

TESTIMONY IN SUPPORT OF HB 509

TO: Hon. Joseph F. Vallario, Jr. Chair, and members of the House Judiciary Committee
FROM: Brian J. Markovitz, Attorney Joseph, Greenwald & Laake, P.A.
DATE: February 20, 2013

Chairman Vallario and members of the Committee, I am a litigation attorney in private practice in Greenbelt, Maryland. My firm, Joseph, Greenwald & Laake, P.A., and I represent whistleblowers in the state of Maryland and throughout the country. I come before the Committee in support of HB 509. I respectfully request that the Committee move forward in expanding the current Maryland Health Care False Claims Act's reach beyond health care fraud so that it combats all types of fraud perpetrated against the state of Maryland.

Currently, the Maryland False Claims Act is limited to combating fraud against state health plans or health programs. Because of this limitation, whistleblowers have no incentive to come forward to expose non-health care related fraud in their employers' dealings with the State of Maryland. They are not protected from retaliation under the current law and are in danger of losing their jobs without recourse if they report how their employer is defrauding the State of Maryland. So, even the most egregious non-health care fraud is likely to not be exposed, investigated and prosecuted. HB 509 would allow the Office of the Attorney General to receive information from a whistleblower and, after investigating, decide whether to prosecute the case no matter the budgetary source of the defrauded program.

Importantly, both the District of Columbia's and Virginia's equivalent acts are not limited to health care fraud.¹ In fact, passage of HB 509 would make the Maryland False Claims Act's scope consistent with eighteen other states and the District of Columbia,² as well as the Federal False Claims Act.

¹ See District of Columbia False Claims Act, D.C. Code §§2-308.13 - 2-308.21, and the Virginia Fraud Against Taxpayers Act, V.A. Code. § 8.01-216.1, *et seq.*

² In addition to the District of Columbia and Virginia, the following states have false claims acts that are not limited to health care: California, Delaware, Florida, Hawaii, Illinois, Indiana, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, and Tennessee. See Cal. Gov't Code §12650 *et seq.*; Del. Code Ann. Title 6 § 1201 *et seq.*; Fla. Stat. §68.091 *et seq.*; Haw. Rev. Stat. §661-21 *et seq.*; 740 ILCS 175/1 *et seq.*; Indiana Code 5-11-5.5 *et seq.*; Mass. Ann. Laws Ch. 12; §5A *et seq.*; Minn. Stat. § 15C.01 *et seq.*; Nev. Rev. Stat. §357.010 *et seq.*; N.H. Rev. Stat. Ann. §167:61-b *et seq.*; NJ Stat. § 2A:32C-1 *et seq.*; N.M. Stat. Ann. §§ 27-14-1 *et seq.*; NY State Fin. Law Ch. 13; §187 *et seq.*; N.C. Gen. Stat. Ann. §108A-70.10 *et seq.*; Okl. Code Title 63 §5053.1 *et seq.*; R.I. Gen. Laws §§ 9-1.1-1 *et seq.*; and Tenn. Stat. §71-5-181 *et seq.*

I can attest to a real example where the Maryland Act's current limitations precludes Maryland's ability to recover fraudulently taken funds. This past Thursday, February 14, 2013, I filed a case in United States District Court for the District of Columbia under the Federal False Claims Act, the District of Columbia False Claims Act, and the Virginia False Claims Act. Even though funds from Maryland were also fraudulently obtained, because the fraudulent scheme did not involve health care funds, I was unable to file a case on behalf of Maryland taxpayers.

Every single tax dollar matters. Last year taxes were increased approximately \$260 million and our economic recovery is not nearly as fast as we would like. These problems are compounded by possible cuts in federal aid. Our state cannot afford to ignore the fraudulent taking of our precious state funds no matter the budgetary source.

HB 509 is common sense. I, therefore, urge a favorable report for HB 509. Thank you for your time.