

State False Claims Act Laws With Provisions Regarding State Use of Proceeds and Recovery of State Expenses

- **California** – California’s False Claims Act (FCA) specifies that proceeds will be deposited into a “False Claims Act Fund” and that, “upon appropriation by the legislature,” the California Attorney General can use these funds to support FCA investigations and prosecutions. See Cal. Government Code § 12652(j).
- **Florida** – Florida’s FCA states that any defrauded agency “shall be awarded an amount not to exceed its compensatory damages,” and that any remaining proceeds “shall be deposited in the General Revenue Fund.” Florida’s FCA also provides that the State “shall be awarded its reasonable attorney’s fees, expenses and costs,” should the State initiate an FCA suit or assume control of a *qui tam* action. See Fla. Stat. §§ 68.085(4) and 68.086(1).
- **Georgia** – Georgia has a Medicaid-only FCA, which provides that proceeds will be added to the “Indigent Care Trust Fund,” a state fund to provide healthcare to indigent Georgia residents. See Ga. Code. § 49-4-168.2(i)(1) and (2).
- **Hawaii** – The Hawaii FCA makes clear that in addition to damages and civil penalties, those who violate the Act will also be liable to the state for the costs and attorneys’ fees of a civil action brought to recover the penalty or damages. See Haw. Rev. Stat. § 46-171(b)(3).
- **Illinois** – The Illinois FCA states that “[t]he State shall receive an amount for reasonable expenses that the court finds to have been necessarily incurred by the Attorney General, including reasonable attorneys’ fees and costs. All such expenses, fees and costs shall be awarded against the defendant.” See Ill. Comp. Stat. 175/4. The Act also creates a “Whistleblower Reward and Protection Fund,” in which all proceeds will be deposited, and specifies that, “subject to appropriation,” one-sixth of the proceeds deposited into the fund will be paid to the Illinois Attorney General’s Office, one-sixth will go to the Department of State Police, and the rest will go to the State’s general revenue fund. See 740 Ill. Comp. Stat. 175/8.

- **Louisiana** – Louisiana’s healthcare-only FCA provides that those found liable for violating the Act will also be liable “for all costs, expenses, and fees related to investigations and proceedings associated with the violation, including attorney fees,” and specifies that the Secretary of the State’s Department of Health and Hospitals or the State Attorney General “shall promptly remit awards for the costs, expenses, and fees incurred by the various clerks of court or sheriffs involved in the investigations or proceedings to the appropriate clerk or sheriff. See La. Rev. Stat. § 438.6D. The Louisiana statute also creates a “Medical Assistance Programs Fraud Detection Fund” and states that after the defrauded medical assistance program has been made whole, any remaining proceeds will be deposited into the fund, with 50% of the money going to the Medicaid Fraud Control Unit in the State Attorney General’s Office and the other 50% going to the State’s Department of Health and Hospitals. See La. Rev. Stat. § 440.1.
- **Maryland** – Maryland’s FCA states that when the State files a civil action under the statute, the State may recover its court costs and attorney’s fees. See Md. Code Ann. Health – Gen. § 2-603(b)(2). The Maryland FCA also states that all proceeds will be deposited “in the General Fund of the States.” See Md. Code Ann. Health – Gen. § 2-610.
- **Massachusetts** – The Massachusetts FCA states that in addition to civil penalties and treble damages, those who violate the statute “shall also be liable to the commonwealth or any political subdivision for the expenses of the civil action brought to recover any such penalty or damages, including without limitation reasonable attorney’s fees, reasonable expert’s fees and the costs of investigation.” See Mass. Gen. laws ch. 12, § 5B. The statute also states that all proceeds will be deposited in a “False Claims Prosecution Fund.” See Mass. Gen. laws ch. 12, §§ 5H and 5I.
- **Michigan** – Michigan has a Medicaid-only FCA that states that, after restitution to Medicaid (*i.e.* “the state’s funding match for the medicaid fraud control unit”) is paid, the State Attorney General “may recover all costs this State incurs in the litigation and recovery of medicaid restitution under this act, including the cost of investigation and attorney fees.” Any remaining amounts “shall be deposited in the Michigan medicaid benefits trust fund.” See Mich. Comp. Laws. § 400.610b.
- **Minnesota** – Minnesota’s FCA states that if the State prevails in a State FCA action, then “the court may authorize the prosecuting attorney . . . to recover reasonable costs, reasonable attorney fees, and the reasonable fees of expert consultants and expert witnesses.” See Minn. Stat. § 15C.12.
- **Montana** – The Montana FCA specifies that those who violate the statute are “also liable to the governmental entity for the expenses, costs, and attorney fees of the civil action brought to recover the penalty or damages.” See Mont. Code §

17-8-403(2)(b). The statute also states that all proceeds will be deposited with the defrauded governmental entity, except that if a trust fund of the entity suffers the loss, then the trust fund must first be reimbursed and the governmental entity will receive any remaining funds. See Mont. Code § 17-8-410(6).

- **Nevada** – Nevada’s FCA states that proceeds will be deposited into the State General Fund and/or into the general fund of any defrauded political subdivision. The Nevada FCA also provides that if the State Attorney General initiates the FCA action, then the Attorney General will receive 33% of any proceeds to use for FCA investigations and prosecutions. See Nev. Rev. Stat. §§ 357.200 and 357.230.
- **New Hampshire** – The New Hampshire FCA states that those who violate the statute “shall also be liable to the state for the costs and attorneys’ fees arising from any civil action brought to recover the penalty or damages.” See N.H. Rev. Stat. § 167:61-b(II)(b).
- **New Jersey** – The New Jersey FCA states that if the State Attorney General initiates an FCA action or assumes control of a *qui tam* action, then “the Attorney General shall be awarded reasonable attorney’s fees, expenses, and costs. All such expenses, fees, and costs shall be awarded against the defendant.” See N.J. Rev. Stat. § 2A:32C-8. New Jersey’s FCA also states that the “State entity injured by the submission of a false claim shall be awarded an amount not to exceed its compensatory damages,” and that any remaining funds will be deposited in the State General Fund. If the State FCA claim was based on Medicaid fraud, then 15% of the funds deposited in the State General Fund will be sent to the “Medicaid Fraud Control Fund.” And if the State Attorney General brought the FCA claim, regardless of the subject matter, then the Attorney General’s office will receive “a fixed 10% of the proceeds in any action or settlement of the claim that it brings, which shall be deposited in the ‘False Claims Prosecution Fund.’” The False Claims Prosecution Fund is described as “a nonlapsing revolving fund in the Department of the Treasury” that the Attorney General can draw from to support FCA investigations and prosecutions. See N.J. Rev. Stat. § 2A:32C-7.
- **New Mexico** – New Mexico has both a Medicaid FCA and a more general “Fraud Against Taxpayers Act.” New Mexico’s Medicaid FCA specifies that proceeds – as well as the State’s “legal fees or costs of investigation” – will be remitted to the state’s general fund “to be used for the state’s Medicaid program,” except that the State Attorney General’s office can claim any civil penalties recovered under the statute. See N.M. Stat. § 27-14-15. The State’s Fraud Against Taxpayers Act requires that civil penalties be deposited in a school fund, and that all other proceeds must first be “returned to the fund from which the money, property or services came.” Then, half of any remaining funds would go to the Attorney General to use in furtherance of that Act and the other half would go to the state’s general fund. See N.M. Stat. § 44-9-7.

- **New York** – The New York FCA provides that “the court may award the attorney general, on behalf of the people of the state of New York, and any local government that participates as a party in the action, and any person who is a qui tam plaintiff, an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys’ fees, plus costs” and that “[a]ll such expenses, fees and costs shall be awarded directly against the defendant and shall not be charged from the proceeds, but shall only be awarded if the state or a local government or the qui tam civil action plaintiff prevails in the action.” N.Y. State Finance Law § 190(7).
- **North Carolina** – The North Carolina FCA states that Attorney General can retain a portion of the proceeds as reimbursement for costs and attorneys’ fees incurred in investigating and bringing an action. See N.C. Gen. Stat. § 1-608(c).
- **Rhode Island** – Rhode Island’s FCA creates a special false claims act fund, in which all proceeds will be deposited. See R.I. Gen. Laws § 9-1.1-8.
- **Tennessee** – The Tennessee FCA states that if the State Attorney General and/or another prosecuting authority initiated the action, prosecuted the action together, or intervened in a *qui tam* action, then the State Attorney General and/or the other prosecuting authority will receive a fixed 33% of the proceeds, which will be deposited in a False Claims Act Fund to support FCA investigations and prosecutions. All remaining proceeds will revert to the state and/or any defrauded political subdivision. See Tenn. Code § 4-18-104(g).
- **Texas** – The Texas FCA states that proceeds will be deposited “in the State Treasury to the credit of the General Revenue Fund.” See Texas Human Resources Code § 32.039(t). The statute also allows the State Attorney General to “recover fees, expenses, and costs reasonably incurred in obtaining injunctive relief or civil remedies or in conducting investigations under this chapter, including court costs, reasonable attorney’s fees, witness fees, and deposition fees.” See Texas Human Resources Code § 36.007.
- **Virginia** – The Virginia FCA states that “[a] person violating this section shall be liable to the Commonwealth for reasonable attorney fees and costs of a civil action brought to recover any such penalties or damages. All such fees and costs shall be paid to the Attorney General’s Office by the defendant and shall not be included in any damages or civil penalties recovered in a civil action based on a violation of this section.” See Va. Code § 801-216.3(A).
- **Washington, D.C.** – The District of Columbia’s FCA states that when the District’s Corporation Counsel conducts the action, 25% of the proceeds will go into the District’s “Antifraud Fund,” to be used by the corporation Counsel “to carry out the enforcement of this chapter, including all costs reasonably related to prosecuting cases and conducting investigations pursuant to this chapter.” Any remaining fund shall be deposited in the District of Columbia Treasury. See D.C. Code §§ 2.308-15(f) and 2.308-20.