

1 AN ACT concerning business practices.

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

4 Section 5. The State Finance Act is amended by adding
5 Section 5.595 as follows:

6 (30 ILCS 105/5.595 new)
7 Sec. 5.595. The Corporate Crime Fund.

8 Section 10. The Criminal Code of 1961 is amended by
9 changing Section 29A-3 and adding Sections 17-26, 17-27, and
10 29A-4 as follows:

11 (720 ILCS 5/17-26 new)
12 Sec. 17-26. Misconduct by a corporate official.

13 (a) A person is guilty of a crime when:

14 (1) being a director of a corporation, he knowingly
15 with a purpose to defraud, concurs in any vote or act of
16 the directors of the corporation, or any of them, which
17 has the purpose of:

18 (A) making a dividend except in the manner
19 provided by law;

20 (B) dividing, withdrawing or in any manner
21 paying any stockholder any part of the capital stock
22 of the corporation except in the manner provided by
23 law;

24 (C) discounting or receiving any note or other
25 evidence of debt in payment of an installment of
26 capital stock actually called in and required to be
27 paid, or with purpose of providing the means of
28 making such payment;

29 (D) receiving or discounting any note or other

1 evidence of debt with the purpose of enabling any
2 stockholder to withdraw any part of the money paid
3 in by him on his stock; or

4 (E) applying any portion of the funds of such
5 corporation, directly or indirectly, to the purchase
6 of shares of its own stock, except in the manner
7 provided by law; or

8 (2) being a director or officer of a corporation,
9 he, with purpose to defraud:

10 (A) issues, participates in issuing, or
11 concurs in a vote to issue any increase of its
12 capital stock beyond the amount of the capital stock
13 thereof, duly authorized by or in pursuance of law;

14 (B) sells, or agrees to sell, or is directly
15 interested in the sale of any share of stock of such
16 corporation, or in any agreement to sell such stock,
17 unless at the time of the sale or agreement he is an
18 actual owner of such share, provided that the
19 foregoing shall not apply to a sale by or on behalf
20 of an underwriter or dealer in connection with a
21 bona fide public offering of shares of stock of such
22 corporation;

23 (C) executes a scheme or attempts to execute a
24 scheme to obtain any share of stock of such
25 corporation by means of false representation; or

26 (3) being a director or officer of a corporation,
27 he with purpose to defraud or evade a financial
28 disclosure reporting requirement of this State or of
29 Section 13(A) or 15(D) of the Securities Exchange Act of
30 1934, as amended, 15 U. S. C. 78M(A) or 78O(D), he:

31 (A) causes or attempts to cause a corporation
32 or accounting firm representing the corporation or
33 any other individual or entity to fail to file a
34 financial disclosure report as required by State or

1 federal law; or

2 (B) causes or attempts to cause a corporation
3 or accounting firm representing the corporation or
4 any other individual or entity to file a financial
5 disclosure report, as required by State or federal
6 law, that contains a material omission or
7 misstatement of fact.

8 (b) If the benefit derived from a violation of this
9 Section is \$500,000 or more, the offender is guilty of a
10 Class 2 felony. If the benefit derived from a violation of
11 this Section is less than \$500,000, the offender is guilty of
12 a Class 3 felony.

13 (720 ILCS 5/17-27 new)

14 Sec. 17-27. Fraud in insolvency.

15 (a) A person commits a crime if, knowing that
16 proceedings have or are about to be instituted for the
17 appointment of a receiver or other person entitled to
18 administer property for the benefit of creditors, or that any
19 other composition or liquidation for the benefit of creditors
20 has been or is about to be made, he:

21 (1) destroys, removes, conceals, encumbers,
22 transfers, or otherwise deals with any property or
23 obtains any substantial part of or interest in the
24 debtor's estate with purpose to defeat or obstruct the
25 claim of any creditor, or otherwise to obstruct the
26 operation of any law relating to administration of
27 property for the benefit of creditors;

28 (2) knowingly falsifies any writing or record
29 relating to the property; or

30 (3) knowingly misrepresents or refuses to disclose
31 to a receiver or other person entitled to administer
32 property for the benefit of creditors, the existence,
33 amount, or location of the property, or any other

1 information which the actor could be legally required to
2 furnish in relation to such administration.

3 (b) If the benefit derived from a violation of this
4 Section is \$500,000 or more, the offender is guilty of a
5 Class 2 felony. If the benefit derived from a violation of
6 this Section is less than \$500,000, the offender is guilty of
7 a Class 3 felony.

8 (720 ILCS 5/29A-3) (from Ch. 38, par. 29A-3)
9 Sec. 29A-3. Sentence.

10 (a) If the benefit offered, conferred, or agreed to be
11 conferred, solicited, accepted or agreed to be accepted is
12 less than \$500,000, commercial bribery or commercial bribe
13 receiving is a Class A misdemeanor and the sentence shall
14 include, but not be limited to, business-offense-for-which a
15 fine shall-be-imposed not to exceed \$5,000.

16 (b) If the benefit offered, conferred, or agreed to be
17 conferred, solicited, accepted, or agreed to be accepted in
18 violation of this Article is \$500,000 or more, the offender
19 is guilty of a Class 3 felony.

20 (Source: P.A. 77-2638.)

21 (720 ILCS 5/29A-4 new)
22 Sec. 29A-4. Corporate Crime Fund.

23 (a) In addition to any fines, penalties, and assessments
24 otherwise authorized under this Code, any person convicted of
25 a violation of this Article or Section 17-26 or 17-27 of this
26 Code shall be assessed a penalty of not more than 3 times the
27 value of all property involved in the criminal activity.

28 (b) The penalties assessed under subsection (a) shall be
29 deposited into the Corporate Crime Fund, a special fund
30 hereby created in the State treasury. Moneys in the Fund
31 shall be used to make restitution to a person who has
32 suffered property loss as a result of violations of this

1 Article. The court may determine the reasonable amount,
2 terms, and conditions of the restitution. In determining the
3 amount and method of payment of restitution, the court shall
4 take into account all financial resources of the defendant.