

§ 1-610. Award to qui tam plaintiff.

(a) Except as otherwise provided in this section, if the State proceeds with an action brought by a qui tam plaintiff under G.S. 1-608(b), the qui tam plaintiff shall receive at least fifteen percent (15%) but not more than twenty-five percent (25%) of the proceeds of the action or settlement of the claim, depending upon the extent to which the qui tam plaintiff substantially contributed to the prosecution of the action.

(b) Where the action is one which the court finds to be based primarily on disclosures of specific information, other than information provided by the qui tam plaintiff, relating to allegations or transactions (i) in a State criminal, civil, or administrative hearing, (ii) in a State legislative, Office of the State Auditor, or other State report, hearing, audit, or investigation, or (iii) from the news media, the court may award such sums as it considers appropriate, but in no case more than ten percent (10%) of the proceeds, taking into account the significance of the information and the role of the qui tam plaintiff in advancing the case to litigation.

(c) Any payment to a qui tam plaintiff under subsection (a) or (b) of this section shall be made from the proceeds.

(d) The qui tam plaintiff also shall receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(e) If the State does not proceed with an action under this Article, the qui tam plaintiff shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall not be less than twenty-five percent (25%) and not more than thirty percent (30%) of the proceeds of the action or settlement and shall be paid out of the proceeds. The qui tam plaintiff also shall receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(f) Whether or not the State proceeds with the action, if the court finds that the qui tam plaintiff planned and initiated the violation of G.S. 1-607 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the qui tam plaintiff would otherwise receive under subsection (a), (b), or (e) of this section, taking into account the role of the qui tam plaintiff in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the qui tam plaintiff is convicted of criminal conduct arising from his or her role in the violation of G.S. 1-607, the qui tam plaintiff shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such a dismissal shall not prejudice the right of the State to continue the action.

(g) If the State does not proceed with the action and the qui tam plaintiff conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the qui tam plaintiff was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment. (2009-554, s. 1; 2018-41, s. 4.)