



Rep. Jack D. Franks

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LRB096 08471 RLC 24749 a

1 AMENDMENT TO HOUSE BILL 4078

2 AMENDMENT NO. _____. Amend House Bill 4078 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Elected Officials Misconduct Forfeiture Act.

6 Section 5. Definitions. For the purposes of this Act,
7 "elected official" includes any former elected official whose
8 term of office is terminated by operation of law for conviction
9 of an offense, who is removed from office on conviction of
10 impeachment for misconduct in office, or who resigned from
11 office prior, upon, or after conviction; and "proceeds" means
12 any interest in property of any kind acquired through or caused
13 by an act or omission, or derived from the act or omission,
14 directly or indirectly, and any fruits of this interest, in
15 whatever form.

1 Section 10. Purposes. The General Assembly finds that it
2 has compelling governmental interests in: (1) preventing
3 criminals from profiting from their crimes, and (2) ensuring
4 that the victims of crime are compensated by those who harm
5 them. Further, the General Assembly finds that the unlawful or
6 deceitful actions of elected officials can erode the public's
7 confidence in its government and debase the public's belief in
8 a fair democratic process.

9 Section 15. Forfeiture action. The Attorney General may
10 file an action in circuit court on behalf of the people of
11 Illinois against an elected official who has, by his or her
12 violation of Article 33 of the Criminal Code of 1961 or
13 violation of a similar federal offense, injured the people of
14 Illinois. The purpose of such suit is to recover treble damages
15 and the costs of the suit, including reasonable attorney's
16 fees, or to prevent, restrain, or remedy violations of Article
17 33 of the Criminal Code of 1961, or violations of similar
18 federal offenses. If the elected official against whom a
19 violation of Article 33 of the Criminal Code of 1961 or federal
20 claim has been asserted, including a forfeiture action or lien,
21 prevails on that claim, the elected official may be awarded
22 costs and reasonable attorney's fees incurred in defense of the
23 claim.

24 Section 20. Procedure.

1 (a) The circuit court has jurisdiction to prevent,
2 restrain, and remedy violations of Article 33 of the Criminal
3 Code of 1961 or violations of a similar federal offense after a
4 hearing or trial, as appropriate, by issuing appropriate
5 orders. Prior to a determination of liability such orders may
6 include, but are not limited to, issuing seizure warrants,
7 entering findings of probable cause for in personam or in rem
8 forfeiture, entering restraining orders or prohibitions or
9 taking such other actions, including the acceptance of
10 satisfactory performance bonds, the creation of receiverships
11 and the enforcement of constructive trusts, in connection with
12 any property or other interest subject to forfeiture, damages,
13 or other remedies or restraints pursuant to this Section as the
14 court deems proper.

15 (b) Following a determination of liability such orders may
16 include payment to the General Revenue Fund in the State
17 treasury or the corporate county fund, as appropriate, of an
18 amount equal to the gain that was acquired or maintained
19 through a violation of Article 33 of the Criminal Code of 1961
20 or violations of similar federal offenses.

21 Section 25. Action by the Attorney General.

22 (a) In addition to or in lieu of an action under Section 20
23 of this Act, the Attorney General may file an action for
24 forfeiture of:

25 (1) any property or interest in property acquired or

1 maintained by an elected official in violation of Article
2 33 of the Criminal Code of 1961 or similar federal
3 offenses;

4 (2) any interest in, security of, claims against or
5 property, office, title, license, or contractual right of
6 any kind affording a source of influence over any
7 enterprise or other property which an elected official has
8 acquired or maintained an interest in or control of,
9 conducted or participated in the conduct of in violation of
10 Article 33 of the Criminal Code of 1961 or similar federal
11 offenses; or

12 (3) all proceeds traceable to an offense included in
13 Article 33 of the Criminal Code of 1961 or similar federal
14 offenses, and all monies, negotiable instruments,
15 securities and other property used or intended to be used
16 in any manner or part to facilitate commission of the
17 offense.

18 (b) Before the Attorney General may bring a forfeiture
19 action under this Section, he or she must notify the elected
20 official that he or she intends to file a suit for seizure and
21 forfeiture of property, interests or proceeds acquired or
22 maintained by the elected official in violation of Article 33
23 of the Criminal Code of 1961 or similar federal offenses, or
24 traceable to an offense included in Article 33 of the Criminal
25 Code of 1961 or similar federal offenses.

26 (c) In the event that the Attorney General files a

1 forfeiture action seeking seizure and forfeiture of all
2 proceeds traceable to an offense included in Article 33 of the
3 Criminal Code of 1961 or similar federal offenses and prevails
4 in such action, the maximum term of such forfeiture shall be
5 equal to the term of the imprisonment of the elected official,
6 including any period of probation or mandatory supervised
7 release received by the elected official as a result of his or
8 her violation of Article 33 of the Criminal Code of 1961 or
9 similar federal offenses.".