

AN ACT concerning business practices.

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

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

(30 ILCS 105/5.595 new)

Sec. 5.595. The Corporate Crime Fund.

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

(720 ILCS 5/17-26 new)

Sec. 17-26. Misconduct by a corporate official.

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

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

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

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

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

(D) receiving or discounting any note or other

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

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

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

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

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

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

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

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

federal law; or

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

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

(720 ILCS 5/17-27 new)

Sec. 17-27. Fraud in insolvency.

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

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

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

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

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

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

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

Sec. 29A-3. Sentence.

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

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

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

(720 ILCS 5/29A-4 new)

Sec. 29A-4. Corporate Crime Fund.

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

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

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