

Committee on Criminal Justice

HB 549 — Offenses Concerning Racketeering and Illegal Debts

by Rep. Burton (SB 850 by Senators Bradley and Evers)

The bill amends civil enforcement provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act. Major features of the bill include:

- Authorizing an investigative agency, on behalf of the state, to institute a RICO civil proceeding for forfeiture in the circuit court for the judicial circuit in which the real or personal tangible property is located or in a circuit court in the state for intangible property;
- Authorizing an investigative agency to pursue an action to recover fair market value of unavailable property regardless of when the property is conveyed, alienated, disposed of, diminished in value, or otherwise rendered unavailable for forfeiture;
- Authorizing a court to order the forfeiture of any other property of a defendant up to the value of the property subject to forfeiture (as an alternative to the court ordering an amount equal to the fair market value of the unavailable property);
- Authorizing the Department of Legal Affairs to bring an action for a Florida RICO Act violation to obtain injunctive relief, civil penalties, attorney fees, and costs incurred in the investigation and prosecution of any action under the Florida RICO Act;
- Providing that a natural person who violates the Florida RICO Act may be subject to a civil penalty of up to \$100,000 and any other person who violates the act may be subject to a civil penalty of up to \$1 million, and requiring that moneys recovered for such civil penalties be deposited into the General Revenue Fund;
- Requiring that moneys recovered by the Department of Legal Affairs for attorney fees and costs under the Florida Rico Act be deposited into the Legal Affairs Revolving Trust Fund and authorizing use of those funds to investigate Florida RICO Act violations and enforce the act;
- Authorizing any party to a Florida RICO Act civil action to petition the court for entry of a consent decree or for approval of a settlement agreement;
- Providing that an investigative subpoena issued pursuant to the Florida RICO Act is confidential for 120 days after the date of issuance, unless extended by the court upon a showing of good cause by the investigating agency;
- Providing that the list of claims for which a court directs distribution of forfeiture funds includes claims for restitution by RICO victims; and
- Providing that where the forfeiture action was brought by the Department of Legal Affairs, the restitution is distributed through the Legal Affairs Trust Fund (otherwise, the restitution is distributed by the clerk of the circuit court).

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 38-0; House 111-0