STATE OF NEW YORK

8815

IN SENATE

April 20, 2022

Introduced by Sen. KRUEGER -- 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 the liability of a person who presents false claims for money or property to the state or a local government

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 4 of section 189 of the state finance law, as amended by section 8 of part A of chapter 56 of the laws of 2013, are amended to read as follows:

(a) This section shall apply to claims, records, [~~or~~] statements**, and obligations** made under the tax law only if**:** (i) the net income or sales of the person against whom the action is brought equals or exceeds one million dollars for any taxable year subject to any action brought pursuant to this article; (ii) the damages pleaded in such action exceed three hundred and fifty thousand dollars; [~~and (iii) the person is alleged to have violated paragraph (a), (b), (c), (d), (e), (f) or (g) of subdivision one of this section; provided, however, that nothing in this subparagraph shall be deemed to modify or restrict the application of such paragraphs to any act alleged that relates to a violation of the tax law~~] **and (iii) for purposes of such application to paragraph (h) of subdivision one of this section, knowledge shall not be established because of an act occurring by mistake or as a result of mere negligence**.

(b) The attorney general shall consult with the commissioner of the department of taxation and finance prior to filing or intervening in any action under this article that is based on the filing of false claims, records or statements made under the tax law **on any knowing violation of the tax law**. If the state declines to participate or to authorize participation by a local government in such an action pursuant to subdivision two of section one hundred ninety of this article, the qui tam plaintiff must obtain approval from the attorney general before making any motion to compel the department of taxation and finance to disclose tax records. **No qui tam action allowed by this subparagraph that**

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

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alleges a violation of paragraph (h) of subdivision one of this section shall be allowed that is otherwise barred under paragraph (a) of subdivision nine of section one hundred ninety of this article. If the attorney general or a local government does not proceed with a qui tam action alleging a violation of paragraph (h) of subdivision one of this section, and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' 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.

§ 2. This act shall take effect immediately and shall apply to all false claims, records, statements and obligations concealed, avoided or decreased on, prior to, or after such effective date.