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S.B. No. 1788

A BILL TO BE ENTITLED

AN ACT

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

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

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

CHAPTER 140B. CIVIL REMEDIES AND ENFORCEMENT RELATED TO RACKETEERING AND UNLAWFUL DEBT COLLECTION

SUBCHAPTER A. GENERAL PROVISIONS

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

(1) "Beneficial interest":

(A) means the interest of a person:

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

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

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

(B) does not include the interest of a

1 shareholder in a corporation or the interest of a partner in either
2 a general partnership or a limited partnership.

3 (2) "Cash or cash proceeds" includes:

4 (A) damages, penalties, or any other monetary
5 payment;

6 (B) monetary proceeds from property forfeited to
7 the state under Subchapter C; or

8 (C) any payment made by a defendant by reason of a
9 decree or settlement in an action filed under Subchapter C.

10 (3) "Enterprise" means a legal entity, group of
11 individuals associated in fact, or a combination of those entities
12 and individuals.

13 (4) "Investigative agency" means the Department of
14 Public Safety, the attorney general, or a local prosecutor.

15 (5) "Local prosecutor" means a district attorney,
16 criminal district attorney, or county attorney with felony criminal
17 jurisdiction.

18 (6) "Real property" means any real property or any
19 interest in real property, including any lease of or mortgage on
20 real property.

21 Sec. 140B.002. SPECIAL DOCKETING PROCEDURES. The attorney
22 general or local prosecutor may file with the clerk of the district
23 court in which an action is brought under this chapter a certificate
24 stating that the case is of special public importance. The clerk
25 must immediately furnish a copy of the certificate to the
26 administrative judge of the district court of the county in which
27 the action is pending. On receiving the copy of the certificate,

1 the administrative judge shall immediately designate a judge to
2 hear and determine the action. The designated judge shall promptly
3 assign the action for hearing, participate in hearings, make
4 determinations, and cause the action to be expedited.

5 Sec. 140B.003. PREVIOUSLY SEIZED ASSETS. Notwithstanding
6 any other provision of this chapter, a remedy provided by this
7 chapter may not be assessed against, and the attorney general may
8 not claim or pursue in an action brought under this chapter, any
9 proceeds, contraband, or other property of any kind over which a law
10 enforcement authority has previously asserted jurisdiction under
11 Chapter 59, Code of Criminal Procedure, at the time an action under
12 this chapter was filed.

13 SUBCHAPTER B. CIVIL INVESTIGATIVE AUTHORITY

14 Sec. 140B.051. AUTHORITY TO INVESTIGATE. If, in connection
15 with civil enforcement authority provided under Subchapter C, an
16 investigative agency has reason to believe that a person or
17 enterprise has engaged in, or is engaging in, conduct constituting
18 an offense under Section 72.02, 72.03, or 72.04, Penal Code, the
19 investigative agency may administer oaths, subpoena witnesses or
20 material, and collect evidence.

21 Sec. 140B.052. SUBPOENAS. (a) A subpoena issued under this
22 subchapter is confidential until the 120th day after the date of its
23 issuance. The subpoenaed person may not disclose the existence of
24 the subpoena to any person other than the subpoenaed person's
25 attorney during the 120-day period.

26 (b) A subpoena issued under this subchapter must include a
27 reference to the confidentiality of the subpoena and a notice to the

1 recipient of the subpoena that disclosure of the existence of the
2 subpoena to any other person except the subpoenaed person's
3 attorney is prohibited.

4 (c) The investigative agency may apply ex parte to the
5 district court for the district in which the subpoenaed person
6 resides, is found, or transacts business for an order directing
7 that the subpoenaed person not disclose the existence of the
8 subpoena to any other person except the subpoenaed person's
9 attorney for an additional period of time for good cause shown by
10 the investigative agency.

11 (d) An order under Subsection (c) shall be served on the
12 subpoenaed person with the subpoena, and the subpoena must include
13 a reference to the order and a notice to the recipient of the
14 subpoena that disclosure of the existence of the subpoena to any
15 other person in violation of the order may subject the subpoenaed
16 person to punishment for contempt of court.

17 (e) An order under Subsection (c) may be granted by the
18 court only on a showing:

19 (1) of sufficient factual grounds to reasonably
20 indicate conduct constituting an offense under Section 72.02,
21 72.03, or 72.04, Penal Code;

22 (2) that the documents or testimony sought appear
23 reasonably calculated to lead to the discovery of admissible
24 evidence; and

25 (3) of facts that reasonably indicate that disclosure
26 of the subpoena would hamper or impede the investigation or would
27 result in a flight from prosecution for an offense described by

1 Subdivision (1).

2 Sec. 140B.053. SUBPOENA FOR MATTER OUTSIDE STATE. If a
3 matter that an investigative agency seeks to obtain by a subpoena
4 issued under this subchapter is located outside this state, the
5 subpoenaed person may make that matter available to the
6 investigative agency or its representative for examination at the
7 place where the matter is located. The investigative agency may
8 designate representatives, including officials of the jurisdiction
9 in which the matter is located, to inspect the matter on its behalf
10 and may respond to similar requests from officials of other
11 jurisdictions.

12 Sec. 140B.054. FAILURE TO OBEY SUBPOENA. On failure of a
13 person, without lawful excuse, to obey a subpoena issued under this
14 chapter, and after reasonable notice to that person, an
15 investigative agency may apply for an order compelling compliance
16 to:

17 (1) the district court in which a civil action for
18 which the subpoena is issued is pending; or

19 (2) if no civil action is pending, the district court
20 for the judicial district in which the person resides, is found, or
21 transacts business.

22 Sec. 140B.055. USE OF TESTIMONY OR MATERIAL SUBJECT TO
23 SELF-INCRIMINATION PRIVILEGE. Except in a prosecution for perjury,
24 an individual who complies with a court order to provide testimony
25 or material after asserting a privilege against self-incrimination
26 to which the individual is entitled by law may not have the
27 testimony or material so provided, or evidence derived from the

1 testimony or material, received against the individual in any
2 criminal investigation or proceeding.

3 Sec. 140B.056. CONTEMPT OF COURT. A person who fails to
4 obey a court order entered under this subchapter may be punished for
5 contempt of court.

6 Sec. 140B.057. PROTECTIVE ORDERS. The investigative agency
7 may stipulate to protective orders with respect to documents and
8 information submitted in response to a subpoena issued under this
9 subchapter.

10 Sec. 140B.058. CONFIDENTIAL INFORMATION. (a) Information
11 held by an investigative agency related to an investigation of
12 conduct constituting an offense under Section 72.02, 72.03, or
13 72.04, Penal Code, is confidential and exempt from disclosure under
14 Chapter 552, Government Code.

15 (b) Information made confidential and exempt under
16 Subsection (a) may be disclosed by an investigative agency to:

17 (1) a governmental entity in the performance of its
18 official duties; or

19 (2) a court or tribunal.

20 (c) Information made confidential and exempt under
21 Subsection (a) is no longer confidential and exempt once all
22 investigations to which the information pertains are completed,
23 unless the information is otherwise protected by law.

24 (d) For purposes of this section, an investigation is
25 considered complete once the investigative agency either files an
26 action or closes its investigation without filing an action.

SUBCHAPTER C. CIVIL REMEDIES

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

(1) ordering a defendant to divest of any interest in any enterprise, including real property;

(2) imposing reasonable restrictions on the future activities or investments of a defendant, including prohibiting a defendant from engaging in the same type of endeavor as the enterprise in which the defendant was engaged in conduct constituting an offense under Section 72.02, 72.03, or 72.04, Penal Code;

(3) ordering the dissolution or reorganization of an enterprise;

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

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

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

1 (B) for the prevention of future criminal
2 activity, the public interest requires the charter of the
3 corporation forfeited and the corporation dissolved or the
4 certificate revoked.

5 Sec. 140B.102. CIVIL FORFEITURE OF PROPERTY. (a) All
6 property, real or personal, including money, used in the course of,
7 intended for use in the course of, derived from, or realized through
8 conduct constituting an offense under Section 72.02, 72.03, or
9 72.04, Penal Code, is subject to civil forfeiture to the state.

10 (b) An investigative agency, on behalf of this state, may
11 bring a civil action for forfeiture:

12 (1) in the district court for the judicial district in
13 which real or personal tangible property described by Subsection
14 (a) is located; and

15 (2) in a district court in this state regarding
16 intangible property described by Subsection (a).

17 (c) On entry of a final judgment of forfeiture in favor of
18 the state, the title of the state to the forfeited property shall
19 relate back:

20 (1) in the case of real property or a beneficial
21 interest:

22 (A) to the date of filing of a lien notice under
23 Chapter 68, Property Code, in the official records of the county
24 where the real property or beneficial trust is located;

25 (B) if no lien notice is filed, to the date of the
26 filing of any notice of lis pendens under Section 68.056(a),
27 Property Code, in the official records of the county where the real

1 property or beneficial interest is located; or

2 (C) if no lien notice or notice of lis pendens is
3 filed, to the date of recording of the final judgment of forfeiture
4 in the official records of the county where the real property or
5 beneficial interest is located; or

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

8 (d) For purposes of this section, a beneficial interest is
9 considered to be located where real property owned by the trustee is
10 located.

11 Sec. 140B.103. CONVEYANCE OF PROPERTY SUBJECT TO
12 FORFEITURE. (a) If property subject to forfeiture is conveyed,
13 alienated, disposed of, diminished in value, or otherwise rendered
14 unavailable for forfeiture, the investigative agency may, on behalf
15 of the state, bring an action in any district court against the
16 person named in the lien notice under Chapter 68, Property Code, or
17 the defendant in the relevant civil action or criminal proceeding.
18 If a civil action is pending, the action shall be filed only in the
19 court where the civil action is pending.

20 (b) The court in an action brought under Subsection (a)
21 shall:

22 (1) enter final judgment against the person named in
23 the lien notice or the defendant in the relevant civil action or
24 criminal proceeding in an amount equal to:

25 (A) the fair market value of the property; and

26 (B) the investigative costs and attorney fees
27 incurred by the investigative agency in the action; or

1 (2) order the forfeiture of any other property of the
2 defendant up to the value of the property subject to forfeiture.

3 Sec. 140B.104. DISPOSITION OF FORFEITED PROPERTY. (a) The
4 state shall dispose of all forfeited property as soon as
5 commercially feasible. If property is not exercisable or
6 transferable for value by the state, the state may destroy or
7 otherwise dispose of the property.

8 (b) All forfeitures or dispositions under this subchapter
9 shall be made with due provision for the rights of innocent persons.

10 (c) The state shall promptly distribute the proceeds
11 realized from the forfeiture and disposition of property under this
12 section in accordance with Subchapter D.

13 Sec. 140B.105. SEIZURE OF PROPERTY. (a) Property subject
14 to forfeiture under this subchapter may be seized by a law
15 enforcement officer on court process. Seizure without process may
16 be made if:

17 (1) the seizure is incident to a lawful arrest or
18 search conducted under a warrant issued under Chapter 18, Code of
19 Criminal Procedure; or

20 (2) the property subject to seizure has been the
21 subject of a previous judgment in favor of the state in a forfeiture
22 action brought under this subchapter.

23 (b) For a seizure conducted under this section, an
24 investigative agency shall promptly commence a forfeiture action
25 under Section 140B.102.

26 Sec. 140B.106. STORAGE OF SEIZED PROPERTY PENDING
27 FORFEITURE ACTION. Property taken or detained under this

1 subchapter is not subject to replevin but is considered to be in the
2 custody of the law enforcement officer making the seizure, subject
3 only to the order of the court. When property is seized under this
4 subchapter, pending forfeiture and final disposition, the law
5 enforcement officer may:

6 (1) place the property under seal;

7 (2) remove the property to a place designated by a
8 court; or

9 (3) require another agency authorized by law to take
10 custody of the property and remove it to an appropriate location.

11 Sec. 140B.107. CIVIL ACTION BROUGHT BY ATTORNEY GENERAL OR
12 LOCAL PROSECUTOR. (a) The office of the attorney general, a
13 district attorney, or a state agency having jurisdiction over
14 conduct constituting an offense under Section 72.02, 72.03, or
15 72.04, Penal Code, may institute civil actions under this
16 subchapter.

17 (b) In an action brought under this subchapter, the district
18 court shall proceed as soon as practicable to the hearing and
19 determination. Pending final determination, the district court may
20 at any time enter injunctions, prohibitions, or restraining orders,
21 or take actions, including the acceptance of satisfactory
22 performance bonds, the court considers proper.

23 Sec. 140B.108. CIVIL ACTION BROUGHT BY AGGRIEVED PERSON.

24 (a) An aggrieved person may bring an action under Section 140B.101.

25 (b) In an action brought as described by Subsection (a), a
26 court shall grant relief in conformity with the principles that
27 govern the granting of injunctive relief from threatened loss or

1 damage in other civil cases, except that a showing of special or
2 irreparable damage to the aggrieved person is not required.

3 (c) On the execution of proper bond against damages for an
4 injunction improvidently granted and a showing of immediate danger
5 of significant loss or damage, a court may issue a temporary
6 restraining order and a preliminary injunction in the action before
7 a final determination on the merits.

8 Sec. 140B.109. OTHER CIVIL ACTIONS BROUGHT BY GOVERNMENTAL
9 CLAIMANTS. (a) The state, a state agency, or a political
10 subdivision may bring an action against a person who engages in
11 conduct constituting an offense under Section 72.02, 72.03, or
12 72.04, Penal Code, as provided by this section.

13 (b) A claimant in an action brought under this section:

14 (1) must prove by clear and convincing evidence the
15 claimant is injured as a result of the conduct that is the basis for
16 the action;

17 (2) may recover:

18 (A) three times the claimant's actual damages;
19 and

20 (B) reasonable attorney's fees and reasonably
21 incurred costs of investigation and litigation; and

22 (3) may not recover exemplary damages.

23 (c) The defendant is entitled to recover reasonable
24 attorney's fees and court costs in an action brought under this
25 section on a finding that the claimant raised a claim that was
26 without substantial factual or legal support.

27 (d) Either party may demand a trial by jury in an action

1 brought under this section.

2 Sec. 140B.110. RECOVERY FROM FORFEITED PROPERTY. A
3 prevailing claimant in an action under this subchapter other than
4 the state or a political subdivision shall have a right or claim to
5 forfeited property or proceeds derived from the property superior
6 to any right or claim the state or political subdivision has in the
7 same property or proceeds.

8 Sec. 140B.111. EFFECT OF FINAL JUDGMENT OR DECREE. A final
9 judgment or decree rendered in favor of this state in a criminal
10 proceeding under state law prevents the defendant from asserting in
11 any subsequent civil action brought under this chapter any matter
12 as to which that judgment or decree would be an estoppel as between
13 the parties.

14 Sec. 140B.112. OTHER RELIEF AVAILABLE TO ATTORNEY GENERAL.
15 (a) The attorney general may bring an action against a person who
16 engages in conduct constituting an offense under Section 72.02,
17 72.03, or 72.04, Penal Code, to obtain:

18 (1) injunctive relief;
19 (2) a civil penalty as provided by this section; and
20 (3) reasonable attorney's fees and reasonably incurred
21 costs of investigation or litigation.

22 (b) A defendant in an action brought under this section is
23 subject to a civil penalty not to exceed:

24 (1) \$100,000 if the defendant is an individual; or
25 (2) \$1 million if the defendant is not an individual.

26 (c) The attorney general shall deposit a civil penalty
27 collected under this section to the credit of the general revenue

1 fund. The attorney general shall deposit attorney's fees and costs
2 collected under this section into the attorney general law
3 enforcement account, which may be used to investigate and enforce
4 this chapter.

5 (d) Any party to an action brought under this section may
6 petition the court for entry of a consent decree or for approval of
7 a settlement agreement. The proposed decree or settlement must
8 specify the alleged violations, the future obligations of the
9 parties, the relief agreed on, and the reasons for entering into the
10 consent decree or settlement agreement.

11 Sec. 140B.113. INTERVENTION BY ATTORNEY GENERAL. The
12 attorney general may, on timely application, intervene in a civil
13 action brought under Section 140B.108 or 140B.109 if the attorney
14 general certifies that, in the attorney general's opinion, the
15 action is of general public importance. In the action, the state is
16 entitled to the same relief as if the attorney general had
17 instituted the action.

18 Sec. 140B.114. LIMITATIONS; TOLLING. (a) Notwithstanding
19 any other law, a person must bring an action under this chapter not
20 later than the fifth anniversary of the later of:

21 (1) the date the conduct that is the basis for the
22 action terminates; or

23 (2) the date the cause of action accrues.

24 (b) If an indictment for an offense under Section 72.02,
25 72.03, or 72.04, Penal Code, is presented or a civil action is
26 brought, or intervened in, to punish, prevent, or restrain conduct
27 constituting an offense under Section 72.02, 72.03, or 72.04, Penal

1 Code, the running of the period of limitations prescribed by this
2 section with respect to any cause of action arising under Section
3 140B.108, 140B.109, or 140B.112 that is wholly or partly based on a
4 matter complained of in the indictment or the pleadings in the
5 action, as applicable, is suspended during the pendency of the
6 prosecution or litigation of the action, as applicable, and
7 extended for two years following its termination.

8 Sec. 140B.115. MULTIPLE REMEDIES ALLOWED. The application
9 of one civil remedy under a provision of this chapter does not
10 preclude the application of any other remedy, civil or criminal,
11 under this chapter or any other law. Civil remedies under this
12 chapter are supplemental and not mutually exclusive.

13 SUBCHAPTER D. DISPOSITION OF FUNDS OBTAINED THROUGH FORFEITURE
14 ACTIONS

15 Sec. 140B.151. INITIAL DISTRIBUTION. (a) A court entering
16 a judgment of forfeiture in an action brought under Subchapter C
17 retains jurisdiction to direct the distribution of any cash or cash
18 proceeds realized from the forfeiture and disposition of the
19 property. The court shall direct the distribution of the funds in
20 the following order of priority:

21 (1) statutory fees to which the clerk of the court may
22 be entitled;

23 (2) claims against the property by persons who have
24 previously been judicially determined to be innocent persons and
25 whose interests are preserved from forfeiture by the court and not
26 otherwise satisfied; and

27 (3) subject to Subsection (c), claims for restitution

1 by victims of the racketeering activity.

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

4 (c) If the attorney general brought the forfeiture action,
5 restitution shall be distributed through the compensation to victims
6 of crime fund. If the attorney general did not bring the forfeiture
7 action, restitution shall be distributed by the clerk of the court.

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

12 (1) 25 percent into the appropriate trust fund of the
13 attorney general or local prosecutor's office that filed the civil
14 forfeiture action as provided by Subsection (c);

15 (2) 25 percent into the applicable law enforcement
16 trust fund of the investigative agency that conducted the
17 investigation that resulted in or significantly contributed to the
18 forfeiture of the property as provided by Subsection (d); and

19 (3) 50 percent into the general revenue fund.

20 (b) If a forfeiture action is filed by the attorney general
21 or a local prosecutor, the court entering the judgment of
22 forfeiture shall, taking into account the overall effort and
23 contribution to the investigation and forfeiture action by the
24 agencies that filed the action, make a pro rata apportionment among
25 those agencies of the money available for distribution to those
26 agencies as provided by this subchapter. If multiple investigative
27 agencies have contributed to the forfeiture of the property, the

1 court that entered the judgment of forfeiture shall, taking into
2 account the overall effort and contribution of the agencies to the
3 investigation and forfeiture action, make a pro rata apportionment
4 among those investigative agencies of the money available for
5 distribution to the investigative agencies as provided by this
6 subchapter.

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

12 (d) If a forfeiture action is filed by a district or county
13 attorney, any money obtained by the district or county attorney's
14 office under this section may be used to pay the costs of
15 investigations under Subchapter B and the resulting criminal
16 prosecutions and civil actions. Such costs may include:

17 (1) all taxable costs;

18 (2) costs of protecting, maintaining, and forfeiting
19 the property;

20 (3) employees' base salaries and compensation for
21 overtime; and

22 (4) other costs that are directly attributable to the
23 investigation, prosecution, or civil action.

24 (e) Any money distributed to an investigative agency under
25 Subsection (a) shall be deposited in the applicable law enforcement
26 fund or account established for that agency and expended for the
27 purposes and in the manner authorized for that fund or account. In

1 addition, any money distributed to an investigative agency under
2 this section may be used to pay the costs of investigations under
3 Subchapter B and the resulting criminal prosecutions and civil
4 actions. Such costs may include:

5 (1) all taxable costs;

6 (2) costs of protecting, maintaining, and forfeiting
7 the property;

8 (3) employees' base salaries and compensation for
9 overtime; and

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

12 Sec. 140B.153. EFFECT ON SETTLEMENTS. (a) This subchapter
13 may not be construed to limit the authority of an entity that files
14 a forfeiture action under Subchapter C to settle a claim for
15 forfeiture.

16 (b) Any proceeds arising from a settlement or from the sale
17 of property obtained in a settlement shall be distributed in the
18 manner described by Sections 140B.151 and 140B.152.

19 Sec. 140B.154. TEMPORARY DEPOSIT IN COURT REGISTRY.
20 Pending the final distribution of the cash or cash proceeds under
21 this subchapter, the court may authorize the cash or cash proceeds
22 to be deposited in the court registry or in a qualified public
23 depository.

24 SECTION 2. Article 12.01, Code of Criminal Procedure, is
25 amended to read as follows:

26 Art. 12.01. FELONIES. Except as provided in Articles
27 12.015 and [Article] 12.03, felony indictments may be presented

1 within these limits, and not afterward:

2 (1) no limitation:

3 (A) murder and manslaughter;

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

7 (C) sexual assault, if:

8 (i) during the investigation of the offense
9 biological matter is collected and the matter:

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

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

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

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

21 (E) indecency with a child under Section 21.11,
22 Penal Code;

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

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

1 (H) continuous trafficking of persons under
2 Section 20A.03, Penal Code; or

3 (I) compelling prostitution under Section
4 43.05(a)(2), Penal Code;

5 (2) ten years from the date of the commission of the
6 offense:

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

11 (B) theft by a public servant of government
12 property over which the public servant exercises control in the
13 public servant's official capacity;

14 (C) forgery or the uttering, using, or passing of
15 forged instruments;

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

19 (E) sexual assault, except as provided by
20 Subdivision (1) or (7);

21 (F) arson;

22 (G) trafficking of persons under Section
23 20A.02(a)(1), (2), (3), or (4), Penal Code; or

24 (H) compelling prostitution under Section
25 43.05(a)(1), Penal Code;

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

- 1 (A) misapplication of fiduciary property or
2 property of a financial institution;
- 3 (B) fraudulent securing of document execution;
- 4 (C) a felony violation under Chapter 162, Tax
5 Code;
- 6 (D) false statement to obtain property or credit
7 under Section 32.32, Penal Code;
- 8 (E) money laundering;
- 9 (F) credit card or debit card abuse under Section
10 32.31, Penal Code;
- 11 (G) fraudulent use or possession of identifying
12 information under Section 32.51, Penal Code;
- 13 (H) exploitation of a child, elderly individual,
14 or disabled individual under Section 32.53, Penal Code;
- 15 (I) health care fraud under Section 35A.02, Penal
16 Code; or
- 17 (J) bigamy under Section 25.01, Penal Code,
18 except as provided by Subdivision (6);
- 19 (4) five years from the date of the commission of the
20 offense:
- 21 (A) theft or robbery;
- 22 (B) except as provided by Subdivision (5),
23 kidnapping or burglary;
- 24 (C) injury to an elderly or disabled individual
25 that is not punishable as a felony of the first degree under Section
26 22.04, Penal Code;
- 27 (D) abandoning or endangering a child; or

1 (E) insurance fraud;

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

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

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

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

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

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

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

22 (C) bigamy under Section 25.01, Penal Code, if
23 the investigation of the offense shows that the person, other than
24 the legal spouse of the defendant, whom the defendant marries or
25 purports to marry or with whom the defendant lives under the
26 appearance of being married is younger than 18 years of age at the
27 time the offense is committed;

1 (7) two years from the date the offense was
2 discovered: sexual assault punishable as a state jail felony under
3 Section 22.011(f)(2), Penal Code; or

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

6 SECTION 3. Chapter 12, Code of Criminal Procedure, is
7 amended by adding Article 12.015 to read as follows:

8 Art. 12.015. RACKETEERING AND UNLAWFUL DEBT COLLECTION.

9 (a) Except as provided by Subsection (b), a felony indictment for
10 an offense under Section 72.02, 72.03, or 72.04, 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 4. Section 71.01(d), Penal Code, is amended to read
22 as follows:

23 (d) "Criminal street gang" means two [~~three~~] or more persons
24 having a common identifying sign or symbol or an identifiable
25 leadership who continuously or regularly associate in the
26 commission of criminal activities.

27 SECTION 5. Section 71.02(a), Penal Code, is amended to read

1 as follows:

2 (a) A person commits an offense if, with the intent to
3 establish, maintain, or participate in a combination or in the
4 profits of a combination or as a member of a criminal street gang,
5 the person commits or conspires to commit one or more of the
6 following:

7 (1) murder, capital murder, arson, aggravated
8 robbery, robbery, burglary, theft, aggravated kidnapping,
9 kidnapping, aggravated assault, aggravated sexual assault, sexual
10 assault, continuous sexual abuse of young child or disabled
11 individual, solicitation of a minor, forgery, deadly conduct,
12 assault punishable as a Class A misdemeanor, burglary of a motor
13 vehicle, or unauthorized use of a motor vehicle;

14 (2) any gambling offense punishable as a Class A
15 misdemeanor;

16 (3) promotion of prostitution, aggravated promotion
17 of prostitution, or compelling prostitution;

18 (4) unlawful manufacture, transportation, repair, or
19 sale of firearms or prohibited weapons;

20 (5) unlawful manufacture, delivery, dispensation, or
21 distribution of a controlled substance or dangerous drug, or
22 unlawful possession of a controlled substance or dangerous drug
23 through forgery, fraud, misrepresentation, or deception;

24 (5-a) causing the unlawful delivery, dispensation, or
25 distribution of a controlled substance or dangerous drug in
26 violation of Subtitle B, Title 3, Occupations Code;

27 (5-b) any unlawful possession with intent to deliver a

1 controlled substance or dangerous drug;

2 (6) any unlawful wholesale promotion or possession of
3 any obscene material or obscene device with the intent to wholesale
4 promote the same;

5 (7) any offense under Subchapter B, Chapter 43,
6 depicting or involving conduct by or directed toward a child
7 younger than 18 years of age;

8 (8) any felony offense under Chapter 32;

9 (9) any offense under Chapter 36;

10 (10) any offense under Chapter 34, 35, or 35A;

11 (11) any offense under Section 37.11(a);

12 (12) any offense under Chapter 20A;

13 (13) any offense under Section 37.10;

14 (14) any offense under Section 38.06, 38.07, 38.09, or
15 38.11;

16 (15) any offense under Section 42.10;

17 (16) any offense under Section 46.06(a)(1) or 46.14;

18 (17) any offense under Section 20.05 or 20.06;

19 (18) any offense under Section 16.02; or

20 (19) any offense classified as a felony under the Tax
21 Code.

22 SECTION 6. Title 11, Penal Code, is amended by adding
23 Chapter 72 to read as follows:

24 CHAPTER 72. RACKETEERING AND UNLAWFUL DEBT COLLECTION

25 Sec. 72.01. DEFINITIONS. In this chapter:

26 (1) "Enterprise" has the meaning assigned by Section
27 140B.001, Civil Practice and Remedies Code.

1 (2) "Pattern of racketeering" means engaging in at
2 least two incidents of racketeering conduct that have the same or
3 similar intents, results, accomplices, victims, or methods of
4 commission or that otherwise are interrelated by distinguishing
5 characteristics and are not isolated incidents, the last of which
6 occurred not later than the fifth anniversary of the date of a
7 previous incident of racketeering conduct.

8 (3) "Pecuniary value" means:

9 (A) anything of value in the form of money, a
10 negotiable instrument, or a commercial interest or anything else
11 the primary significance of which is economic advantage; or

12 (B) any other property or service that has a
13 value in excess of \$100.

14 (4) "Racketeering" means to commit, to attempt to
15 commit, to conspire to commit, or to solicit, coerce, or intimidate
16 another person to commit:

17 (A) a felony offense under The Securities Act
18 (Title 12, Government Code);

19 (B) an offense under Chapter 20A (trafficking of
20 persons);

21 (C) a felony offense under Chapter 37 (perjury
22 and other falsification);

23 (D) an offense under Section 38.03 (resisting
24 arrest, search, or transportation);

25 (E) an offense under Section 38.05 (hindering
26 apprehension or prosecution); or

27 (F) an offense under Section 71.02 (engaging in

1 organized criminal activity).

2 (5) "Real property" has the meaning assigned by
3 Section 140B.001, Civil Practice and Remedies Code.

4 (6) "Unlawful debt" means any money or other thing of
5 value constituting principal or interest of a debt that is wholly or
6 partly legally unenforceable in this state because the debt was
7 incurred or contracted:

8 (A) in violation of:

9 (i) the Texas Racing Act (Subtitle A-1,
10 Title 13, Occupations Code, and Article 179e, Revised Civil
11 Statutes);

12 (ii) Subtitle A, Title 4, Finance Code, or
13 Section 11, Article 16, Texas Constitution, relating to interest
14 and usury; or

15 (iii) Chapter 47, relating to gambling; or

16 (B) in gambling activity in violation of federal
17 law or in the business of lending money at a rate usurious under
18 state or federal law.

19 Sec. 72.02. USE OF PROCEEDS DERIVED FROM RACKETEERING OR
20 UNLAWFUL DEBT COLLECTION. (a) A person commits an offense if the
21 person intentionally uses or invests, whether directly or
22 indirectly, any part of any proceeds knowingly derived, directly or
23 indirectly, from a pattern of racketeering or through the
24 collection of an unlawful debt, or the proceeds derived from the
25 investment or use of those proceeds, in acquiring title to, or any
26 right, interest, or equity in, real property or in the
27 establishment or operation of any enterprise.

1 (b) An offense under this section is a felony of the second
2 degree.

3 Sec. 72.03. ACQUISITION OF INTEREST IN PROPERTY OR CONTROL
4 OF ENTERPRISE THROUGH RACKETEERING OR UNLAWFUL DEBT COLLECTION.

5 (a) A person commits an offense if the person, knowingly through a
6 pattern of racketeering or through the collection of an unlawful
7 debt, acquires or maintains, directly or indirectly, any interest
8 in or control of any enterprise or real property.

9 (b) An offense under this section is a felony of the second
10 degree.

11 Sec. 72.04. PARTICIPATION IN ENTERPRISE THROUGH
12 RACKETEERING OR UNLAWFUL DEBT COLLECTION. (a) A person commits an
13 offense if the person is employed by or associated with an
14 enterprise and knowingly conducts or participates, directly or
15 indirectly, in that enterprise through a pattern of racketeering or
16 the collection of an unlawful debt.

17 (b) An offense under this section is a felony of the second
18 degree.

19 Sec. 72.05. ALTERNATIVE FINE. Notwithstanding any other
20 law, a court, after a hearing, may impose a fine, instead of an
21 otherwise applicable fine, on a person convicted of an offense
22 under Section 72.02, 72.03, or 72.04, through which the person
23 derived pecuniary value or by which the person caused personal
24 injury, property damage, or other loss, that does not exceed:

25 (1) the greater of:

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

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

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

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

7 CHAPTER 68. RICO LIENS

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 68.001. DEFINITIONS. In this chapter:

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

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

15 (3) "Trustee":

16 (A) means:

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

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

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

26 (B) does not include a person appointed or acting
27 as a personal representative as defined by Section 22.031, Estates

1 Code, or appointed or acting as a trustee of a testamentary trust or
2 as a trustee of an indenture of trust under which any bonds have
3 been or are to be issued.

4 SUBCHAPTER B. RICO LIEN NOTICE

5 Sec. 68.051. GENERAL RICO LIEN NOTICE. (a) On the
6 institution of a civil action, the investigative agency, then or at
7 any time during the pendency of the action, may file a RICO lien
8 notice in the official records of any one or more counties.

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

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

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

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

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

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

7 (c) The owner of the property may move the court to
8 discharge the lien, and that motion shall be set for hearing at the
9 earliest possible time.

10 (d) The court shall discharge the lien if the court finds
11 that:

12 (1) there is no probable cause to believe that the
13 property was used in the course of, intended for use in the course
14 of, derived from, or realized through conduct constituting an
15 offense under Section 72.02, 72.03, or 72.04, Penal Code; or

16 (2) the owner of the property neither knew nor
17 reasonably should have known that the property was used in the
18 course of, intended for use in the course of, derived from, or
19 realized through conduct constituting an offense under Section
20 72.02, 72.03, or 72.04, Penal Code.

21 (e) Testimony presented by the property owner at the
22 hearing:

23 (1) is not admissible against the property owner in
24 any criminal proceeding except in a criminal prosecution for
25 perjury or false statement; and

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

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

5 (g) If a civil action is instituted under Chapter 140B,
6 Civil Practice and Remedies Code, and a RICO lien notice is filed
7 under this subchapter, the term of the lien notice is governed by
8 this subchapter.

9 (h) The filing of a RICO lien notice, regardless of whether
10 subsequently discharged or otherwise lifted, constitutes notice to
11 the owner and knowledge by the owner that the property was used in
12 the course of, intended for use in the course of, derived from, or
13 realized through conduct constituting an offense under Section
14 72.02, 72.03, or 72.04, Penal Code, such that lack of such notice
15 and knowledge is not a defense in any subsequent civil action under
16 Chapter 140B, Civil Practice and Remedies Code, or a subsequent
17 criminal proceeding under Chapter 72, Penal Code.

18 Sec. 68.053. FORMAT OF NOTICE. (a) A RICO lien notice must
19 be signed by the attorney general or the attorney general's
20 designee or by a local prosecutor or the local prosecutor's
21 designee.

22 (b) A RICO lien notice must be in the form prescribed by the
23 attorney general and must include:

24 (1) the name of the person against whom a civil action
25 has been brought under Chapter 140B, Civil Practice and Remedies
26 Code, and at the discretion of the investigative agency may also
27 include any other aliases, names, or fictitious names under which

1 the person may be known and any corporation, partnership, or other
2 entity that is either controlled or entirely owned by the person;

3 (2) if known to the investigative agency, the current
4 residence and business addresses of the person named in the notice
5 and of the other names included in the notice;

6 (3) a reference to an applicable civil action,
7 stating:

8 (A) that an action under Chapter 140B, Civil
9 Practice and Remedies Code, has been brought against the person
10 named in the notice;

11 (B) the name of each county in which the action
12 has been brought; and

13 (C) if known to the investigative agency at the
14 time of filing the notice, the cause number of the action;

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

17 (5) the name and address of the investigative agency
18 filing the notice and the name of the individual signing the notice.

19 (c) A RICO lien notice must apply only to one person and, to
20 the extent applicable, any other aliases, names, or fictitious
21 names of that person, including the names of corporations,
22 partnerships, or other entities, to the extent permitted by
23 Subsection (b)(1). A separate notice must be filed for each person
24 against whom the investigative agency desires to file a RICO lien
25 notice under this subchapter.

26 Sec. 68.054. SERVICE OF NOTICE. (a) An investigative
27 agency shall, as soon as practicable after the filing of each RICO

1 lien notice, provide to the person named in the notice:

2 (1) a copy of the recorded notice; or

3 (2) a copy of the notice that states each county in
4 which the notice has been recorded.

5 (b) The failure of the investigative agency to provide a
6 copy of a RICO lien notice under this section does not invalidate or
7 otherwise affect the notice.

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

13 (1) any real property situated in the county where the
14 notice is filed then or thereafter owned by the person or under any
15 of the names; and

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

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

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

1 located.

2 Sec. 68.056. LIS PENDENS; INTERESTS OF PERSONS ACQUIRING
3 INTEREST IN PROPERTY. (a) In conjunction with a civil action
4 brought under Chapter 140B, Civil Practice and Remedies Code, an
5 investigative agency may file without prior court order in any
6 county a notice of lis pendens under Section 12.007. In such case,
7 a person acquiring an interest in the subject real property or
8 beneficial interest, if the real property or beneficial interest is
9 acquired subsequent to the filing of the notice of lis pendens,
10 shall take the interest subject to the civil action and any
11 subsequent judgment of forfeiture.

12 (b) In conjunction with a civil action brought under Chapter
13 140B, Civil Practice and Remedies Code, if a RICO lien notice has
14 been filed, an investigative agency may name as a defendant, in
15 addition to the person named in the notice, any person acquiring an
16 interest in the real property or beneficial interest subsequent to
17 the filing of the notice. If a judgment of forfeiture is entered in
18 the action in favor of the state, the interest of any person in the
19 property that was acquired subsequent to the filing of the notice
20 shall be subject to the notice and judgment of forfeiture.

21 Sec. 68.057. DUTIES OF TRUSTEE; CRIMINAL OFFENSE. (a) A
22 trustee who acquires actual knowledge that a RICO lien notice or a
23 civil action brought under Chapter 140B, Civil Practice and
24 Remedies Code, or criminal proceeding brought under Chapter 72,
25 Penal Code, has been filed against a person for whom the trustee
26 holds legal or record title to real property shall immediately
27 furnish to the appropriate investigative agency:

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

3 (2) the name and address, as known to the trustee, of
4 each other person for whose benefit the trustee holds title to the
5 real property; and

6 (3) if requested by the investigative agency, a copy
7 of the trust agreement or other instrument under which the trustee
8 holds legal or record title to the real property.

9 (b) A trustee who violates this section commits an offense.
10 An offense under this subsection is a Class B misdemeanor.

11 Sec. 68.058. LIABILITY OF TRUSTEE FOR CONVEYANCE OF TITLE.

12 (a) A trustee who conveys title to real property for which, at the
13 time of the conveyance, a RICO lien notice naming a person who, to
14 the actual knowledge of the trustee, holds a beneficial interest in
15 the trust has been filed in the county where the real property is
16 situated is liable to the state for the greatest of:

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

19 (2) the amount of proceeds received by the trustee as a
20 result of the conveyance and distributed to the person named in the
21 notice; or

22 (3) the fair market value of the interest of the person
23 named in the notice in the real property conveyed.

24 (b) Notwithstanding Subsection (a)(3), if a trustee conveys
25 the real property and holds the proceeds that would otherwise be
26 paid or distributed to the beneficiary or at the direction of the
27 beneficiary or the beneficiary's designee, the trustee's liability

1 does not exceed the amount of the proceeds held for so long as the
2 proceeds are held by the trustee.

3 (c) An investigative agency may bring a civil action in any
4 district court against a trustee to recover from the trustee the
5 amount described by Subsection (a) and is entitled to recover
6 investigative costs and attorney's fees incurred by the
7 investigative agency.

8 Sec. 68.059. EFFECT ON TRUST OF RICO LIEN NOTICE. (a) The
9 filing of a RICO lien notice does not constitute a lien on the
10 record title to real property as owned by a trustee except to the
11 extent that the trustee is named in the notice.

12 (b) The filing of a RICO lien notice does not affect the use
13 to which real property or a beneficial interest owned by the person
14 named in the notice may be put or the right of the person to receive
15 any avails, rents, or other proceeds resulting from the use and
16 ownership, but not the sale, of the property until a judgment of
17 forfeiture is entered.

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

22 (b) Unless the trustee has actual knowledge that a person
23 owning a beneficial interest in the trust is named in a RICO lien
24 notice or is otherwise a defendant in a civil action brought under
25 Chapter 140B, Civil Practice and Remedies Code, this subchapter
26 does not apply to a conveyance by the trustee:

27 (1) required under the terms of the trust agreement

1 that is a matter of public record before the filing of the lien
2 notice; or

3 (2) to all of the persons who own beneficial interests
4 in the trust.

5 Sec. 68.061. RIGHTS OF INNOCENT PERSONS. All forfeitures
6 or dispositions under this chapter must be made with due provision
7 for the rights of innocent persons.

8 Sec. 68.062. EXPIRATION, RENEWAL, AND RELEASE OF RICO LIEN
9 NOTICE. (a) Unless renewed by the investigative agency, a RICO
10 lien notice expires on the sixth anniversary of the date it was
11 filed. If the investigative agency renews the notice, the notice
12 expires on the sixth anniversary of the date it was renewed. The
13 investigative agency may renew the notice only once.

14 (b) The investigative agency filing a RICO lien notice may
15 wholly or partly release the notice or may release any specific real
16 property or beneficial interest from the notice on the
17 investigative agency's own terms. A release of the notice may be
18 filed in the official records of any county. A charge or fee may not
19 be imposed for the filing of the release.

20 Sec. 68.063. EFFECT OF CRIMINAL CASE ON RICO LIEN NOTICE.
21 If a civil action has not been brought by an investigative agency
22 seeking a forfeiture of any property owned by the person named in
23 the RICO lien notice, the acquittal in a criminal proceeding
24 brought under Chapter 72, Penal Code, of the person named in the
25 notice or the dismissal of the criminal proceeding terminates the
26 notice and, in such case, the filing of the notice is void. If the
27 criminal proceeding has been dismissed or the person named in the

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

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

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

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

23 (d) If, at the hearing under Subsection (b), the person
24 named in the RICO lien notice shows by a preponderance of the
25 evidence that the notice is not applicable to the person or that any
26 real property or beneficial interest owned by the person is not
27 subject to forfeiture under Chapter 140B, Civil Practice and

1 Remedies Code, the court shall enter a judgment terminating the
2 notice or releasing the real property or beneficial interest from
3 the notice.

4 (e) A court shall immediately enter its order releasing from
5 a RICO lien notice any specific real property or beneficial
6 interest if a sale of that real property or beneficial interest is
7 pending and the filing of the notice prevents the sale of the
8 property or interest. Proceeds resulting from the sale of that real
9 property or beneficial interest shall be deposited into the
10 registry of the court, subject to the further order of the court.

11 (f) At the hearing under Subsection (b), the court may
12 release any real property or beneficial interest from the RICO lien
13 notice, on the posting by the person named in the notice of security
14 that is equal to the value of the real property or beneficial
15 interest owned by the person.

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

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

23 (b) Sections 71.01 and 71.02, Penal Code, as amended by this
24 Act, apply only to an offense committed on or after the effective
25 date of this Act. An offense committed before the effective date of
26 this Act is governed by the law in effect when the offense was
27 committed, and the former law is continued in effect for that

1 purpose. For purposes of this section, an offense was committed
2 before the effective date of this Act if any element of the offense
3 occurred before that date.

4 SECTION 9. This Act takes effect September 1, 2023.