# Kansas

-7501

75-7501. Kansas false claims act; citation

K.S.A. 75-7501 through 75-7511, and amendments thereto, shall be known and may be cited as the "Kansas false claims act."

K.S.A. 75-7502

75-7502. Same; definitions

For purposes of this act:

(a) "Act" means the Kansas false claims act.

(b) "Claim" includes any request or demand, whether under contract or otherwise, for money, property or services made to any employee, officer or agent of the state or any political subdivision thereof or made to any contractor, grantee or other recipient if the state or any political subdivision thereof provides any portion of the money, property or services which is requested or demanded, or if the state will reimburse such contractor, grantee or other recipient for any portion of the money or property which is requested or demanded.

(c) "Political subdivision" includes political or taxing subdivisions of the state, including municipal and quasi-municipal corporations, boards, commissions, authorities, councils, committees, subcommittees and other subordinate groups or administrative units thereof, receiving or expending and supported, in whole or in part, by public funds and any municipality as defined in K.S.A. 75-1117, and amendments thereto.

(d) "Person" includes any natural person, corporation, firm, association, organization, partnership, business or trust.

(e) "Knowing" and "knowingly" mean that a person, with respect to information, does any of the following:

(1) Has actual knowledge of the information;

(2) acts in deliberate ignorance of the truth or falsity of the information; or

(3) acts in reckless disregard of the truth or falsity of the information.

# K.S.A. 75-7503

## 75-7503. Same; false claims; liability; damages; civil penalties; civil action

(a) A person who commits any of the following acts shall be liable to the state or any affected political subdivision thereof, for three times the amount of damages which the state or such political subdivision sustains because of the act of that person and shall be liable to the state for a civil penalty of not less than $1,000 and not more than $11,000 for each violation. A person found to have committed any of the following acts shall be liable to the state or such affected political subdivision for all reasonable costs and attorney fees incurred in a civil action brought to recover any of those penalties or damages. The following acts constitute violations for which civil penalties, costs and attorney fees may be recovered by a civil action under this act:

(1) Knowingly presents or causes to be presented to any employee, officer or agent of the state or political subdivision thereof or to any contractor, grantee or other recipient of state funds or funds of any political subdivision thereof, a false or fraudulent claim for payment or approval;

(2) knowingly makes, uses or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved;

(3) defrauds the state or any political subdivision thereof by getting a false claim allowed or paid or by knowingly making, using or causing to be made or used, a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the state or to any political subdivision thereof;

(4) has possession, custody or control of public property or money used or to be used by the state or any political subdivision thereof and knowingly delivers or causes to be delivered less property or money than the amount for which the person receives a certificate or receipt;

(5) is authorized to make or deliver a document certifying receipt of property used or to be used by the state or any political subdivision thereof and knowingly makes or delivers a receipt that falsely represents the property received;

(6) knowingly buys or receives as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property;

(7) is a beneficiary of an inadvertent submission of a false claim to any employee, officer or agent of the state or political subdivision thereof, or to any contractor, grantee or other recipient of state funds or funds of any political subdivision thereof, who subsequently discovers the falsity of the claim and fails to disclose the false claim and make satisfactory arrangements for repayment to the state or affected political subdivision thereof within a reasonable time after discovery of the false claim;

(8) conspires to commit any violation set forth in paragraphs (1) through (7), above.

(b) Notwithstanding the provisions of subsection (a), the court may assess not more than two times the amount of damages which the state or any political subdivision thereof sustains because of the act of the person in violation of paragraphs (1) through (8) of subsection (a) and no civil penalty shall be imposed, if the court finds all of the following:

(1) The person committing the violation furnished officials of the state who are responsible for investigating false claims violations with all information known to that person about the violation within 30 days after the date on which the person first obtained the information;

(2) the person fully cooperated with any investigation by the state; and

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

(c) In a civil action brought pursuant to subsection (a), proof of specific intent to defraud is not required. An innocent mistake shall be a defense to an action under this act.

(d) This section does not apply to claims, records or statements related to state taxation law made pursuant to chapter 79 of the Kansas Statutes Annotated, and amendments thereto.

# K.S.A. 75-7504

## 75-7504. Same; powers and duties of attorney general; no private cause of action

(a) The attorney general shall diligently investigate a violation under K.S.A. 75-7503, and amendments thereto. If the attorney general finds that a person has violated or is violating K.S.A. 75-7503, and amendments thereto, the attorney general may bring a civil action under this section against that person. Further, the attorney general may utilize the assistance of city and county attorneys in cases involving their respective political subdivisions or may utilize funds available pursuant to K.S.A. 75-7508, and amendments thereto, to engage the services of private attorneys to assist in carrying out the purposes of this act, or both, at times when the attorney general determines the need exists. All local prosecutors and private attorneys shall only participate at the request, and under the direction of, the attorney general.

(b) Except as provided in K.S.A. 75-7506, and amendments thereto, nothing in this act shall be construed to create a private cause of action.

K.S.A. 75-7505

75-7505. Same; civil action; statute of limitations; burden of proof

(a) A civil action under K.S.A. 75-7503, and amendments thereto, may not be brought:

(1) More than 6 years after the date on which the violation was committed; or

(2) more than 3 years after the date on which the violation was discovered or reasonably should have been discovered, but in no event more than 10 years after the date on which the violation was committed, whichever occurs last.

(b) A civil action under K.S.A. 75-7503, and amendments thereto, may be brought for activity prior to the effective date of this act if the limitation period set in subsection (a) has not lapsed.

(c) In any action brought under K.S.A. 75-7503, and amendments thereto, the state shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(d) Notwithstanding any other provision of law, a guilty verdict rendered in a criminal proceeding charging false statements or fraud, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under K.S.A. 75-7503, and amendments thereto.

K.S.A. 75-7506

75-7506. Same; employment retaliation claims

Any employee who is discharged, demoted, suspended, threatened, harassed or in any other manner retaliated against in the terms and conditions of employment by such employee's employer because of lawful acts undertaken in good faith by the employee on behalf of the employee or others, in furtherance of an action under this act, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this act, shall be entitled to all relief necessary to make the employee whole. An employee may bring an action in the appropriate district court for the relief provided in this section. This section shall not be construed to create any private cause of action for violations of this act and is limited to the remedies expressly created by this section related to employment retaliation.

K.S.A. 75-7507

75-7507. Same; remedies not exclusive; construction of act

(a) The provisions of this act are not exclusive and the remedies provided for in this act shall be in addition to any other remedies provided for in any other law or available under common law.

(b) This act shall be liberally construed and applied to promote the public interest.

K.S.A. 75-7508

75-7508. Same; recovered proceeds, distribution; false claims litigation revolving fund

(a) Proceeds recovered as a result of an action filed pursuant to the Kansas false claims act shall be distributed in the following order:

(1) To refund moneys falsely obtained from the federal government, state government or political subdivision thereof pursuant to subsection (b); and

(2) to the state treasurer for deposit in the state general fund pursuant to subsection (c).

(b) A portion of the recovery equal to the amount of moneys falsely obtained from the federal government, state government, affected political subdivision thereof or state agencies, or a combination thereof, shall be remitted to the appropriate entity shown to be defrauded, subject to any further requirements established by federal or state law.

(c) That portion of any recovery remitted to the state treasurer pursuant to subsection (a) shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state general fund and, subject to any relevant guidelines of the federal department of health and human services' office of inspector general regarding repayment of fees or recoveries, shall credit 10% of such remittance to the false claims litigation revolving fund, which is hereby established in the state treasury. Moneys in the false claims litigation revolving fund may be expended by the attorney general for the purpose of hiring necessary staff and to defray the costs of investigating and litigating ongoing false claims cases and may be shared at the direction of the attorney general with the Kansas medicaid fraud and abuse division, Kansas bureau of investigation or any county, city or private attorneys who may be utilized or contracted with pursuant to K.S.A. 75-7504, and amendments thereto, in carrying out the purposes of this act and any other operating expenses incurred in administering the Kansas false claims act. All expenditures from the false claims litigation revolving fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or the attorney general's designee.

K.S.A. 75-7509

75-7509. Same; joint and several liability

Liability pursuant to this act is joint and several for any violation done by two or more persons.

K.S.A. 75-7510

75-7510. Same; civil action; venue

Any action under this act may be brought in the district court of any county in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides or transacts business or in which any act prohibited by K.S.A. 75-7503, and amendments thereto, occurred.

K.S.A. 75-7511

75-7511. Same; severability

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.