

1 or direct the payment of any money or transfer of any property
2 belonging to the state or to such county, city, town or school
3 district, in settlement of any claim or in pursuance of any
4 unauthorized, unlawful or fraudulent contract or agreement made ~~or~~
5 ~~attempted to be made~~, for the state or any such county, city, town
6 or school district, by any officer thereof, known to such officer to
7 be fraudulent or void, and every person, having notice of the facts,
8 with whom such unauthorized, unlawful or fraudulent contract shall
9 have been made, or to whom, or for whose benefit such money shall be
10 paid or such transfer of property shall be made, ~~shall be jointly~~
11 ~~and severally liable in damage to all innocent persons in any manner~~
12 ~~injured thereby, and shall be furthermore~~ jointly and severally
13 liable to the state, county, city, town or school district affected,
14 for triple the amount of all such sums of money so paid, ~~and or~~
15 triple the value of property so transferred, as a penalty, to be
16 recovered at the suit of the proper officers of the state or such
17 county, city, town or school district, or of any resident taxpayer
18 thereof, pursuant to Section 373 of this title; provided, however,
19 no action for personal liability shall lie against any such officer
20 for a transaction approved in good-faith reliance on advice of legal
21 counsel for the public entity authorizing the transaction or which
22 has been submitted to a court of competent jurisdiction for
23 determination of legality.

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1 SECTION 2. AMENDATORY 62 O.S. 2001, Section 373, is
2 amended to read as follows:

3 Section 373. Upon the refusal, failure, or neglect of the
4 proper officers of the state or of any county, ~~township,~~ city, town,
5 or school district, after written demand signed, verified and served
6 upon them by ~~ten resident taxpayers~~ a number of registered voters of
7 the state or such county, ~~township,~~ city, town, or school district
8 equal to one hundred (100), or two and one-half percent (2 1/2%) of
9 the registered voters living within the state or such county, city,
10 town or school district, whichever is less, to institute or
11 diligently prosecute proper proceedings at law or in equity for the
12 recovery of any money or property belonging to the state, or such
13 county, ~~township,~~ city, town, or school district, paid out or
14 transferred by any officer thereof in pursuance of any unauthorized,
15 unlawful, fraudulent, or void contract made, or attempted to be
16 made, by any of its officers for the state or any such county,
17 ~~township,~~ city, town, or school district, ~~or for the penalty~~
18 ~~provided in the preceding section,~~ any resident taxpayer of the
19 state or such county, ~~township,~~ city, town, or school district
20 affected by such payment or transfer after serving the notice
21 aforesaid and after giving security for cost, may in the name of the
22 State of Oklahoma as plaintiff, institute and maintain any proper
23 action which the proper officers of the state, county, ~~township,~~
24 city, town, or school district might institute and maintain for the

1 recovery of such property, ~~or for said penalty~~; and the state or
2 such ~~municipality~~ county, city, town or school district shall in
3 such event be made defendant, ~~and one half (1/2) the amount of money~~
4 ~~and one half (1/2) the value of the property recovered in any action~~
5 ~~maintained at the expense of a resident taxpayer under this section,~~
6 ~~shall be paid to such resident taxpayer as a reward.~~ If a court of
7 competent jurisdiction determines the claims to be meritorious, the
8 contract shall be deemed void and the money or property, if
9 previously transferred, shall be returned to the state, county,
10 city, town or school district. The state, county, city, town or
11 school district shall be liable to the resident taxpayer or
12 taxpayers for reasonable attorney fees and court costs incurred in
13 the prosecution of the action. If all claims stated by the resident
14 taxpayers in the written demand are determined in a court of
15 competent jurisdiction to be frivolous, the resident taxpayers who
16 signed such demand and who are parties to the lawsuit in which such
17 claims are determined to be frivolous shall be jointly and severally
18 liable for all reasonable attorney fees and court costs incurred by
19 any public officer or officers or any other person alleged in such
20 demand to have paid out, transferred, or received any money or
21 property belonging to the state, or such county, ~~township~~, city,
22 town or school district in pursuance of any alleged unauthorized,
23 unlawful, fraudulent, or void claim paid or contract or conveyance
24 made, or attempted to be made, by such officer or officers.

1 SECTION 3. This act shall become effective November 1, 2011.

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3 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03-29-2011 - DO
4 PASS, As Coauthored.
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