

1-1 By: Guillen (Senate Sponsor - Flores) H.B. No. 4635
1-2 (In the Senate - Received from the House May 8, 2023;
1-3 May 9, 2023, read first time and referred to Committee on Border
1-4 Security; May 21, 2023, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 May 21, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>Birdwell</u>	X		
1-10	<u>Flores</u>	X		
1-11	<u>Blanco</u>	X		
1-12	<u>Hinojosa</u>	X		
1-13	<u>King</u>	X		

1-14 COMMITTEE SUBSTITUTE FOR H.B. No. 4635 By: Flores

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to organized crime, racketeering activities, and
1-18 collection of unlawful debts; providing a civil penalty; creating
1-19 criminal offenses.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. This Act shall be known as the Texas Racketeering
1-22 Act.

1-23 SECTION 2. Title 6, Civil Practice and Remedies Code, is
1-24 amended by adding Chapter 140B to read as follows:

1-25 CHAPTER 140B. CIVIL REMEDIES AND ENFORCEMENT RELATED TO
1-26 RACKETEERING AND UNLAWFUL DEBT COLLECTION

1-27 SUBCHAPTER A. GENERAL PROVISIONS

1-28 Sec. 140B.001. DEFINITIONS. In this chapter:

1-29 (1) "Beneficial interest":

1-30 (A) means the interest of a person:

1-31 (i) as a beneficiary under a trust
1-32 established under the Texas Trust Code (Subtitle B, Title 9,
1-33 Property Code) in which the trustee for the trust holds legal or
1-34 record title to real property;

1-35 (ii) as a beneficiary under any other trust
1-36 arrangement under which a trustee holds legal or record title to
1-37 real property for the benefit of the person; or

1-38 (iii) under any other form of express
1-39 fiduciary arrangement under which any other person holds legal or
1-40 record title to real property for the benefit of the person; and

1-41 (B) does not include the interest of a
1-42 shareholder in a corporation or the interest of a partner in either
1-43 a general partnership or a limited partnership.

1-44 (2) "Cash or cash proceeds" includes:

1-45 (A) damages, penalties, or any other monetary
1-46 payment;

1-47 (B) monetary proceeds from property forfeited to
1-48 the state under Subchapter C; or

1-49 (C) any payment made by a defendant by reason of a
1-50 decree or settlement in an action filed under Subchapter C.

1-51 (3) "Enterprise" means a legal entity, group of
1-52 individuals associated in fact, or a combination of those entities
1-53 and individuals.

1-54 (4) "Investigative agency" means the Department of
1-55 Public Safety, the attorney general, or a local prosecutor.

1-56 (5) "Local prosecutor" means a district attorney,
1-57 criminal district attorney, or county attorney with felony criminal
1-58 jurisdiction.

1-59 (6) "Money" means funds as defined by Section 34.01,
1-60 Penal Code.

1-61 (7) "Real property" means any real property or any

2-1 interest in real property, including any lease of or mortgage on
 2-2 real property.

2-3 Sec. 140B.002. SPECIAL DOCKETING PROCEDURES. The attorney
 2-4 general or local prosecutor may file with the clerk of the district
 2-5 court in which an action is brought under this chapter a certificate
 2-6 stating that the case is of special public importance. The clerk
 2-7 must immediately furnish a copy of the certificate to the
 2-8 administrative judge of the district court of the county in which
 2-9 the action is pending. On receiving the copy of the certificate,
 2-10 the administrative judge shall immediately designate a judge to
 2-11 hear and determine the action. The designated judge shall promptly
 2-12 assign the action for hearing, participate in hearings, make
 2-13 determinations, and cause the action to be expedited.

2-14 Sec. 140B.003. PREVIOUSLY SEIZED ASSETS. Notwithstanding
 2-15 any other provision of this chapter, a remedy provided by this
 2-16 chapter may not be assessed against, and the attorney general may
 2-17 not claim or pursue in an action brought under this chapter, any
 2-18 proceeds, contraband, or other property of any kind over which a law
 2-19 enforcement authority has previously asserted jurisdiction under
 2-20 Chapter 59, Code of Criminal Procedure, at the time an action under
 2-21 this chapter was filed.

2-22 SUBCHAPTER B. CIVIL INVESTIGATIVE AUTHORITY

2-23 Sec. 140B.051. DEFINITIONS. In this subchapter:

2-24 (1) "Civil investigative demand" means any demand
 2-25 issued by the attorney general or a local prosecutor under this
 2-26 subchapter.

2-27 (2) "Documentary material" means the original or a
 2-28 copy of any paper, contract, agreement, book, booklet, brochure,
 2-29 pamphlet, catalog, magazine, notice, announcement, circular,
 2-30 bulletin, instruction, minutes, agenda, study, analysis, report,
 2-31 graph, map, chart, table, schedule, note, letter, telegram,
 2-32 telephone recordings, or data compilations stored in or accessible
 2-33 through computer or other information retrieval systems, together
 2-34 with instructions and all other materials necessary to use or
 2-35 interpret the data compilations, and any product of discovery.

2-36 (3) "Product of discovery" means:

2-37 (A) the original or a copy of a deposition,
 2-38 interrogatory, document, thing, result of inspection of land or
 2-39 other property, examination, or admission that is obtained by any
 2-40 method of discovery in a judicial or administrative proceeding of
 2-41 an adversarial nature;

2-42 (B) a digest, analysis, selection, compilation,
 2-43 or derivation of any item listed in Paragraph (A); and

2-44 (C) an index, instruction, or other aid or means
 2-45 of access to any item listed in Paragraph (A).

2-46 (4) "Racketeering investigation" means any inquiry
 2-47 conducted by the attorney general or a local prosecutor for the
 2-48 purpose of ascertaining whether any person is or has been engaged in
 2-49 or is actively preparing to engage in activities that may
 2-50 constitute a racketeering violation.

2-51 (5) "Racketeering violation" means conduct
 2-52 constituting an offense under Section 72.02, 72.03, or 72.04, Penal
 2-53 Code.

2-54 Sec. 140B.052. CIVIL INVESTIGATIVE DEMAND. If the attorney
 2-55 general or a local prosecutor has reason to believe that a person
 2-56 may be in possession, custody, or control of any documentary
 2-57 material or other evidence or may have any information relevant to a
 2-58 civil racketeering investigation, the attorney general or local
 2-59 prosecutor may, before beginning a civil proceeding under this
 2-60 chapter, issue in writing and serve on the person a civil
 2-61 investigative demand requiring the person to:

2-62 (1) produce any of the documentary material for
 2-63 inspection and copying;

2-64 (2) answer in writing any written interrogatories;

2-65 (3) give oral testimony; or

2-66 (4) provide any combination of civil investigative
 2-67 demands under Subdivisions (1)-(3).

2-68 Sec. 140B.053. CONTENTS OF DEMAND. (a) A civil
 2-69 investigative demand issued under Section 140B.052 must:

3-1 (1) describe the nature of the activities that are the
3-2 subject of the investigation;

3-3 (2) state each statute the activity violates; and
3-4 (3) advise the person on whom the demand is served that
3-5 the person has the right to object to the demand as provided for in
3-6 this subchapter.

3-7 (b) A demand for production of documentary material must:
3-8 (1) describe the class of material to be produced with
3-9 reasonable specificity so that the material demanded is fairly
3-10 identified;

3-11 (2) prescribe a return date that provides a reasonable
3-12 period of time within which the material is to be produced; and

3-13 (3) identify the individual to whom the material is to
3-14 be made available for inspection and copying.

3-15 (c) A demand for answers to written interrogatories must:
3-16 (1) propound the interrogatories with definiteness
3-17 and certainty;

3-18 (2) prescribe a date by which answers to the
3-19 interrogatories must be submitted; and

3-20 (3) identify the individual to whom the answers should
3-21 be submitted.

3-22 (d) Each demand for the giving of oral testimony must:
3-23 (1) prescribe a reasonable date, time, and place at
3-24 which the testimony will begin; and

3-25 (2) identify the individual who will conduct the
3-26 examination.

3-27 Sec. 140B.054. SERVICE; PROOF OF SERVICE. (a) Service of
3-28 any civil investigative demand or petition filed under Section
3-29 140B.055 or 140B.060 may be made on any natural person by delivering
3-30 a duly executed copy of the demand or petition to the person to be
3-31 served or by mailing a copy by registered or certified mail, return
3-32 receipt requested, to the person at the person's residence or
3-33 principal office or place of business.

3-34 (b) Service of any demand or petition filed under Section
3-35 140B.055 or 140B.060 may be made on any person other than a natural
3-36 person by delivering a duly executed copy of the demand or petition
3-37 to a person to whom delivery would be appropriate under state law if
3-38 the demand or petition were process in a civil suit.

3-39 (c) A verified return by the individual serving any demand
3-40 or petition filed under Section 140B.055 or 140B.060 setting forth
3-41 the manner of service is proof of service. In the case of service by
3-42 registered or certified mail, the return must be accompanied by the
3-43 return post office receipt of delivery of the demand or petition.

3-44 Sec. 140B.055. PETITION FOR ORDER MODIFYING OR SETTING
3-45 ASIDE DEMAND. (a) At any time before the return date specified in a
3-46 civil investigative demand or not later than the 30th day after the
3-47 date the demand was served, whichever period is shorter, the person
3-48 who has been served, and in the case of a demand for a product of
3-49 discovery the person from whom the discovery was obtained, may file
3-50 a petition for an order modifying or setting aside the demand in the
3-51 district court in the county of the person's residence or principal
3-52 office or place of business or a district court of Travis County.
3-53 The petition must specify each ground upon which the petitioner
3-54 relies in seeking the relief sought. The petition may be based on
3-55 any failure of a demand to comply with the provisions of this
3-56 subchapter or on any constitutional or other legal right or
3-57 privilege of the petitioner.

3-58 (b) The petitioner shall serve a copy of the petition on the
3-59 attorney general or local prosecutor, as applicable, in accordance
3-60 with Section 140B.054. The attorney general or local prosecutor
3-61 may submit an answer to the petition.

3-62 (c) In ruling on the petition under this section, the court
3-63 shall presume absent evidence to the contrary that the attorney
3-64 general or local prosecutor issued the demand in good faith and
3-65 within the scope of the attorney general's or local prosecutor's
3-66 authority.

3-67 Sec. 140B.056. COMPLIANCE WITH DEMAND. (a) A person on
3-68 whom a civil investigative demand is served under this subchapter
3-69 shall comply with the terms of the demand unless otherwise provided

4-1 by court order.

4-2 (b) The time for compliance with the demand wholly or partly
4-3 does not run during the pendency of any petition filed under Section
4-4 140B.055, provided that the petitioner shall comply with any
4-5 portions of the demand not sought to be modified or set aside.

4-6 Sec. 140B.057. DOCUMENTARY MATERIAL. (a) Any person on
4-7 whom any civil investigative demand for the production of
4-8 documentary material has been duly served under this subchapter
4-9 shall make the material available to the attorney general or local
4-10 prosecutor, as applicable, for inspection and copying during normal
4-11 business hours on the return date specified in the demand at the
4-12 person's principal office or place of business or as otherwise may
4-13 be agreed on by the person and the attorney general or local
4-14 prosecutor. The attorney general or local prosecutor shall bear
4-15 the expense of any copying. The person may substitute copies for
4-16 originals of all or part of the requested documents if the originals
4-17 are made available for inspection. The attorney general or local
4-18 prosecutor may elect to obtain or review information in an
4-19 electronic format. The person shall indicate in writing which, if
4-20 any, of the documents produced contain trade secrets or
4-21 confidential information.

4-22 (b) The production of documentary material in response to
4-23 any demand must be made under a sworn certificate in the form the
4-24 demand designates by a natural person having knowledge of the facts
4-25 and circumstances relating to the production to the effect that all
4-26 of the requested material in the possession, custody, or control of
4-27 the person to whom the demand is directed has been produced.

4-28 Sec. 140B.058. INTERROGATORIES. (a) Each interrogatory in
4-29 any civil investigative demand duly served must be answered
4-30 separately and fully in writing, unless it is objected to, in which
4-31 case the basis for the objection shall be set forth in lieu of an
4-32 answer. The person shall indicate in writing which, if any, of the
4-33 answers contain trade secrets or confidential information.

4-34 (b) Answers to interrogatories must be submitted under a
4-35 sworn certificate in the form the related demand designates by a
4-36 natural person having knowledge of the facts and circumstances
4-37 relating to the preparation of the answers to the effect that all of
4-38 the requested information in the possession, custody, control, or
4-39 knowledge of the person to whom the demand is directed has been set
4-40 forth fully and accurately.

4-41 Sec. 140B.059. ORAL EXAMINATION. (a) The examination of
4-42 any person pursuant to a civil investigative demand for oral
4-43 testimony duly served must be taken before any person authorized to
4-44 administer oaths and affirmations under the laws of this state or
4-45 the United States. The person before whom the testimony is to be
4-46 taken shall put the witness on oath or affirmation and shall
4-47 personally or by someone acting under the person's direction and in
4-48 the person's presence record the witness's testimony. At the
4-49 expense of the attorney general or local prosecutor, and except as
4-50 provided by this subsection, the testimony must be taken
4-51 stenographically and may be transcribed. The attorney general or
4-52 local prosecutor may take audio and video recordings of the
4-53 testimony by providing notice to the person to be examined not later
4-54 than the seventh day before the day the person is to be examined.

4-55 (b) The oral testimony of any person taken pursuant to a
4-56 demand served must be taken within 100 miles of the county where the
4-57 person resides, is found, or transacts business or in any other
4-58 place agreed on by the person and the attorney general or local
4-59 prosecutor.

4-60 (c) Any person compelled to appear under a demand for oral
4-61 testimony may be accompanied, represented, and advised by counsel.
4-62 Counsel may advise the person in confidence, either on the request
4-63 of the person or on the counsel's own initiative, with respect to
4-64 any question arising in connection with the examination.

4-65 (d) The individual conducting the examination on behalf of
4-66 the attorney general or local prosecutor shall exclude from the
4-67 place of examination all other persons except the person being
4-68 examined, the person's counsel, the counsel of the person to whom
4-69 the demand has been issued, the person before whom the testimony is

5-1 to be taken, any stenographer taking the testimony, audiographer,
 5-2 videographer, and any person assisting the individual conducting
 5-3 the examination.

5-4 (e) During the examination, the person being examined or the
 5-5 person's counsel may object on the record to any question in
 5-6 accordance with Rule 199.5(e), Texas Rules of Civil Procedure. An
 5-7 objection may properly be made, received, and entered on the record
 5-8 when it is claimed that the person is entitled to refuse to answer
 5-9 the question on grounds of any constitutional or other privilege,
 5-10 including the privilege against self-incrimination. Neither that
 5-11 person nor the person's counsel may otherwise object to or refuse to
 5-12 answer any question or interrupt the oral examination. If the
 5-13 person refuses to answer any question, the attorney general or
 5-14 local prosecutor may petition the district court in the county
 5-15 where the examination is being conducted for an order compelling
 5-16 the person to answer the question.

5-17 (f) After the testimony has been fully transcribed, the
 5-18 person before whom the testimony was taken shall promptly transmit
 5-19 the transcript of the testimony to the witness and a copy of the
 5-20 transcript to the attorney general or local prosecutor. The
 5-21 witness must have a reasonable opportunity to examine the
 5-22 transcript and make any changes in form or substance accompanied by
 5-23 a statement of the reasons for the changes. The witness shall then
 5-24 sign and return the transcript. If the witness does not return the
 5-25 transcript to the person before whom the testimony was taken not
 5-26 later than the 20th day after the date the transcript was provided
 5-27 to the witness, the witness may be deemed to have waived the right
 5-28 to make changes. The officer shall then certify on the transcript
 5-29 that the witness was duly sworn and that the transcript is a true
 5-30 record of the testimony given by the witness and promptly transmit a
 5-31 copy of the certified transcript to the attorney general or local
 5-32 prosecutor.

5-33 (g) On request, the attorney general or local prosecutor
 5-34 shall furnish a copy of the certified transcript to the witness.

5-35 (h) The attorney general or local prosecutor may provide the
 5-36 witness the same fees and mileage reimbursement that are paid to
 5-37 witnesses in the district courts of this state.

5-38 Sec. 140B.060. FAILURE TO COMPLY WITH DEMAND PETITION FOR
 5-39 ENFORCEMENT. If a person fails to comply with a civil investigative
 5-40 demand duly served on the person, the attorney general or local
 5-41 prosecutor may file in the district court in the county in which the
 5-42 person resides, is found, or transacts business or in a district
 5-43 court of Travis County and may serve on the person a petition for an
 5-44 order of the court for enforcement. If the person transacts
 5-45 business in more than one county and the attorney general or local
 5-46 prosecutor elects not to file the petition in Travis County, the
 5-47 petition must be filed in the county of the person's principal
 5-48 office or place of business in the state or in any other county as
 5-49 may be agreed on by the person and the attorney general or local
 5-50 prosecutor.

5-51 Sec. 140B.061. CRIMINAL OFFENSE: DELIBERATE NONCOMPLIANCE.

5-52 (a) A person commits an offense if the person, with intent to
 5-53 avoid, evade, or prevent compliance with a civil investigative
 5-54 demand issued under this subchapter, knowingly removes from any
 5-55 place, conceals, withholds, destroys, mutilates, alters, or by any
 5-56 other means falsifies any documentary material or otherwise
 5-57 provides inaccurate information.

5-58 (b) An offense under this section is a Class A misdemeanor.

5-59 Sec. 140B.062. DISCLOSURE AND USE OF MATERIAL AND
 5-60 INFORMATION. (a) The civil investigative demand issued by the
 5-61 attorney general or local prosecutor, any information obtained,
 5-62 maintained, or created in response to the demand, or any
 5-63 documentary material, product of discovery, or other record derived
 5-64 or created during an investigation from the information, is not
 5-65 subject to disclosure under Chapter 552, Government Code, and is
 5-66 not subject to disclosure, discovery, subpoena, or other means of
 5-67 legal compulsion for the release, except as described in
 5-68 Subsections (b) and (c).

5-69 (b) The attorney general or local prosecutor may not release

6-1 or disclose information that is obtained in response to a demand or
6-2 any documentary material, product of discovery, or other record
6-3 derived from the information except:

- 6-4 (1) by court order for good cause shown;
- 6-5 (2) with the consent of the person who provided the
6-6 information to the attorney general or local prosecutor;
- 6-7 (3) to an employee or other person under the direction
6-8 of the attorney general or local prosecutor;
- 6-9 (4) to an agency of this state, the United States, or
6-10 another state or foreign country;
- 6-11 (5) to a political subdivision of this state; or
- 6-12 (6) to a person authorized by the attorney general or
6-13 local prosecutor to receive the information.

6-14 (c) The attorney general or local prosecutor may use
6-15 information obtained in response to a demand, or any documentary
6-16 material, product of discovery, or other record derived or created
6-17 from the information as the attorney general or local prosecutor
6-18 determines necessary in the enforcement of this chapter, including
6-19 presentation before court.

6-20 Sec. 140B.063. JURISDICTION. If a petition is filed in the
6-21 district court in any county, the court has jurisdiction to hear and
6-22 determine the matter presented and to enter any order required to
6-23 implement this chapter. Any final order is subject to appeal.
6-24 Failure to comply with any final order entered by a court under this
6-25 chapter is punishable by the court as contempt of the order.

6-26 Sec. 140B.064. NONEXCLUSIVE PROCEDURES. Nothing in this
6-27 chapter precludes the attorney general or local prosecutor from
6-28 using any procedure not specified in this chapter in conducting a
6-29 racketeering investigation.

6-30 SUBCHAPTER C. CIVIL REMEDIES

6-31 Sec. 140B.101. CIVIL REMEDIES. A district court may, after
6-32 making due provision for the rights of innocent persons, enjoin
6-33 conduct constituting an offense under Section 72.02, 72.03, or
6-34 72.04, Penal Code, by issuing appropriate orders and judgments,
6-35 including:

- 6-36 (1) ordering a defendant to divest of any interest in
6-37 any enterprise, including real property;
- 6-38 (2) imposing reasonable restrictions on the future
6-39 activities or investments of a defendant, including prohibiting a
6-40 defendant from engaging in the same type of endeavor as the
6-41 enterprise in which the defendant was engaged in conduct
6-42 constituting an offense under Section 72.02, 72.03, or 72.04, Penal
6-43 Code;

6-44 (3) ordering the dissolution or reorganization of an
6-45 enterprise;

6-46 (4) ordering the suspension or revocation of a
6-47 license, permit, or approval previously granted to an enterprise by
6-48 any state agency; or

6-49 (5) ordering the forfeiture of the charter of a
6-50 corporation organized under the laws of this state, or the
6-51 revocation of a certificate allowing a foreign corporation to
6-52 conduct business within this state, on finding that:

6-53 (A) the board of directors or a managerial agent
6-54 acting on behalf of the corporation, in conducting the affairs of
6-55 the corporation, has authorized or engaged in conduct constituting
6-56 an offense under Section 72.02, 72.03, or 72.04, Penal Code; and

6-57 (B) for the prevention of future criminal
6-58 activity, the public interest requires the charter of the
6-59 corporation forfeited and the corporation dissolved or the
6-60 certificate revoked.

6-61 Sec. 140B.102. CIVIL FORFEITURE OF PROPERTY. (a) All
6-62 property, real or personal, including money, used in the course of,
6-63 intended for use in the course of, derived from, or realized through
6-64 conduct constituting an offense under Section 72.02, 72.03, or
6-65 72.04, Penal Code, is subject to civil forfeiture to the state under
6-66 this chapter.

6-67 (b) An investigative agency, on behalf of this state, may
6-68 bring a civil action for forfeiture:

- 6-69 (1) in the district court for the judicial district in

7-1 which real or personal tangible property described by Subsection
7-2 (a) is located;

7-3 (2) in a district court in this state regarding
7-4 intangible property described by Subsection (a); and

7-5 (3) in the county in which real or personal tangible
7-6 property described by Subsection (a) was seized.

7-7 (c) On entry of a final judgment of forfeiture in favor of
7-8 the state, the title of the state to the forfeited property shall
7-9 relate back:

7-10 (1) in the case of real property or a beneficial
7-11 interest:

7-12 (A) to the date of filing of a lien notice under
7-13 Chapter 68, Property Code, in the official records of the county
7-14 where the real property or beneficial trust is located;

7-15 (B) if no lien notice is filed, to the date of the
7-16 filing of any notice of lis pendens under Section 68.056(a),
7-17 Property Code, in the official records of the county where the real
7-18 property or beneficial interest is located; or

7-19 (C) if no lien notice or notice of lis pendens is
7-20 filed, to the date of recording of the final judgment of forfeiture
7-21 in the official records of the county where the real property or
7-22 beneficial interest is located; or

7-23 (2) in the case of personal property, to the date the
7-24 personal property was seized by the investigative agency.

7-25 (d) For purposes of this section, a beneficial interest is
7-26 considered to be located where real property owned by the trustee is
7-27 located.

7-28 Sec. 140B.103. CONVEYANCE OF PROPERTY SUBJECT TO
7-29 FORFEITURE. (a) If property subject to forfeiture is conveyed,
7-30 alienated, disposed of, diminished in value, or otherwise rendered
7-31 unavailable for forfeiture, the investigative agency may, on behalf
7-32 of the state, bring an action in any district court against the
7-33 person named in the lien notice under Chapter 68, Property Code, or
7-34 the defendant in the relevant civil action or criminal proceeding.
7-35 If a civil action is pending, the action shall be filed only in the
7-36 court where the civil action is pending.

7-37 (b) The court in an action brought under Subsection (a)
7-38 shall:

7-39 (1) enter final judgment against the person named in
7-40 the lien notice or the defendant in the relevant civil action or
7-41 criminal proceeding in an amount equal to:

7-42 (A) the fair market value of the property; and

7-43 (B) the investigative costs and attorney fees
7-44 incurred by the investigative agency in the action; or

7-45 (2) order the forfeiture of any other property of the
7-46 defendant up to the value of the property subject to forfeiture.

7-47 Sec. 140B.104. DISPOSITION OF FORFEITED PROPERTY. (a) The
7-48 state shall dispose of all forfeited property as soon as
7-49 commercially feasible. If property is not exercisable or
7-50 transferable for value by the state, the state may destroy or
7-51 otherwise dispose of the property.

7-52 (b) All forfeitures or dispositions under this subchapter
7-53 shall be made with due provision for the rights of innocent persons.

7-54 (c) The state shall promptly distribute the proceeds
7-55 realized from the forfeiture and disposition of property under this
7-56 section in accordance with Subchapter D.

7-57 Sec. 140B.105. SEIZURE OF PROPERTY. (a) Property subject
7-58 to forfeiture under this subchapter may be seized by a law
7-59 enforcement officer on court process. Seizure without process may
7-60 be made if:

7-61 (1) the seizure is incident to a lawful arrest or
7-62 search conducted under a warrant issued under Chapter 18, Code of
7-63 Criminal Procedure; or

7-64 (2) the property subject to seizure has been the
7-65 subject of a previous judgment in favor of the state in a forfeiture
7-66 action brought under this subchapter.

7-67 (b) For a seizure conducted under this section, an
7-68 investigative agency shall promptly commence a forfeiture action
7-69 under Section 140B.102.

8-1 Sec. 140B.106. STORAGE OF SEIZED PROPERTY PENDING
8-2 FORFEITURE ACTION. Property taken or detained under this
8-3 subchapter is not subject to replevin but is considered to be in the
8-4 custody of the law enforcement officer making the seizure, subject
8-5 only to the order of the court. When property is seized under this
8-6 subchapter, pending forfeiture and final disposition, the law
8-7 enforcement officer may:

- 8-8 (1) place the property under seal;
- 8-9 (2) remove the property to a place designated by a
8-10 court; or
- 8-11 (3) require another agency authorized by law to take
8-12 custody of the property and remove it to an appropriate location.

8-13 Sec. 140B.107. CIVIL ACTION BROUGHT BY ATTORNEY GENERAL,
8-14 LOCAL PROSECUTOR, OR STATE AGENCY. (a) The office of the attorney
8-15 general, a local prosecutor, or a state agency having jurisdiction
8-16 over conduct constituting an offense under Section 72.02, 72.03, or
8-17 72.04, Penal Code, may institute civil actions under this
8-18 subchapter. The attorney general or a state agency may institute an
8-19 action under Section 140B.101 or 140B.102 only if the attorney
8-20 general or agency receives the consent of the applicable local
8-21 prosecutor to bring the action.

8-22 (b) In an action brought under this subchapter, the district
8-23 court shall proceed as soon as practicable to the hearing and
8-24 determination. Pending final determination, the district court may
8-25 at any time enter injunctions, prohibitions, or restraining orders,
8-26 or take actions, including the acceptance of satisfactory
8-27 performance bonds, the court considers proper.

8-28 Sec. 140B.108. EFFECT OF FINAL JUDGMENT OR DECREE. A final
8-29 judgment or decree rendered in favor of this state in a criminal
8-30 proceeding under state law prevents the defendant from asserting in
8-31 any subsequent civil action brought under this chapter any matter
8-32 as to which that judgment or decree would be an estoppel as between
8-33 the parties.

8-34 Sec. 140B.109. OTHER RELIEF AVAILABLE TO ATTORNEY GENERAL.
8-35 (a) The attorney general may bring an action against a person who
8-36 engages in conduct constituting an offense under Section 72.02,
8-37 72.03, or 72.04, Penal Code, to obtain:

- 8-38 (1) injunctive relief;
- 8-39 (2) a civil penalty as provided by this section; and
- 8-40 (3) reasonable attorney's fees and reasonably incurred
8-41 costs of investigation or litigation.

8-42 (b) A defendant in an action brought under this section is
8-43 subject to a civil penalty not to exceed:

- 8-44 (1) \$100,000 if the defendant is an individual; or
- 8-45 (2) \$1 million if the defendant is not an individual.

8-46 (c) The attorney general shall deposit a civil penalty
8-47 collected under this section to the credit of the general revenue
8-48 fund. The attorney general shall deposit attorney's fees and costs
8-49 collected under this section into the attorney general law
8-50 enforcement account, which may be used to investigate and enforce
8-51 this chapter.

8-52 (d) Any party to an action brought under this section may
8-53 petition the court for entry of a consent decree or for approval of
8-54 a settlement agreement. The proposed decree or settlement must
8-55 specify the alleged violations, the future obligations of the
8-56 parties, the relief agreed on, and the reasons for entering into the
8-57 consent decree or settlement agreement.

8-58 Sec. 140B.110. NOTICE TO LOCAL PROSECUTOR. (a) In a
8-59 reasonable time before bringing an action or on initiating an
8-60 investigation on racketeering, the attorney general shall provide
8-61 notice to the local prosecutor who appears to have primary
8-62 jurisdiction over the criminal prosecution of any target of an
8-63 investigation under this chapter at the time of the notice
8-64 concerning the attorney general's intent to bring an action under
8-65 this chapter or investigate racketeering, as applicable.

8-66 (b) The notices described by Subsection (a) must describe or
8-67 otherwise identify the defendant to the action or the suspect, as
8-68 applicable.

8-69 Sec. 140B.111. COOPERATION WITH LOCAL PROSECUTOR. (a) A

9-1 local prosecutor who receives notice under Section 140B.110 may
9-2 notify the attorney general of a related pending criminal
9-3 investigation or prosecution.

9-4 (b) Notification to the attorney general under Subsection
9-5 (a) must be in writing and describe or otherwise identify the
9-6 defendant or suspect in the criminal investigation or proceeding.

9-7 (c) On receipt of notice described by Subsection (a), the
9-8 attorney general shall coordinate and cooperate with the local
9-9 prosecutor to ensure that the filing of an action under this chapter
9-10 does not interfere with an ongoing criminal investigation or
9-11 prosecution. The attorney general shall update the local
9-12 prosecutor on matters affecting the action or the investigation.

9-13 Sec. 140B.112. ABATEMENT OF ACTION. If the local
9-14 prosecutor determines that an action brought under this chapter
9-15 would interfere with an ongoing criminal investigation or
9-16 prosecution after notifying the attorney general of the
9-17 investigation or prosecution under Section 140B.111, the local
9-18 prosecutor may request, in writing, that the attorney general abate
9-19 the action. On receipt of this request, the attorney general shall
9-20 abate the action.

9-21 Sec. 140B.113. LIMITATIONS; TOLLING. (a) Notwithstanding
9-22 any other law, the attorney general or a local prosecutor must bring
9-23 an action under this chapter not later than the fifth anniversary of
9-24 the later of:

9-25 (1) the date the conduct that is the basis for the
9-26 action terminates; or

9-27 (2) the date the cause of action accrues.

9-28 (b) If an indictment for an offense under Section 72.02,
9-29 72.03, or 72.04, Penal Code, is presented or a civil action is
9-30 brought, or intervened in, to punish, prevent, or restrain conduct
9-31 constituting an offense under Section 72.02, 72.03, or 72.04, Penal
9-32 Code, the running of the period of limitations prescribed by this
9-33 section with respect to any cause of action arising under Section
9-34 140B.109 that is wholly or partly based on a matter complained of in
9-35 the indictment or the pleadings in the action, as applicable, is
9-36 suspended during the pendency of the prosecution or litigation of
9-37 the action, as applicable, and extended for two years following its
9-38 termination.

9-39 Sec. 140B.114. MULTIPLE REMEDIES ALLOWED. The application
9-40 of one civil remedy under a provision of this chapter does not
9-41 preclude the application of any other remedy, civil or criminal,
9-42 under this chapter or any other law. Civil remedies under this
9-43 chapter are supplemental and not mutually exclusive.

9-44 SUBCHAPTER D. DISPOSITION OF FUNDS OBTAINED THROUGH FORFEITURE
9-45 ACTIONS

9-46 Sec. 140B.151. INITIAL DISTRIBUTION. (a) A court entering
9-47 a judgment of forfeiture in an action brought under Subchapter C
9-48 retains jurisdiction to direct the distribution of any cash or cash
9-49 proceeds realized from the forfeiture and disposition of the
9-50 property. The court shall direct the distribution of the funds in
9-51 the following order of priority:

9-52 (1) statutory fees to which the clerk of the court may
9-53 be entitled;

9-54 (2) claims against the property by persons who have
9-55 previously been judicially determined to be innocent persons and
9-56 whose interests are preserved from forfeiture by the court and not
9-57 otherwise satisfied; and

9-58 (3) subject to Subsection (c), claims for restitution
9-59 by victims of the racketeering activity.

9-60 (b) A claim under Subsection (a)(2) may include a claim by a
9-61 person appointed by the court as receiver pending litigation.

9-62 (c) If the attorney general brought the forfeiture action,
9-63 restitution shall be distributed through the compensation to victims
9-64 of crime fund. If the attorney general did not bring the forfeiture
9-65 action, restitution shall be distributed by the clerk of the court.

9-66 Sec. 140B.152. DISTRIBUTION OF REMAINING MONEY. (a)
9-67 Following satisfaction of all valid claims under Section 140B.151,
9-68 the remaining money obtained in the forfeiture proceeding shall be
9-69 deposited as follows:

10-1 (1) 25 percent into the appropriate trust fund of the
10-2 attorney general or local prosecutor's office that filed the civil
10-3 forfeiture action as provided by Subsection (c);

10-4 (2) 25 percent into the applicable law enforcement
10-5 trust fund of the investigative agency that conducted the
10-6 investigation that resulted in or significantly contributed to the
10-7 forfeiture of the property as provided by Subsection (d); and

10-8 (3) 50 percent into the general revenue fund.

10-9 (b) If a forfeiture action is filed by the attorney general
10-10 or a local prosecutor, the court entering the judgment of
10-11 forfeiture shall, taking into account the overall effort and
10-12 contribution to the investigation and forfeiture action by the
10-13 agencies that filed the action, make a pro rata apportionment among
10-14 those agencies of the money available for distribution to those
10-15 agencies as provided by this subchapter. If multiple investigative
10-16 agencies have contributed to the forfeiture of the property, the
10-17 court that entered the judgment of forfeiture shall, taking into
10-18 account the overall effort and contribution of the agencies to the
10-19 investigation and forfeiture action, make a pro rata apportionment
10-20 among those investigative agencies of the money available for
10-21 distribution to the investigative agencies as provided by this
10-22 subchapter.

10-23 (c) If a forfeiture action is filed by the attorney general,
10-24 any money obtained by the attorney general under this section shall
10-25 be deposited in the same manner described by Article 59.06(k)(3),
10-26 Code of Criminal Procedure, and may be expended for the purposes and
10-27 in the manner authorized by that section.

10-28 (d) If a forfeiture action is filed by a district or county
10-29 attorney, any money obtained by the district or county attorney's
10-30 office under this section may be used to pay the costs of
10-31 investigations under Subchapter B and the resulting criminal
10-32 prosecutions and civil actions. Such costs may include:

10-33 (1) all taxable costs;

10-34 (2) costs of protecting, maintaining, and forfeiting
10-35 the property;

10-36 (3) employees' base salaries and compensation for
10-37 overtime; and

10-38 (4) other costs that are directly attributable to the
10-39 investigation, prosecution, or civil action.

10-40 (e) Any money distributed to an investigative agency under
10-41 Subsection (a) shall be deposited in the applicable law enforcement
10-42 fund or account established for that agency and expended for the
10-43 purposes and in the manner authorized for that fund or account. In
10-44 addition, any money distributed to an investigative agency under
10-45 this section may be used to pay the costs of investigations under
10-46 Subchapter B and the resulting criminal prosecutions and civil
10-47 actions. Such costs may include:

10-48 (1) all taxable costs;

10-49 (2) costs of protecting, maintaining, and forfeiting
10-50 the property;

10-51 (3) employees' base salaries and compensation for
10-52 overtime; and

10-53 (4) other costs directly attributable to the
10-54 investigation, prosecution, or civil action.

10-55 Sec. 140B.153. EFFECT ON SETTLEMENTS. (a) This subchapter
10-56 may not be construed to limit the authority of an entity that files
10-57 a forfeiture action under Subchapter C to settle a claim for
10-58 forfeiture.

10-59 (b) Any proceeds arising from a settlement or from the sale
10-60 of property obtained in a settlement shall be distributed in the
10-61 manner described by Sections 140B.151 and 140B.152.

10-62 Sec. 140B.154. TEMPORARY DEPOSIT IN COURT REGISTRY.
10-63 Pending the final distribution of the cash or cash proceeds under
10-64 this subchapter, the court may authorize the cash or cash proceeds
10-65 to be deposited in the court registry or in a qualified public
10-66 depository.

10-67 SECTION 3. Article 12.01, Code of Criminal Procedure, is
10-68 amended to read as follows:

10-69 Art. 12.01. FELONIES. Except as provided in Articles

11-1 12.015 and [Article] 12.03, felony indictments may be presented
 11-2 within these limits, and not afterward:

11-3 (1) no limitation:

11-4 (A) murder and manslaughter;

11-5 (B) sexual assault under Section 22.011(a)(2),
 11-6 Penal Code, or aggravated sexual assault under Section
 11-7 22.021(a)(1)(B), Penal Code;

11-8 (C) sexual assault, if:

11-9 (i) during the investigation of the offense
 11-10 biological matter is collected and the matter:

11-11 (a) has not yet been subjected to
 11-12 forensic DNA testing; or

11-13 (b) has been subjected to forensic DNA
 11-14 testing and the testing results show that the matter does not match
 11-15 the victim or any other person whose identity is readily
 11-16 ascertained; or

11-17 (ii) probable cause exists to believe that
 11-18 the defendant has committed the same or a similar sex offense
 11-19 against five or more victims;

11-20 (D) continuous sexual abuse of young child or
 11-21 disabled individual under Section 21.02, Penal Code;

11-22 (E) indecency with a child under Section 21.11,
 11-23 Penal Code;

11-24 (F) an offense involving leaving the scene of an
 11-25 accident under Section 550.021, Transportation Code, if the
 11-26 accident resulted in the death of a person;

11-27 (G) trafficking of persons under Section
 11-28 20A.02(a)(7) or (8), Penal Code;

11-29 (H) continuous trafficking of persons under
 11-30 Section 20A.03, Penal Code; or

11-31 (I) compelling prostitution under Section
 11-32 43.05(a)(2), Penal Code;

11-33 (2) ten years from the date of the commission of the
 11-34 offense:

11-35 (A) theft of any estate, real, personal or mixed,
 11-36 by an executor, administrator, guardian or trustee, with intent to
 11-37 defraud any creditor, heir, legatee, ward, distributee,
 11-38 beneficiary or settlor of a trust interested in such estate;

11-39 (B) theft by a public servant of government
 11-40 property over which the public servant exercises control in the
 11-41 public servant's official capacity;

11-42 (C) forgery or the uttering, using, or passing of
 11-43 forged instruments;

11-44 (D) injury to an elderly or disabled individual
 11-45 punishable as a felony of the first degree under Section 22.04,
 11-46 Penal Code;

11-47 (E) sexual assault, except as provided by
 11-48 Subdivision (1) or (7);

11-49 (F) arson;

11-50 (G) trafficking of persons under Section
 11-51 20A.02(a)(1), (2), (3), or (4), Penal Code; or

11-52 (H) compelling prostitution under Section
 11-53 43.05(a)(1), Penal Code;

11-54 (3) seven years from the date of the commission of the
 11-55 offense:

11-56 (A) misapplication of fiduciary property or
 11-57 property of a financial institution;

11-58 (B) fraudulent securing of document execution;

11-59 (C) a felony violation under Chapter 162, Tax
 11-60 Code;

11-61 (D) false statement to obtain property or credit
 11-62 under Section 32.32, Penal Code;

11-63 (E) money laundering;

11-64 (F) credit card or debit card abuse under Section
 11-65 32.31, Penal Code;

11-66 (G) fraudulent use or possession of identifying
 11-67 information under Section 32.51, Penal Code;

11-68 (H) exploitation of a child, elderly individual,
 11-69 or disabled individual under Section 32.53, Penal Code;

12-1 (I) health care fraud under Section 35A.02, Penal
12-2 Code; or
12-3 (J) bigamy under Section 25.01, Penal Code,
12-4 except as provided by Subdivision (6);
12-5 (4) five years from the date of the commission of the
12-6 offense:
12-7 (A) theft or robbery;
12-8 (B) except as provided by Subdivision (5),
12-9 kidnapping or burglary;
12-10 (C) injury to an elderly or disabled individual
12-11 that is not punishable as a felony of the first degree under Section
12-12 22.04, Penal Code;
12-13 (D) abandoning or endangering a child; or
12-14 (E) insurance fraud;
12-15 (5) if the investigation of the offense shows that the
12-16 victim is younger than 17 years of age at the time the offense is
12-17 committed, 20 years from the 18th birthday of the victim of one of
12-18 the following offenses:
12-19 (A) sexual performance by a child under Section
12-20 43.25, Penal Code;
12-21 (B) aggravated kidnapping under Section
12-22 20.04(a)(4), Penal Code, if the defendant committed the offense
12-23 with the intent to violate or abuse the victim sexually; or
12-24 (C) burglary under Section 30.02, Penal Code, if
12-25 the offense is punishable under Subsection (d) of that section and
12-26 the defendant committed the offense with the intent to commit an
12-27 offense described by Subdivision (1)(B) or (D) of this article or
12-28 Paragraph (B) of this subdivision;
12-29 (6) ten years from the 18th birthday of the victim of
12-30 the offense:
12-31 (A) trafficking of persons under Section
12-32 20A.02(a)(5) or (6), Penal Code;
12-33 (B) injury to a child under Section 22.04, Penal
12-34 Code; or
12-35 (C) bigamy under Section 25.01, Penal Code, if
12-36 the investigation of the offense shows that the person, other than
12-37 the legal spouse of the defendant, whom the defendant marries or
12-38 purports to marry or with whom the defendant lives under the
12-39 appearance of being married is younger than 18 years of age at the
12-40 time the offense is committed;
12-41 (7) two years from the date the offense was
12-42 discovered: sexual assault punishable as a state jail felony under
12-43 Section 22.011(f)(2), Penal Code; or
12-44 (8) three years from the date of the commission of the
12-45 offense: all other felonies.
12-46 SECTION 4. Chapter 12, Code of Criminal Procedure, is
12-47 amended by adding Article 12.015 to read as follows:
12-48 Art. 12.015. RACKETEERING AND UNLAWFUL DEBT COLLECTION.
12-49 (a) Except as provided by Subsection (b), a felony indictment for
12-50 an offense under Section 72.02, 72.03, or 72.04, Penal Code, must be
12-51 presented not later than five years from the date of the commission
12-52 of the offense.
12-53 (b) If the attorney general or a local prosecutor, as
12-54 defined by Section 140B.001, Civil Practice and Remedies Code,
12-55 brings an action in the name of the state under Chapter 140B, Civil
12-56 Practice and Remedies Code, during the limitations period described
12-57 by Subsection (a), that limitations period is suspended while the
12-58 attorney general's or local prosecutor's action is pending. If a
12-59 limitations period is suspended under this subsection, the
12-60 limitations period is extended for two years.
12-61 SECTION 5. Section 71.02(a), Penal Code, is amended to read
12-62 as follows:
12-63 (a) A person commits an offense if, with the intent to
12-64 establish, maintain, or participate in a combination or in the
12-65 profits of a combination or as a member of a criminal street gang,
12-66 the person commits or conspires to commit one or more of the
12-67 following:
12-68 (1) murder, capital murder, arson, aggravated
12-69 robbery, robbery, burglary, theft, aggravated kidnapping,

- 13-1 kidnapping, aggravated assault, aggravated sexual assault, sexual
- 13-2 assault, continuous sexual abuse of young child or disabled
- 13-3 individual, solicitation of a minor, forgery, deadly conduct,
- 13-4 assault punishable as a Class A misdemeanor, burglary of a motor
- 13-5 vehicle, or unauthorized use of a motor vehicle;
- 13-6 (2) any gambling offense punishable as a Class A
- 13-7 misdemeanor;
- 13-8 (3) promotion of prostitution, aggravated promotion
- 13-9 of prostitution, or compelling prostitution;
- 13-10 (4) unlawful manufacture, transportation, repair, or
- 13-11 sale of firearms or prohibited weapons;
- 13-12 (5) unlawful manufacture, delivery, dispensation, or
- 13-13 distribution of a controlled substance or dangerous drug, or
- 13-14 unlawful possession of a controlled substance or dangerous drug
- 13-15 through forgery, fraud, misrepresentation, or deception;
- 13-16 (5-a) causing the unlawful delivery, dispensation, or
- 13-17 distribution of a controlled substance or dangerous drug in
- 13-18 violation of Subtitle B, Title 3, Occupations Code;
- 13-19 (5-b) any unlawful possession with intent to deliver a
- 13-20 controlled substance or dangerous drug;
- 13-21 (6) any unlawful wholesale promotion or possession of
- 13-22 any obscene material or obscene device with the intent to wholesale
- 13-23 promote the same;
- 13-24 (7) any offense under Subchapter B, Chapter 43,
- 13-25 depicting or involving conduct by or directed toward a child
- 13-26 younger than 18 years of age;
- 13-27 (8) any felony offense under Chapter 32;
- 13-28 (9) any offense under Chapter 36;
- 13-29 (10) any offense under Chapter 34, 35, or 35A;
- 13-30 (11) any offense under Section 37.11(a);
- 13-31 (12) any offense under Chapter 20A;
- 13-32 (13) any offense under Section 37.10;
- 13-33 (14) any offense under Section 38.06, 38.07, 38.09, or
- 13-34 38.11;
- 13-35 (15) any offense under Section 42.10;
- 13-36 (16) any offense under Section 46.06(a)(1) or 46.14;
- 13-37 (17) any offense under Section 20.05 or 20.06;
- 13-38 (18) any offense under Section 16.02; or
- 13-39 (19) any offense classified as a felony under the Tax
- 13-40 Code.
- 13-41 SECTION 6. Title 11, Penal Code, is amended by adding
- 13-42 Chapter 72 to read as follows:
- 13-43 CHAPTER 72. RACKETEERING AND UNLAWFUL DEBT COLLECTION
- 13-44 Sec. 72.01. DEFINITIONS. In this chapter:
- 13-45 (1) "Enterprise" has the meaning assigned by Section
- 13-46 140B.001, Civil Practice and Remedies Code.
- 13-47 (2) "Money" means funds as defined by Section 34.01.
- 13-48 (3) "Pattern of racketeering" means engaging in at
- 13-49 least two incidents of racketeering conduct that have the same or
- 13-50 similar intents, results, accomplices, victims, or methods of
- 13-51 commission or that otherwise are interrelated by distinguishing
- 13-52 characteristics and are not isolated incidents, the last of which
- 13-53 occurred not later than the fifth anniversary of the date of a
- 13-54 previous incident of racketeering conduct.
- 13-55 (4) "Pecuniary value" means:
- 13-56 (A) anything of value in the form of money, a
- 13-57 negotiable instrument, or a commercial interest or anything else
- 13-58 the primary significance of which is economic advantage; or
- 13-59 (B) any other property or service that has a
- 13-60 value in excess of \$100.
- 13-61 (5) "Racketeering" means to commit, to attempt to
- 13-62 commit, to conspire to commit, or to solicit, coerce, or intimidate
- 13-63 another person to commit:
- 13-64 (A) a felony offense under The Securities Act
- 13-65 (Title 12, Government Code);
- 13-66 (B) an offense under Section 20.03 (kidnapping);
- 13-67 (C) an offense under Section 20.04 (aggravated
- 13-68 kidnapping);
- 13-69 (D) an offense under Section 20.07 (operation of

14-1 stash house);
14-2 (E) a felony offense under Chapter 37 (perjury
14-3 and other falsification);
14-4 (F) a felony offense under Section 38.03
14-5 (resisting arrest, search, or transportation);
14-6 (G) a felony offense under Section 38.05
14-7 (hindering apprehension or prosecution);
14-8 (H) a felony offense under Chapter 43 (public
14-9 indecentcy); or
14-10 (I) an offense under Section 71.02 (engaging in
14-11 organized criminal activity).
14-12 (6) "Real property" has the meaning assigned by
14-13 Section 140B.001, Civil Practice and Remedies Code.
14-14 (7) "Unlawful debt" means any money or other thing of
14-15 value constituting principal or interest of a debt that is wholly or
14-16 partly legally unenforceable in this state because the debt was
14-17 incurred or contracted:
14-18 (A) in violation of:
14-19 (i) the Texas Racing Act (Subtitle A-1,
14-20 Title 13, Occupations Code, and Article 179e, Revised Civil
14-21 Statutes);
14-22 (ii) Subtitle A, Title 4, Finance Code, or
14-23 Section 11, Article 16, Texas Constitution, relating to interest
14-24 and usury; or
14-25 (iii) Chapter 47, relating to gambling; or
14-26 (B) in gambling activity in violation of federal
14-27 law or in the business of lending money at a rate usurious under
14-28 state or federal law.
14-29 Sec. 72.02. USE OF PROCEEDS DERIVED FROM RACKETEERING OR
14-30 UNLAWFUL DEBT COLLECTION. (a) A person commits an offense if the
14-31 person intentionally uses or invests, whether directly or
14-32 indirectly, any part of any proceeds knowingly derived, directly or
14-33 indirectly, from a pattern of racketeering or through the
14-34 collection of an unlawful debt, or the proceeds derived from the
14-35 investment or use of those proceeds, in acquiring title to, or any
14-36 right, interest, or equity in, real property or in the
14-37 establishment or operation of any enterprise.
14-38 (b) An offense under this section is a felony of the second
14-39 degree.
14-40 (c) If conduct that constitutes an offense under this
14-41 section also constitutes an offense under any other law, the actor
14-42 may be prosecuted under this section, the other law, or both.
14-43 Sec. 72.03. ACQUISITION OF INTEREST IN PROPERTY OR CONTROL
14-44 OF ENTERPRISE THROUGH RACKETEERING OR UNLAWFUL DEBT COLLECTION.
14-45 (a) A person commits an offense if the person, knowingly through a
14-46 pattern of racketeering or through the collection of an unlawful
14-47 debt, acquires or maintains, directly or indirectly, any interest
14-48 in or control of any enterprise or real property.
14-49 (b) An offense under this section is a felony of the second
14-50 degree.
14-51 (c) If conduct that constitutes an offense under this
14-52 section also constitutes an offense under any other law, the actor
14-53 may be prosecuted under this section, the other law, or both.
14-54 Sec. 72.04. PARTICIPATION IN ENTERPRISE THROUGH
14-55 RACKETEERING OR UNLAWFUL DEBT COLLECTION. (a) A person commits an
14-56 offense if the person is employed by or associated with an
14-57 enterprise and knowingly conducts or participates, directly or
14-58 indirectly, in that enterprise through a pattern of racketeering or
14-59 the collection of an unlawful debt.
14-60 (b) An offense under this section is a felony of the second
14-61 degree.
14-62 (c) If conduct that constitutes an offense under this
14-63 section also constitutes an offense under any other law, the actor
14-64 may be prosecuted under this section, the other law, or both.
14-65 Sec. 72.05. ALTERNATIVE FINE. Notwithstanding any other
14-66 law, a court, after a hearing, may impose a fine, instead of an
14-67 otherwise applicable fine, on a person convicted of an offense
14-68 under Section 72.02, 72.03, or 72.04, through which the person
14-69 derived pecuniary value or by which the person caused personal

injury, property damage, or other loss, that does not exceed:

(1) the greater of:

(A) three times the gross value gained as a result of the offense; or

(B) three times the gross loss caused as a result of the offense; and

(2) the amount of the court costs and the reasonably incurred costs of investigation and prosecution.

SECTION 7. Subtitle B, Title 5, Property Code, is amended by adding Chapter 68 to read as follows:

CHAPTER 68. RICO LIENS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 68.001. DEFINITIONS. In this chapter:

(1) "Beneficial interest," "investigative agency," "local prosecutor," and "real property" have the meanings assigned by Section 140B.001, Civil Practice and Remedies Code.

(2) "RICO lien notice" means a lien notice filed under Section 68.051 or 68.052.

(3) "Trustee":

(A) means:

(i) a person acting as trustee under a trust established under the Texas Trust Code (Subtitle B, Title 9, Property Code) in which the trustee holds legal or record title to real property;

(ii) a person who holds legal or record title to real property in which another person has a beneficial interest; or

(iii) a successor trustee to a person described by Subparagraph (i) or (ii); and

(B) does not include a person appointed or acting as a personal representative as defined by Section 22.031, Estates Code, or appointed or acting as a trustee of a testamentary trust or as a trustee of an indenture of trust under which any bonds have been or are to be issued.

SUBCHAPTER B. RICO LIEN NOTICE

Sec. 68.051. GENERAL RICO LIEN NOTICE. (a) On the institution by an investigative agency of a civil action brought under Chapter 140B, Civil Practice and Remedies Code, the investigative agency, then or at any time during the pendency of the action, may file a RICO lien notice in the official records of any one or more counties. The attorney general must receive the consent of the applicable local prosecutor before filing a RICO lien.

(b) A filing fee or other charge may not be required as a condition for filing the RICO lien notice, and the clerk of the district court, on the presentation of a RICO lien notice, shall immediately record it in the official records.

Sec. 68.052. ATTORNEY GENERAL OR LOCAL PROSECUTOR RICO LIEN NOTICE. (a) In addition to the authority to file a RICO lien notice under Section 68.051, the attorney general or a local prosecutor may apply ex parte to a district court and, on petition supported by sworn affidavit, obtain an order authorizing the filing of a RICO lien notice against real property on a showing of probable cause to believe that the property was used in the course of, intended for use in the course of, derived from, or realized through conduct constituting an offense under Section 72.02, 72.03, or 72.04, Penal Code.

(b) If the RICO lien notice authorization is granted, the attorney general or local prosecutor shall, after filing the notice, immediately provide notice to the owner of the property by:

(1) serving the notice in the manner provided by law for the service of process;

(2) mailing the notice, postage prepaid, by certified mail to the owner at the owner's last known address and obtaining evidence of the delivery; or

(3) if service by a method described by Subdivision (1) or (2) cannot be accomplished, posting the notice on the premises.

(c) The owner of the property may move the court to discharge the lien, and that motion shall be set for hearing at the

16-1 earliest possible time.

16-2 (d) The court shall discharge the lien if the court finds
16-3 that:

16-4 (1) there is no probable cause to believe that the
16-5 property was used in the course of, intended for use in the course
16-6 of, derived from, or realized through conduct constituting an
16-7 offense under Section 72.02, 72.03, or 72.04, Penal Code; or

16-8 (2) the owner of the property neither knew nor
16-9 reasonably should have known that the property was used in the
16-10 course of, intended for use in the course of, derived from, or
16-11 realized through conduct constituting an offense under Section
16-12 72.02, 72.03, or 72.04, Penal Code.

16-13 (e) Testimony presented by the property owner at the
16-14 hearing:

16-15 (1) is not admissible against the property owner in
16-16 any criminal proceeding except in a criminal prosecution for
16-17 perjury or false statement; and

16-18 (2) does not constitute a waiver of the property
16-19 owner's constitutional right against self-incrimination.

16-20 (f) Except as provided by Subsection (g), a RICO lien notice
16-21 secured under this section is valid for a period of 90 days from the
16-22 date the court granted authorization and may be extended for an
16-23 additional 90 days by the court for good cause shown.

16-24 (g) If a civil action is instituted under Chapter 140B,
16-25 Civil Practice and Remedies Code, and a RICO lien notice is filed
16-26 under this subchapter, the term of the lien notice is governed by
16-27 this subchapter.

16-28 (h) The filing of a RICO lien notice, regardless of whether
16-29 subsequently discharged or otherwise lifted, constitutes notice to
16-30 the owner and knowledge by the owner that the property was used in
16-31 the course of, intended for use in the course of, derived from, or
16-32 realized through conduct constituting an offense under Section
16-33 72.02, 72.03, or 72.04, Penal Code, such that lack of such notice
16-34 and knowledge is not a defense in any subsequent civil action under
16-35 Chapter 140B, Civil Practice and Remedies Code, or a subsequent
16-36 criminal proceeding under Chapter 72, Penal Code.

16-37 Sec. 68.053. FORMAT OF NOTICE. (a) A RICO lien notice must
16-38 be signed by the attorney general or the attorney general's
16-39 designee or by a local prosecutor or the local prosecutor's
16-40 designee.

16-41 (b) A RICO lien notice must be in the form prescribed by the
16-42 attorney general and must include:

16-43 (1) the name of the person against whom a civil action
16-44 has been brought under Chapter 140B, Civil Practice and Remedies
16-45 Code, and at the discretion of the investigative agency may also
16-46 include any other aliases, names, or fictitious names under which
16-47 the person may be known and any corporation, partnership, or other
16-48 entity that is either controlled or entirely owned by the person;

16-49 (2) if known to the investigative agency, the current
16-50 residence and business addresses of the person named in the notice
16-51 and of the other names included in the notice;

16-52 (3) a reference to an applicable civil action,
16-53 stating:

16-54 (A) that an action under Chapter 140B, Civil
16-55 Practice and Remedies Code, has been brought against the person
16-56 named in the notice;

16-57 (B) the name of each county in which the action
16-58 has been brought; and

16-59 (C) if known to the investigative agency at the
16-60 time of filing the notice, the cause number of the action;

16-61 (4) a statement that the notice is being filed under
16-62 this chapter; and

16-63 (5) the name and address of the investigative agency
16-64 filing the notice and the name of the individual signing the notice.

16-65 (c) A RICO lien notice must apply only to one person and, to
16-66 the extent applicable, any other aliases, names, or fictitious
16-67 names of that person, including the names of corporations,
16-68 partnerships, or other entities, to the extent permitted by
16-69 Subsection (b)(1). A separate notice must be filed for each person

17-1 against whom the investigative agency desires to file a RICO lien
 17-2 notice under this subchapter.

17-3 Sec. 68.054. SERVICE OF NOTICE. (a) An investigative
 17-4 agency shall, as soon as practicable after the filing of each RICO
 17-5 lien notice, provide to the person named in the notice:

17-6 (1) a copy of the recorded notice; or
 17-7 (2) a copy of the notice that states each county in
 17-8 which the notice has been recorded.

17-9 (b) The failure of the investigative agency to provide a
 17-10 copy of a RICO lien notice under this section does not invalidate or
 17-11 otherwise affect the notice.

17-12 Sec. 68.055. CREATION AND PRIORITY OF RICO LIEN. (a)
 17-13 Filing a RICO lien notice creates, from the time of its filing, a
 17-14 lien in favor of the state on the following property of the person
 17-15 named in the notice and against any other names set forth in the
 17-16 notice:

17-17 (1) any real property situated in the county where the
 17-18 notice is filed then or thereafter owned by the person or under any
 17-19 of the names; and

17-20 (2) any beneficial interest situated in the county
 17-21 where the notice is filed then or thereafter owned by the person or
 17-22 under any of the names.

17-23 (b) The lien shall commence and attach as of the time of
 17-24 filing of a RICO lien notice and shall continue thereafter until
 17-25 expiration, termination, or release of the notice under this
 17-26 subchapter. The lien created in favor of the state is superior to
 17-27 the interest of any other person in the real property or beneficial
 17-28 interest if the interest is acquired subsequent to the filing of the
 17-29 notice.

17-30 (c) For purposes of this section, a beneficial interest is
 17-31 considered to be located where real property owned by the trustee is
 17-32 located.

17-33 Sec. 68.056. LIS PENDENS; INTERESTS OF PERSONS ACQUIRING
 17-34 INTEREST IN PROPERTY. (a) In conjunction with a civil action
 17-35 brought under Chapter 140B, Civil Practice and Remedies Code, an
 17-36 investigative agency may file without prior court order in any
 17-37 county a notice of lis pendens under Section 12.007. In such case,
 17-38 a person acquiring an interest in the subject real property or
 17-39 beneficial interest, if the real property or beneficial interest is
 17-40 acquired subsequent to the filing of the notice of lis pendens,
 17-41 shall take the interest subject to the civil action and any
 17-42 subsequent judgment of forfeiture.

17-43 (b) In conjunction with a civil action brought under Chapter
 17-44 140B, Civil Practice and Remedies Code, if a RICO lien notice has
 17-45 been filed, an investigative agency may name as a defendant, in
 17-46 addition to the person named in the notice, any person acquiring an
 17-47 interest in the real property or beneficial interest subsequent to
 17-48 the filing of the notice. If a judgment of forfeiture is entered in
 17-49 the action in favor of the state, the interest of any person in the
 17-50 property that was acquired subsequent to the filing of the notice
 17-51 shall be subject to the notice and judgment of forfeiture.

17-52 Sec. 68.057. DUTIES OF TRUSTEE; CRIMINAL OFFENSE. (a) A
 17-53 trustee who acquires actual knowledge that a RICO lien notice or a
 17-54 civil action brought under Chapter 140B, Civil Practice and
 17-55 Remedies Code, or criminal proceeding brought under Chapter 72,
 17-56 Penal Code, has been filed against a person for whom the trustee
 17-57 holds legal or record title to real property shall immediately
 17-58 furnish to the appropriate investigative agency:

17-59 (1) the name and address of the person, as known to the
 17-60 trustee;

17-61 (2) the name and address, as known to the trustee, of
 17-62 each other person for whose benefit the trustee holds title to the
 17-63 real property; and

17-64 (3) if requested by the investigative agency, a copy
 17-65 of the trust agreement or other instrument under which the trustee
 17-66 holds legal or record title to the real property.

17-67 (b) A trustee who violates this section commits an offense.
 17-68 An offense under this subsection is a Class B misdemeanor.

17-69 Sec. 68.058. LIABILITY OF TRUSTEE FOR CONVEYANCE OF TITLE.

18-1 (a) A trustee who conveys title to real property for which, at the
 18-2 time of the conveyance, a RICO lien notice naming a person who, to
 18-3 the actual knowledge of the trustee, holds a beneficial interest in
 18-4 the trust has been filed in the county where the real property is
 18-5 situated is liable to the state for the greatest of:

18-6 (1) the amount of proceeds received directly by the
 18-7 person named in the notice as a result of the conveyance;

18-8 (2) the amount of proceeds received by the trustee as a
 18-9 result of the conveyance and distributed to the person named in the
 18-10 notice; or

18-11 (3) the fair market value of the interest of the person
 18-12 named in the notice in the real property conveyed.

18-13 (b) Notwithstanding Subsection (a)(3), if a trustee conveys
 18-14 the real property and holds the proceeds that would otherwise be
 18-15 paid or distributed to the beneficiary or at the direction of the
 18-16 beneficiary or the beneficiary's designee, the trustee's liability
 18-17 does not exceed the amount of the proceeds held for so long as the
 18-18 proceeds are held by the trustee.

18-19 (c) An investigative agency may bring a civil action in any
 18-20 district court against a trustee to recover from the trustee the
 18-21 amount described by Subsection (a) and is entitled to recover
 18-22 investigative costs and attorney's fees incurred by the
 18-23 investigative agency.

18-24 Sec. 68.059. EFFECT ON TRUST OF RICO LIEN NOTICE. (a) The
 18-25 filing of a RICO lien notice does not constitute a lien on the
 18-26 record title to real property as owned by a trustee except to the
 18-27 extent that the trustee is named in the notice.

18-28 (b) The filing of a RICO lien notice does not affect the use
 18-29 to which real property or a beneficial interest owned by the person
 18-30 named in the notice may be put or the right of the person to receive
 18-31 any avails, rents, or other proceeds resulting from the use and
 18-32 ownership, but not the sale, of the property until a judgment of
 18-33 forfeiture is entered.

18-34 Sec. 68.060. TRUST EXCEPTIONS. (a) This chapter does not
 18-35 apply to a conveyance by a trustee under a court order, unless that
 18-36 court order is entered in an action between the trustee and the
 18-37 beneficiary.

18-38 (b) Unless the trustee has actual knowledge that a person
 18-39 owning a beneficial interest in the trust is named in a RICO lien
 18-40 notice or is otherwise a defendant in a civil action brought under
 18-41 Chapter 140B, Civil Practice and Remedies Code, this subchapter
 18-42 does not apply to a conveyance by the trustee:

18-43 (1) required under the terms of the trust agreement
 18-44 that is a matter of public record before the filing of the lien
 18-45 notice; or

18-46 (2) to all of the persons who own beneficial interests
 18-47 in the trust.

18-48 Sec. 68.061. RIGHTS OF INNOCENT PERSONS. All forfeitures
 18-49 or dispositions under this chapter must be made with due provision
 18-50 for the rights of innocent persons.

18-51 Sec. 68.062. EXPIRATION, RENEWAL, AND RELEASE OF RICO LIEN
 18-52 NOTICE. (a) Unless renewed by the investigative agency, a RICO
 18-53 lien notice expires on the sixth anniversary of the date it was
 18-54 filed. If the investigative agency renews the notice, the notice
 18-55 expires on the sixth anniversary of the date it was renewed. The
 18-56 investigative agency may renew the notice only once.

18-57 (b) The investigative agency filing a RICO lien notice may
 18-58 wholly or partly release the notice or may release any specific real
 18-59 property or beneficial interest from the notice on the
 18-60 investigative agency's own terms. A release of the notice may be
 18-61 filed in the official records of any county. A charge or fee may not
 18-62 be imposed for the filing of the release.

18-63 Sec. 68.063. EFFECT OF CRIMINAL CASE ON RICO LIEN NOTICE.
 18-64 If a civil action has not been brought by an investigative agency
 18-65 seeking a forfeiture of any property owned by the person named in
 18-66 the RICO lien notice, the acquittal in a criminal proceeding
 18-67 brought under Chapter 72, Penal Code, of the person named in the
 18-68 notice or the dismissal of the criminal proceeding terminates the
 18-69 notice and, in such case, the filing of the notice is void. If the

19-1 criminal proceeding has been dismissed or the person named in the
19-2 notice has been acquitted in the criminal proceeding, the notice
19-3 continues for the duration of a civil action brought under Chapter
19-4 140B, Civil Practice and Remedies Code.

19-5 Sec. 68.064. TERMINATION OR RELEASE OF RICO LIEN NOTICE BY
19-6 COURT. (a) If a civil action brought under Chapter 140B, Civil
19-7 Practice and Remedies Code, is not pending against a person named in
19-8 a RICO lien notice, the person may bring an action in the county
19-9 where the notice has been filed against the investigative agency
19-10 that filed the notice seeking a release or extinguishment of the
19-11 notice.

19-12 (b) In an action brought under this section, the court
19-13 shall, on the motion of the person named in the RICO lien notice,
19-14 immediately enter an order setting a date for hearing that is not
19-15 earlier than the fifth day and not later than the 10th day after the
19-16 date the action is filed, and the order and a copy of the complaint
19-17 shall be served on the investigative agency not later than the third
19-18 day after the date the action is filed.

19-19 (c) At the hearing set under Subsection (b), the court shall
19-20 take evidence on the issue of whether any real property or
19-21 beneficial interest owned by the person named in the RICO lien
19-22 notice is covered by the notice or is otherwise subject to
19-23 forfeiture under Chapter 140B, Civil Practice and Remedies Code.

19-24 (d) If, at the hearing under Subsection (b), the person
19-25 named in the RICO lien notice shows by a preponderance of the
19-26 evidence that the notice is not applicable to the person or that any
19-27 real property or beneficial interest owned by the person is not
19-28 subject to forfeiture under Chapter 140B, Civil Practice and
19-29 Remedies Code, the court shall enter a judgment terminating the
19-30 notice or releasing the real property or beneficial interest from
19-31 the notice.

19-32 (e) A court shall immediately enter its order releasing from
19-33 a RICO lien notice any specific real property or beneficial
19-34 interest if a sale of that real property or beneficial interest is
19-35 pending and the filing of the notice prevents the sale of the
19-36 property or interest. Proceeds resulting from the sale of that real
19-37 property or beneficial interest shall be deposited into the
19-38 registry of the court, subject to the further order of the court.

19-39 (f) At the hearing under Subsection (b), the court may
19-40 release any real property or beneficial interest from the RICO lien
19-41 notice, on the posting by the person named in the notice of security
19-42 that is equal to the value of the real property or beneficial
19-43 interest owned by the person.

19-44 (g) If a civil action brought under Chapter 140B, Civil
19-45 Practice and Remedies Code, is pending against a person named in a
19-46 RICO lien notice, the court on motion by the person may grant the
19-47 relief described by this section.

19-48 SECTION 8. (a) Chapter 140B, Civil Practice and Remedies
19-49 Code, as added by this Act, applies only to a cause of action that
19-50 accrues on or after the effective date of this Act.

19-51 (b) Section 71.02, Penal Code, as amended by this Act,
19-52 applies only to an offense committed on or after the effective date
19-53 of this Act. An offense committed before the effective date of this
19-54 Act is governed by the law in effect when the offense was committed,
19-55 and the former law is continued in effect for that purpose. For
19-56 purposes of this section, an offense was committed before the
19-57 effective date of this Act if any element of the offense occurred
19-58 before that date.

19-59 SECTION 9. To the extent of any conflict, this Act prevails
19-60 over another Act of the 88th Legislature, Regular Session, 2023,
19-61 relating to nonsubstantive additions to and corrections in enacted
19-62 codes.

19-63 SECTION 10. This Act takes effect September 1, 2023.

19-64 * * * * *