

# STATE OF NEW YORK

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7989

2017-2018 Regular Sessions

## IN ASSEMBLY

May 24, 2017

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Introduced by M. of A. BARNWELL, WEINSTEIN -- (at request of the Department of Law) -- read once and referred to the Committee on Judiciary

AN ACT to amend the state finance law, in relation to adjustment of penalties due to inflation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings and intent. The legislature finds that  
2 adjustment of the minimum and maximum penalty amounts provided in New  
3 York's False Claims Act is necessary in order for New York to maintain  
4 compliance with the federal Deficit Reduction Act of 2005, Social Security Act § 1090(a) (the "DRA") by providing for penalty provisions  
5 equally effective to the federal False Claims Act. The federal False  
6 Claims Act, amended effective August 1, 2016, provides for adjustment of  
7 federal civil penalties based on inflation; the New York False Claims  
8 Act currently provides only for fixed penalties. When state law is  
9 compliant with the DRA, the state is entitled to receive a greater  
10 percentage share of recoveries from enforcement actions concerning Medicaid program funds, regardless of the actual amount of penalty imposed.  
11 When state law falls out of compliance, the state is at risk of losing  
12 tens of millions of dollars annually. It is the legislative intent that  
13 this act maintains the state's compliance with federal Deficit Reduction  
14 Act and federal False Claims Act penalties without the need for legislation enactments to adjust for inflation.

15 § 2. Paragraph (h) of subdivision 1 of section 189 of the state  
16 finance law, as amended by section 8 of part A of chapter 56 of the laws  
17 of 2013, is amended to read as follows:

18 (h) knowingly conceals or knowingly and improperly avoids or decreases  
19 an obligation to pay or transmit money or property to the state or a  
20 local government, or conspires to do the same; shall be liable to the  
21 state or a local government, as applicable, for a civil penalty of not  
22 less than six thousand dollars and not more than twelve thousand  
23 dollars.

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

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1 dollars, except that these lower and upper limits on liability shall  
2 automatically be adjusted to equal the civil penalty allowed under the  
3 federal False Claims Act, 31 U.S.C. sec. 3729, et seq., as amended, if  
4 and as the penalties in said federal False Claims Act are adjusted for  
5 inflation by the Federal Civil Penalties Inflation Adjustment Act of  
6 1990, as amended (28 U.S.C. 2461 note; Pub. L. No. 101-410), plus three  
7 times the amount of all damages, including consequential damages, which  
8 the state or local government sustains because of the act of that  
9 person.

10 § 3. This act shall take effect immediately.