

By: Raymond

H.B. No. 2062

A BILL TO BE ENTITLED

AN ACT

relating to false claims against the state and actions by the state and private persons to prosecute those claims; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 10, Government Code, is amended by adding Chapter 2116 to read as follows:

CHAPTER 2116. FALSE CLAIMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2116.001. DEFINITIONS. In this chapter:

(1) "Claim" includes any request or demand, under a contract or otherwise, for money or property that is made to a contractor, grantee, or other recipient if this state:

(A) provides any portion of the money or property that is requested or demanded; or

(B) will reimburse the contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded.

(2) "Documentary material" means the original or a copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret the data compilations, and any

1 product of discovery.

2 (3) "Product of discovery" means:

3 (A) the original or a copy of a deposition,
4 interrogatory, document, thing, result of inspection of land or
5 other property, examination, or admission, that is obtained by any
6 method of discovery in a judicial or administrative proceeding of
7 an adversarial nature;

8 (B) a digest, analysis, selection, compilation,
9 or derivation of any item listed in Paragraph (A); and

10 (C) an index, instruction, or other aid or means
11 of access to any item listed in Paragraph (A).

12 (4) "Qui tam action" means an action brought by a
13 private person against a person for the commission of a false claim
14 under Section 2116.101.

15 (5) "Qui tam plaintiff" means the person bringing a
16 qui tam action.

17 (6) "State" means state government as defined by
18 Section 101.001, Civil Practice and Remedies Code.

19 Sec. 2116.002. WHEN A PERSON ACTS KNOWINGLY. In this
20 chapter, a person acts "knowingly" with respect to information if
21 the person:

22 (1) has knowledge of the information;

23 (2) acts with conscious indifference to the truth or
24 falsity of the information; or

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

27 Sec. 2116.003. CERTAIN ACTIONS BARRED. (a) A person may

1 not bring a qui tam action based on allegations or transactions that
2 are the subject of a civil suit that has already been filed or an
3 administrative penalty proceeding in which the state is already a
4 party.

5 (b) A person may not bring a qui tam action against a member
6 of the legislature, a member of the judiciary, or a senior official
7 of the executive branch if the action is based on evidence or
8 information known to the state when the action was brought.

9 (c) Except as provided by Subsection (d), on motion of the
10 attorney general, a court may, after considering all the equities,
11 dismiss a qui tam plaintiff if the elements of the actionable false
12 claims alleged in the qui tam complaint have been publicly
13 disclosed specifically in the news media or in a publicly
14 disseminated governmental report at the time the complaint is
15 filed.

16 (d) A court may not dismiss a qui tam plaintiff under
17 Subsection (c) if the qui tam plaintiff has knowledge of the
18 elements of the actionable false claims alleged, independent of the
19 disclosure in the news media or in a publicly disseminated
20 governmental report, and has voluntarily provided the information
21 to the attorney general before filing the qui tam action.

22 Sec. 2116.004. CHAPTER NOT APPLICABLE TO MEDICAID FRAUD.
23 This chapter does not apply to an unlawful act described by Section
24 36.002, Human Resources Code, relating to Medicaid fraud.

25 SUBCHAPTER B. INVESTIGATION BY ATTORNEY GENERAL

26 Sec. 2116.051. RESPONSIBILITY OF ATTORNEY GENERAL. The
27 attorney general shall diligently investigate the commission of a

1 false claim under Section 2116.101 and may bring a civil action
2 against the person committing the false claim.

3 Sec. 2116.052. INVESTIGATION. (a) The attorney general
4 may take action under Subsection (b) if the attorney general has
5 reason to believe that:

6 (1) a person has information or custody or control of
7 documentary material relevant to the subject matter of an
8 investigation of an alleged false claim;

9 (2) a person is committing, has committed, or is about
10 to commit a false claim; or

11 (3) it is in the public interest to conduct an
12 investigation to ascertain whether a person is committing, has
13 committed, or is about to commit a false claim.

14 (b) In investigating a false claim, the attorney general
15 may:

16 (1) require the person to file on a prescribed form a
17 statement in writing, under oath or affirmation, as to all the facts
18 and circumstances concerning the alleged false claim and other
19 information considered necessary by the attorney general;

20 (2) examine under oath a person in connection with the
21 alleged false claim; and

22 (3) execute in writing and serve on the person a civil
23 investigative demand requiring the person to produce the
24 documentary material and permit inspection and copying of the
25 material under Section 2116.053.

26 (c) The office of the attorney general may not release or
27 disclose information that is obtained under Subsection (b)(1) or

1 (2) or any documentary material or other record derived from the
2 information except:

3 (1) by court order for good cause shown;

4 (2) with the consent of the person who provided the
5 information;

6 (3) to an employee of the attorney general;

7 (4) to an agency of this state, the United States, or
8 another state;

9 (5) to any attorney representing the state under
10 Section 2116.055 or in a civil action brought under Subchapter D;

11 (6) to a political subdivision of this state; or

12 (7) to a person authorized by the attorney general to
13 receive the information.

14 (d) The attorney general may use documentary material
15 derived from information obtained under Subsection (b)(1) or (2),
16 or copies of that material, as the attorney general determines
17 necessary in the enforcement of this chapter, including
18 presentation before a court.

19 (e) If a person fails to file a statement as required by
20 Subsection (b)(1) or fails to submit to an examination as required
21 by Subsection (b)(2), the attorney general may file in a district
22 court of Travis County a petition for an order to compel the person
23 to file the statement or submit to the examination within a period
24 stated by court order. Failure to comply with an order entered
25 under this subsection is punishable as contempt.

26 (f) An order issued by a district court under this section
27 is subject to appeal to the supreme court.

Sec. 2116.053. CIVIL INVESTIGATIVE DEMAND. (a) An

investigative demand must:

(1) state the rule or statute under which the alleged unlawful act is being investigated and the general subject matter of the investigation;

(2) describe the class or classes of documentary material to be produced with reasonable specificity to fairly indicate the documentary material demanded;

(3) prescribe a return date within which the documentary material is to be produced; and

(4) identify an authorized employee of the attorney general to whom the documentary material is to be made available for inspection and copying.

(b) A civil investigative demand may require disclosure of any documentary material that is discoverable under the Texas Rules of Civil Procedure.

(c) Service of an investigative demand may be made by:

(1) delivering an executed copy of the demand to the person to be served or to a partner, an officer, or an agent authorized by appointment or by law to receive service of process on behalf of that person;

(2) delivering an executed copy of the demand to the principal place of business in this state of the person to be served; or

(3) mailing by registered or certified mail an executed copy of the demand addressed to the person to be served at the person's principal place of business in this state or, if the

1 person has no place of business in this state, to a person's
2 principal office or place of business.

3 (d) Documentary material demanded under this section shall
4 be produced for inspection and copying during normal business hours
5 at the office of the attorney general or as agreed by the person
6 served and the attorney general.

7 (e) The office of the attorney general may not produce for
8 inspection or copying or otherwise disclose the contents of
9 documentary material obtained under this section except:

10 (1) by court order for good cause shown;

11 (2) with the consent of the person who produced the
12 information;

13 (3) to an employee of the attorney general;

14 (4) to an agency of this state, the United States, or
15 another state;

16 (5) to any attorney representing the state under
17 Section 2116.055 or in a civil action brought under Subchapter D;

18 (6) to a political subdivision of this state; or

19 (7) to a person authorized by the attorney general to
20 receive the information.

21 (f) The attorney general shall prescribe reasonable terms
22 and conditions allowing the documentary material to be available
23 for inspection and copying by the person who produced the material
24 or by an authorized representative of that person. The attorney
25 general may use the documentary material or copies of it as the
26 attorney general determines necessary in the enforcement of this
27 chapter, including presentation before a court.

1 (g) A person may file a petition, stating good cause, to
2 extend the return date for the demand or to modify or set aside the
3 demand. A petition under this section shall be filed in a district
4 court of Travis County and must be filed before the earlier of:

5 (1) the return date specified in the demand; or

6 (2) the 20th day after the date the demand is served.

7 (h) Except as provided by court order, a person on whom a
8 demand has been served under this section shall comply with the
9 terms of an investigative demand.

10 (i) A person who has committed a false claim has submitted
11 to the jurisdiction of this state, and personal service of an
12 investigative demand under this section may be made on the person
13 outside of this state.

14 (j) This section does not limit the authority of the
15 attorney general to conduct investigations or to access a person's
16 documentary materials or other information under another state or
17 federal law, the Texas Rules of Civil Procedure, or the Federal
18 Rules of Civil Procedure.

19 (k) If a person fails to comply with an investigative
20 demand, or if copying and reproduction of the documentary material
21 demanded cannot be satisfactorily accomplished and the person
22 refuses to surrender the documentary material, the attorney general
23 may file in a district court of Travis County a petition for an
24 order to enforce the investigative demand.

25 (l) If a petition is filed under Subsection (k), the court
26 may determine the matter presented and may enter an order to
27 implement this section.

1 (m) Failure to comply with a final order entered under
2 Subsection (l) is punishable by contempt.

3 (n) A final order issued by a district court under
4 Subsection (l) is subject to appeal to the supreme court.

5 Sec. 2116.054. INJUNCTIVE RELIEF. (a) If the attorney
6 general has reason to believe that a person is committing, has
7 committed, or is about to commit a false claim, the attorney general
8 may institute an action for an appropriate order to restrain the
9 person from committing or continuing the false claim.

10 (b) An action under this section shall be brought in a
11 district court of Travis County, or in a county in which any part of
12 the false claim occurred, is occurring, or is about to occur.

13 Sec. 2116.055. ATTORNEY GENERAL AS RELATOR IN FEDERAL
14 ACTION. To the extent permitted by 31 U.S.C. Sections 3729-3733,
15 the attorney general may bring an action as relator under 31 U.S.C.
16 Section 3730 with respect to an act for which a person may be held
17 liable under 31 U.S.C. Section 3729. The attorney general may
18 contract with a private attorney to represent the state under this
19 section.

20 Sec. 2116.056. STANDARD OF PROOF. The standard of proof for
21 all elements of a cause of action under this chapter is
22 preponderance of the evidence.

23 Sec. 2116.057. CHAPTER 41, CIVIL PRACTICE AND REMEDIES
24 CODE, INAPPLICABLE TO ACTION UNDER THIS CHAPTER. Chapter 41, Civil
25 Practice and Remedies Code, is not applicable to a cause of action
26 under this chapter.

27 SUBCHAPTER C. FALSE CLAIMS

1 Sec. 2116.101. FALSE CLAIMS. (a) A person commits a false
2 claim if the person:

3 (1) knowingly presents, or causes to be presented, to
4 an officer, employee, or agent of this state, or to any contractor,
5 grantee, or other recipient of state funds, a false or fraudulent
6 claim for payment or approval;

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

10 (3) conspires to defraud this state by getting a false
11 or fraudulent claim allowed or paid, or conspires to defraud this
12 state by knowingly making, using, or causing to be made or used, a
13 false record or statement to conceal, avoid, or decrease an
14 obligation to pay or transmit money or property to this state;

15 (4) has possession, custody, or control of public
16 property or money used or to be used by this state and knowingly
17 delivers or causes to be delivered less property than the amount for
18 which the person receives a certificate or receipt;

19 (5) is authorized to make or deliver a document
20 certifying receipt of property used or to be used by this state and
21 knowingly makes or delivers a receipt that falsely represents the
22 property used or to be used;

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

26 (7) knowingly makes, uses, or causes to be made or used
27 a false record or statement to conceal, avoid, or decrease an

1 obligation to pay or transmit money or property to this state;

2 (8) knowingly conceals, avoids, or decreases an
3 obligation to pay or transmit money or property to this state; or

4 (9) is a beneficiary of an inadvertent submission of a
5 false claim to any employee, officer, or agent of this state, or to
6 any contractor, grantee, or other recipient of state funds,
7 subsequently discovers the falsity of the claim, and fails to
8 disclose the false claim to this state within a reasonable time
9 after discovery of the false claim.

10 (b) Proof of the person's specific intent to commit a false
11 claim under Subsection (a) is not required in a civil or
12 administrative proceeding to show that a person acted "knowingly"
13 with respect to information under this chapter.

14 Sec. 2116.102. CIVIL REMEDIES. (a) A person who commits a
15 false claim under Section 2116.101 is liable to this state for:

16 (1) a civil penalty in an amount not less than \$5,000
17 and not more than \$15,000 for each false claim committed by the
18 person;

19 (2) except as provided by Subsection (b), three times
20 the amount of damages that this state sustains directly or
21 indirectly as a result of the act of the person; and

22 (3) fees, expenses, and costs reasonably incurred in
23 obtaining relief or civil remedies or conducting investigations
24 under this chapter, including court costs, reasonable attorney's
25 fees, witness fees, and deposition fees.

26 (b) A court may assess not less than two times the amount of
27 damages under Subsection (a)(2) if the court finds:

1 (1) that the person committing a false claim furnished
2 the attorney general with all information known to the person about
3 the false claim on or before the 30th day after the date the person
4 first obtained the information;

5 (2) that the person committing a false claim fully
6 cooperated with any investigation of the false claim; and

7 (3) at the time the person furnished information about
8 the false claim, a criminal prosecution, civil action, or
9 administrative action had not commenced in relation to the false
10 claim and the person did not have actual knowledge of the existence
11 of an investigation into the false claim.

12 SUBCHAPTER D. ACTIONS BY PRIVATE PERSONS

13 Sec. 2116.151. ACTIONS BY PRIVATE PERSON AUTHORIZED;
14 ALTERNATIVE REMEDY SOUGHT BY STATE. (a) Subject to Section
15 2116.201, a private person may bring a civil action against a person
16 committing a false claim under Section 2116.101.

17 (b) The action is a qui tam action on behalf of both the
18 person and the state.

19 (c) The qui tam action must be brought in the name of this
20 state.

21 (d) No person other than the attorney general may intervene
22 or bring a related action based on the facts underlying a pending
23 action under this subchapter.

24 Sec. 2116.152. INITIATION OF ACTION. (a) A qui tam
25 plaintiff shall serve a copy of the petition and a written
26 disclosure of substantially all material evidence and information
27 the person possesses on the attorney general in compliance with the

1 Texas Rules of Civil Procedure.

2 (b) The petition shall be filed in camera and, except as
3 provided by Subsection (d) or (e), shall remain under seal until at
4 least the 180th day after the date the petition is filed or the date
5 on which the state elects to intervene, whichever is earlier. The
6 petition may not be served on the defendant until the court orders
7 service on the defendant.

8 (c) The state may elect to intervene and proceed with the
9 action not later than the 180th day after the date the attorney
10 general receives the petition and the material evidence and
11 information.

12 (d) At the time the state intervenes, the attorney general
13 may file a motion with the court requesting that the petition remain
14 under seal for an extended period.

15 (e) The state may, for good cause shown, move the court to
16 extend the 180-day deadline under Subsection (b) or (c). A motion
17 under this subsection may be supported by affidavits or other
18 submissions in camera.

19 (f) An action under this subchapter may be dismissed before
20 the end of the period during which the petition remains under seal
21 only if the court and the attorney general consent in writing to the
22 dismissal and state their reasons for consenting.

23 Sec. 2116.153. ANSWER BY DEFENDANT. A defendant is not
24 required to file in accordance with the Texas Rules of Civil
25 Procedure an answer to a petition filed under this subchapter until
26 the petition is unsealed and served on the defendant.

27 Sec. 2116.154. CHOICE OF STATE. (a) Not later than the

1 last day of the period described by Section 2116.152(c) or an
2 extension of that period as provided by Section 2116.152(e), the
3 state shall:

4 (1) proceed with the action; or

5 (2) notify the court that the state declines to take
6 over the action.

7 (b) If the state declines to take over the action, the qui
8 tam plaintiff is entitled to conduct the action.

9 Sec. 2116.155. ACTION CONDUCTED BY STATE. (a) This section
10 applies to a qui tam action the state takes over under Section
11 2116.154(a)(1).

12 (b) The state has the primary responsibility for
13 prosecuting the action and is not bound by an act of the qui tam
14 plaintiff.

15 (c) Subject to this section, the qui tam plaintiff is
16 entitled to continue as a party to the action.

17 (d) Notwithstanding the objection of the qui tam plaintiff,
18 the state may dismiss the action for good cause if:

19 (1) the state notifies the qui tam plaintiff that a
20 motion to dismiss has been filed; and

21 (2) the court provides the qui tam plaintiff with an
22 opportunity for a hearing on the motion.

23 (e) Notwithstanding the objection of the qui tam plaintiff,
24 the state may settle the action if the court determines, after a
25 hearing, that the proposed settlement is fair, adequate, and
26 reasonable under all the circumstances. On a showing of good cause,
27 the court may hold the hearing in camera.

1 (f) On a showing by the state that unrestricted
2 participation in the litigation of the action by the qui tam
3 plaintiff would interfere with or unduly delay the state's
4 prosecution of the case or would be repetitious, irrelevant, or for
5 purposes of harassment, the court may impose limitations on the
6 person's participation, including:

7 (1) limiting the number of witnesses the qui tam
8 plaintiff may call;

9 (2) limiting the length of the testimony of witnesses
10 called by the qui tam plaintiff;

11 (3) limiting the qui tam plaintiff's cross-examination
12 of witnesses; or

13 (4) otherwise limiting the participation by the qui
14 tam plaintiff in the litigation.

15 (g) On a showing by the defendant that unrestricted
16 participation in the litigation of the action by the qui tam
17 plaintiff would be for purposes of harassment or would cause the
18 defendant undue burden or unnecessary expense, the court may limit
19 the participation by the qui tam plaintiff in the litigation.

20 Sec. 2116.156. ACTION CONDUCTED BY QUI TAM PLAINTIFF. (a)
21 This section applies to a qui tam action the state declines to take
22 over under Section 2116.154(a)(2).

23 (b) At the request of the state, the state shall be served
24 with copies of all pleadings filed in the action and shall be
25 provided with copies of all discovery requests and responses,
26 including documents produced and deposition transcripts.

27 (c) Without limiting the status and rights of the qui tam

1 plaintiff, the court may, on a showing of good cause and
2 notwithstanding the initial decision of the state to decline to
3 take over the action, permit the state to intervene at a later date.

4 Sec. 2116.157. STAY OF CERTAIN DISCOVERY. (a) On a
5 showing by the state that certain actions of discovery by the qui
6 tam plaintiff would interfere with the state's investigation or
7 prosecution of a criminal or civil matter arising out of the same
8 facts, the court may stay the discovery for a period not to exceed
9 60 days.

10 (b) The court shall hear a motion to stay discovery under
11 this section in camera.

12 (c) The court may extend the period prescribed by Subsection
13 (a) on a further showing in camera that the state has pursued the
14 criminal or civil investigation or proceedings with reasonable
15 diligence and that any proposed discovery in the civil action will
16 interfere with the ongoing criminal or civil investigation or
17 proceedings.

18 Sec. 2116.158. AWARD TO QUI TAM PLAINTIFF. (a) If the
19 state proceeds with an action under this subchapter, the person
20 bringing the action is entitled, except as provided by Subsection
21 (b), to receive an award of at least 15 percent, but not more than 25
22 percent, of the proceeds of the action, depending on the extent to
23 which the person substantially contributed to the prosecution of
24 the action.

25 (b) If the state declines to proceed with an action under
26 Section 2116.154(a)(2), the qui tam plaintiff is entitled, except
27 as provided by Subsection (c), to receive an award of at least 25

1 percent but not more than 30 percent of the proceeds of the action.

2 (c) If the court finds, on motion of the attorney general,
3 that the action is based primarily on disclosures of specific
4 information, other than information provided by the person bringing
5 the action, relating to allegations or transactions in a civil or
6 criminal hearing, in a legislative or administrative report,
7 hearing, audit, or investigation, or from the news media, the court
8 may award the amount the court considers appropriate but not more
9 than 10 percent of the proceeds of the action. The court shall
10 consider the significance of the information and the role of the
11 person bringing the action in advancing the case to litigation.

12 (d) A payment to a person under this section shall be made
13 from the proceeds of the action. A person receiving a payment under
14 this section is also entitled to receive from the defendant an
15 amount for reasonable expenses, reasonable attorney's fees, and
16 costs that the court finds to have been necessarily incurred. The
17 court's determination of expenses, fees, and costs to be awarded
18 under this subsection shall be made only after the defendant has
19 been found liable in the action or has settled the action.

20 (e) In this section, "proceeds of the action" means the
21 amount recovered by the state pursuant to a judgment or settlement
22 of the qui tam action or the resolution of an alternate remedy
23 pursued by the state under Section 2116.201. The term does not
24 include attorney's fees, costs, and expenses incurred in bringing
25 the action.

26 Sec. 2116.159. REDUCTION OF AWARD. (a) If the court finds
27 that the qui tam plaintiff planned and initiated the false claim

1 that is the basis of the qui tam action, the court may, to the extent
2 the court considers appropriate, reduce the share of the proceeds
3 of the action the person would otherwise receive under Section
4 2116.158, taking into account the qui tam plaintiff's role in
5 advancing the case to litigation and any relevant circumstances
6 pertaining to the violation.

7 (b) If the qui tam plaintiff is convicted of criminal
8 conduct arising from the person's role in the false claim, the court
9 shall dismiss the plaintiff from the civil action and the plaintiff
10 may not receive any share of the proceeds of the action. A
11 dismissal under this subsection does not prejudice the right of the
12 state to continue the qui tam action.

13 Sec. 2116.160. STATE NOT LIABLE FOR CERTAIN EXPENSES. The
14 state is not liable for expenses that a qui tam plaintiff incurs in
15 bringing an action under this subchapter.

16 Sec. 2116.161. RETALIATION BY EMPLOYER AGAINST PERSON
17 BRINGING SUIT PROHIBITED. (a) A person who is discharged, demoted,
18 suspended, threatened, harassed, or in any other manner
19 discriminated against in the terms of employment by the person's
20 employer because of a lawful act taken by the person in furtherance
21 of a qui tam action, including investigation for, initiation of,
22 testimony for, or assistance in a qui tam action filed or to be
23 filed, is entitled to all relief necessary to make the person whole,
24 including:

25 (1) reinstatement with the same seniority status the
26 person would have had but for the discrimination; and

27 (2) two times the amount of back pay, interest on the

1 back pay, and compensation for any special damages sustained as a
2 result of the discrimination, including litigation costs and
3 reasonable attorney's fees.

4 (b) A person may bring an action in the appropriate district
5 court for the relief provided in this section.

6 SUBCHAPTER E. ACTION BY STATE

7 Sec. 2116.201. STATE MAY PURSUE ALTERNATE REMEDY. (a)

8 After a qui tam action is filed, the state may elect to prosecute
9 the false claim that is the subject of the action through any
10 alternate remedy available to the state, including any
11 administrative proceeding to determine an administrative penalty.

12 (b) The qui tam plaintiff has the same rights in the other
13 proceeding as the person would have had if the action had continued
14 in the original forum, including a monetary award as provided by
15 Subchapter D.

16 (c) A finding of fact or conclusion of law made in the other
17 proceeding that has become final is conclusive on all parties to the
18 qui tam action. For purposes of this subsection, a finding or
19 conclusion is final if:

20 (1) the finding or conclusion has been finally
21 determined on appeal to the appropriate court;

22 (2) no appeal has been filed with respect to the
23 finding or conclusion and all time for filing an appeal has expired;

24 or

25 (3) the finding or conclusion is not subject to
26 judicial review.

27 SECTION 2. Section [41.002](#)(d), Civil Practice and Remedies

1 Code, is amended to read as follows:

2 (d) Notwithstanding any provision to the contrary, this
3 chapter does not apply to:

4 (1) Section 15.21, Business & Commerce Code (Texas
5 Free Enterprise and Antitrust Act of 1983);

6 (2) an action brought under the Deceptive Trade
7 Practices-Consumer Protection Act (Subchapter E, Chapter 17,
8 Business & Commerce Code) except as specifically provided in
9 Section 17.50 of that Act;

10 (3) an action brought under Chapter 36, Human
11 Resources Code; ~~or~~

12 (4) an action brought under Chapter 21, Insurance
13 Code; or

14 (5) an action brought under Chapter 2116, Government
15 Code.

16 SECTION 3. (a) Except as provided by Subsection (b) of this
17 section, this Act applies only to a false claim as described by
18 Section 2116.101, Government Code, as added by this Act, that takes
19 place on or after the effective date of this Act. A false claim
20 takes place on or after the effective date of this Act only if all
21 elements of the false claim take place on or after the effective
22 date of this Act.

23 (b) This Act applies to acts occurring before the effective
24 date of this Act that would have constituted a false claim as
25 described by Section 2116.101, Government Code, as added by this
26 Act, if that section had been effective at the time of the acts, if:

27 (1) the acts were reported or made known to a state

1 agency within a reasonable period of time after the date of their
2 occurrence; and

3 (2) the acts are the subject of an ongoing
4 investigation by a state agency on or after the effective date of
5 this Act.

6 SECTION 4. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2015.