



# City of Chicago



O2018-7000

## Office of the City Clerk Document Tracking Sheet

<b>Meeting Date:</b>	9/20/2018
<b>Sponsor(s):</b>	Emanuel (Mayor)
<b>Type:</b>	Ordinance
<b>Title:</b>	Amendment of Municipal Code Chapters 1-22, 2-25 and 2-60 regarding false claims and consumer fraud
<b>Committee(s) Assignment:</b>	Committee on Budget and Government Operations

BUDG.



OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

September 20, 2018

TO THE HONORABLE, THE CITY COUNCIL  
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Corporation Counsel, I transmit herewith an ordinance amending Chapter 1-22 and Title 2 of the Municipal Code regarding false claims and consumer fraud.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in cursive script that reads "Rahm Emanuel".

Mayor

ORDINANCE

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:**

**SECTION 1.** Section 1-22-020 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

**1-22-020 False claims.**

(a) Any person who:

*(Omitted text is unaffected by this ordinance)*

(4) has possession, custody, or control of property or money used, or to be used, by the city and, ~~intending to defraud the city or to conceal the property,~~ knowingly delivers, or causes to be delivered, less property 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 city and, intending to defraud the city, makes or delivers the receipt without complete knowledge that the information on the receipt is true;

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

(7) knowingly makes, uses, or causes 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 city, ~~is liable to the city for a civil penalty of not less than \$5,000.00 and not more than \$10,000.00, plus three times the amount of damages which the city sustains because of the act of that person. A person violating this section shall also be liable to the city for the attorneys' fees and costs of a civil action brought to recover any such penalty or damages;~~ or

(8) knowingly violates 42 U.S.C. § 1320a-7b in connection with the provision of items or services included in a claim to the city

is liable to the city for a civil penalty of not less than \$5,000.00 and not more than \$10,000.00, plus three times the amount of damages which the city sustains because of the act of that person. A person violating this section shall also be liable to the city for the attorneys' fees and costs of a civil action brought to recover any such penalty or damages.

(b) Reduced damages. If a court adjudicating a violation of this section finds that:

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

(2) such person fully cooperated with any city investigation of such violation; and

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

the court may assess not less than two times the amount of damages which the city sustains because of the act of that person.

**SECTION 2.** Section 1-22-040 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

**1-22-040 False claims procedure.**

(a) A subpoena requiring the attendance of a witness at a trial or hearing conducted under Section 1-22-030 may be served at any place in the state.

(b) A civil action under Section 1-22-030 may not be brought:

(1) more than six years after the date on which the violation of Section 1-22-020 is committed; or

(2) more than three years after the date when facts material to the right of action are known or reasonably should have been known by the official of the city charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed, ~~whichever occurs last.~~ committed,

whichever occurs last.

(c) If the city elects to intervene and proceed with an action under section 1-22-030(b), the city may file its own complaint or amend the complaint of a person who has brought an action under section 1-22-030(b) to clarify or add detail to the claims in which the city is intervening and to add any additional claims with respect to which the city contends it is entitled to relief. For purposes of the time limitations set forth in subsection (b) of this section, any such city pleading shall relate back to the filing date of the complaint of the person who originally brought the action, to the extent that the claim of the city arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the prior complaint of that person.

~~(e)(d)~~ In any action brought under Section 1-22-030, the city shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

~~(d)(e)~~ Notwithstanding any other provision of law, a final judgement rendered in favor of the city in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty, shall stop 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 subsection (a) or (b) of Section 1-22-030.

**SECTION 3.** Section 1-22-050 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

**1-22-050 Subpoenas.**

*(Omitted text is unaffected by this ordinance)*

(i) Custodians of documents, answers, and transcripts.

(1) Designation. The corporation counsel, or his designees, shall serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this section.

(2) Except as otherwise provided in this section, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the custodian, shall be available for examination by any individual, except as determined necessary by the corporation counsel and subject to the conditions imposed by him or her for effective enforcement of the laws of this city, or as otherwise provided by court order.

(3) Conditions for return of material. If any documentary material has been produced by any person in the course of any investigation pursuant to a subpoena under this section and:

(A) any case or proceeding before the court or grand jury arising out of such investigation, or any proceeding before any city agency involving such material, has been completed, or

(B) no case or proceeding in which such material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation, ~~the custodian shall, upon written request of the person who produced such material, return to such person any such material which has not passed into the control of any court, grand jury, or agency through introduction into the record of such case or proceeding.~~ investigation,

the custodian shall, upon written request of the person who produced such material, return to such person any such material which has not passed into the control of any court, grand jury, or agency through introduction into the record of such case or proceeding.

(j) Judicial proceedings.

*(Omitted text is unaffected by this ordinance)*

~~(k) Disclosure exemption. Any documentary material, answers to written interrogatories, or oral testimony provided under any subpoena issued under subsection (a) shall be exempt from disclosure under the Illinois Administrative Procedure Act.~~

**SECTION 4.** Section 2-25-090 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

**2-25-090 Prohibited acts – Consumer fraud, unfair competition or deceptive practices – Duty to enforce.**

*(Omitted text is unaffected by this ordinance)*

(d) If it appears to the commissioner, after receiving a written complaint or otherwise, that a person has engaged in, is engaging in or is about to engage in a practice that is in violation of this section, the commissioner may, after serving a ~~30-day~~ 14-day notice:

(1) require such person to file, on such terms as the commissioner may prescribe, a written statement or report setting forth all relevant and material information pertaining to the allegation(s) set forth in any complaint;

(2) examine any person in connection with relevant and material issues concerning the conduct of any trade or business;

(3) examine any merchandise or sample thereof, or any record, book, document, account or paper relevant and material to such inquiry; and

(4) retain, in the commissioner's possession, copies of any record, book, document, account, paper or sample of merchandise that is produced in accordance with this section until the completion of all proceedings in connection with which such copy or copies are produced.

(e) Whenever the corporation counsel has reason to believe that a violation of this section has occurred, the corporation counsel may issue in writing and cause to be served a subpoena in accordance with the procedures of section 1-22-050.

~~(e)~~(f) If, after completing an investigation pursuant to this section, the commissioner determines that a person has engaged in, is engaging in, or is about to engage in a practice prohibited by this section, the commissioner may:

(1) order such person to discontinue the prohibited practice;

(2) order such person to pay restitution to persons aggrieved by the practice;

(3) request that the mayor take action under Section 4-4-280 of this Code to revoke or suspend such person's license;

(4) request the corporation counsel to bring an action for injunctive relief or such other equitable relief that the commissioner deems to be appropriate.

~~(f)~~(g) Except as otherwise provided in this chapter, and in addition to any other penalty provided by law, any person who violates any of the requirements of this section shall be subject to a

fine of not less than \$2,000.00 nor more than \$10,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

~~(g)~~(h) Prosecution of a violation of this section does not preempt the city from prosecution under any other ordinance that the Commissioner is authorized to enforce.

**SECTION 5.** Section 2-60-020 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

**2-60-020 Corporation counsel – Appointment – Powers and duties.**

There is hereby created the office of corporation counsel. He shall be appointed by the mayor, by and with the advice and consent of the city council, and shall be the head of the department of law of the city.

The corporation counsel shall perform the following duties:

*(Omitted text is unaffected by this ordinance)*

(e) Certify to the city comptroller all judgments rendered against the city as of the date following the last day on which appeal may be made, when in the opinion of the corporation counsel no further proceedings are proper; provided, that when the corporation counsel is of the opinion that an appeal is not justified, he may certify such judgment to the city comptroller at any time, and provided further, that when a judgment is rendered against any member of the police department for injury to person or property resulting from the performance of his duties as a policeman, he shall certify such judgment to the city comptroller for payment by the city, when, in his opinion, such member of the police department has not been guilty of wilful misconduct and the corporation counsel is of the opinion that an appeal is not justified.

(f) Investigate, at his discretion, acts of consumer fraud, unfair methods of competition, or deceptive practices by persons conducting business or trade in the city pursuant to section 2-25-090.

**SECTION 6.** This ordinance shall be in full force and effect following due passage and approval. This ordinance shall be applicable to ongoing processes.