STATE OF NEW YORK

1431

2021-2022 Regular Sessions

IN ASSEMBLY

January 11, 2021

Introduced by M. of A. DINOWITZ, GRIFFIN, ENGLEBRIGHT, GALEF, ABINANTI, SEAWRIGHT -- Multi-Sponsored by -- M. of A. McDONOUGH -- read once and referred to the Committee on Judiciary

AN ACT to amend the state finance law, in relation to increasing the amount of the award to a person who initiates a qui tam action where such action includes disclosure of information related to the use of government funds during a state of emergency

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

Section 1. Paragraphs (a) and (b) of subdivision 6 of section 190 of the state finance law, as amended by section 9-b of part A of chapter 56 of the laws of 2013, are amended to read as follows:

(a) If the attorney general elects to convert the qui tam civil action into an attorney general enforcement action, or to permit a local government to convert the action into a civil enforcement action by such local government, or if the attorney general or a local government elects to intervene in the qui tam civil action, then the person or persons who initiated the qui tam civil action collectively shall be entitled to receive between fifteen and twenty-five percent of the proceeds recovered in the action or in settlement of the action. The court shall determine the percentage of the proceeds to which a person commencing a qui tam civil action is entitled, by considering the extent to which the plaintiff substantially contributed to the prosecution of the action. Where the court finds that the action was 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 or administrative 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 or persons

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

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bringing the action in advancing the case to litigation. **Where the court finds that the action was based on disclosure of specific information related to the use of government funds during a declaration of a state of emergency, the court shall increase the percentage of the proceeds to which the person commencing such qui tam civil action is entitled by up to five percent more than the maximum percentage allowed pursuant to this paragraph.** Any such person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, reasonable attorneys' fees, and costs pursuant to article eighty-one of the civil practice law and rules. All such expenses, fees, and costs shall be awarded against the defendant.

(b) If the attorney general or a local government does not elect to intervene or convert the action, and the action is successful, then the person or persons who initiated the qui tam action which obtains proceeds shall be entitled to receive between twenty-five and thirty percent of the proceeds recovered in the action or settlement of the action. The court shall determine the percentage of the proceeds to which a person commencing a qui tam civil action is entitled, by considering the extent to which the plaintiff substantially contributed to the prosecution of the action. **Where the court finds that the action was based on disclosure of specific information related to the use of government funds during a declaration of a state of emergency, the court shall increase the percentage of the proceeds to which the person commencing such qui tam civil action is entitled by up to ten percent more than the maximum percentage allowed pursuant to this paragraph.** Such person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, reasonable attorneys' fees, and costs pursuant to article eighty-one of the civil practice law and rules. All such expenses, fees, and costs shall be awarded against the defendant.

§ 2. This act shall take effect immediately.