

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1196

Introduced by Assembly Member Blumenfield

February 27, 2009

An act to amend Sections 12650, 12651, 12652, and 12654 of the Government Code, relating to the False Claims Act.

LEGISLATIVE COUNSEL'S DIGEST

AB 1196, as amended, Blumenfield. The False Claims Act.

Existing law, the False Claims Act, provides that a person who commits any one of several enumerated acts relating to the submission to the state or a political subdivision of the state a false claim for money, property, or services, as specified, shall be liable to the state or political subdivision for certain damages and may be liable for a civil penalty. Existing law also authorizes the Attorney General or the prosecuting authority of a political subdivision of the state to intervene in an action filed by a qui tam plaintiff under these provisions.

This bill would expand these provisions to include as a "claim" any record or statement used to conceal, avoid, or decrease an obligation to pay or transmit money or property to the state or any political subdivision, and to require the imposition of a civil penalty on a person found liable for a violation. This bill would exclude from these provisions specified claims to the Commissioner of Insurance.

This bill would require the written consent of the Attorney General or prosecuting authority of a political subdivision, or both, as appropriate under the allegations of the civil action, to dismiss an action filed by a qui tam plaintiff, and would prohibit the waiver or release of

specified claims except as part of a settlement of a civil action filed under these provisions.

This bill would also authorize an intervening Attorney General or prosecuting authority of a political subdivision to file its own complaint in intervention or amend the complaint filed by the qui tam plaintiff, and modify the statute of limitations to commence on the date of discovery by the Attorney General or prosecuting authority of a political subdivision.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12650 of the Government Code is
2 amended to read:
3 12650. (a) This article shall be known and may be cited as the
4 False Claims Act.
5 (b) For purposes of this article:
6 (1) "Claim" includes any request or demand for money,
7 property, or services made to any employee, officer, or agent of
8 the state or of any political subdivision, or to any contractor,
9 grantee, or other recipient, whether under contract or not, if any
10 portion of the money, property, or services requested or demanded
11 issued from, or was provided, appropriated, administered,
12 expended, or will be reimbursed directly or indirectly by the state
13 (hereinafter "state funds") or by any political subdivision thereof
14 (hereinafter "political subdivision funds"). "Claim" also includes
15 any record or statement used to conceal, avoid, or decrease an
16 obligation to pay or transmit money or property to the state or any
17 political subdivision.
18 (2) "Knowing" and "knowingly" mean that a person, with
19 respect to information, does any of the following:
20 (A) Has actual knowledge of the information.
21 (B) Acts in deliberate ignorance of the truth or falsity of the
22 information.
23 (C) Acts in reckless disregard of the truth or falsity of the
24 information.
25 Proof of specific intent to defraud is not required.

1 (3) "Political subdivision" includes any city, city and county,
2 county, tax or assessment district, or other legally authorized local
3 governmental entity with jurisdictional boundaries.

4 (4) "Prosecuting authority" refers to the county counsel, city
5 attorney, or other local government official charged with
6 investigating, filing, and conducting civil legal proceedings on
7 behalf of, or in the name of, a particular political subdivision.

8 (5) "Person" includes any natural person, corporation, firm,
9 association, organization, partnership, limited liability company,
10 business, or trust.

11 SEC. 2. Section 12651 of the Government Code is amended
12 to read:

13 12651. (a) Any person who commits any of the following
14 enumerated acts in this subdivision shall have violated this article
15 and shall be liable to the state or to the political subdivision for
16 three times the amount of damages because of the act of that
17 person. A person who commits any of the following enumerated
18 acts shall also be liable to the state or to the political subdivision
19 for the costs of a civil action brought to recover any of those
20 penalties or damages, and shall be liable to the state or political
21 subdivision for a civil penalty of not less than five thousand dollars
22 (\$5,000) and not more than ten thousand dollars (\$10,000) for each
23 violation:

24 (1) Knowingly presents or causes to be presented to an officer
25 or employee of the state or of any political subdivision thereof, a
26 false claim for payment or approval.

27 (2) Knowingly makes, uses, or causes to be made or used a false
28 record or statement to get a false claim paid or approved by the
29 state or by any political subdivision.

30 (3) Conspires to commit a violation of this subdivision.

31 (4) Has possession, custody, or control of public property or
32 money used or to be used by the state or by any political
33 subdivision and knowingly delivers or causes to be delivered less
34 property than the amount for which the person receives a certificate
35 or receipt.

36 (5) Is authorized to make or deliver a document certifying receipt
37 of property used or to be used by the state or by any political
38 subdivision and knowingly makes or delivers a receipt that falsely
39 represents the property used or to be used.

1 (6) Knowingly buys, or receives as a pledge of an obligation or
2 debt, public property from any person who lawfully may not sell
3 or pledge the property.

4 (7) Knowingly makes, uses, or causes to be made or used a false
5 record or statement to conceal, avoid, or decrease an obligation to
6 pay or transmit money or property to the state or to any political
7 subdivision.

8 (8) Is a beneficiary of an inadvertent submission of a false claim
9 to the state or a political subdivision, subsequently discovers the
10 falsity of the claim, and fails to disclose the false claim to the state
11 or the political subdivision within a reasonable time after discovery
12 of the false claim.

13 (b) Notwithstanding subdivision (a), the court may assess not
14 less than two times and not more than three times the amount of
15 damages which the state or the political subdivision sustains
16 because of the act of the person described in that subdivision, and
17 no civil penalty, if the court finds all of the following:

18 (1) The person committing the violation furnished officials of
19 the state or of the political subdivision responsible for investigating
20 false claims violations with all information known to that person
21 about the violation within 30 days after the date on which the
22 person first obtained the information.

23 (2) The person fully cooperated with any investigation by the
24 state or a political subdivision of the violation.

25 (3) At the time the person furnished the state or the political
26 subdivision with information about the violation, no criminal
27 prosecution, civil action, or administrative action had commenced
28 with respect to the violation, and the person did not have actual
29 knowledge of the existence of an investigation into the violation.

30 (c) Liability under this section shall be joint and several for
31 any act committed by two or more persons.

32 (d) This section does not apply to any controversy involving an
33 amount of less than five hundred dollars (\$500) in value. For
34 purposes of this subdivision, "controversy" means any one or more
35 false claims submitted by the same person in violation of this
36 article.

37 (e) This section does not apply to claims, records, or statements
38 made pursuant to Division 3.6 (commencing with Section 810) of
39 Title 1 or to workers' compensation claims filed pursuant to
40 Division 4 (commencing with Section 3200) of the Labor Code.

1 (f) This section does not apply to claims, records, or statements
2 made under the Revenue and Taxation Code.

3 (g) This section does not apply to claims, records, or statements
4 for the assets of a person that have been transferred to the
5 Commissioner of Insurance, pursuant to Section 1011 of the
6 Insurance Code.

7 SEC. 3. Section 12652 of the Government Code is amended
8 to read:

9 12652. (a) (1) The Attorney General shall diligently
10 investigate violations under Section 12651 involving state funds.
11 If the Attorney General finds that a person has violated or is
12 violating Section 12651, the Attorney General may bring a civil
13 action under this section against that person.

14 (2) If the Attorney General brings a civil action under this
15 subdivision on a claim involving political subdivision funds as
16 well as state funds, the Attorney General shall, on the same date
17 that the complaint is filed in this action, serve by mail with “return
18 receipt requested” a copy of the complaint on the appropriate
19 prosecuting authority.

20 (3) The prosecuting authority shall have the right to intervene
21 in an action brought by the Attorney General under this subdivision
22 within 60 days after receipt of the complaint pursuant to paragraph
23 (2). The court may permit intervention thereafter upon a showing
24 that all of the requirements of Section 387 of the Code of Civil
25 Procedure have been met.

26 (b) (1) The prosecuting authority of a political subdivision shall
27 diligently investigate violations under Section 12651 involving
28 political subdivision funds. If the prosecuting authority finds that
29 a person has violated or is violating Section 12651, the prosecuting
30 authority may bring a civil action under this section against that
31 person.

32 (2) If the prosecuting authority brings a civil action under this
33 section on a claim involving state funds as well as political
34 subdivision funds, the prosecuting authority shall, on the same
35 date that the complaint is filed in this action, serve a copy of the
36 complaint on the Attorney General.

37 (3) Within 60 days after receiving the complaint pursuant to
38 paragraph (2), the Attorney General shall do either of the following:

39 (A) Notify the court that it intends to proceed with the action,
40 in which case the Attorney General shall assume primary

1 responsibility for conducting the action and the prosecuting
2 authority shall have the right to continue as a party.

3 (B) Notify the court that it declines to proceed with the action,
4 in which case the prosecuting authority shall have the right to
5 conduct the action.

6 (c) (1) A person may bring a civil action for a violation of this
7 article for the person and either for the State of California in the
8 name of the state, if any state funds are involved, or for a political
9 subdivision in the name of the political subdivision, if political
10 subdivision funds are exclusively involved. The person bringing
11 the action shall be referred to as the qui tam plaintiff. Once filed,
12 the action may be dismissed only with the written consent of the
13 court *and the Attorney General or prosecuting authority of a*
14 *political subdivision, or both, as appropriate under the allegations*
15 *of the civil action*, taking into account the best interests of the
16 parties involved and the public purposes behind this act. *No claim*
17 *for any violation of Section 12651 may be waived or released by*
18 *any private person, except if the action is part of a court approved*
19 *settlement of a false claim civil action brought under this section.*
20 *Nothing in this paragraph shall be construed to limit the ability*
21 *of the state or political subdivision to decline to pursue any claim*
22 *brought under this section.*

23 (2) A complaint filed by a private person under this subdivision
24 shall be filed in superior court in camera and may remain under
25 seal for up to 60 days. No service shall be made on the defendant
26 until after the complaint is unsealed.

27 (3) On the same day as the complaint is filed pursuant to
28 paragraph (2), the qui tam plaintiff shall serve by mail with “return
29 receipt requested” the Attorney General with a copy of the
30 complaint and a written disclosure of substantially all material
31 evidence and information the person possesses.

32 (4) Within 60 days after receiving a complaint and written
33 disclosure of material evidence and information alleging violations
34 that involve state funds but not political subdivision funds, the
35 Attorney General may elect to intervene and proceed with the
36 action.

37 (5) The Attorney General may, for good cause shown, move
38 the court for extensions of the time during which the complaint
39 remains under seal pursuant to paragraph (2). The motion may be
40 supported by affidavits or other submissions in camera.

1 (6) Before the expiration of the 60-day period or any extensions
2 obtained under paragraph (5), the Attorney General shall do either
3 of the following:

4 (A) Notify the court that it intends to proceed with the action,
5 in which case the action shall be conducted by the Attorney General
6 and the seal shall be lifted.

7 (B) Notify the court that it declines to proceed with the action,
8 in which case the seal shall be lifted and the qui tam plaintiff shall
9 have the right to conduct the action.

10 (7) (A) Within 15 days after receiving a complaint alleging
11 violations that exclusively involve political subdivision funds, the
12 Attorney General shall forward copies of the complaint and written
13 disclosure of material evidence and information to the appropriate
14 prosecuting authority for disposition, and shall notify the qui tam
15 plaintiff of the transfer.

16 (B) Within 45 days after the Attorney General forwards the
17 complaint and written disclosure pursuant to subparagraph (A),
18 the prosecuting authority may elect to intervene and proceed with
19 the action.

20 (C) The prosecuting authority may, for good cause shown, move
21 for extensions of the time during which the complaint remains
22 under seal. The motion may be supported by affidavits or other
23 submissions in camera.

24 (D) Before the expiration of the 45-day period or any extensions
25 obtained under subparagraph (C), the prosecuting authority shall
26 do either of the following:

27 (i) Notify the court that it intends to proceed with the action, in
28 which case the action shall be conducted by the prosecuting
29 authority and the seal shall be lifted.

30 (ii) Notify the court that it declines to proceed with the action,
31 in which case the seal shall be lifted and the qui tam plaintiff shall
32 have the right to conduct the action.

33 (8) (A) Within 15 days after receiving a complaint alleging
34 violations that involve both state and political subdivision funds,
35 the Attorney General shall forward copies of the complaint and
36 written disclosure to the appropriate prosecuting authority, and
37 shall coordinate its review and investigation with those of the
38 prosecuting authority.

39 (B) Within 60 days after receiving a complaint and written
40 disclosure of material evidence and information alleging violations

1 that involve both state and political subdivision funds, the Attorney
2 General or the prosecuting authority, or both, may elect to intervene
3 and proceed with the action.

4 (C) The Attorney General or the prosecuting authority, or both,
5 may, for good cause shown, move the court for extensions of the
6 time during which the complaint remains under seal under
7 paragraph (2). The motion may be supported by affidavits or other
8 submissions in camera.

9 (D) Before the expiration of the 60-day period or any extensions
10 obtained under subparagraph (C), the Attorney General shall do
11 one of the following:

12 (i) Notify the court that it intends to proceed with the action, in
13 which case the action shall be conducted by the Attorney General
14 and the seal shall be lifted.

15 (ii) Notify the court that it declines to proceed with the action
16 but that the prosecuting authority of the political subdivision
17 involved intends to proceed with the action, in which case the seal
18 shall be lifted and the action shall be conducted by the prosecuting
19 authority.

20 (iii) Notify the court that both it and the prosecuting authority
21 decline to proceed with the action, in which case the seal shall be
22 lifted and the qui tam plaintiff shall have the right to conduct the
23 action.

24 (E) If the Attorney General proceeds with the action pursuant
25 to clause (i) of subparagraph (D), the prosecuting authority of the
26 political subdivision shall be permitted to intervene in the action
27 within 60 days after the Attorney General notifies the court of its
28 intentions. The court may authorize intervention thereafter upon
29 a showing that all the requirements of Section 387 of the Code of
30 Civil Procedure have been met.

31 (9) The defendant shall not be required to respond to any
32 complaint filed under this section until 30 days after the complaint
33 is unsealed and served upon the defendant pursuant to Section
34 583.210 of the Code of Civil Procedure.

35 (10) When a person brings an action under this subdivision, no
36 other person may bring a related action based on the facts
37 underlying the pending action.

38 (d) (1) No court shall have jurisdiction over an action brought
39 under subdivision (c) against a Member of the State Senate or
40 Assembly, a member of the state judiciary, an elected official in

the executive branch of the state, or a member of the governing body of any political subdivision if the action is based on evidence or information known to the state or political subdivision when the action was brought.

(2) A person may not bring an action under subdivision (c) that is based upon allegations or transactions that are the subject of a civil suit or an administrative civil money penalty proceeding in which the state or political subdivision is already a party.

(3) (A) No court shall have jurisdiction over an action under this article based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in an investigation, report, hearing, or audit conducted by or at the request of the Senate, Assembly, auditor, or governing body of a political subdivision, or by the news media, unless the action is brought by the Attorney General or the prosecuting authority of a political subdivision, or the person bringing the action is an original source of the information.

(B) For purposes of subparagraph (A), “original source” means an individual who has direct and independent knowledge of the information on which the allegations are based, who voluntarily provided the information to the state or political subdivision before filing an action based on that information, and whose information provided the basis or catalyst for the investigation, hearing, audit, or report that led to the public disclosure as described in subparagraph (A).

(4) No court shall have jurisdiction over an action brought under subdivision (c) based upon information discovered by a present or former employee of the state or a political subdivision during the course of his or her employment unless that employee first, in good faith, exhausted existing internal procedures for reporting and seeking recovery of the falsely claimed sums through official channels and unless the state or political subdivision failed to act on the information provided within a reasonable period of time.

(e) (1) If the state or political subdivision proceeds with the action, it shall have the primary responsibility for prosecuting the action. The qui tam plaintiff shall have the right to continue as a full party to the action.

(2) (A) The state or political subdivision may seek to dismiss the action for good cause notwithstanding the objections of the qui tam plaintiff if the qui tam plaintiff has been notified by the

1 state or political subdivision of the filing of the motion and the
2 court has provided the qui tam plaintiff with an opportunity to
3 oppose the motion and present evidence at a hearing.

4 (B) The state or political subdivision may settle the action with
5 the defendant notwithstanding the objections of the qui tam plaintiff
6 if the court determines, after a hearing providing the qui tam
7 plaintiff an opportunity to present evidence, that the proposed
8 settlement is fair, adequate, and reasonable under all of the
9 circumstances.

10 (f) Upon intervention, the state or political subdivision may file
11 its own complaint in intervention or amend the complaint of a
12 person who has brought an action under subdivision (c) to clarify
13 or add detail—a to the claim in which the state or political
14 subdivision is intervening and to add any additional claim with
15 respect to which the state or political subdivision contends it is
16 entitled to relief. For statute of limitation purposes, any state or
17 political subdivision pleading shall relate back to the filing date
18 of the complaint of the person who originally brought the action,
19 to the extent that the claim of the state or political subdivision
20 arises out of the conduct, transaction, or occurrence set forth in
21 the complaint of that person.

22 (g) (1) If the state or political subdivision elects not to proceed,
23 the qui tam plaintiff shall have the same right to conduct the action
24 as the Attorney General or prosecuting authority would have had
25 if it had chosen to proceed under subdivision (c). If the state or
26 political subdivision so requests, and at its expense, the state or
27 political subdivision shall be served with copies of all pleadings
28 filed in the action and supplied with copies of all deposition
29 transcripts.

30 (2) (A) Upon timely application, the court shall permit the state
31 or political subdivision to intervene in an action with which it had
32 initially declined to proceed if the interest of the state or political
33 subdivision in recovery of the property or funds involved is not
34 being adequately represented by the qui tam plaintiff.

35 (B) If the state or political subdivision is allowed to intervene
36 under paragraph (A), the qui tam plaintiff shall retain principal
37 responsibility for the action and the recovery of the parties shall
38 be determined as if the state or political subdivision had elected
39 not to proceed.

1 (h) (1) (A) If the Attorney General initiates an action pursuant
2 to subdivision (a) or assumes control of an action initiated by a
3 prosecuting authority pursuant to subparagraph (A) of paragraph
4 (3) of subdivision (b), the office of the Attorney General shall
5 receive a fixed 33 percent of the proceeds of the action or
6 settlement of the claim, which shall be used to support its ongoing
7 investigation and prosecution of false claims.

8 (B) If a prosecuting authority initiates and conducts an action
9 pursuant to subdivision (b), the office of the prosecuting authority
10 shall receive a fixed 33 percent of the proceeds of the action or
11 settlement of the claim, which shall be used to support its ongoing
12 investigation and prosecution of false claims.

13 (C) If a prosecuting authority intervenes in an action initiated
14 by the Attorney General pursuant to paragraph (3) of subdivision
15 (a) or remains a party to an action assumed by the Attorney General
16 pursuant to subparagraph (A) of paragraph (3) of subdivision (b),
17 the court may award the office of the prosecuting authority a
18 portion of the Attorney General's fixed 33 percent of the recovery
19 under subparagraph (A), taking into account the prosecuting
20 authority's role in investigating and conducting the action.

21 (2) If the state or political subdivision proceeds with an action
22 brought by a qui tam plaintiff under subdivision (c), the qui tam
23 plaintiff shall, subject to paragraphs (4) and (5), receive at least
24 15 percent but not more than 33 percent of the proceeds of the
25 action or settlement of the claim, depending upon the extent to
26 which the qui tam plaintiff substantially contributed to the
27 prosecution of the action. When it conducts the action, the Attorney
28 General's office or the office of the prosecuting authority of the
29 political subdivision shall receive a fixed 33 percent of the proceeds
30 of the action or settlement of the claim, which shall be used to
31 support its ongoing investigation and prosecution of false claims
32 made against the state or political subdivision. When both the
33 Attorney General and a prosecuting authority are involved in a qui
34 tam action pursuant to subparagraph (C) of paragraph (6) of
35 subdivision (c), the court at its discretion may award the
36 prosecuting authority a portion of the Attorney General's fixed 33
37 percent of the recovery, taking into account the prosecuting
38 authority's contribution to investigating and conducting the action.

39 (3) If the state or political subdivision does not proceed with an
40 action under subdivision (c), the qui tam plaintiff shall, subject to

1 paragraphs (4) and (5), receive an amount that the court decides
2 is reasonable for collecting the civil penalty and damages on behalf
3 of the government. The amount shall be not less than 25 percent
4 and not more than 50 percent of the proceeds of the action or
5 settlement and shall be paid out of these proceeds.

6 (4) If the action is one provided for under paragraph (4) of
7 subdivision (d), the present or former employee of the state or
8 political subdivision is not entitled to any minimum guaranteed
9 recovery from the proceeds. The court, however, may award the
10 qui tam plaintiff those sums from the proceeds as it considers
11 appropriate, but in no case more than 33 percent of the proceeds
12 if the state or political subdivision goes forth with the action or 50
13 percent if the state or political subdivision declines to go forth,
14 taking into account the significance of the information, the role of
15 the qui tam plaintiff in advancing the case to litigation, and the
16 scope of, and response to, the employee's attempts to report and
17 gain recovery of the falsely claimed funds through official
18 channels.

19 (5) If the action is one that the court finds to be based primarily
20 on information from a present or former employee who actively
21 participated in the fraudulent activity, the employee is not entitled
22 to any minimum guaranteed recovery from the proceeds. The court,
23 however, may award the qui tam plaintiff any sums from the
24 proceeds that it considers appropriate, but in no case more than 33
25 percent of the proceeds if the state or political subdivision goes
26 forth with the action or 50 percent if the state or political
27 subdivision declines to go forth, taking into account the
28 significance of the information, the role of the qui tam plaintiff in
29 advancing the case to litigation, the scope of the present or past
30 employee's involvement in the fraudulent activity, the employee's
31 attempts to avoid or resist the activity, and all other circumstances
32 surrounding the activity.

33 (6) The portion of the recovery not distributed pursuant to
34 paragraphs (1) to (5), inclusive, shall revert to the state if the
35 underlying false claims involved state funds exclusively and to
36 the political subdivision if the underlying false claims involved
37 political subdivision funds exclusively. If the violation involved
38 both state and political subdivision funds, the court shall make an
39 apportionment between the state and political subdivision based
40 on their relative share of the funds falsely claimed.

1 (7) For purposes of this section, “proceeds” include civil
2 penalties as well as double or treble damages as provided in Section
3 12651.

4 (8) If the state, political subdivision, or the qui tam plaintiff
5 prevails in or settles any action under subdivision (c), the qui tam
6 plaintiff shall receive an amount for reasonable expenses that the
7 court finds to have been necessarily incurred, plus reasonable costs
8 and attorney’s fees. All expenses, costs, and fees shall be awarded
9 against the defendant and under no circumstances shall they be
10 the responsibility of the state or political subdivision.

11 (9) If the state, a political subdivision, or the qui tam plaintiff
12 proceeds with the action, the court may award to the defendant its
13 reasonable attorney’s fees and expenses against the party that
14 proceeded with the action if the defendant prevails in the action
15 and the court finds that the claim was clearly frivolous, clearly
16 vexatious, or brought solely for purposes of harassment.

17 (i) The court may stay an act of discovery of the person initiating
18 the action for a period of not more than 60 days if the Attorney
19 General or local prosecuting authority show that the act of
20 discovery would interfere with an investigation or a prosecution
21 of a criminal or civil matter arising out of the same facts, regardless
22 of whether the Attorney General or local prosecuting authority
23 proceeds with the action. This showing shall be conducted in
24 camera. The court may extend the 60-day period upon a further
25 showing in camera that the Attorney General or local prosecuting
26 authority has pursued the criminal or civil investigation or
27 proceedings with reasonable diligence and any proposed discovery
28 in the civil action will interfere with the ongoing criminal or civil
29 investigation or proceedings.

30 (j) Upon a showing by the Attorney General or local prosecuting
31 authority that unrestricted participation during the course of the
32 litigation by the person initiating the action would interfere with
33 or unduly delay the Attorney General’s or local prosecuting
34 authority’s prosecution of the case, or would be repetitious,
35 irrelevant, or for purposes of harassment, the court may, in its
36 discretion, impose limitations on the person’s participation,
37 including the following:

38 (1) Limiting the number of witnesses the person may call.

39 (2) Limiting the length of the testimony of the witnesses.

40 (3) Limiting the person’s cross-examination of witnesses.

1 (4) Otherwise limiting the participation by the person in the
2 litigation.

3 (k) The False Claims Act Fund is hereby created in the State
4 Treasury. Proceeds from the action or settlement of the claim by
5 the Attorney General pursuant to this article shall be deposited
6 into this fund. Moneys in this fund, upon appropriation by the
7 Legislature, shall be used by the Attorney General to support the
8 ongoing investigation and prosecution of false claims in furtherance
9 of this article.

10 SEC. 4. Section 12654 of the Government Code is amended
11 to read:

12 12654. (a) A civil action under Section 12652 may not be filed
13 more than three years after the date of discovery by the Attorney
14 General or prosecuting authority with jurisdiction to act under this
15 article or, in any event, not more than 10 years after the date on
16 which the violation of Section 12651 was committed.

17 (b) A civil action under Section 12652 may be brought for
18 activity prior to January 1, 1988, if the limitations period set in
19 subdivision (a) has not lapsed.

20 (c) In any action brought under Section 12652, the state, the
21 political subdivision, or the qui tam plaintiff shall be required to
22 prove all essential elements of the cause of action, including
23 damages, by a preponderance of the evidence.

24 (d) Notwithstanding any other provision of law, a guilty verdict
25 rendered in a criminal proceeding charging false statements or
26 fraud, whether upon a verdict after trial or upon a plea of guilty
27 or nolo contendere, except for a plea of nolo contendere made
28 prior to January 1, 1988, shall estop the defendant from denying
29 the essential elements of the offense in any action which involves
30 the same transaction as in the criminal proceeding and which is
31 brought under subdivision (a), (b), or (c) of Section 12652.

32 (e) Subdivision (b) of Section 47 of the Civil Code shall not be
33 applicable to any claim subject to this article.