

1 AN ACT concerning criminal law.

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

4 Article 1.

5 Article 2.

6 Section 2-1. Short title. This Article may be cited as the  
7 Public Corruption Profit Forfeiture Act, and references in this  
8 Article to "this Act" mean this Article.

9 Section 2-5. Legislative declaration. Public corruption is  
10 a far-reaching, continuing and extremely profitable criminal  
11 enterprise, which diverts significant amounts of public money  
12 for illicit purposes. Public corruption-related schemes  
13 persist despite the threat of prosecution and the actual  
14 prosecution and imprisonment of individual participants  
15 because existing sanctions do not effectively reach the money  
16 and other assets generated by such schemes. It is therefore  
17 necessary to supplement existing sanctions by mandating  
18 forfeiture of money and other assets generated by public  
19 corruption-related activities. Forfeiture diminishes the  
20 financial incentives which encourage and sustain public  
21 corruption, restores public moneys which have been diverted by

1 public corruption, and secures for the People of the State of  
2 Illinois assets to be used for enforcement of laws governing  
3 public corruption.

4 Section 2-10. Penalties.

5 (a) A person who is convicted of a violation of any of the  
6 following Sections, subsections, and clauses of the Criminal  
7 Code of 1961:

8 (1) clause (a) (6) of Section 12-6 (intimidation by a  
9 public official),

10 (2) Section 33-1 (bribery), or

11 (3) subsection (a) of Section 33E-7 (kickbacks),

12 shall forfeit to the State of Illinois:

13 (A) any profits or proceeds and any property or  
14 property interest he or she has acquired or maintained in  
15 violation of any of the offenses listed in clauses (1)  
16 through (3) of this subsection (a) that the court  
17 determines, after a forfeiture hearing under subsection  
18 (b) of this Section, to have been acquired or maintained as  
19 a result of violating any of the offenses listed in clauses  
20 (1) through (3) of this subsection (a); and

21 (B) any interest in, security of, claim against, or  
22 property or contractual right of any kind affording a  
23 source of influence over, any enterprise which he or she  
24 has established, operated, controlled, conducted, or  
25 participated in the conduct of, in violation of any of the

1 offenses listed in clauses (1) through (3) of this  
2 subsection (a) that the court determines, after a  
3 forfeiture hearing under subsection (b) of this Section, to  
4 have been acquired or maintained as a result of violating  
5 any of the offenses listed in clauses (1) through (3) of  
6 this subsection (a) or used to facilitate a violation of  
7 one of the offenses listed in clauses (1) through (3) of  
8 this subsection (a).

9 (b) The court shall, upon petition by the Attorney General  
10 or State's Attorney, at any time after the filing of an  
11 information or return of an indictment, conduct a hearing to  
12 determine whether any property or property interest is subject  
13 to forfeiture under this Act. At the forfeiture hearing the  
14 people shall have the burden of establishing, by a  
15 preponderance of the evidence, that property or property  
16 interests are subject to forfeiture under this Act. There is a  
17 rebuttable presumption at such hearing that any property or  
18 property interest of a person charged by information or  
19 indictment with a violation of any of the offenses listed in  
20 clauses (1) through (3) of subsection (a) of this Section or  
21 who is convicted of a violation of any of the offenses listed  
22 in clauses (1) through (3) of subsection (a) of this Section is  
23 subject to forfeiture under this Section if the State  
24 establishes by a preponderance of the evidence that:

25 (1) such property or property interest was acquired by  
26 such person during the period of the violation of any of

1 the offenses listed in clauses (1) through (3) of  
2 subsection (a) of this Section or within a reasonable time  
3 after such period; and

4 (2) there was no likely source for such property or  
5 property interest other than the violation of any of the  
6 offenses listed in clauses (1) through (3) of subsection  
7 (a) of this Section.

8 (c) In an action brought by the People of the State of  
9 Illinois under this Act, wherein any restraining order,  
10 injunction or prohibition or any other action in connection  
11 with any property or property interest subject to forfeiture  
12 under this Act is sought, the circuit court which shall preside  
13 over the trial of the person or persons charged with any of the  
14 offenses listed in clauses (1) through (3) of subsection (a) of  
15 this Section shall first determine whether there is probable  
16 cause to believe that the person or persons so charged have  
17 committed a violation of any of the offenses listed in clauses  
18 (1) through (3) of subsection (a) of this Section and whether  
19 the property or property interest is subject to forfeiture  
20 pursuant to this Act.

21 In order to make such a determination, prior to entering  
22 any such order, the court shall conduct a hearing without a  
23 jury, wherein the People shall establish that there is: (i)  
24 probable cause that the person or persons so charged have  
25 committed one of the offenses listed in clauses (1) through (3)  
26 of subsection (a) of this Section and (ii) probable cause that

1 any property or property interest may be subject to forfeiture  
2 pursuant to this Act. Such hearing may be conducted  
3 simultaneously with a preliminary hearing, if the prosecution  
4 is commenced by information or complaint, or by motion of the  
5 People, at any stage in the proceedings. The court may accept a  
6 finding of probable cause at a preliminary hearing following  
7 the filing of a charge for violating one of the offenses listed  
8 in clauses (1) through (3) of subsection (a) of this Section or  
9 the return of an indictment by a grand jury charging one of the  
10 offenses listed in clauses (1) through (3) of subsection (a) of  
11 this Section as sufficient evidence of probable cause as  
12 provided in item (i) above.

13       Upon such a finding, the circuit court shall enter such  
14 restraining order, injunction or prohibition, or shall take  
15 such other action in connection with any such property or  
16 property interest subject to forfeiture under this Act, as is  
17 necessary to insure that such property is not removed from the  
18 jurisdiction of the court, concealed, destroyed or otherwise  
19 disposed of by the owner of that property or property interest  
20 prior to a forfeiture hearing under subsection (b) of this  
21 Section. The Attorney General or State's Attorney shall file a  
22 certified copy of such restraining order, injunction or other  
23 prohibition with the recorder of deeds or registrar of titles  
24 of each county where any such property of the defendant may be  
25 located. No such injunction, restraining order or other  
26 prohibition shall affect the rights of any bona fide purchaser,

1 mortgagee, judgment creditor or other lien holder arising prior  
2 to the date of such filing.

3 The court may, at any time, upon verified petition by the  
4 defendant, conduct a hearing to release all or portions of any  
5 such property or interest which the court previously determined  
6 to be subject to forfeiture or subject to any restraining  
7 order, injunction, or prohibition or other action. The court  
8 may release such property to the defendant for good cause shown  
9 and within the sound discretion of the court.

10 (d) Prosecution under this Act may be commenced by the  
11 Attorney General or a State's Attorney.

12 (e) Upon an order of forfeiture being entered pursuant to  
13 subsection (b) of this Section, the court shall authorize the  
14 Attorney General to seize any property or property interest  
15 declared forfeited under this Act and under such terms and  
16 conditions as the court shall deem proper. Any property or  
17 property interest that has been the subject of an entered  
18 restraining order, injunction or prohibition or any other  
19 action filed under subsection (c) shall be forfeited unless the  
20 claimant can show by a preponderance of the evidence that the  
21 property or property interest has not been acquired or  
22 maintained as a result of a violation of any of the offenses  
23 listed in clauses (1) through (3) of subsection (a) of this  
24 Section or has not been used to facilitate a violation of any  
25 of the offenses listed in clauses (1) through (3) of subsection  
26 (a) of this Section.

1 (f) The Attorney General or his or her designee is  
2 authorized to sell all property forfeited and seized pursuant  
3 to this Act, unless such property is required by law to be  
4 destroyed or is harmful to the public, and, after the deduction  
5 of all requisite expenses of administration and sale, shall  
6 distribute the proceeds of such sale, along with any moneys  
7 forfeited or seized, in accordance with subsection (g).

8 (g) All monies and the sale proceeds of all other property  
9 forfeited and seized pursuant to this Act shall be distributed  
10 as follows:

11 (1) An amount equal to 50% shall be distributed to the  
12 unit of local government whose officers or employees  
13 conducted the investigation into a violation of any of the  
14 offenses listed in clauses (1) through (3) of subsection  
15 (a) of this Section and caused the arrest or arrests and  
16 prosecution leading to the forfeiture. Amounts distributed  
17 to units of local government shall be used for enforcement  
18 of laws governing public corruption, or for other law  
19 enforcement purposes. In the event, however, that the  
20 investigation, arrest or arrests and prosecution leading  
21 to the forfeiture were undertaken solely by a State agency,  
22 the portion provided hereunder shall be paid into the State  
23 Asset Forfeiture Fund in the State treasury to be used by  
24 that State agency in accordance with law.

25 (2) An amount equal to 12.5% shall be distributed to  
26 the county in which the prosecution resulting in the

1 forfeiture was instituted, deposited in a special fund in  
2 the county treasury and appropriated to the State's  
3 Attorney for use in accordance with law.

4 (3) An amount equal to 12.5% shall be distributed to  
5 the Office of the State's Attorneys Appellate Prosecutor  
6 and deposited in the State Asset Forfeiture Fund, to be  
7 used by the Office of the State's Attorneys Appellate  
8 Prosecutor for additional expenses incurred in prosecuting  
9 appeals arising under this Act. Any amounts remaining in  
10 the Fund after all additional expenses have been paid shall  
11 be used by the Office to reduce the participating county  
12 contributions to the Office on a prorated basis as  
13 determined by the board of governors of the Office of the  
14 State's Attorneys Appellate Prosecutor based on the  
15 populations of the participating counties.

16 (4) An amount equal to 25% shall be paid into the State  
17 Asset Forfeiture Fund in the State treasury to be used by  
18 the Department of State Police for the funding of the  
19 investigation of public corruption activities. Any amounts  
20 remaining in the Fund after full funding of such  
21 investigations shall be used by the Department in  
22 accordance with law to fund its other enforcement  
23 activities.

24 (h) All monies deposited pursuant to this Act in the State  
25 Asset Forfeiture Fund are appropriated, on a continuing basis,  
26 to the Department of State Police to be used in the manner set



1     forth in this Section.

2           Section 2-15. Forfeiture of political contribution.  
3     Whenever any person pleads guilty to, or is found guilty of,  
4     any offense under subsection (a) of Section 2-10 of this Act,  
5     in addition to any other penalty imposed by the court, all  
6     contributions (as defined by Section 9-1.4 of the Election  
7     Code) or other receipts held at the time of forfeiture by a  
8     political committee (as defined by Section 9-1.9 of the  
9     Election Code) or an organization subject to Section 9-7.5 of  
10    the Election Code, which is controlled by that person shall be  
11    paid to the State within 30 days from the date of the entry of  
12    the guilty plea or conviction. Payments received by the State  
13    pursuant to this Section shall be deposited into the General  
14    Revenue Fund.

15           Section 2-20. Fines.

16           (a) Whenever any person pleads guilty to or is found guilty  
17    of an offense under this Act, a fine may be levied in addition  
18    to any other penalty imposed by the court.

19           (b) In determining whether to impose a fine under this  
20    Section and the amount, time for payment, and method of payment  
21    of any fine so imposed, the court shall:

22           (1) consider the defendant's income, regardless of  
23    source, the defendant's earning capacity, and the  
24    defendant's financial resources, as well as the nature of

1 the burden the fine will impose on the defendant and any  
2 person legally or financially dependent upon the  
3 defendant;

4 (2) consider the proof received at trial, or as a  
5 result of a plea of guilty, concerning any profits or other  
6 proceeds derived by the defendant from the violation of  
7 this Act;

8 (3) take into account any other pertinent equitable  
9 considerations; and

10 (4) give primary consideration to the need to deprive  
11 the defendant of illegally obtained profits or other  
12 proceeds from the offense.

13 (c) As a condition of a fine, the court may require that  
14 payment be made in specified installments or within a specified  
15 period of time, but such period shall not be greater than the  
16 maximum applicable term of probation or imprisonment,  
17 whichever is greater. Unless otherwise specified, payment of a  
18 fine shall be due immediately.

19 (d) If a fine for a violation of this Act is imposed on an  
20 organization, it is the duty of each individual authorized to  
21 make disbursements of the assets of the organization to pay the  
22 fine from assets of the organization.

23 (e) (1) A defendant who has been sentenced to pay a fine,  
24 and who has paid part but not all of such fine, may petition  
25 the court for an extension of the time for payment or  
26 modification of the method of payment.

1           (2) The court may grant a petition made pursuant to  
2 this subsection if it finds that:

3                   (i) the circumstances that warranted payment by  
4 the time or method specified no longer exist; or

5                   (ii) it is otherwise unjust to require payment of  
6 the fine by the time or method specified.

7           Section 2-25. Distribution of proceeds of fines.

8           (a) The proceeds of all fines received under the provisions  
9 of this Act shall be transmitted to and deposited in the  
10 treasurer's office at the level of government as follows:

11                   (1) If the seizure was made by a combination of law  
12 enforcement personnel representing differing units of  
13 local government, the court levying the fine shall  
14 equitably allocate 50% of the fine among these units of  
15 local government and shall allocate 50% to the county  
16 general corporate fund. In the event that the seizure was  
17 made by law enforcement personnel representing a unit of  
18 local government from a municipality where the number of  
19 inhabitants exceeds 2 million, the court levying the fine  
20 shall allocate 100% of the fine to that unit of local  
21 government. If the seizure was made by a combination of law  
22 enforcement personnel representing differing units of  
23 local government, and at least one of those units  
24 represents a municipality where the number of inhabitants  
25 exceeds 2 million, the court shall equitably allocate 100%

1 of the proceeds of the fines received among the differing  
2 units of local government.

3 (2) If such seizure was made by State law enforcement  
4 personnel, then the court shall allocate 50% to the State  
5 treasury and 50% to the county general corporate fund.

6 (3) If a State law enforcement agency in combination  
7 with a law enforcement agency or agencies of a unit or  
8 units of local government conducted the seizure, the court  
9 shall equitably allocate 50% of the fines to or among the  
10 law enforcement agency or agencies of the unit or units of  
11 local government which conducted the seizure and shall  
12 allocate 50% to the county general corporate fund.

13 (b) The proceeds of all fines allocated to the law  
14 enforcement agency or agencies of the unit or units of local  
15 government pursuant to subsection (a) shall be made available  
16 to that law enforcement agency as expendable receipts for use  
17 in the enforcement of laws regulating public corruption and  
18 other laws. The proceeds of fines awarded to the State treasury  
19 shall be deposited in the State Asset Forfeiture Fund. Monies  
20 from this Fund may be used by the Department of State Police in  
21 the enforcement of laws regulating public corruption and other  
22 laws; and all other monies shall be paid into the General  
23 Revenue Fund in the State treasury.

24 Section 2-30. Preventing and restraining violations.

25 (a) The circuit courts of the State shall have jurisdiction

1 to prevent and restrain violations of this Act by issuing  
2 appropriate orders, including, but not limited to: ordering any  
3 person to divest himself of any interest, direct or indirect,  
4 in any enterprise; imposing reasonable restrictions on the  
5 future activities or investment of any person, including, but  
6 not limited to, prohibiting any person from engaging in the  
7 same type of endeavor as the enterprise engaged in, the  
8 activities of which affect business in the State of Illinois;  
9 or ordering dissolution or reorganization of any enterprise,  
10 making due provision for the rights of innocent persons.

11 (b) The Attorney General or the State's Attorney may  
12 institute proceedings under this Section. In any action brought  
13 by the State of Illinois under this Section, the court shall  
14 proceed as soon as practicable to the hearing and determination  
15 thereof. Pending that determination, the court may at any time  
16 enter such temporary restraining orders, preliminary or  
17 permanent injunctions, or prohibitions, or take such other  
18 actions including the acceptance of satisfactory performance  
19 bonds by a defendant, as it shall deem proper.

20 (c) Any person directly injured in his business, person or  
21 property by reason of a violation of this Act may sue the  
22 violator therefor in any appropriate circuit court and shall  
23 recover threefold the damages he or she sustains and the cost  
24 of the action, including a reasonable attorney's fee.

25 (d) A final judgment entered in favor of the People of the  
26 State of Illinois in any criminal proceeding brought under this

1 Act shall estop the defendant in the criminal case from denying  
2 the essential allegations of the criminal offense in any  
3 subsequent civil proceeding brought under this Act.

4 Section 2-35. Venue. Any civil action or proceeding under  
5 this Act against any person may be instituted in the circuit  
6 court for any county in which such person resides, is found,  
7 has an agent, transacts his or her affairs, or in which  
8 property that is the subject of these proceedings is located.

9 Section 2-40. Intent. It is the intent of the General  
10 Assembly that this Act be liberally construed so as to effect  
11 the purposes of this Act and be construed in accordance with  
12 similar provisions contained in the Narcotics Profit  
13 Forfeiture Act.

14 Section 2-45. Severability. If any provision of this Act or  
15 the application thereof to any person or circumstance is  
16 invalid, such invalidation shall not affect other provisions or  
17 applications of the Act which can be given effect without the  
18 invalid provision or application, and to this end the  
19 provisions of this Act are declared to be severable.

20 Section 2-50. The Election Code is amended by changing  
21 Section 9-8.10 as follows:

1 (10 ILCS 5/9-8.10)

2 Sec. 9-8.10. Use of political committee and other reporting  
3 organization funds.

4 (a) A political committee, or organization subject to  
5 Section 9-7.5, shall not make expenditures:

6 (1) In violation of any law of the United States or of  
7 this State.

8 (2) Clearly in excess of the fair market value of the  
9 services, materials, facilities, or other things of value  
10 received in exchange.

11 (3) For satisfaction or repayment of any debts other  
12 than loans made to the committee or to the public official  
13 or candidate on behalf of the committee or repayment of  
14 goods and services purchased by the committee under a  
15 credit agreement. Nothing in this Section authorizes the  
16 use of campaign funds to repay personal loans. The  
17 repayments shall be made by check written to the person who  
18 made the loan or credit agreement. The terms and conditions  
19 of any loan or credit agreement to a committee shall be set  
20 forth in a written agreement, including but not limited to  
21 the method and amount of repayment, that shall be executed  
22 by the chairman or treasurer of the committee at the time  
23 of the loan or credit agreement. The loan or agreement  
24 shall also set forth the rate of interest for the loan, if  
25 any, which may not substantially exceed the prevailing  
26 market interest rate at the time the agreement is executed.

1           (4) For the satisfaction or repayment of any debts or  
2           for the payment of any expenses relating to a personal  
3           residence. Campaign funds may not be used as collateral for  
4           home mortgages.

5           (5) For clothing or personal laundry expenses, except  
6           clothing items rented by the public official or candidate  
7           for his or her own use exclusively for a specific  
8           campaign-related event, provided that committees may  
9           purchase costumes, novelty items, or other accessories  
10          worn primarily to advertise the candidacy.

11          (6) For the travel expenses of any person unless the  
12          travel is necessary for fulfillment of political,  
13          governmental, or public policy duties, activities, or  
14          purposes.

15          (7) For membership or club dues charged by  
16          organizations, clubs, or facilities that are primarily  
17          engaged in providing health, exercise, or recreational  
18          services; provided, however, that funds received under  
19          this Article may be used to rent the clubs or facilities  
20          for a specific campaign-related event.

21          (8) In payment for anything of value or for  
22          reimbursement of any expenditure for which any person has  
23          been reimbursed by the State or any person. For purposes of  
24          this item (8), a per diem allowance is not a reimbursement.

25          (9) For the purchase of or installment payment for a  
26          motor vehicle unless the political committee can



1 demonstrate that purchase of a motor vehicle is more  
2 cost-effective than leasing a motor vehicle as permitted  
3 under this item (9). A political committee may lease or  
4 purchase and insure, maintain, and repair a motor vehicle  
5 if the vehicle will be used primarily for campaign purposes  
6 or for the performance of governmental duties. A committee  
7 shall not make expenditures for use of the vehicle for  
8 non-campaign or non-governmental purposes. Persons using  
9 vehicles not purchased or leased by a political committee  
10 may be reimbursed for actual mileage for the use of the  
11 vehicle for campaign purposes or for the performance of  
12 governmental duties. The mileage reimbursements shall be  
13 made at a rate not to exceed the standard mileage rate  
14 method for computation of business expenses under the  
15 Internal Revenue Code.

16 (10) Directly for an individual's tuition or other  
17 educational expenses, except for governmental or political  
18 purposes directly related to a candidate's or public  
19 official's duties and responsibilities.

20 (11) For payments to a public official or candidate or  
21 his or her family member unless for compensation for  
22 services actually rendered by that person. The provisions  
23 of this item (11) do not apply to expenditures by a  
24 political committee in an aggregate amount not exceeding  
25 the amount of funds reported to and certified by the State  
26 Board or county clerk as available as of June 30, 1998, in

1 the semi-annual report of contributions and expenditures  
2 filed by the political committee for the period concluding  
3 June 30, 1998.

4 (b) The Board shall have the authority to investigate, upon  
5 receipt of a verified complaint, violations of the provisions  
6 of this Section. The Board may levy a fine on any person who  
7 knowingly makes expenditures in violation of this Section and  
8 on any person who knowingly makes a malicious and false  
9 accusation of a violation of this Section. The Board may act  
10 under this subsection only upon the affirmative vote of at  
11 least 5 of its members. The fine shall not exceed \$500 for each  
12 expenditure of \$500 or less and shall not exceed the amount of  
13 the expenditure plus \$500 for each expenditure greater than  
14 \$500. The Board shall also have the authority to render rulings  
15 and issue opinions relating to compliance with this Section.

16 (c) Nothing in this Section prohibits the expenditure of  
17 funds of (i) a political committee controlled by an  
18 officeholder or by a candidate or (ii) an organization subject  
19 to Section 9-7.5 to defray the customary and reasonable  
20 expenses of an officeholder in connection with the performance  
21 of governmental and public service functions.

22 (d) Nothing in this Section prohibits the funds of a  
23 political committee, or an organization subject to Section  
24 9-7.5, which is controlled by a person convicted of a violation  
25 of any of the offenses listed in subsection (a) of Section 10  
26 of the Public Corruption Profit Forfeiture Act from being

1 forfeited to the State under Section 15 of the Public  
2 Corruption Profit Forfeiture Act.

3 (Source: P.A. 93-615, eff. 11-19-03; 93-685, eff. 7-8-04.)

4 Article 99.

5 Section 99-99. Effective date. This Act takes effect upon  
6 becoming law.