

STATE OF NEW YORK

1120

2021-2022 Regular Sessions

IN SENATE

January 7, 2021

Introduced by Sen. KAMINSKY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

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:

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

4 (a) If the attorney general elects to convert the qui tam civil action
5 into an attorney general enforcement action, or to permit a local
6 government to convert the action into a civil enforcement action by such
7 local government, or if the attorney general or a local government
8 elects to intervene in the qui tam civil action, then the person or
9 persons who initiated the qui tam civil action collectively shall be
10 entitled to receive between fifteen and twenty-five percent of the
11 proceeds recovered in the action or in settlement of the action. The
12 court shall determine the percentage of the proceeds to which a person
13 commencing a qui tam civil action is entitled, by considering the extent
14 to which the plaintiff substantially contributed to the prosecution of
15 the action. Where the court finds that the action was based primarily on
16 disclosures of specific information (other than information provided by
17 the person bringing the action) relating to allegations or transactions
18 in a criminal, civil or administrative hearing, in a legislative or
19 administrative report, hearing, audit or investigation, or from the news
20 media, the court may award such sums as it considers appropriate, but in
21 no case more than ten percent of the proceeds, taking into account the
22 significance of the information and the role of the person or persons
23 bringing the action in advancing the case to litigation. Where the court

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

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

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

30 § 2. This act shall take effect immediately.