

AN ACT in relation to criminal law.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

Section 5. The Criminal Code of 1961 is amended by
changing Section 17-24 and adding Article 16H as follows:

(720 ILCS 5/Art. 16H heading new)

ARTICLE 16H. ILLINOIS FINANCIAL CRIME LAW

(720 ILCS 5/16H-1 new)

Sec. 16H-1. Short title. This Article may be cited as
the Illinois Financial Crime Act.

(720 ILCS 5/16H-5 new)

Sec. 16H-5. Legislative declaration. It is the public
policy of this State that the substantial burden placed upon
the economy of this State resulting from the rising incidence
of financial crime is a matter of grave concern to the people
of this State who have a right to be protected in their
health, safety and welfare from the effects of this crime.

(720 ILCS 5/16H-10 new)

Sec. 16-10. Definitions. In this Article unless the
context otherwise requires:

(a) "Financial crime" means an offense described in this
Article.

(b) "Financial institution" means any bank, savings
bank, savings and loan association, credit union, trust
company, or other depository of money, or medium of savings
and collective investment.

(720 ILCS 5/16H-15 new)

Sec. 16H-15. Misappropriation of financial institution property. A person commits the offense of misappropriation of a financial institution's property whenever the person knowingly misappropriates, embezzles, abstracts, purloins or willfully misapplies any of the moneys, funds or credits of such financial institution, or any moneys, funds, assets or securities entrusted to the custody or care of such financial institution, or to the custody or care of any agent, officer, director, or employee of such financial institution.

(720 ILCS 5/16H-20 new)

Sec. 16H-20. Commercial bribery involving a financial institution.

(a) A person commits the offense of commercial bribery involving a financial institution when the person confers or offers or agrees to confer any benefit upon any employee, agent, or fiduciary without the consent of the latter's employer or principal, with intent to influence his or her conduct in relation to his or her employer's or principal's affairs.

(b) An employee, agent, or fiduciary of a financial institution commits the offense of commercial bribery of a financial institution when, without the consent of his or her employer or principal, he or she solicits, accepts, or agrees to accept any benefit from another person upon an agreement or understanding that such benefit will influence his or her conduct in relation to his or her employer's or principal's affairs.

(720 ILCS 5/16H-25 new)

Sec. 16H-25. Financial institution fraud. A person commits the offense of financial institution fraud when the person knowingly executes or attempts to execute a scheme or artifice:

(1) to defraud a financial institution; or

(2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by or under the custody or control of a financial institution, by means of pretenses, representations, or promises he or she knows to be false.

For the purposes of this Section, "scheme or artifice to defraud" includes a scheme or artifice to deprive a financial institution of the intangible right to honest services.

(720 ILCS 5/16H-30 new)

Sec. 16H-30. Loan fraud. A person commits the offense of loan fraud when the person knowingly, with intent to defraud, makes any false statement or report, or willfully overvalues any land, property or security, for the purpose of influencing in any way the action of a financial institution to act upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, or loan, or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security.

(720 ILCS 5/16H-35 new)

Sec. 16H-35. Concealment of collateral. A person commits the offense of concealment of collateral when the person, with intent to defraud, knowingly conceals, removes, disposes of, or converts to the person's own use or to that of another, any property mortgaged or pledged to or held by a financial institution.

(720 ILCS 5/16H-40 new)

Sec. 16H-40. Financial institution robbery. A person commits the offense of financial institution robbery when the person, by force or threat of force, or by intimidation, takes, or attempts to take, from the person or presence of

another, or obtains or attempts to obtain by extortion, any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, a financial institution.

(720 ILCS 5/16H-45 new)

Sec. 16H-45. Conspiracy to commit a financial crime.

(a) A person commits the offense of a conspiracy to commit a financial crime when, with the intent that a violation of this Article be committed, the person agrees with another person to the commission of that offense.

(b) No person may be convicted of conspiracy to commit a financial crime unless an overt act or acts in furtherance of the agreement is alleged and proved to have been committed by that person or by a co-conspirator and the accused is a part of a common scheme or plan to engage in the unlawful activity.

(c) It shall not be a defense to the offense of a conspiracy to commit a financial crime that the person or persons with whom the accused is alleged to have conspired:

- (1) has not been prosecuted or convicted,
- (2) has been convicted of a different offense,
- (3) is not amenable to justice,
- (4) has been acquitted, or
- (5) lacked the capacity to commit the offense.

(720 ILCS 5/16H-50 new)

Sec. 16H-50. Continuing financial crimes enterprise. A person commits the offense of a continuing financial crimes enterprise when the person knowingly, within an 18 month period, commits 3 or more separate offenses under this Article, or, if involving a financial institution, any other felony offenses established under this Code.

(720 ILCS 5/16H-55 new)

Sec. 16H-55. Organizer of a continuing financial crimes enterprise.

(a) A person commits the offense of being an organizer of a continuing financial crimes enterprise when the person:

(1) with the intent to commit an offense under this Article, or, if involving a financial institution, any other felony offense established under this Code, agrees with another person to the commission of that offense on 3 or more separate occasions within an 18 month period, and

(2) with respect to the other persons within the conspiracy, occupies a position of organizer, supervisor, or financier or other position of management.

(b) The person with whom the accused agreed to commit the 3 or more offenses under this Article, or, if involving a financial institution, any other felony offenses established under this Code, need not be the same person or persons for each offense, as long as the accused was a part of the common scheme or plan to engage in each of the 3 or more alleged offenses.

(720 ILCS 5/16H-60 new)

Sec. 16H-60. Sentence.

(a) A financial crime, the full value of which does not exceed \$300, is a Class A misdemeanor.

(b) A person who has been convicted of a financial crime, the full value of which does not exceed \$300, and who has been previously convicted of a financial crime or any type of theft, robbery, armed robbery, burglary, residential burglary, possession of burglary tools, or home invasion, is guilty of a Class 4 felony. When a person has such prior conviction, the information or indictment charging that person shall state such prior conviction so as to give notice

of the State's intention to treat the charge as a felony. The fact of such prior conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial.

(c) A financial crime, the full value of which exceeds \$300 but does not exceed \$10,000, is a Class 3 felony. When a charge of financial crime, the full value of which exceeds \$300 but does not exceed \$10,000, is brought, the value of the financial crime involved is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding \$300.

(d) A financial crime, the full value of which exceeds \$10,000 but does not exceed \$100,000, is a Class 2 felony. When a charge of financial crime, the full value of which exceeds \$10,000 but does not exceed \$100,000, is brought, the value of the financial crime involved is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding \$10,000.

(e) A financial crime, the full value of which exceeds \$100,000, is a Class 1 felony. When a charge of financial crime, the full value of which exceeds \$100,000, is brought, the value of the financial crime involved is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding \$100,000.

(f) A financial crime which is a financial institution robbery is a Class 1 felony.

(g) A financial crime which is a continuing financial crimes enterprise is a Class 1 felony.

(h) A financial crime which is the offense of being an organizer of a continuing financial crimes enterprise is a Class X felony.

(i) Notwithstanding any other provisions of this Section, a financial crime which is loan fraud in connection

with a loan secured by residential real estate is a Class 4 felony.

(720 ILCS 5/16H-65 new)

Sec. 16H-65. Period of limitations. The period of limitations for prosecution of any offense defined in this Article begins at the time when the last act in furtherance of the offense is committed.

(720 ILCS 5/17-24)

Sec. 17-24. Fraudulent schemes and artifices.

(a) Fraud by wire, radio, or television.

(1) A person commits wire fraud when he or she:

(A) devises or intends to devise a scheme or artifice to defraud or to obtain money or property by means of false pretenses, representations, or promises; and

(B) (i) transmits or causes to be transmitted from within this State; or

(ii) transmits or causes to be transmitted so that it is received by a person within this State; or

(iii) transmits or causes to be transmitted so that it is reasonably foreseeable that it will be accessed by a person within this State:

any writings, signals, pictures, sounds, or electronic or electric impulses by means of wire, radio, or television communications for the purpose of executing the scheme or artifice.

(2) A scheme or artifice to defraud using electronic transmissions is deemed to occur in the county from which a transmission is sent, if the transmission is sent from within this State, the county in which a person

within this State receives the transmission, and the county in which a person who is within this State is located when the person accesses a transmission.

(3) Wire fraud is a Class 3 felony.

(b) Mail fraud.

(1) A person commits mail fraud when he or she:

(A) devises or intends to devise any scheme or artifice to defraud or to obtain money or property by means of false or fraudulent pretenses, representations or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit obligation, security, or other article, or anything represented to be or intimidated or held out to be such counterfeit or spurious article; and

(B) for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter within this State, any matter or thing whatever to be delivered by the Postal Service, or deposits or causes to be deposited in this State by mail or by private or commercial carrier according to the direction on the matter or thing, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing.

(2) A scheme or artifice to defraud using a government or private carrier is deemed to occur in the county in which mail or other matter is deposited with the Postal Service or a private commercial carrier for delivery, if deposited with the Postal Service or a private or commercial carrier within this State and the county in which a person within this State receives the mail or other matter from the Postal Service or a private or commercial carrier.

(3) Mail fraud is a Class 3 felony.

(c) (Blank). Financial-institution-fraud.

~~(1) A person is guilty of financial institution fraud who knowingly executes or attempts to execute a scheme or artifice:~~

~~(i) to defraud a financial institution; or~~

~~(ii) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of a financial institution, by means of pretenses, representations, or promises he or she knows to be false.~~

~~(2) Financial institution fraud is a Class 3 felony.~~

(d) The period of limitations for prosecution of any offense defined in this Section begins at the time when the last act in furtherance of the scheme or artifice is committed.

(e) In this Section:

(1) "Scheme or artifice to defraud" includes a scheme or artifice to deprive another of the intangible right to honest services.

(2) (Blank). "Financial institution" has the meaning ascribed to it in paragraph (i) of subsection (A) of Section 17-1 of this Code.

(Source: P.A. 91-228, eff. 1-1-00; 92-16, eff. 6-28-01.)

Section 99. This Act takes effect upon becoming law.