

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 CONFERENCE COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 HOUSE BILL NO. 2983

By: Duncan, Reynolds, Tibbs,  
Thompson and Johnson of the  
House

7 and

8 Sykes of the Senate

9  
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to crimes and criminal procedure;  
12 amending Section 2, Chapter 477, O.S.L. 2002 (21 O.S.  
13 Supp. 2009, Section 1268.1), which relates to the  
14 Oklahoma Antiterrorism Act; adding definitions;  
15 making certain acts unlawful; providing penalties;  
16 amending 22 O.S. 2001, Sections 1401, 1402, 1403,  
17 1404, 1405, 1407, 1408, 1409, 1410, 1411, 1412, 1413,  
18 1414, 1415, 1417 and 1419, which relates to the  
19 Oklahoma Corrupt Organizations Prevention Act;  
20 modifying name of act; updating statutory references;  
21 expanding scope of certain definition; adding certain  
22 crimes to racketeering activity definition; providing  
23 gender-neutral language; deleting references to  
24 obsolete statutes; providing for codification; and  
providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 2, Chapter 477, O.S.L.  
2002 (21 O.S. Supp. 2009, Section 1268.1), is amended to read as  
follows:

1 Section 1268.1 As used in this act:

2 1. "Biochemical assault" means the intentional delivery of any  
3 substance or material to another person without lawful cause,  
4 whether or not such substance or material is toxic, noxious or  
5 lethal to humans, to:

- 6 a. cause intimidation, fear or anxiety and a reasonable  
7 belief by the victim that death, disease, injury or  
8 illness will occur as a result of contamination by  
9 such substance or material and, based upon that  
10 belief, an emergency response is necessary, or  
11 b. poison, injure, harm or cause disease or illness to  
12 any person;

13 2. "Biochemical terrorism" means an act of terrorism involving  
14 any biological organism, pathogen, bacterium, virus, chemical or its  
15 toxins, isomers, salts or compounds, or any combination of  
16 organisms, viruses or chemicals that is capable of and intended to  
17 cause death, disease, injury, illness or harm to any human or animal  
18 upon contact or ingestion, or harm to any food supply, plant, water  
19 supply, drink, medicine or other product used for or consumed by  
20 humans or animals;

21 ~~2.~~ 3. "Conduct" includes initiating, concluding, or  
22 participating in initiating, or concluding a transaction;

23 4. "Financial institution" includes:  
24

- 1        a. any financial institution, as defined in Section  
2                5312(a)(2) of Title 31 of the United States Code, or  
3                the regulations promulgated thereunder, and  
4        b. any foreign bank, as defined in Section 3101 of Title  
5                12 of the United States Code;

6        5. "Financial transaction" means:

- 7                a. a transaction which in any way or degree affects  
8                state, interstate or foreign commerce:

9                (1) involving the movement of funds by wire or other  
10                means,

11                (2) involving one or more monetary instruments, or

12                (3) involving the transfer of title to any real  
13                property, vehicle, vessel, or aircraft, or

- 14        b. a transaction involving the use of a financial  
15                institution which is engaged in, or the activities of  
16                which affect, state, interstate or foreign commerce  
17                in any way or degree;

18        6. "Monetary instrument" means:

- 19                a. coin or currency of the United States or of any other  
20                country, travelers' checks, personal checks, bank  
21                checks, and money orders, or

- 22                b. investment securities or negotiable instruments, in  
23                bearer form or otherwise in such form that title  
24                thereto passes upon delivery;

1        7. "Proceeds" means all monies, negotiable instruments, and  
2 securities received, used, or intended to be used to facilitate any  
3 violation of the Oklahoma Antiterrorism Act;

4        8. "Terrorism" means an act of violence resulting in damage to  
5 property or personal injury perpetrated to coerce a civilian  
6 population or government into granting illegal political or economic  
7 demands; or conduct intended to incite violence in order to create  
8 apprehension of bodily injury or damage to property in order to  
9 coerce a civilian population or government into granting illegal  
10 political or economic demands. Peaceful picketing or boycotts and  
11 other nonviolent action shall not be considered terrorism;

12        ~~3.~~ 9. "Terrorism hoax" means the willful conduct to simulate an  
13 act of terrorism as a joke, hoax, prank or trick against a place,  
14 population, business, agency or government by:

- 15            a. the intentional use of any substance to cause fear,  
16                    intimidation or anxiety and a reasonable belief by any  
17                    victim that such substance is used, placed, sent,  
18                    delivered or otherwise employed as an act of  
19                    biochemical terrorism requiring an emergency response  
20                    or the evacuation or quarantine of any person, place  
21                    or article, or
- 22            b. any act or threat of violence, sabotage, damage or  
23                    harm against a population, place or infrastructure  
24                    that causes fear, intimidation or anxiety and a

1 reasonable belief by any victim that such act or  
2 threat is an act of terrorism to disrupt any place,  
3 population, business, agency or government;

4 ~~4. "Biochemical assault" means the intentional delivery of any~~  
5 ~~substance or material to another person without lawful cause,~~  
6 ~~whether or not such substance or material is toxic, noxious or~~  
7 ~~lethal to humans, to:~~

- 8 a. ~~cause intimidation, fear or anxiety and a reasonable~~  
9 ~~belief by the victim that death, disease, injury or~~  
10 ~~illness will occur as a result of contamination by~~  
11 ~~such substance or material and, based upon that~~  
12 ~~belief, an emergency response is necessary, or~~  
13 b. ~~poison, injure, harm or cause disease or illness to~~  
14 ~~any person; and~~

15 ~~5.~~ 10. "Terrorist activity" means to plan, aid or abet an act  
16 of terrorism or aid or abet any person who plans or commits an act  
17 of terrorism; and

18 11. "Transaction" includes a purchase, sale, loan, pledge,  
19 gift, transfer, delivery, or other disposition, and with respect to  
20 a financial institution includes a deposit, withdrawal, transfer  
21 between accounts, exchange of currency, loan, extension of credit,  
22 purchase or sale of any stock, bond, certificate of deposit, or  
23 other monetary instrument, use of a safe deposit box, or any other  
24

1 payment, transfer, or delivery by, through, or to a financial  
2 institution, by whatever means effected.

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 1268.7 of Title 21, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. No person, knowing that property is the proceeds of an act  
7 of terrorism or a monetary instrument given, received, or intended  
8 to be used in support of an act of terrorism, shall conduct or  
9 attempt to conduct any financial transaction involving that property  
10 or transport, transmit or transfer that monetary instrument with the  
11 intent to do any of the following:

12 1. Commit or further the commission of an act of terrorism;

13 2. Conceal or disguise the nature, location, source, ownership,  
14 or control of either the proceeds of an act of terrorism or a  
15 monetary instrument given, received, or intended to be used to  
16 support an act of terrorism; or

17 3. Conceal or disguise the intent to avoid a financial  
18 transaction reporting requirement as provided in 31 U.S.C., Section  
19 5311 et seq., 31 C.F.R., Part 103, Title 6 of the Oklahoma Statutes,  
20 or other federal monetary reporting requirements under law.

21 B. Any person convicted of violating any provision of  
22 subsection A of this section shall be guilty of a felony punishable  
23 by imprisonment in the custody of the Department of Corrections for  
24 a term of not less than two (2) years nor more than ten (10) years,

1 or by a fine of not more than Fifty Thousand Dollars (\$50,000.00) or  
2 an amount equal to twice the dollar amount of each transaction,  
3 whichever is greater, or by both such fine and imprisonment.

4 SECTION 3. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 1268.8 of Title 21, unless there  
6 is created a duplication in numbering, reads as follows:

7 Any person who knowingly or intentionally uses a money services  
8 business, as defined by the Oklahoma Financial Transaction Reporting  
9 Act, or an electronic funds transfer network for any purpose in  
10 violation of the Oklahoma Antiterrorism Act, or with intent to  
11 facilitate any violation of the Oklahoma Antiterrorism Act shall,  
12 upon conviction, be guilty of a felony punishable by imprisonment in  
13 the custody of the Department of Corrections for a term of not less  
14 than two (2) years nor more than ten (10) years, or by a fine of not  
15 more than Fifty Thousand Dollars (\$50,000.00) or an amount equal to  
16 twice the dollar amount of each transaction, whichever is greater,  
17 or by both such fine and imprisonment.

18 SECTION 4. AMENDATORY 22 O.S. 2001, Section 1401, is  
19 amended to read as follows:

20 Section 1401. Sections ~~±~~ 1401 through ~~±~~ 1419 of this ~~act~~ title  
21 shall be known and may be cited as the "Oklahoma Racketeer-  
22 Influenced and Corrupt Organizations Prevention Act".

23 SECTION 5. AMENDATORY 22 O.S. 2001, Section 1402, is  
24 amended to read as follows:

1 Section 1402. As used in the Oklahoma Racketeer-Influenced and  
2 Corrupt Organizations Prevention Act:

3 1. "Beneficial interest" includes:

4 a. the interest of a person as a beneficiary pursuant to  
5 a trust, in which the trustee holds legal title to  
6 personal or real property, or

7 b. the interest of a person as a beneficiary pursuant to  
8 any other arrangement under which any other person  
9 holds legal title to personal or real property for the  
10 benefit of such person.

11 The term beneficial interest does not include the interest of a  
12 stockholder in a corporation or the interest of a partner in either  
13 a general or limited partnership;

14 2. "Enterprise" includes any individual, sole proprietorship,  
15 partnership, corporation, trust, governmental entity, or other legal  
16 entity, or any union, association, unincorporated association or  
17 group of persons, associated in fact although not a legal entity,  
18 involved in any lawful or unlawful project or undertaking or any  
19 foreign organization that the United States Secretary of State has  
20 designated a foreign terrorist organization pursuant to Title 8  
21 U.S.C.A., Section 1189;

22 3. "Innocent party" includes bona fide purchasers and victims;

23 4. "Lien notice" means the notice pursuant to the provisions of  
24 Section 1412 of this title;



1 5. "Pattern of racketeering activity" means two or more  
2 occasions of conduct:

3 a. that include each of the following:

- 4 (1) constitute racketeering activity,
- 5 (2) are related to the affairs of the enterprise,
- 6 (3) are not isolated, and
- 7 (4) are not so closely related to each other and  
8 connected in point of time and place that they  
9 constitute a single event, and

10 b. where each of the following is present:

- 11 (1) at least one of the occasions of conduct occurred  
12 after November 1, 1988,
- 13 (2) the last of the occasions of conduct occurred  
14 within three (3) years, excluding any period of  
15 imprisonment served by any person engaging in the  
16 conduct, of a prior occasion of conduct, and
- 17 (3) for the purposes of Section 1403 of this title  
18 each of the occasions of conduct constituted a  
19 felony pursuant to the laws of this state;

20 6. "Pecuniary value" means:

21 a. anything of value in the form of money, a negotiable  
22 instrument, or a commercial interest, or anything  
23 else, the primary significance of which is economic  
24 advantage, or

1           b.    any other property or service that has a value in  
2                    excess of One Hundred Dollars (\$100.00);

3           7.    "Person" means any individual or entity holding or capable  
4 of holding a legal or beneficial interest in property;

5           8.    "Personal property" includes any personal property, or any  
6 interest in such personal property, or any right, including bank  
7 accounts, debts, corporate stocks, patents or copyrights. Personal  
8 property and beneficial interest in personal property shall be  
9 deemed to be located where the trustee, the personal property, or  
10 the instrument evidencing the right is located;

11          9.    "Principal" means a person who engages in conduct  
12 constituting a violation of the Oklahoma Racketeer-Influenced and  
13 Corrupt Organizations Prevention Act or who is legally accountable  
14 for the conduct of another who engages in a violation of the  
15 Oklahoma Racketeer-Influenced and Corrupt Organizations Prevention  
16 Act;

17          10.   "Racketeering activity" means engaging in, attempting to  
18 engage in, conspiring to engage in, or soliciting, coercing, or  
19 intimidating another person to engage in any conduct which is  
20 chargeable or indictable as constituting a felony violation of one  
21 or more of the following provisions of the Oklahoma Statutes,  
22 regardless of whether such act is in fact charged or indicted:

23           a.    relating to homicide pursuant to the provisions of  
24                    ~~Sections~~ Section 651, 652, 653, 701.7, 701.8, 701.16,

1 711 or 716 of Title 21 of the Oklahoma Statutes or  
2 relating to concealment of homicidal death pursuant to  
3 the provisions of Section 543 of Title 21 of the  
4 Oklahoma Statutes,

5 b. relating to kidnapping pursuant to the provisions of  
6 ~~Sections~~ Section 741, 745, 891 or 1119 of Title 21 of  
7 the Oklahoma Statutes,

8 c. relating to sex offenses pursuant to the provisions of  
9 ~~Sections~~ Section 886, 888, 1021, 1021.2, 1021.4,  
10 1024.2, ~~1040.51~~, 1111, 1111.1, 1114 or 1123 of Title  
11 21 of the Oklahoma Statutes,

12 d. relating to bodily harm pursuant to the provisions of  
13 ~~Sections~~ Section 645, 650, 650.2, 1289.16, 1302, 1303  
14 or 1767.1 of Title 21 of the Oklahoma Statutes,

15 e. relating to theft, where the offense constitutes a  
16 felony, pursuant to the provisions of ~~Sections~~ Section  
17 1704, 1707, 1708, 1709, 1710, 1711, 1713, 1716, 1719,  
18 1720, 1721, 1722, 1723 or 1731 of Title 21 of the  
19 Oklahoma Statutes,

20 f. relating to forgery pursuant to the provisions of  
21 ~~Sections~~ Section 1561, 1562, 1571, 1572, 1574, 1575,  
22 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585,  
23 1586, 1587, 1588, 1589, 1590, 1591 or 1593 of Title 21  
24 of the Oklahoma Statutes,

- 1 g. relating to robbery pursuant to the provisions of  
2 ~~Sections~~ Section 797, 800 or 801 of Title 21 of the  
3 Oklahoma Statutes,
- 4 h. relating to burglary pursuant to the provisions of  
5 ~~Sections~~ Section 1431, 1435 or 1437 of Title 21 of the  
6 Oklahoma Statutes,
- 7 i. relating to arson pursuant to the provisions of  
8 ~~Sections~~ Section 1368, 1401, 1402, 1403 or 1404 of  
9 Title 21 of the Oklahoma Statutes,
- 10 j. relating to use or possession of a firearm or other  
11 offensive weapon while committing or attempting to  
12 commit a felony pursuant to the provisions of ~~Sections~~  
13 Section 1287, 1289.20 or 1289.21 of Title 21 of the  
14 Oklahoma Statutes,
- 15 k. relating to gambling pursuant to the provisions of  
16 ~~Sections~~ Section 941, 942, 944, 945, 946, 948, 954,  
17 956, 957, ~~962~~, 969, 970, 971, 981, 982, 983, 984, 985,  
18 986, 987, 991, or ~~992, 995.7, 995.8, 995.11 or 995.12~~  
19 of Title 21 of the Oklahoma Statutes,
- 20 l. relating to bribery in contests pursuant to the  
21 provisions of ~~Sections~~ Section 399 or 400 of Title 21  
22 of the Oklahoma Statutes,
- 23 m. relating to interference with public officers pursuant  
24 to the provisions of ~~Sections~~ Section 434, 436, 437,

- 1 438, 439, 440, 441, 443, 444, 521, 522, 532, 540, 543,  
2 545 or 546 of Title 21 of the Oklahoma Statutes,  
3 n. relating to interference with judicial procedure  
4 pursuant to the provisions of ~~Sections~~ Section 388,  
5 453, 455, 456, 491, 496 or 504 of Title 21 of the  
6 Oklahoma Statutes,  
7 o. relating to official misconduct pursuant to the  
8 provisions of ~~Sections~~ Section 380, 381, 382, 383,  
9 384, 385, 386, 389, 390, 950 or 976 of Title 21 of the  
10 Oklahoma Statutes,  
11 p. relating to the Uniform Controlled Dangerous  
12 Substances Act, where the offense constitutes a  
13 felony, pursuant to the provisions of Section 2-101 et  
14 seq. of Title 63 of the Oklahoma Statutes,  
15 q. relating to automobile theft pursuant to the  
16 provisions of ~~Sections~~ Section 4-102, 4-103, 4-107,  
17 4-108, 4-109 or 4-110 of Title 47 of the Oklahoma  
18 Statutes,  
19 r. relating to embezzlement pursuant to the provisions of  
20 Section 1412 of Title 6 of the Oklahoma Statutes,  
21 Section 641 of Title 19 of the Oklahoma Statutes,  
22 ~~Sections~~ Section 341, 531, or 1451, ~~1452, 1453, 1454,~~  
23 ~~1455, 1456, 1463 or 1464~~ of Title 21 of the Oklahoma  
24 Statutes, Section 163.4 of Title 37 of the Oklahoma

1 Statutes, ~~Section 25 of Title 41 of the Oklahoma~~  
2 ~~Statutes~~, Section 114 of Title 64 of the Oklahoma  
3 Statutes or ~~Sections 506 or~~ Section 1361 of Title 68  
4 of the Oklahoma Statutes,

5 s. relating to extortion, where the offense constitutes a  
6 felony, pursuant to the provisions of ~~Sections~~ Section  
7 1304, 1481, 1482, 1485, 1486 or 1488 of Title 21 of  
8 the Oklahoma Statutes,

9 t. relating to fraud, where the offense constitutes a  
10 felony, pursuant to the provisions of ~~Sections~~ Section  
11 208.6, 208.7 or 208.8 of Title 3A of the Oklahoma  
12 Statutes, Section 552.18 of Title 18 of the Oklahoma  
13 Statutes, ~~Sections~~ Section 358, 1411, 1412, 1413,  
14 1414, 1415, 1416, 1503, 1521, 1541.1, 1541.3, 1542,  
15 1543, 1544, 1550.2, 1550.22, 1550.23, 1550.24,  
16 1550.25, 1550.26, 1550.27, 1550.28, 1550.29, 1550.30,  
17 1550.31, 1550.32, 1632, 1635 or 1662 of Title 21 of  
18 the Oklahoma Statutes, Section 243 of Title 56 of the  
19 Oklahoma Statutes, or Section 604 of Title 62 of the  
20 Oklahoma Statutes,

21 u. relating to conspiracy, where the offense constitutes  
22 a felony, pursuant to the provisions of ~~Sections~~  
23 Section 421, 422 or 424 of Title 21 of the Oklahoma  
24 Statutes,

- 1 v. relating to prostitution, pornography or obscenity  
2 pursuant to the provisions of ~~Sections~~ Section 1021,  
3 1040.52, 1081, 1085, 1086, 1087 or 1088 of Title 21 of  
4 the Oklahoma Statutes,
- 5 w. relating to the Oklahoma Alcoholic Beverage Control  
6 Act, where the offense constitutes a felony, pursuant  
7 to the provisions of Section 506.1 et seq. of Title 37  
8 of the Oklahoma Statutes,
- 9 x. relating to the Oklahoma Uniform Securities Act of  
10 2004, where the offense constitutes a felony, pursuant  
11 to the provisions of ~~Section 1 et seq.~~ Sections 1-101  
12 through 1-701 of Title 71 of the Oklahoma Statutes, ~~or~~
- 13 y. relating to human trafficking or trafficking in  
14 children pursuant to the provisions of ~~Sections~~  
15 Section 748, 866 and or 867 of Title 21 of the  
16 Oklahoma Statutes~~;~~,
- 17 z. relating to illegal aliens pursuant to the provisions  
18 of Section 446 of Title 21 of the Oklahoma Statutes,
- 19 aa. relating to organized voter fraud pursuant to the  
20 provisions of Section 16-102, 16-102.1, 16-102.2, 16-  
21 103, 16-103.1, 16-104, 16-105, 16-106, 16-113, 16-118,  
22 16-120, 16-121 or 16-123.1 of Title 26 of the Oklahoma  
23 Statutes, or
- 24

1           bb. relating to terrorism and terrorist activities  
2           pursuant to the provisions of the Sabotage Prevention  
3           Act or the Oklahoma Antiterrorism Act.

4           In addition, "racketeering activity" may be proven by proof of  
5 engaging in, attempting to engage in, conspiring to engage in, or  
6 soliciting, coercing, or intimidating another person to engage in  
7 any of the above described conduct within another state, regardless  
8 of whether said conduct is chargeable or indictable in that state;i

9           11. "Real property" means any real property or any interest in  
10 real property, including any lease of, or mortgage upon real  
11 property. Real property and beneficial interest in real property  
12 shall be deemed to be located where the real property is located;

13           12. "Trustee" includes trustees, a corporate as well as a  
14 natural person and a successor or substitute trustee in accordance  
15 with the Oklahoma Trust Act, ~~Section 175.1 et seq. of Title 60 of~~  
16 ~~the Oklahoma Statutes~~; and

17           13. "Unlawful debt" means any money or other thing of value  
18 constituting principal or interest of a debt that is unenforceable  
19 in the courts of Oklahoma, because the debt was incurred or  
20 contracted in violation of a law relating to the business of  
21 gambling activity or in violation of federal or state law but does  
22 not include any debt owed to a bank, savings and loan association,  
23 credit union or supervised lender licensed by the Oklahoma  
24 Administrator of Consumer Credit or to any debt referred or assigned



1 to a debt collection agency, which referral or assignment is  
2 accepted in good faith by the debt collection agency as a debt  
3 collectible under the Uniform Commercial Code or other laws of this  
4 state and enforceable in the courts of this state.

5 SECTION 6. AMENDATORY 22 O.S. 2001, Section 1403, is  
6 amended to read as follows:

7 Section 1403. A. No person employed by or associated with any  
8 enterprise shall conduct or participate in, directly or indirectly,  
9 the affairs of the enterprise through a pattern of racketeering  
10 activity or the collection of an unlawful debt.

11 B. No person, through a pattern of racketeering activity or  
12 through the collection of an unlawful debt, shall acquire or  
13 maintain, directly or indirectly, any interest in or control of any  
14 enterprise or real property.

15 C. No person who has received any proceeds derived, directly or  
16 indirectly, from a pattern of racketeering activity, or through the  
17 collection of any unlawful debt, in which ~~he~~ the person participated  
18 as a principal, shall use or invest, directly or indirectly, any  
19 part of the proceeds or any proceeds derived from the investment or  
20 use of any of those proceeds in the acquisition of any right, title,  
21 or interest in real property or in the establishment or operation of  
22 any enterprise.

23 A purchase of securities on the open market with intent to make  
24 an investment, and without the intent of controlling or

1 participating in the control of the issuer or of assisting another  
2 to do so, shall not be unlawful pursuant to the provisions of this  
3 section if the securities of the issuer held by the purchaser, the  
4 members of ~~his~~ the immediate family of the purchaser, and ~~his or~~  
5 ~~their~~ accomplices of the purchaser or immediate family of the  
6 purchaser in any pattern of racketeering activity, or the collection  
7 of an unlawful debt after the purchase, do not amount in the  
8 aggregate to one percent (1%) of the outstanding securities of any  
9 one class and do not confer the power to elect one or more directors  
10 of the issuer.

11 D. No person shall attempt to violate or conspire with others  
12 to violate the provisions of subsection A, B or C of this section.

13 E. Venue for a civil or criminal action to enforce the  
14 provisions of the Oklahoma Racketeer-Influenced and Corrupt  
15 Organizations Prevention Act shall be in any county in which at  
16 least one act of racketeering activity is alleged to have occurred  
17 in the petition or information or indictment, it being the intent of  
18 this act, that one district court have jurisdiction over all the  
19 conduct, persons and property subject to this act.

20 SECTION 7. AMENDATORY 22 O.S. 2001, Section 1404, is  
21 amended to read as follows:

22 Section 1404. A. Any person convicted of violating any  
23 provision of Section 1403 of this title shall be punished by a term  
24 of imprisonment in the custody of the Department of Corrections of

1 not less than ten (10) years and shall not be eligible for a  
2 deferred sentence, probation, suspension, work furlough, or release  
3 from confinement on any other basis until the person has served  
4 one-half (1/2) of ~~his or her~~ the sentence. A violation of each of  
5 the provisions of Section 1403 of this title shall be a separate  
6 offense.

7 B. In lieu of the fine authorized by the Oklahoma Racketeer-  
8 Influenced and Corrupt Organizations Prevention Act, any person  
9 convicted of violating any provision of Section 1403 of this title,  
10 through which ~~he~~ the person derived pecuniary value, or by which ~~he~~  
11 the person caused personal injury, or property damage or other loss,  
12 may be sentenced to pay a fine that does not exceed three times the  
13 gross value gained or three times the gross loss caused, whichever  
14 is greater, plus court costs and the costs of investigation and  
15 prosecution reasonably incurred, less the value of any property  
16 ordered forfeited pursuant to the provisions of subsection A of  
17 Section 1405 of this title. The district court shall hold a  
18 separate hearing to determine the amount of the fine authorized by  
19 the provisions of this subsection.

20 C. No person shall institute any proceedings, civil or  
21 criminal, pursuant to the provisions of this act, except the  
22 Attorney General, any district attorney or any district attorney  
23 appointed under the provisions of Section 215.9 of Title 19 of the  
24 Oklahoma Statutes.

1 SECTION 8. AMENDATORY 22 O.S. 2001, Section 1405, is  
2 amended to read as follows:

3 Section 1405. A. Any person convicted of violating any of the  
4 provisions of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced  
5 and Corrupt Organizations Prevention Act shall criminally forfeit to  
6 the state, according to the procedures established in subsection B  
7 of this section, any real or personal property used in the course  
8 of, intended for use in the course of, derived from, or realized  
9 through conduct in violation of Section ~~3~~ 1403 of the Oklahoma  
10 Racketeer-Influenced and Corrupt Organizations Prevention Act,  
11 including any property constituting an interest in or means of  
12 control or influence over the enterprise involved in the conduct in  
13 violation of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced and  
14 Corrupt Organizations Prevention Act, including:

15 1. Any compensation, right, or benefit derived from a position,  
16 office, appointment, tenure, commission, or employment contract that  
17 accrued to ~~him~~ the person during the course of conduct in violation  
18 of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced and Corrupt  
19 Organizations Prevention Act;

20 2. Any interest in, security of, claim against, or property or  
21 contractual right affording ~~him~~ the person a source of influence or  
22 control over the affairs of an enterprise that the person exercised  
23 in violation of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced  
24 and Corrupt Organizations Prevention Act; or

1           3. Any amount payable or paid pursuant to any contract for  
2 goods or services that was awarded or performed in violation of  
3 Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced and Corrupt  
4 Organizations Prevention Act.

5           B. The criminal forfeiture procedures are as follows:

6           1. A judgment of criminal forfeiture shall not be entered  
7 unless a special verdict containing a finding of property subject to  
8 forfeiture, specifying the extent of such property and describing  
9 with specificity such property and the circumstances by which the  
10 property is subject to forfeiture is returned; and

11          2. If any property included in a special verdict of criminal  
12 forfeiture:

13           a. cannot be located,

14           b. has been sold to a bona fide purchaser for value,

15           c. has been placed beyond the jurisdiction of the court,

16           d. has been substantially diminished in value by the  
17           conduct of the defendant,

18           e. has been commingled with other property that cannot be  
19           divided without difficulty or undue injury to innocent  
20           parties,

21           f. is otherwise unreachable without undue injury to  
22           innocent parties, or

23           g. is subject to a valid security interest, to the extent  
24           of the security interest, held by a bank, savings and

1 loan association, credit union or supervised lender  
2 licensed by the Oklahoma Administrator of Consumer  
3 Credit, acquired prior to the lien notice provided by  
4 Section ~~12~~ 1412 of this ~~act~~ title,

5 the district court shall order forfeiture of any other property of  
6 the defendant up to the value of the property that is unreachable.

7 SECTION 9. AMENDATORY 22 O.S. 2001, Section 1407, is  
8 amended to read as follows:

9 Section 1407. Following the entry of a judgment that includes a  
10 fine or an order of criminal forfeiture pursuant to the provisions  
11 of the Oklahoma Racketeer-Influenced and Corrupt Organizations  
12 ~~Prevention~~ Act, or both, the district court may enter a restraining  
13 order or an injunction, require the execution of a satisfactory  
14 bond, or take any other action, including the appointment of a  
15 receiver, that the district court deems proper to protect the  
16 interests of the state.

17 An order of criminal forfeiture shall authorize the Attorney  
18 General or district attorney to seize the property declared  
19 forfeited upon such terms and conditions, relating to the time and  
20 manner of seizure, as the district court shall deem proper.

21 SECTION 10. AMENDATORY 22 O.S. 2001, Section 1408, is  
22 amended to read as follows:

23 Section 1408. Criminal penalties and fines pursuant to the  
24 Oklahoma Racketeer-Influenced and Corrupt Organizations ~~Prevention~~

1 Act are supplemental and not mutually exclusive, except when so  
2 designated, and shall not preclude the application of any other  
3 criminal or civil remedy pursuant to any other provision of the law.

4 SECTION 11. AMENDATORY 22 O.S. 2001, Section 1409, is  
5 amended to read as follows:

6 Section 1409. A. The Attorney General, any district attorney  
7 or any district attorney appointed under the provisions of Section  
8 215.9 of Title 19 of the Oklahoma Statutes may institute civil  
9 proceedings against any person in an appropriate district court  
10 seeking relief from conduct constituting a violation of any  
11 provisions of Section ~~3~~ 1403 of the Oklahoma Racketeer-Influenced  
12 and Corrupt Organizations Prevention Act with the right to a trial  
13 by jury at the request of either party. If the plaintiff in such a  
14 proceeding proves the alleged violation by a preponderance of the  
15 evidence, the district court, after making due provisions for the  
16 rights of innocent parties, may grant relief by entering any  
17 appropriate order of judgment, including:

18 1. Ordering any defendant to divest himself of any interest in  
19 any enterprise or any real property;

20 2. Imposing reasonable restrictions upon the future activities  
21 or investments of any defendant, including prohibiting any defendant  
22 from engaging in the same type of endeavor as the enterprise in  
23 which ~~he~~ the defendant was engaged in violation of Section ~~3~~ 1403 of  
24

1 the Oklahoma Racketeer-Influenced and Corrupt Organizations  
2 Prevention Act;

3 3. Ordering the dissolution or reorganization of any  
4 enterprise;

5 4. Ordering the suspension or revocation of a license, permit,  
6 or prior approval granted to any enterprise by an agency of the  
7 state; or

8 5. Ordering the surrender of the charter of a corporation  
9 organized pursuant to the laws of the state or the revocation of a  
10 certificate authorizing a foreign corporation to conduct business  
11 within the state.

12 In a proceeding initiated pursuant to the provisions of this  
13 section, injunctive relief shall be granted in conformity with the  
14 principles that govern the granting of relief from injury or  
15 threatened injury in other cases, but no showing of special or  
16 irreparable injury shall be required. Pending final determination  
17 of a proceeding initiated pursuant to the provisions of this  
18 section, a temporary restraining order or a preliminary injunction  
19 may be issued upon a showing of immediate danger of significant  
20 injury, including the possibility that any judgment for money  
21 damages might be difficult to execute, and, in a proceeding  
22 initiated by an aggrieved person, upon the execution of a bond in  
23 the amount of ten percent (10%) of the value of the property against  
24 injury for an injunction improvidently granted. If the district



1 court issues an injunction or grants other relief pursuant to the  
2 provisions of this section, the plaintiff shall also recover costs,  
3 including reasonable attorney fees and costs of investigation and  
4 litigation reasonably incurred.

5 B. The civil penalty imposed pursuant to this section shall not  
6 exceed One Hundred Thousand Dollars (\$100,000.00), with no offset  
7 for the value of any property criminally forfeited or any fine  
8 imposed pursuant to the Oklahoma Racketeer-Influenced and Corrupt  
9 Organizations Prevention Act. This amount shall be applied to the  
10 costs and expenses of investigation and prosecution, and the  
11 balance, if any, shall be paid pursuant to the provisions of the  
12 Oklahoma Racketeer-Influenced and Corrupt Organizations Prevention  
13 Act.

14 C. Upon the filing of a civil action pursuant to the provisions  
15 of subsection A or B of this section, a district attorney shall  
16 immediately notify the Attorney General of its filing. Upon timely  
17 application, the Attorney General may intervene as a party in any  
18 civil action or proceeding brought pursuant to subsection A or B of  
19 this section if the Attorney General certifies that the action or  
20 proceeding is of general public importance.

21 D. A final judgment or decree rendered against the defendant in  
22 any civil or criminal proceeding pursuant to the provisions of the  
23 Oklahoma Racketeer-Influenced and Corrupt Organizations Prevention  
24 Act, shall estop the defendant in any subsequent civil action or

1 proceeding brought by any person as to all matters as to which the  
2 judgment or decree would be an estoppel as between the parties to a  
3 civil or criminal proceeding.

4 E. A civil action or proceeding pursuant to the provisions of  
5 the Oklahoma Racketeer-Influenced and Corrupt Organizations  
6 ~~Prevention~~ Act may be commenced at any time within five (5) years  
7 after the conduct made unlawful pursuant to the provisions of  
8 Section 3 1403 of the Oklahoma Racketeer-Influenced and Corrupt  
9 Organizations ~~Prevention~~ Act terminates or the cause of action  
10 accrues. If a criminal proceeding or civil action or other  
11 proceeding is brought by or intervention is granted to the state to  
12 punish, prevent, or restrain any activity made unlawful pursuant to  
13 the provisions of Section 3 1403 of the Oklahoma Racketeer-  
14 Influenced and Corrupt Organizations ~~Prevention~~ Act, the running of  
15 the period of limitations prescribed by this section with respect to  
16 any cause of action of an aggrieved person, based in whole or in  
17 part upon any matter complained of in any such prosecution, action,  
18 or proceeding shall be suspended during the pendency of such  
19 prosecution, action, or proceeding and for two (2) years following  
20 its termination.

21 F. Service of process in an action pursuant to the provisions  
22 of this section may be made upon any person outside the state if the  
23 person was a principal in any conduct constituting a violation of  
24 the provisions of the Oklahoma Racketeer-Influenced and Corrupt

1 Organizations ~~Prevention~~ Act in this state. The person shall be  
2 deemed to have thereby submitted himself to the jurisdiction of the  
3 courts of this state for the purposes of this section.

4 G. The application of any civil remedy pursuant to the  
5 provisions of this section shall not preclude the application of any  
6 other civil or criminal remedy pursuant to the provisions of the  
7 Oklahoma Racketeer-Influenced and Corrupt Organizations Prevention  
8 Act or any other provision of law. Civil remedies pursuant to the  
9 provisions of this section are supplemental and not mutually  
10 exclusive.

11 SECTION 12. AMENDATORY 22 O.S. 2001, Section 1410, is  
12 amended to read as follows:

13 Section 1410. A. Upon approval of the district court, the  
14 Attorney General or district attorney shall dispose of all property  
15 ordered forfeited in any criminal proceeding pursuant to the  
16 provisions of the Oklahoma Racketeer-Influenced and Corrupt  
17 Organizations ~~Prevention~~ Act as soon as feasible, making due  
18 provisions for the rights of innocent parties, by:

- 19 1. Public sale;
- 20 2. Transfer to a state, county or local governmental agency for  
21 official use;
- 22 3. Sale or transfer to an innocent party; or
- 23 4. Destruction, if the property is not needed for evidence in  
24 any pending criminal or civil proceeding.

1 B. Any property right not exercisable by, or transferable for  
2 value to the state shall not revert to the defendant. No defendant  
3 or any person acting in concert with ~~him~~ the defendant or on ~~his~~  
4 behalf of the defendant shall be eligible to purchase forfeited  
5 property from the state.

6 C. With respect to property ordered forfeited in any criminal  
7 proceeding pursuant to the provisions of the Oklahoma Racketeer-  
8 Influenced and Corrupt Organizations Prevention Act, the Attorney  
9 General, district attorney or other prosecutorial officer designated  
10 by the Attorney General is authorized to:

11 1. Compromise claims;

12 2. Award compensation to persons providing information  
13 resulting in a forfeiture pursuant to the provisions of the Oklahoma  
14 Racketeer-Influenced and Corrupt Organizations Prevention Act; and

15 3. Petition the court to mitigate or remit a forfeiture or to  
16 restore forfeited property to victims of a violation of Section ~~3~~  
17 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations  
18 Prevention Act.

19 D. The proceeds of any sale or other disposition of forfeited  
20 property imposed pursuant to the Oklahoma Racketeer-Influenced and  
21 Corrupt Organizations Prevention Act shall be applied as follows:

22 1. To a bona fide innocent purchaser, conditional sales vendor,  
23 or mortgagee of the forfeited property up to the amount of ~~his~~ the  
24 interest held by the person in the forfeited property;

1           2. To the fees and costs of the forfeiture and sale, including  
2 expenses of seizure, maintenance, and custody of the property  
3 pending its disposition, advertising, and the court costs;

4           3. To all costs and expenses of investigation and prosecution,  
5 including costs of resources and personnel incurred in investigation  
6 and prosecution; and

7           4. The balance to the credit of the Attorney General, district  
8 attorney, or law enforcement agencies in such proportions as are  
9 represented by the costs and expenses of investigation and  
10 prosecution as provided in the Oklahoma Racketeer-Influenced and  
11 Corrupt Organizations ~~Prevention~~ Act.

12           SECTION 13.           AMENDATORY           22 O.S. 2001, Section 1411, is  
13 amended to read as follows:

14           Section 1411. A. The balance of the proceeds of all  
15 forfeitures ordered pursuant to the provisions of the Oklahoma  
16 Racketeer Influenced and Corrupt Organizations ~~Prevention~~ Act shall  
17 be transmitted to the State Treasury and deposited in such  
18 proportions as determined by the court as are represented by the  
19 costs and expenses of such investigation and prosecution as follows:

20           1. Any proceeds resulting from the investigation and  
21 prosecution by a county or municipal law enforcement agency or  
22 district attorney pursuant to the provisions of the Oklahoma  
23 Racketeer-Influenced and Corrupt Organizations ~~Prevention~~ Act shall  
24 be deposited in a revolving fund in the office of the county

1 treasurer of the county wherein the forfeiture was ordered to be  
2 maintained and expended by the district attorney in ~~his~~ the  
3 discretion of the district attorney for the purposes specified in  
4 subsection B of this section with a yearly accounting to the board  
5 of county commissioners in whose county the fund is established and  
6 to the District Attorneys Council;

7 2. Any proceeds resulting from the investigation and  
8 prosecution by the Oklahoma State Bureau of Investigation or the  
9 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
10 pursuant to the provisions of ~~this act~~ the Oklahoma Racketeer-  
11 Influenced and Corrupt Organizations Act shall be deposited in the  
12 agency special account established pursuant to the provisions of  
13 Section 7.2 of Title 62 of the Oklahoma Statutes for the Oklahoma  
14 State Bureau of Investigation or the Oklahoma State Bureau of  
15 Narcotics and Dangerous Drugs Control;

16 3. Any proceeds resulting from the investigation and  
17 prosecution by the Attorney General pursuant to the provisions of  
18 the Oklahoma Racketeer-Influenced and Corrupt Organizations  
19 ~~Prevention~~ Act shall be deposited in the Attorney General's Evidence  
20 Fund pursuant to the provisions of Section 19 of Title 74 of the  
21 Oklahoma Statutes; and

22 4. Any proceeds resulting from the investigation and  
23 prosecution by any other agency of this state pursuant to the  
24 provisions of the Oklahoma Racketeer-Influenced and Corrupt

1 Organizations ~~Prevention~~ Act shall be deposited in the appropriate  
2 revolving fund, agency special account or other fund for that agency  
3 as determined by the State Treasurer.

4 B. Monies deposited in such funds and accounts pursuant to the  
5 provisions of the Oklahoma Racketeer-Influenced and Corrupt  
6 Organizations ~~Prevention~~ Act shall be expended for the purpose of  
7 the costs and expenses of investigation and prosecution, whether  
8 criminally or civilly, of conduct made unlawful by the provisions of  
9 the Oklahoma Racketeer-Influenced and Corrupt Organizations  
10 ~~Prevention~~ Act, including costs of resources and personnel.

11 SECTION 14. AMENDATORY 22 O.S. 2001, Section 1412, is  
12 amended to read as follows:

13 Section 1412. A. At any time after the institution of any  
14 civil proceeding or at any time after the filing of an indictment or  
15 information pursuant to the provisions of the Oklahoma Racketeer-  
16 Influenced and Corrupt Organizations ~~Prevention~~ Act, the state may  
17 file a lien notice in the official records as may be required for  
18 perfecting a security interest for any given property. A filing fee  
19 in the amount as required by law for the filing of a mechanic's or  
20 materialmen's lien shall be required as a condition for filing the  
21 lien notice, and the county clerk, upon the presentation of such  
22 lien notice, shall immediately record it in the official records.

23 B. The lien notice shall be signed by the Attorney General or  
24 by a district attorney. The notice shall be in such form as the

1 Attorney General prescribes and shall set forth the following  
2 information:

3 1. The name of the person against whom the proceeding has been  
4 brought or who has been charged or indicted for a violation of this  
5 act and any other names under which the person may be known. The  
6 Attorney General or district attorney may also name in the lien  
7 notice any enterprise that is either controlled by or entirely owned  
8 by the person;

9 2. If known to the Attorney General or district attorney, the  
10 present residence and business addresses of the persons named in the  
11 lien notice;

12 3. A reference to the criminal or civil proceeding stating that  
13 a proceeding pursuant to the provisions of the Oklahoma Racketeer-  
14 Influenced and Corrupt Organizations Prevention Act has been brought  
15 against the person named in the lien notice or that the person has  
16 been charged or indicted for a violation of this act, the name of  
17 the county or counties where the proceeding has been brought or the  
18 conviction was made and any other lien notices filed, and, if known  
19 to the Attorney General or district attorney at the time of filing  
20 the lien notice, the case number of the proceeding;

21 4. A statement that the notice is being filed pursuant to the  
22 provisions of the Oklahoma Racketeer-Influenced and Corrupt  
23 Organizations Prevention Act; and  
24



1           5. The name and address of the Attorney General or the district  
2 attorney filing the lien notice.

3           A lien notice shall apply only to one person and, to the extent  
4 applicable, the names of enterprises, to the extent permitted in  
5 this section. A separate lien notice shall be filed for any other  
6 person against whom the Attorney General or district attorney  
7 desires to file a lien notice pursuant to the provisions of this  
8 section.

9           C. Within ten (10) days after filing of each lien notice, the  
10 Attorney General or district attorney shall furnish to the person  
11 named in the notice by certified mail, return receipt requested, to  
12 the last-known business or residential address, a copy of the  
13 recorded notice. In the event the person cannot be served by  
14 certified mail, service may be by publication pursuant to Section  
15 2004 of Title 12 of the Oklahoma Statutes.

16           D. From the time of its filing, a lien notice creates a lien in  
17 favor of the state on the following property of the person named in  
18 the notice:

19           1. Any personal or real property owned by the person under any  
20 name set forth in the lien notice which is situated in the county  
21 where the notice is filed; and

22           2. Any beneficial interest of said property owned by the person  
23 under any name located in the county where the notice is filed.

24

1       The lien shall commence and attach as of the time of filing of  
2 the lien notice and shall continue thereafter until expiration,  
3 termination, or release of the lien. The lien created in favor of  
4 the state shall be superior and prior to the interest of any other  
5 person in the personal or real property or beneficial interest in  
6 said property, if the interest is acquired subsequent to the filing  
7 of the notice.

8       E. In conjunction with any civil proceeding:

9       1. The Attorney General or district attorney may file without  
10 prior court order in any county a lis pendens pursuant to the  
11 provisions of the Oklahoma Racketeer-Influenced and Corrupt  
12 Organizations Prevention Act. In that event, any person acquiring  
13 an interest in the subject real property or beneficial interest in  
14 it after the filing of the lis pendens, shall take the interest  
15 subject to the civil proceeding and any subsequent judgment of  
16 forfeiture; and

17       2. If a lien notice has been filed, the Attorney General or  
18 district attorney may name as defendants, in addition to the person  
19 named in the notice, any person acquiring an interest in the  
20 personal or real property or beneficial interest in it subsequent to  
21 the filing of the notice. If a judgment of forfeiture is entered in  
22 the proceeding in favor of the state, the interest of any person in  
23 the property that was acquired subsequent to the filing of the  
24

1 notice and judgment of forfeiture shall be subject to the notice and  
2 judgment of forfeiture.

3 F. Upon the entry of a final judgment of forfeiture in favor of  
4 the state, the title to the forfeited real property shall be  
5 transferred to the state and shall be recorded in the official  
6 records of the county where the real property or a beneficial  
7 interest in it is located.

8 In the case of personal property or a beneficial interest in it,  
9 the property shall be seized if not already in possession of the  
10 state and disposed of in accordance with the Oklahoma Racketeer-  
11 Influenced and Corrupt Organizations Prevention Act.

12 G. If personal or real property or a beneficial interest in it  
13 subject to forfeiture is conveyed, alienated, disposed of, or  
14 otherwise rendered unavailable for forfeiture after the filing of a  
15 lien notice, the state may treat it as a fraudulent and preferential  
16 conveyance and may institute an action in any district court against  
17 the person named in the lien notice, the defendant in the civil  
18 proceeding or the person convicted in the criminal proceeding; and  
19 the court shall enter final judgment against such person or any  
20 beneficial interest in it together with investigative costs and  
21 attorneys fees incurred by the state in the action. If a civil  
22 proceeding is pending, such action shall be filed only in the court  
23 where such civil proceeding is pending.

24

1 H. The filing of a lien notice shall not affect the use to  
2 which personal or real property or a beneficial interest in it owned  
3 by the person named in the racketeering lien may be entitled to or  
4 the right of the person to receive any avails, rents, or other  
5 proceeds resulting from the use and ownership of the property,  
6 except for the conveyance of said property, until a judgment of  
7 forfeiture is entered.

8 I. The term of a lien notice shall be for a period of six (6)  
9 years from the date of filing unless a renewal lien notice has been  
10 filed by the Attorney General or district attorney. In this event,  
11 the term of the renewal lien notice shall be for a period of six (6)  
12 years from the date of its filing. The Attorney General or district  
13 attorney shall be entitled to only one renewal of the lien notice.

14 J. The Attorney General or district attorney filing the lien  
15 notice may release in whole or in part any lien notice or may  
16 release any personal or real property or beneficial interest in it  
17 from the lien notice upon such terms and conditions as ~~he~~ the  
18 Attorney General or district attorney may determine. Any release of  
19 a lien notice executed by the Attorney General or district attorney  
20 may be filed in the official records of any county. No charge or  
21 fee shall be imposed for the filing of any release of a lien notice.

22 K. If no civil proceeding has been instituted by the Attorney  
23 General or district attorney seeking a forfeiture of any property  
24 owned by the person named in the lien notice, the acquittal in the

1 criminal proceeding of the person named in the lien notice or the  
2 dismissal of the criminal proceeding, shall terminate the lien  
3 notice. If the civil proceeding has been instituted, in the event  
4 the criminal proceeding has been dismissed or the person named in  
5 the lien notice has been acquitted in the criminal proceeding, the  
6 lien notice shall continue for the duration of the civil proceeding.

7 L. If no civil proceeding or criminal proceeding is then  
8 pending against the person named in the lien notice, any person  
9 named in a lien notice may apply to the district court in the county  
10 where the notice has been filed for the release or extinguishment of  
11 the notice and the district court shall enter a judgment  
12 extinguishing the lien notice or releasing the personal or real  
13 property or beneficial interest in it from the lien notice.

14 M. In the event a civil proceeding is pending against a person  
15 named in a lien notice, the district court upon motion by the person  
16 may grant the relief provided for in this section at a hearing held  
17 for that purpose:

18 1. If a sale of the personal or real property or beneficial  
19 interest in it is pending and the filing of the notice prevents the  
20 sale of the property or interest, the district court shall  
21 immediately enter its order releasing from the lien notice any  
22 specific personal or real property or beneficial interest in it.  
23 The proceeds resulting from the sale of the personal or real  
24 property or beneficial interest in it shall be deposited with the

1 clerk of the district court, subject to the further order of the  
2 district court; and

3 2. At the hearing, the district court may release from the lien  
4 notice any personal or real property or beneficial interest in it  
5 upon the posting by such person of such security as is equal to the  
6 value of the personal or real property or beneficial interest in it  
7 owned by such person.

8 SECTION 15. AMENDATORY 22 O.S. 2001, Section 1413, is  
9 amended to read as follows:

10 Section 1413. A. A trustee, who acquires actual knowledge that  
11 a lien notice or a civil proceeding or criminal proceeding has been  
12 filed against any person for whom ~~he~~ the trustee holds legal or  
13 record title to personal or real property, shall immediately furnish  
14 to the Attorney General or district attorney the following:

15 1. The name and address of the person;

16 2. The name and address of all other persons for whose benefit  
17 the trustee holds title to the personal or real property; and

18 3. If requested by the Attorney General or district attorney, a  
19 copy of the trust agreement or other instrument pursuant to which  
20 the trustee holds legal or record title to the personal or real  
21 property. Any trustee who fails to comply with the provisions of  
22 this section, upon conviction, is guilty of a felony.

23 B. Any trustee having notice of the filing of the lien notice,  
24 who transfers or conveys title to personal or real property on which

1 | said notice has been filed, shall not be liable to the state for the  
2 | greater of:

3 |       1. The amount of proceeds received directly by the person named  
4 | in the lien notice as a result of the transfer or conveyance;

5 |       2. The amount of proceeds received by the trustee as a result  
6 | of the transfer or conveyance and distributed to the person named in  
7 | the lien notice; or

8 |       3. The fair market value of the interest of the person named in  
9 | the lien notice in the personal or real property transferred or  
10 | conveyed; but if the trustee transfers or conveys the personal or  
11 | real property for at least its fair market value and holds the  
12 | proceeds that would otherwise be paid or distributed to the  
13 | beneficiary or at the direction of the beneficiary or ~~his~~ designee  
14 | of the beneficiary, the liability of the trustee shall not exceed  
15 | the amount of the proceeds held for so long as the proceeds are held  
16 | by the trustee.

17 |       C. The filing of a lien notice shall not constitute a lien on  
18 | the record title to personal or real property owned by the trustee  
19 | except to the extent the trustee is named in the lien notice. The  
20 | Attorney General or district attorney may bring a civil proceeding  
21 | in any district court against the trustee to recover from the  
22 | trustee the amounts set forth in the Oklahoma Racketeer-Influenced  
23 | and Corrupt Organizations Prevention Act, and the state shall also  
24 |

1 be entitled to recover investigative costs and attorneys fees  
2 incurred by the Attorney General or district attorney.

3 D. The provisions of this section shall not apply to any  
4 transfer or conveyance by a trustee pursuant to a court order,  
5 unless the court order is entered in an action between the trustee  
6 and the beneficiary.

7 SECTION 16. AMENDATORY 22 O.S. 2001, Section 1414, is  
8 amended to read as follows:

9 Section 1414. Each foreign corporation doing business in this  
10 state that fails to file a report or fails to comply with the  
11 provisions of Section 1130 of Title 18 of the Oklahoma Statutes  
12 shall be subject to the jurisdiction of the State of Oklahoma for  
13 purposes of the Oklahoma Racketeer-Influenced and Corrupt  
14 Organizations ~~Prevention~~ Act.

15 SECTION 17. AMENDATORY 22 O.S. 2001, Section 1415, is  
16 amended to read as follows:

17 Section 1415. A. When any person has engaged in, is engaged  
18 in, or is attempting or conspiring to engage in any conduct  
19 constituting a violation of any of the provisions of Section ~~3~~ 1403  
20 of the Oklahoma Racketeer-Influenced and Corrupt Organizations  
21 ~~Prevention~~ Act, the Attorney General or district attorney may  
22 conduct an investigation of the conduct. On approval of the  
23 district judge, the Attorney General or district attorney in  
24 accordance with the provisions of Section 258 of Title 22 of the



1 Oklahoma Statutes is authorized before the commencement of any civil  
2 or criminal proceeding pursuant to the provisions of the Oklahoma  
3 Racketeer-Influenced and Corrupt Organizations Prevention Act to  
4 subpoena witnesses, compel their attendance, examine them under  
5 oath, or require the production of any business papers or records by  
6 subpoena duces tecum, except that such evidence taken shall not be  
7 receivable in any civil proceeding.

8 B. Any business papers and records subpoenaed by the Attorney  
9 General or district attorney shall be available for examination by  
10 the person who produced the material or by any duly authorized  
11 representative of the person. Transcripts of oral testimony shall  
12 be available for examination by the person who produced such  
13 testimony, or ~~his~~ counsel of the person.

14 Except as otherwise provided for in this section, no business  
15 papers or records or transcripts or oral testimony, or copies of it,  
16 subpoenaed by the Attorney General or district attorney shall be  
17 available for examination by an individual other than another law  
18 enforcement official without the consent of the person who produced  
19 the business papers or records or transcript.

20 C. All persons served with a subpoena by the Attorney General  
21 or district attorney pursuant to the provisions of the Oklahoma  
22 Racketeer-Influenced and Corrupt Organizations Prevention Act shall  
23 be paid the same fees and mileage as paid witnesses in the courts of  
24 this state.

1 D. No person shall, with intent to avoid, evade, prevent, or  
2 obstruct compliance in whole or in part by any person with any duly  
3 served subpoena of the Attorney General or district attorney  
4 pursuant to the provisions of this section, knowingly remove from  
5 any place, conceal, withhold, destroy, mutilate, alter, or by any  
6 other means falsify any business papers or records that are the  
7 subject of the subpoena ducus tecum. A violation of the provisions  
8 of this subsection, upon conviction, is a misdemeanor.

9 SECTION 18. AMENDATORY 22 O.S. 2001, Section 1417, is  
10 amended to read as follows:

11 Section 1417. Each judicial district shall select one or more  
12 of its district judges or associate district judges and if deemed  
13 necessary may also select one or more special judges to receive  
14 specialized education and training in applying the provisions of the  
15 Oklahoma Racketeer-Influenced and Corrupt Organizations Prevention  
16 Act.

17 A program of judicial education and training shall be prepared  
18 and administered by the Administrative Office of the Courts. Such  
19 program and any materials shall be made available as needed to  
20 assist Oklahoma judges in applying the provisions of this act.

21 When available, the funds described in Section ~~11~~ 1411 of this  
22 ~~act~~ title may be used to help defray the expenses of such program.

23 SECTION 19. AMENDATORY 22 O.S. 2001, Section 1419, is  
24 amended to read as follows:

1       Section 1419. When the language of the Oklahoma Racketeer-  
2 Influenced and Corrupt Organizations Prevention Act is the same or  
3 similar to the language of Title ~~IX of P.L. 91-452 as amended~~ 18  
4 U.S.C., Sections 1961 through 1968, the courts of this state in  
5 construing the Oklahoma Racketeer-Influenced and Corrupt  
6 Organizations ~~Prevention~~ Act may follow the construction given to  
7 federal law by the federal courts, provided that nothing in this  
8 section shall be deemed to provide for any private right of action  
9 or confer any civil remedy except as specifically set out in this  
10 act.

11       SECTION 20. This act shall become effective November 1, 2010.

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13       52-2-10742       GRS       05/11/10

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