

By: Raymond

H.B. No. 3435

A BILL TO BE ENTITLED

AN ACT

relating to civil and criminal actions related to racketeer
influenced and corrupt organizations; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. (a) The legislature finds that a severe problem
is posed in this state by the increasing sophistication of various
criminal elements and the increasing extent to which this state and
its citizens are harmed as a result of the activities of these
elements.

(b) The legislature declares that the intent of this Act is
to impose sanctions against those who violate this Act and to
provide compensation to persons injured or aggrieved by those
violations. It is not the intent of the legislature that isolated
incidents of misdemeanor conduct or acts of civil disobedience be
prosecuted under this Act. It is the intent of the legislature,
however, that this Act apply to an interrelated pattern of criminal
activity motivated by or the effect of which is pecuniary gain or
economic or physical threat or injury. This Act shall be liberally
construed in providing remedies.

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

CHAPTER 140B. CIVIL ACTIONS RELATED TO RACKETEER INFLUENCED AND

CORRUPT ORGANIZATIONS

SUBCHAPTER A. GENERAL PROVISIONS

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

2 (1) "Enterprise" means:

3 (A) a sole proprietorship, corporation,
4 partnership, association, labor union, business trust, or other
5 legal entity; or

6 (B) any group of individuals associated in fact
7 although not a legal entity.

8 (2) "Local prosecutor" means a district attorney,
9 criminal district attorney, or county attorney with felony criminal
10 jurisdiction.

11 (3) "Racketeering" means an act described by Section
12 140B.002.

13 Sec. 140B.002. RACKETEERING. (a) A person or enterprise
14 commits racketeering if the person or enterprise commits an
15 offense, including any preparatory offense, or solicits, coerces,
16 or intimidates another person to commit an offense under the
17 following laws:

18 (1) criminal homicide as described by Chapter 19,
19 Penal Code;

20 (2) kidnapping or unlawful restraint as described by
21 Chapter 20, Penal Code;

22 (3) an assaultive offense as described by Chapter 22,
23 Penal Code;

24 (4) arson, criminal mischief, or other property damage
25 or destruction as described by Chapter 28, Penal Code;

26 (5) robbery as described by Chapter 29, Penal Code;

27 (6) burglary as described by Chapter 30, Penal Code;

- 1 (7) theft as described by Chapter 31, Penal Code;
- 2 (8) fraud as described by Chapter 32, Penal Code;
- 3 (9) a computer crime as described by Chapter 33, Penal
4 Code;
- 5 (10) money laundering as described by Chapter 34,
6 Penal Code;
- 7 (11) bribery or another offense involving corrupt
8 influence as described by Chapter 36, Penal Code;
- 9 (12) perjury or another offense involving
10 falsification as described by Chapter 37, Penal Code;
- 11 (13) obstruction of a governmental operation as
12 described by Chapter 38, Penal Code;
- 13 (14) prostitution or obscenity as described by Chapter
14 43, Penal Code;
- 15 (15) trafficking of explosive weapons, firearms, or
16 components of explosives as described by Chapter 46, Penal Code;
- 17 (16) gambling as described by Chapter 47, Penal Code;
- 18 (17) engaging in organized criminal activity as
19 described by Section 71.02, Penal Code;
- 20 (18) distillation, manufacture, or transportation of
21 alcoholic beverages in violation of the Alcoholic Beverage Code;
- 22 (19) manufacture or delivery of a controlled substance
23 or dangerous drug as described by Chapter 481 or 483, Health and
24 Safety Code; and
- 25 (20) intentional or reckless fraud in the purchase or
26 sale of securities as described by Section 29, The Securities Act
27 (Article 581-29, Vernon's Texas Civil Statutes).

1 (b) A person or enterprise commits racketeering if the
2 person or enterprise commits or threatens to commit an offense
3 described by this subsection, including any preparatory offense,
4 under the laws of this state or another state or under federal law
5 that is punishable by imprisonment for a term of more than one year
6 under the jurisdiction in which the violation occurred, and that is
7 from the following list:

- 8 (1) criminal homicide;
9 (2) kidnapping or unlawful restraint;
10 (3) arson;
11 (4) robbery;
12 (5) theft, receipt of stolen property, or extortion;
13 (6) bribery or another offense involving corrupt
14 influence;
15 (7) obstruction of justice;
16 (8) gambling;
17 (9) manufacture or delivery of a controlled substance
18 or dangerous drug; and
19 (10) intentional or reckless fraud in the purchase or
20 sale of securities.

21 Sec. 140B.003. RECIPROCITY WITH OTHER JURISDICTIONS. (a)
22 Notwithstanding any other law, a valid judgment rendered by a court
23 of a jurisdiction having a law substantially similar to this
24 chapter will be recognized and enforced by a court of this state to
25 the extent that a judgment rendered by a court of this state under
26 this chapter would be enforced in the other jurisdiction.

27 (b) The attorney general may enter into a reciprocal

1 agreement to further the purposes of this chapter with the attorney
2 general or chief prosecuting attorney of another jurisdiction
3 having a law substantially similar to this chapter.

4 SUBCHAPTER B. CIVIL ACTIONS AND REMEDIES

5 Sec. 140B.051. SUIT TO ABATE RACKETEERING; SUIT FOR
6 DAMAGES. (a) A person aggrieved by racketeering or the attorney
7 general or a local prosecutor in the name of the state may bring
8 suit against a person or enterprise for racketeering and may seek
9 any remedy or relief provided by Section 140B.052.

10 (b) A person who sustains damages caused by racketeering may
11 also recover three times the amount of the actual damages sustained
12 by the person and, in accordance with Chapter 41, exemplary
13 damages.

14 (c) A suit under this chapter must be brought in a district
15 court in a county in which all or part of the alleged racketeering
16 offense giving rise to the suit occurred.

17 Sec. 140B.052. INJUNCTIVE RELIEF AND OTHER REMEDIES. (a) A
18 court in which a proceeding is brought under this chapter may
19 prevent, restrain, and remedy racketeering by issuing any
20 appropriate order, including a temporary restraining order, a
21 temporary or permanent injunction, the creation of a receivership,
22 and the enforcement of a constructive trust in connection with any
23 property or other interest, prejudgment writs of attachment under
24 Chapter 61 for the purposes of freezing, preserving, and disgorging
25 assets, or another order for a remedy or restraint the court
26 considers proper.

27 (b) Following a final determination of liability under this

1 chapter, the court may issue an appropriate order, including an
2 order that:

3 (1) requires a person to divest any direct or indirect
4 interest in an enterprise or real or personal property;

5 (2) imposes reasonable restrictions on the future
6 activities or investments of a person that affect the laws of this
7 state, including prohibiting a person from engaging in the type of
8 endeavor or enterprise that gave rise to the racketeering offense,
9 to the extent permitted by the constitutions of this state and the
10 United States;

11 (3) requires the dissolution or reorganization of an
12 enterprise involved in the suit;

13 (4) orders the suspension or revocation of a license,
14 permit, or other authorization granted to an enterprise by a state
15 agency;

16 (5) orders the revocation of a certificate of
17 formation or registration issued by the secretary of state for an
18 enterprise whose agent authorized or engaged in racketeering if the
19 public interest requires the revocation;

20 (6) orders the recovery of reasonable fees, expenses,
21 and costs incurred in obtaining injunctive relief or civil remedies
22 or in conducting investigations under this chapter, including court
23 costs, attorney's fees, witness fees, and deposition fees; or

24 (7) orders that property attached under Chapter 61 be
25 used to satisfy an award in the proceeding, including damages,
26 penalties, costs, and fees.

27 (c) If property attached under Chapter 61 is not necessary

1 to satisfy an award of the court after a finding of liability for
2 racketeering of the person or enterprise having an interest in the
3 property, the court may order that the property be disgorged to the
4 state to the extent of the person's or enterprise's interest. To be
5 disgorged, the property must be acquired or maintained by the
6 person or enterprise through racketeering.

7 (d) Except as otherwise provided by this chapter, remedies
8 and awards ordered by a court under this chapter, including costs
9 and reasonable attorney's fees, may be assessed against and paid
10 from money or property awarded under this chapter.

11 (e) This chapter is not intended to provide the exclusive
12 remedy for the activity addressed by this chapter. A proceeding
13 under this chapter may be brought in addition to or in the
14 alternative of any other civil or criminal action available under
15 the laws of this state.

16 (f) Notwithstanding any other provision in this chapter,
17 Articles 59.13 and 59.14, Code of Criminal Procedure, apply to a
18 remedy under this section.

19 (g) A remedy under this section may not impair a security
20 interest in property subject to a bona fide lien.

21 Sec. 140B.053. RECOVERY FROM FORFEITED PROPERTY. (a) A
22 person who sustains damages caused by racketeering has a right or
23 claim to property forfeited under Chapter 59, Code of Criminal
24 Procedure, in connection with that racketeering activity, or any
25 proceeds of the forfeited property, that is superior to any right or
26 claim of the state or county other than for costs.

27 (b) A person may enforce a right or claim described by this

1 section only by intervening in the forfeiture proceeding before its
2 final disposition.

3 Sec. 140B.054. EVIDENCE RELATED TO CRIMINAL PROCEEDING. A
4 person convicted in a criminal proceeding is precluded, in a
5 proceeding under this chapter, from subsequently denying the
6 essential allegations of the criminal offense of which the person
7 was convicted. For purposes of this subsection, a verdict or a
8 plea, including a plea of nolo contendere, is considered a
9 conviction.

10 Sec. 140B.055. LIMITATIONS PERIOD. (a) A proceeding may be
11 commenced under this chapter only if the proceeding is filed on or
12 before the fifth anniversary of the date on which the racketeering
13 offense was actually discovered. This section supersedes any
14 conflicting provision establishing a shorter period of limitations
15 for the same conduct.

16 (b) If the attorney general or a local prosecutor brings an
17 action in the name of the state under this chapter during the
18 limitations period described by Subsection (a), the limitations
19 period for another action arising from the same series of events
20 that gave rise to the attorney general's or local prosecutor's
21 action is suspended while the attorney general's or local
22 prosecutor's action is pending. If a limitations period is
23 suspended under this subsection, the limitations period is extended
24 for two years.

25 Sec. 140B.056. SPECIAL DOCKETING PROCEDURES. The attorney
26 general or local prosecutor may file with the clerk of the district
27 court in which a proceeding is brought under this chapter a

1 certificate stating that the case is of special public
2 importance. The clerk must immediately furnish a copy of the
3 certificate to the administrative judge of the district court of
4 the county in which the proceeding is pending. On receiving the
5 copy of the certificate, the administrative judge shall immediately
6 designate a judge to hear and determine the proceeding. The
7 designated judge shall promptly assign the proceeding for hearing,
8 participate in hearings, make determinations, and cause the action
9 to be expedited.

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

12 Art. 12.01. FELONIES. Except as provided in Articles
13 12.015 and [Article] 12.03, felony indictments may be presented
14 within these limits, and not afterward:

15 (1) no limitation:

16 (A) murder and manslaughter;

17 (B) sexual assault under Section 22.011(a)(2),
18 Penal Code, or aggravated sexual assault under Section
19 22.021(a)(1)(B), Penal Code;

20 (C) sexual assault, if during the investigation
21 of the offense biological matter is collected and subjected to
22 forensic DNA testing and the testing results show that the matter
23 does not match the victim or any other person whose identity is
24 readily ascertained;

25 (D) continuous sexual abuse of young child or
26 children under Section 21.02, Penal Code;

27 (E) indecency with a child under Section 21.11,

1 Penal Code;

2 (F) an offense involving leaving the scene of an
3 accident under Section 550.021, Transportation Code, if the
4 accident resulted in the death of a person;

5 (G) trafficking of persons under Section
6 20A.02(a)(7) or (8), Penal Code; or

7 (H) continuous trafficking of persons under
8 Section 20A.03, Penal Code;

9 (2) ten years from the date of the commission of the
10 offense:

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

15 (B) theft by a public servant of government
16 property over which he exercises control in his official capacity;

17 (C) forgery or the uttering, using or passing of
18 forged instruments;

19 (D) injury to an elderly or disabled individual
20 punishable as a felony of the first degree under Section 22.04,
21 Penal Code;

22 (E) sexual assault, except as provided by
23 Subdivision (1);

24 (F) arson;

25 (G) trafficking of persons under Section
26 20A.02(a)(1), (2), (3), or (4), Penal Code; or

27 (H) compelling prostitution under Section

1 43.05(a)(1), Penal Code;

2 (3) seven years from the date of the commission of the
3 offense:

4 (A) misapplication of fiduciary property or
5 property of a financial institution;

6 (B) securing execution of document by deception;

7 (C) a felony violation under Chapter 162, Tax
8 Code;

9 (D) false statement to obtain property or credit
10 under Section 32.32, Penal Code;

11 (E) money laundering;

12 (F) credit card or debit card abuse under Section
13 32.31, Penal Code;

14 (G) fraudulent use or possession of identifying
15 information under Section 32.51, Penal Code;

16 (H) Medicaid fraud under Section 35A.02, Penal
17 Code; or

18 (I) bigamy under Section 25.01, Penal Code,
19 except as provided by Subdivision (6);

20 (4) five years from the date of the commission of the
21 offense:

22 (A) theft or robbery;

23 (B) except as provided by Subdivision (5),
24 kidnapping or burglary;

25 (C) injury to an elderly or disabled individual
26 that is not punishable as a felony of the first degree under Section
27 22.04, Penal Code;

1 (D) abandoning or endangering a child; or

2 (E) insurance fraud;

3 (5) if the investigation of the offense shows that the
4 victim is younger than 17 years of age at the time the offense is
5 committed, 20 years from the 18th birthday of the victim of one of
6 the following offenses:

7 (A) sexual performance by a child under Section
8 43.25, Penal Code;

9 (B) aggravated kidnapping under Section
10 20.04(a)(4), Penal Code, if the defendant committed the offense
11 with the intent to violate or abuse the victim sexually; or

12 (C) burglary under Section 30.02, Penal Code, if
13 the offense is punishable under Subsection (d) of that section and
14 the defendant committed the offense with the intent to commit an
15 offense described by Subdivision (1)(B) or (D) of this article or
16 Paragraph (B) of this subdivision;

17 (6) ten years from the 18th birthday of the victim of
18 the offense:

19 (A) trafficking of persons under Section
20 20A.02(a)(5) or (6), Penal Code;

21 (B) injury to a child under Section 22.04, Penal
22 Code;

23 (C) compelling prostitution under Section
24 43.05(a)(2), Penal Code; or

25 (D) bigamy under Section 25.01, Penal Code, if
26 the investigation of the offense shows that the person, other than
27 the legal spouse of the defendant, whom the defendant marries or

1 purports to marry or with whom the defendant lives under the
2 appearance of being married is younger than 18 years of age at the
3 time the offense is committed; or

4 (7) three years from the date of the commission of the
5 offense: all other felonies.

6 SECTION 4. Chapter 12, Code of Criminal Procedure, is
7 amended by adding Article 12.015 to read as follows:

8 Art. 12.015. PATTERN OF RACKETEERING. (a) Except as
9 provided by Subsection (b), a felony indictment for illegal control
10 or conduct of an enterprise under Section 72.02, Penal Code, must be
11 presented not later than five years from the date of the commission
12 of the offense.

13 (b) If the attorney general or a local prosecutor, as
14 defined by Section 140B.001, Civil Practice and Remedies Code,
15 brings an action in the name of the state under Chapter 140B, Civil
16 Practice and Remedies Code, during the limitations period described
17 by Subsection (a), that limitations period is suspended while the
18 attorney general's or local prosecutor's action is pending. If a
19 limitations period is suspended under this subsection, the
20 limitations period is extended for two years.

21 SECTION 5. Title 11, Penal Code, is amended by adding
22 Chapter 72 to read as follows:

23 CHAPTER 72. RACKETEERING

24 Sec. 72.001. DEFINITIONS. In this chapter:

25 (1) "Enterprise" and "racketeering" have the
26 meanings assigned by Section 140B.001, Civil Practice and Remedies
27 Code.

1 (2) "Pattern of racketeering activity" means:

2 (A) the commission of at least two acts of
3 racketeering within a four-year period, excluding any period of
4 imprisonment, in furtherance of one or more incidents, schemes, or
5 transactions that have the same or similar intents, results,
6 accomplices, victims, or methods of commission or otherwise are
7 interrelated by distinguishing characteristics and are not
8 isolated incidents, provided at least one of those acts occurred on
9 or after September 1, 2015; or

10 (B) engaging in one or more acts of domestic
11 terrorism or any criminal attempt, criminal solicitation, or
12 criminal conspiracy related to domestic terrorism.

13 (3) "Pecuniary value" means:

14 (A) anything of value in the form of cash, a
15 negotiable instrument, a commercial interest, or another form of
16 economic advantage; or

17 (B) any other property or service that has a
18 value greater than \$100.

19 Sec. 72.002. ILLEGAL CONTROL OR CONDUCT OF ENTERPRISE. (a)

20 A person commits an offense if the person knowingly:

21 (1) through a pattern of racketeering activity or the
22 proceeds of a pattern of racketeering activity, acquires or
23 maintains, directly or indirectly, an interest in or control of an
24 enterprise or property, including money;

25 (2) is employed by or associated with an enterprise
26 and conducts or participates in, directly or indirectly, any of the
27 affairs of the enterprise through a pattern of racketeering

1 activity; or

2 (3) directly or indirectly participates in the conduct
3 of an enterprise that the person knows is being wholly or partly
4 conducted through a pattern of racketeering activity.

5 (b) An offense under this section is a felony of the second
6 degree punishable by:

7 (1) a fine not to exceed the greater of:

8 (A) \$25,000; or

9 (B) three times the amount of pecuniary value
10 gained from the offense;

11 (2) imprisonment for not less than five years or more
12 than 20 years; or

13 (3) both the fine and imprisonment.

14 (c) Notwithstanding any other law, a court may assess the
15 fine described by Subsection (b) instead of another fine authorized
16 by law.

17 (d) An offense under this section is considered to have been
18 committed in any county in which racketeering occurred or in which
19 an interest or control of an enterprise or property is acquired or
20 maintained by racketeering.

21 SECTION 6. Subtitle B, Title 5, Property Code, is amended by
22 adding Chapter 66 to read as follows:

23 CHAPTER 66. RICO LIENS

24 SUBCHAPTER A. GENERAL PROVISIONS

25 Sec. 66.001. DEFINITIONS. In this chapter:

26 (1) "Beneficial interest":

27 (A) means:

1 (i) an interest of a person as a beneficiary
2 under a trust arrangement under which a trustee holds title to real
3 property for the person's benefit; or

4 (ii) an interest of a person under any other
5 form of express fiduciary arrangement under which another person
6 holds title to real property for the person's benefit; and

7 (B) does not include an interest of a stockholder
8 in a corporation or an interest of a partner in either a general
9 partnership or limited partnership.

10 (2) "Local prosecutor" means a district attorney,
11 criminal district attorney, or county attorney with felony criminal
12 jurisdiction.

13 (3) "RICO lien notice" means a lien notice filed under
14 Section 66.051.

15 (4) "Trustee":

16 (A) means a person who holds title to real
17 property in which any other person has a beneficial interest; and

18 (B) does not include:

19 (i) a person appointed or acting as a
20 guardian or conservator of a ward or a personal representative of an
21 estate; or

22 (ii) a person appointed or acting as a
23 trustee of a testamentary trust or as trustee of any indenture of
24 trust under which bonds are issued or are to be issued.

25 SUBCHAPTER B. FILING OF NOTICE

26 Sec. 66.051. FILING OF LIEN NOTICE. (a) On commencing a
27 civil proceeding under Chapter 140B, Civil Practice and Remedies

1 Code, or at any time while the proceeding is pending, the attorney
2 general or local prosecutor may file for recording in the public
3 records of any one or more counties, a RICO lien notice that
4 complies with this chapter.

5 (b) The county clerk may not charge a fee for filing a RICO
6 lien notice.

7 (c) The county clerk shall immediately record a RICO lien
8 notice filed under this section.

9 Sec. 66.052. FORM AND CONTENT OF NOTICE. (a) A RICO lien
10 notice must be signed by the attorney general or local prosecutor or
11 the attorney general's or local prosecutor's designee and be in a
12 form prescribed by the attorney general.

13 (b) The notice must include:

14 (1) the name of the person against whom the civil
15 proceeding has been brought, including, at the attorney general's
16 or local prosecutor's discretion, any other alias, name, or
17 fictitious name under which the person may be known and any legal
18 entity controlled by or entirely owned by the person;

19 (2) if known to the attorney general or local
20 prosecutor, the present residence and business addresses of the
21 person;

22 (3) a reference to the civil proceeding stating that a
23 proceeding has been brought under Chapter 140B, Civil Practice and
24 Remedies Code, against the person named in the notice, the name of
25 the county or counties in which a proceeding under that chapter has
26 been brought, and, if known to the attorney general or local
27 prosecutor at the time the notice is filed, the case number of the

1 proceeding; and

2 (4) a statement that the notice is filed pursuant to
3 this chapter.

4 (c) The attorney general or local prosecutor must file a
5 separate lien notice for each person the attorney general or local
6 prosecutor intends to be affected by the filing of notice.

7 Sec. 66.053. NOTICE TO PERSON NAMED. (a) The attorney
8 general or local prosecutor shall, as soon as practicable after the
9 filing of a RICO lien notice, provide the person named in the
10 notice a copy of the recorded notice or a copy of the notice with an
11 indication of each county in which the notice has been recorded.

12 (b) The failure to provide notice required by this section
13 does not affect the validity of the notice.

14 Sec. 66.054. LIS PENDENS. In addition to filing a RICO lien
15 notice, the attorney general or local prosecutor may file a lis
16 pendens with respect to any real property owned by a person against
17 whom the attorney general or local prosecutor brings a proceeding
18 under Chapter 140B, Civil Practice and Remedies Code.

19 SUBCHAPTER C. EFFECT OF LIEN NOTICE

20 Sec. 66.101. EFFECT OF LIEN NOTICE. (a) The filing of a
21 RICO lien notice creates a lien from the time of filing in favor of
22 the state on the following property of the person named in the
23 notice:

24 (1) any real property situated in the county where the
25 notice is filed owned by the named person at the time the notice is
26 filed or acquired after that time; and

27 (2) any beneficial interest in real property situated

1 in that county held by the named person at the time the notice is
2 filed or acquired after that time.

3 (b) The filing of the lien notice creates a lien in favor of
4 the state that:

5 (1) attaches at the time the notice is filed; and

6 (2) is superior and prior to the interest of any other
7 person in the real property or beneficial interest if the interest
8 is acquired after the notice is filed.

9 Sec. 66.102. SUBSEQUENT OWNERS. (a) If a RICO lien notice
10 has been filed, the attorney general or local prosecutor may name as
11 a defendant in the related proceeding under Chapter 140B, Civil
12 Practice and Remedies Code, any person who acquires an interest in
13 the real property or beneficial interest after the notice is filed.

14 (b) If a judgment of forfeiture is entered under Chapter 59,
15 Code of Criminal Procedure, against property owned by the person
16 named in the RICO lien notice or in which that person has a
17 beneficial interest, the interest of any person in the property
18 that is acquired after the lien notice was filed is subject to the
19 judgment.

20 Sec. 66.103. EFFECT OF LIEN NOTICE ON USE OF PROPERTY. The
21 filing of a RICO lien notice does not affect the use to which real
22 property owned by a person named in the lien notice or in which the
23 person has a beneficial interest may be put or the right of the
24 person to receive any rents or other proceeds arising from the use
25 and ownership of the property other than proceeds of sale until a
26 judgment of forfeiture is entered.

27 SUBCHAPTER D. TRUST PROPERTY AND BENEFICIAL INTERESTS IN PROPERTY

1 Sec. 66.151. DUTIES OF TRUSTEE; OFFENSE. (a) A trustee who
2 has actual knowledge of a RICO lien notice or a civil or criminal
3 proceeding relating to racketeering brought against a person having
4 a beneficial interest in real property to which the trustee holds
5 title shall provide to the attorney general or local prosecutor, as
6 applicable:

7 (1) the name and address of the person, as known to the
8 trustee;

9 (2) the name and address, as known to the trustee, of
10 each other person for whose benefit the trustee holds title to the
11 property; and

12 (3) if requested by the attorney general or local
13 prosecutor, a copy of the trust agreement or other instrument under
14 which the trustee holds title to the property.

15 (b) A person who violates this section commits an offense.

16 (c) An offense under this section is a Class B misdemeanor.

17 Sec. 66.152. TRUSTEE LIABILITY. (a) Subject to Subsection
18 (b), a trustee who conveys title to real property held in trust by
19 the trustee that is subject to a RICO lien notice at the time of the
20 conveyance that names a person who, to the trustee's actual
21 knowledge, has a beneficial interest in the real property is liable
22 to the state for the greater of:

23 (1) the amount of the proceeds received directly by
24 the person named in the lien notice as a result of the conveyance;

25 (2) the amount of the proceeds received by the trustee
26 as a result of the conveyance and distributed to the person named in
27 the lien notice; or

1 (3) the fair market value of the interest of the person
2 named in the lien notice in the property conveyed.

3 (b) If the trustee conveys the real property and holds the
4 proceeds that would otherwise be paid or distributed to the
5 beneficiary or at the direction of the beneficiary or the
6 beneficiary's designee, the trustee's liability under this section
7 does not exceed the amount of those proceeds as long as the proceeds
8 continue to be held by the trustee.

9 (c) The attorney general or local prosecutor may bring a
10 civil proceeding against the trustee to recover from the trustee
11 any amount for which the trustee is liable under this section.

12 Sec. 66.153. EFFECT OF LIEN NOTICE ON TRUST PROPERTY. The
13 filing of a RICO lien notice does not constitute a lien on real
14 property held in trust by a trustee to which the trustee holds title
15 except to the extent the trustee is named in the lien notice.

16 Sec. 66.154. CERTAIN CONVEYANCES OF TRUST PROPERTY. (a)
17 This chapter does not apply to a conveyance by a trustee pursuant to
18 a court order unless the court order is entered in an action between
19 the trustee and a beneficiary.

20 (b) Unless the trustee has actual knowledge that a person
21 having a beneficial interest in the trust is named in a RICO lien
22 notice or is otherwise a defendant in a civil proceeding brought
23 under Chapter 140B, Civil Practice and Remedies Code, or that an in
24 rem forfeiture proceeding against property owned by the person has
25 been commenced under Chapter 59, Code of Criminal Procedure, in
26 connection with a pattern of racketeering activity under Chapter
27 72, Penal Code, this chapter does not apply to:

1 (1) a conveyance by a trustee required under the terms
2 of a trust agreement that is a matter of public record before the
3 lien notice was filed; or

4 (2) a conveyance by a trustee to all persons having a
5 beneficial interest in the trust.

6 SUBCHAPTER E. TERM OF LIEN

7 Sec. 66.201. EXPIRATION OF LIEN. (a) A lien created by the
8 filing of a RICO lien notice expires on the sixth anniversary of the
9 date of filing unless a notice of lien renewal has been filed before
10 that time.

11 (b) A RICO lien notice may be renewed only once. The renewal
12 of the notice extends the lien created by the notice for an
13 additional six years from the date the renewal notice is filed.

14 Sec. 66.202. RELEASE OF LIEN. (a) The attorney general or
15 local prosecutor may release a RICO lien wholly or partly on terms
16 and conditions the attorney general or local prosecutor considers
17 appropriate.

18 (b) A release of lien under this section may be filed in the
19 public records of any county. The county clerk may not impose a fee
20 for the filing of the release.

21 Sec. 66.203. TERMINATION OF LIEN. (a) If no civil
22 proceeding under Chapter 140B, Civil Practice and Remedies Code, or
23 in rem proceeding under Chapter 59, Code of Criminal Procedure, has
24 been commenced, the acquittal of the person in a criminal
25 proceeding in connection with a pattern of racketeering activity
26 under Chapter 72, Penal Code, or the dismissal of the criminal
27 proceeding terminates the RICO lien notice and the notice has no

1 effect.

2 (b) If a criminal proceeding in connection with a pattern of
3 racketeering activity under Chapter 72, Penal Code, is dismissed or
4 the person named in the lien notice is acquitted in the criminal
5 proceeding, the lien continues in effect for the duration of any
6 civil proceeding commenced under Chapter 140B, Civil Practice and
7 Remedies Code, or in rem proceeding commenced under Chapter 59,
8 Code of Criminal Procedure.

9 Sec. 66.204. ACTION TO RELEASE. (a) If a proceeding is not
10 pending against a person named in a RICO lien notice under Chapter
11 140B, Civil Practice and Remedies Code, or against property owned
12 by the person under Chapter 59, Code of Criminal Procedure, the
13 person may commence an action against the attorney general or local
14 prosecutor who filed the lien notice in the county in which the lien
15 notice is filed seeking a release of the lien notice or
16 extinguishment of the lien.

17 (b) If a person bringing an action under this section proves
18 by a preponderance of the evidence that the RICO lien notice does
19 not apply to the person or that any real property owned by the
20 person or in which the person has a beneficial interest is not
21 subject to forfeiture in connection with a pattern of racketeering
22 activity under Chapter 72, Penal Code, the court shall enter a
23 judgment extinguishing the lien notice or releasing the real
24 property or beneficial interest from the lien.

25 (c) The court shall immediately enter an order releasing
26 from the RICO lien notice any specific real property or beneficial
27 interest if a sale of the property or beneficial interest is pending

1 and the filing of the notice prevents the sale. Proceeds from the
2 sale must be deposited into the registry of the court subject to
3 further court order.

4 (d) The court may release from a RICO lien notice any real
5 property or beneficial interest on the posting of security equal to
6 the value of the real property interest or beneficial interest.

7 (e) If a civil proceeding is pending under Chapter 140B,
8 Civil Practice and Remedies Code, against a person named in a RICO
9 lien notice, or an in rem proceeding under Chapter 59, Code of
10 Criminal Procedure, in connection with a pattern of racketeering
11 activity under Chapter 72, Penal Code, is pending against real
12 property owned by the person or in which the person has a beneficial
13 interest, the court in the proceeding may, on motion of the person,
14 grant relief authorized by this section.

15 SECTION 7. This Act takes effect September 1, 2015.