PURSUANT TO THIS SECTION.

(3) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, NO DOCUMENTARY MATERIAL, ANSWERS TO INTERROGATORIES, OR TRANSCRIPTS OF ORAL TESTIMONY, OR COPIES THEREOF, WHILE IN THE POSSESSION OF THE CUSTODIAN, SHALL BE AVAILABLE FOR EXAMINATION BY ANY INDIVIDUAL OTHER THAN AN INVESTIGATOR OR OFFICER OR EMPLOYEE OF THE DEPARTMENT OF LAW AUTHORIZED PURSUANT TO SUBPARAGRAPH TWO OF THIS PARAGRAPH. THE PROHIBITION IN THE PRECEDING SENTENCE ON THE AVAILABILITY OF MATERIAL, ANSWERS, OR TRANSCRIPTS SHALL NOT APPLY IF CONSENT IS GIVEN BY THE PERSON WHO PRODUCED SUCH MATERIAL, ANSWERS, OR TRANSCRIPTS. NOTHING IN THIS SUBPARAGRAPH IS INTENDED TO PREVENT DISCLOSURE TO A DISTRICT ATTORNEY OR TO ANY OTHER AGENCY OF THE STATE FOR USE BY SUCH AGENCY IN FURTHERANCE OF ITS STATUTORY RESPONSIBILITIES. DISCLOSURE OF INFORMATION TO ANY AGENCY OTHER THAN A DISTRICT ATTORNEY SHALL BE ALLOWED ONLY UPON APPLICATION, MADE BY THE ATTORNEY GENERAL TO THE SUPREME COURT, SHOWING SUBSTANTIAL NEED FOR THE USE OF THE INFORMATION BY SUCH AGENCY IN FURTHERANCE OF ITS STATUTORY RESPONSIBILITIES AND AFTER GIVING THE INDIVIDUALS WHO PROVIDED THE INFORMATION AN OPPORTUNITY TO BE HEARD ON THE RELEASE OF THE INFORMATION.

(4) WHILE IN THE POSSESSION OF THE CUSTODIAN AND UNDER SUCH REASONABLE TERMS AND CONDITIONS AS THE ATTORNEY GENERAL SHALL PRESCRIBE, THE FOLLOWING SHALL APPLY:

(A) DOCUMENTARY MATERIAL AND ANSWERS TO INTERROGATORIES SHALL BE AVAILABLE FOR EXAMINATION BY THE PERSON WHO PRODUCED SUCH MATERIAL OR ANSWERS OR BY A REPRESENTATIVE OF THAT PERSON AUTHORIZED BY THAT PERSON TO EXAMINE SUCH MATERIAL AND ANSWERS; AND

(B) TRANSCRIPTS OF ORAL TESTIMONY SHALL BE AVAILABLE FOR EXAMINATION BY THE PERSON WHO PRODUCED SUCH TESTIMONY OR BY A REPRESENTATIVE OF THAT PERSON AUTHORIZED BY THAT PERSON TO EXAMINE SUCH TRANSCRIPTS.

(C) WHENEVER ANY ATTORNEY OF THE DEPARTMENT OF LAW IS CONDUCTING ANY OFFICIAL INVESTIGATION OR PROCEEDING, THE CUSTODIAN OF ANY DOCUMENTARY MATERIAL, ANSWERS TO INTERROGATORIES, OR TRANSCRIPTS OF ORAL TESTIMONY RECEIVED PURSUANT TO THIS SECTION MAY DELIVER TO SUCH ATTORNEY SUCH MATERIAL, ANSWERS, OR TRANSCRIPTS FOR OFFICIAL USE IN CONNECTION WITH ANY SUCH INVESTIGATION OR PROCEEDING AS SUCH ATTORNEY DETERMINES TO BE REQUIRED. UPON THE COMPLETION OF ANY SUCH INVESTIGATION OR PROCEEDING, SUCH ATTORNEY SHALL RETURN TO THE CUSTODIAN ANY SUCH MATERIAL, ANSWERS, OR TRANSCRIPTS SO DELIVERED THAT HAVE NOT PASSED INTO THE CONTROL OF ANY COURT OR AGENCY THROUGH INTRODUCTION INTO THE RECORD OF ANY CASE OR PROCEEDING.

(D) IF ANY DOCUMENTARY MATERIAL HAS BEEN PRODUCED BY ANY PERSON IN THE COURSE OF ANY INVESTIGATION PURSUANT TO A CIVIL INVESTIGATIVE DEMAND,

AND ANY CASE OR PROCEEDING BEFORE A COURT ARISING OUT OF SUCH INVESTIGATION, OR ANY PROCEEDING BEFORE ANY STATE GOVERNMENT AGENCY OR POLITICAL SUBDIVISION INVOLVING SUCH MATERIAL, HAS BEEN COMPLETED, OR NO CASE OR PROCEEDING IN WHICH SUCH MATERIAL MAY BE USED HAS BEEN COMMENCED WITHIN A REASONABLE TIME AFTER COMPLETION OF THE EXAMINATION AND ANALYSIS OF ALL DOCUMENTARY MATERIAL AND OTHER INFORMATION ASSEMBLED IN THE COURSE OF SUCH INVESTIGATION, THE CUSTODIAN SHALL, UPON WRITTEN REQUEST OF THE PERSON WHO PRODUCED SUCH MATERIAL, RETURN TO SUCH PERSON ANY SUCH MATERIAL (OTHER THAN COPIES FURNISHED TO THE INVESTIGATOR PURSUANT TO PARAGRAPH (B) OF SUBDIVISION SEVEN OF THIS SECTION OR MADE FOR THE DEPARTMENT OF LAW PURSUANT TO SUBPARAGRAPH TWO OF PARAGRAPH (B) OF THIS SUBDIVISION), WHICH HAS NOT PASSED INTO THE CONTROL OF ANY COURT OR AGENCY THROUGH INTRODUCTION INTO THE RECORD OF SUCH CASE OR PROCEEDING.

(E) (1) IN THE EVENT OF THE DEATH, DISABILITY, OR SEPARATION FROM SERVICE IN THE DEPARTMENT OF LAW OF THE CUSTODIAN OF ANY DOCUMENTARY MATERIAL, ANSWERS TO INTERROGATORIES, OR TRANSCRIPTS OF ORAL TESTIMONY PRODUCED PURSUANT TO A CIVIL INVESTIGATIVE DEMAND ISSUED PURSUANT TO THIS SECTION, OR IN THE EVENT OF THE OFFICIAL RELIEF OF SUCH CUSTODIAN FROM RESPONSIBILITY FOR THE CUSTODY AND CONTROL OF SUCH MATERIAL, ANSWERS, OR TRANSCRIPTS, THE ATTORNEY GENERAL SHALL PROMPTLY DO THE FOLLOWING:

(A) DESIGNATE ANOTHER INVESTIGATOR TO SERVE AS CUSTODIAN OF SUCH MATERIAL, ANSWERS, OR TRANSCRIPTS; AND

(B) TRANSMIT IN WRITING TO THE PERSON WHO PRODUCED SUCH MATERIAL, ANSWERS, OR TESTIMONY NOTICE OF THE IDENTITY AND ADDRESS OF THE SUCCESSOR SO DESIGNATED.

(2) ANY PERSON WHO IS DESIGNATED TO BE A SUCCESSOR PURSUANT TO THIS PARAGRAPH SHALL HAVE, WITH REGARD TO SUCH MATERIAL, ANSWERS, OR TRANSCRIPTS, THE SAME DUTIES AND RESPONSIBILITIES AS WERE IMPOSED BY THIS SECTION UPON THAT PERSON'S PREDECESSOR IN OFFICE, EXCEPT THAT THE SUCCESSOR SHALL NOT BE HELD RESPONSIBLE FOR ANY DEFAULT OR DERELICTION THAT OCCURRED BEFORE THAT DESIGNATION.

11. (A) WHENEVER ANY PERSON FAILS TO COMPLY WITH ANY CIVIL INVESTIGATIVE DEMAND, OR WHENEVER SATISFACTORY COPYING OR REPRODUCTION OF ANY MATERIAL REQUESTED IN SUCH DEMAND CANNOT BE DONE AND SUCH PERSON REFUSES TO SURRENDER SUCH MATERIAL, THE ATTORNEY GENERAL MAY FILE IN THE SUPREME COURT AND SERVE UPON SUCH PERSON A MOTION FOR AN ORDER OF SUCH COURT FOR THE ENFORCEMENT OF THE CIVIL INVESTIGATIVE DEMAND.

(B) (1) ANY PERSON WHO RECEIVES A CIVIL INVESTIGATIVE DEMAND MAY FILE IN THE SUPREME COURT AND SERVE UPON THE INVESTIGATOR IDENTIFIED IN SUCH DEMAND A MOTION FOR AN ORDER OF THE COURT TO MODIFY OR SET ASIDE SUCH DEMAND. ANY ORDER ISSUED PURSUANT TO THIS SUBPARAGRAPH MUST BE FILED:

(A) WITHIN TWENTY DAYS AFTER THE DATE OF SERVICE OF THE CIVIL INVESTIGATIVE DEMAND, OR AT ANY TIME BEFORE THE RETURN DATE SPECIFIED IN THE DEMAND, WHICHEVER DATE IS EARLIER; OR

(B) WITHIN SUCH LONGER PERIOD AS MAY BE PRESCRIBED IN WRITING BY ANY INVESTIGATOR IDENTIFIED IN THE DEMAND.

(2) THE MOTION SHALL SPECIFY EACH GROUND UPON WHICH THE MOVANT RELIES IN SEEKING RELIEF PURSUANT TO SUBPARAGRAPH ONE OF THIS PARAGRAPH, AND MAY BE BASED UPON ANY FAILURE OF THE DEMAND, OR ANY PARTICULAR PORTION THEREOF, TO COMPLY WITH THE PROVISIONS OF THIS SECTION OR UPON ANY CONSTITUTIONAL OR OTHER LEGAL RIGHT OR PRIVILEGE OF SUCH PERSON. DURING THE PENDENCY OF THE MOTION IN THE COURT, THE COURT MAY STAY, AS IT DEEMS PROPER, THE RUNNING OF THE TIME ALLOWED FOR COMPLIANCE WITH THE DEMAND, IN WHOLE OR IN PART, EXCEPT THAT THE PERSON FILING THE MOTION SHALL

COMPLY WITH ANY PORTIONS OF THE DEMAND NOT SOUGHT TO BE MODIFIED OR SET ASIDE.

(C) AT ANY TIME DURING WHICH ANY CUSTODIAN IS IN CUSTODY OR CONTROL OF ANY DOCUMENTARY MATERIAL OR ANSWERS TO INTERROGATORIES PRODUCED, OR TRANSCRIPTS OF ORAL TESTIMONY GIVEN, BY ANY PERSON IN COMPLIANCE WITH ANY CIVIL INVESTIGATIVE DEMAND, SUCH PERSON MAY FILE IN THE SUPREME COURT AND SERVE UPON SUCH CUSTODIAN, A MOTION FOR AN ORDER OF SUCH COURT TO REQUIRE THE PERFORMANCE BY THE CUSTODIAN OF ANY DUTY IMPOSED UPON THE CUSTODIAN BY THIS SECTION.

(D) WHENEVER ANY MOTION IS FILED IN SUPREME COURT, SUCH COURT SHALL HAVE JURISDICTION TO HEAR AND DETERMINE THE MATTER SO PRESENTED, AND TO ENTER SUCH ORDER OR ORDERS AS MAY BE REQUIRED TO CARRY OUT THE PROVISIONS OF THIS SECTION. ANY FINAL ORDER SO ENTERED SHALL BE SUBJECT TO APPEAL. ANY DISOBEDIENCE OF ANY FINAL ORDER ENTERED PURSUANT TO THIS SECTION BY ANY COURT SHALL BE PUNISHED AS CONTEMPT OF COURT.

(E) THE CIVIL PRACTICE LAW AND RULES SHALL APPLY TO ANY MOTION ISSUED PURSUANT TO THIS SUBDIVISION, TO THE EXTENT THAT SUCH LAW AND RULES ARE NOT INCONSISTENT WITH THE PROVISIONS OF THIS SECTION.

S 255. EVIDENTIARY STANDARDS. A DETERMINATION THAT A PERSON HAS VIOLATED THE PROVISIONS OF THIS ARTICLE SHALL BE BASED ON A PREPONDERANCE OF THE EVIDENCE.

S 256. PERIOD OF LIMITATIONS. A FALSE CLAIMS ACTION PURSUANT TO THIS ARTICLE SHALL BE BROUGHT WITHIN SIX YEARS AFTER THE DATE ON WHICH THE FALSE CLAIM IS DISCOVERED OR BY EXERCISE OF REASONABLE DILIGENCE SHOULD HAVE BEEN DISCOVERED AND, IN ANY EVENT, NO MORE THAN TEN YEARS AFTER THE DATE ON WHICH THE VIOLATION OF THIS ARTICLE IS COMMITTED.

S 257. JURISDICTION. 1. NO COURT SHALL HAVE JURISDICTION OVER AN ACTION UNDER THIS ARTICLE BASED UPON THE PUBLIC DISCLOSURE OF ALLEGATIONS OR TRANSACTIONS IN A CRIMINAL, CIVIL, OR ADMINISTRATIVE HEARING, IN A LEGISLATIVE OR ADMINISTRATIVE REPORT, HEARING, AUDIT, OR INVESTIGATION, OR FROM THE NEWS MEDIA, UNLESS THE ACTION IS BROUGHT BY THE ATTORNEY GENERAL OR THE PERSON BRINGING THE ACTION IS AN ORIGINAL SOURCE OF THE INFORMATION.

2. FOR PURPOSES OF THIS SECTION AND ARTICLE: "ORIGINAL SOURCE" MEANS AN INDIVIDUAL WHO HAS DIRECT AND INDEPENDENT KNOWLEDGE OF THE INFORMATION ON WHICH THE ALLEGATIONS ARE BASED AND HAS VOLUNTARILY PROVIDED THE INFORMATION TO THE STATE BEFORE FILING AN ACTION UNDER THIS ARTICLE THAT IS BASED ON THE INFORMATION, AND WHOSE INFORMATION PROVIDED THE BASIS OR CATALYST FOR THE INVESTIGATION, HEARING, AUDIT, OR REPORT THAT LED TO THE PUBLIC DISCLOSURE.

S 258. NONEXCLUSIVITY. THE PROVISIONS OF THIS ARTICLE ARE NOT EXCLUSIVE AND ARE IN ADDITION TO ANY OTHER APPLICABLE LAW OR REMEDY. THIS ARTICLE SHALL BE LIBERALLY CONSTRUED AND APPLIED TO PROMOTE THE PUBLIC INTEREST.

S 259. SEVERABILITY. IF ANY PROVISION OF THIS ARTICLE OR THE APPLICATION THEREOF TO ANY PERSON OR BUSINESS ENTITY OR CIRCUMSTANCE IS HELD INVALID, VOID, OR UNCONSTITUTIONAL BY A COURT OF COMPETENT JURISDICTION, SUCH HOLDING SHALL NOT AFFECT THE VALIDITY OR CONSTITUTIONALITY OF OTHER PROVISIONS OR APPLICATIONS OF THIS ARTICLE WHICH CAN BE GIVEN EFFECT WITHOUT SUCH INVALID, VOID, OR UNCONSTITUTIONAL PROVISION OR APPLICATION, IT BEING HEREBY EXPRESSLY DECLARED THAT THIS ARTICLE AND EACH PROVISION THEREOF WOULD HAVE BEEN ADOPTED IRRESPECTIVE OF THE FACT THAT ANY ONE OR MORE OTHER PROVISIONS BE DECLARED INVALID OR UNCONSTITUTIONAL.

S 2. The state finance law is amended by adding a new section 99-q to read as follows:

S 99-Q. WHISTLEBLOWER REWARD AND PROTECTION FUND. 1. THERE IS HEREBY ESTABLISHED A WHISTLEBLOWER REWARD AND PROTECTION FUND TO BE OPERATED AS AN ENTERPRISE FUND WITH ASSETS NOT TO EXCEED TWO MILLION DOLLARS AT ANY TIME. THE FUND SHALL CONSIST OF CRIMINAL FINES, CIVIL PENALTIES, AND DAMAGES COLLECTED IN CASES BROUGHT PURSUANT TO ARTICLE SEVENTEEN OF THIS CHAPTER, OTHER THAN FUNDS AWARDED TO A COOPERATOR OR FOR RESTITUTION TO A PARTICULAR AGENCY IN THE AMOUNT OF THE ACTUAL LOSS TO THAT AGENCY. SUCH FUNDS (WITH THE EXCEPTION OF AMOUNTS FOR AN AWARD TO A COOPERATOR OR RESTITUTION TO A PROGRAM) SHALL BE DEPOSITED IN THE FUND UPON RECEIPT. MONIES IN THE FUND SHALL NOT REVERT TO THE GENERAL FUND AT THE END OF ANY FISCAL YEAR, BUT SHALL REMAIN AVAILABLE FOR THE PURPOSES SET FORTH IN THIS SECTION. ANY BALANCE IN EXCESS OF THAT ALLOWED THE FUND BY THIS SECTION SHALL BE DEPOSITED IN THE GENERAL FUND.

2. AMOUNTS IN THE FUND SHALL BE AVAILABLE FOR USE BY THE DEPARTMENT OF LAW AND THE DIVISION OF STATE POLICE TO CARRY OUT THE ENFORCEMENT OF ARTICLE SEVENTEEN OF THIS CHAPTER, INCLUDING ALL COSTS REASONABLY RELATED TO PROSECUTING CASES AND CONDUCTING INVESTIGATIONS PURSUANT TO ARTICLE SEVENTEEN OF THIS CHAPTER.

3. THE FUND SHALL BE AUDITED ANNUALLY BY THE COMPTROLLER.

4. IT IS INTENDED THAT DISBURSEMENTS MADE FROM THE FUND TO THE DEPARTMENT OF LAW OR OTHER APPROPRIATE AGENCY BE USED TO SUPPLEMENT AND NOT SUPPLANT SAID DEPARTMENT'S APPROPRIATED OPERATING BUDGET.

5. THE FUND SHALL BE FUNDED INITIALLY BY APPROPRIATION OF ONE HUNDRED THOUSAND DOLLARS; PROVIDED, HOWEVER, THAT NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION, THE FIRST ONE HUNDRED THOUSAND DOLLARS DEPOSITED TO THE CREDIT OF THE FUND AFTER SUCH INITIAL APPROPRIATION SHALL BE REIMBURSED TO THE GENERAL FUND.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become law; provided that any rule or regulation necessary for the timely implementation of this act on its effective date shall be promulgated on or before such effective date.