

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 Section 1. Short title. This Act may be cited as the Public  
5 Corruption Profit Forfeiture Act.

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

22 Section 10. Penalties.

1 (a) A person who is convicted of a violation of any of the  
2 following Sections, subsections, and clauses of the Criminal  
3 Code of 1961:

4 (1) clause (a)(6) of Section 12-6 (intimidation by a  
5 public official),

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

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

8 shall forfeit to the State of Illinois:

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

17 (B) any interest in, security of, claim against, or  
18 property or contractual right of any kind affording a  
19 source of influence over, any enterprise which he or she  
20 has established, operated, controlled, conducted, or  
21 participated in the conduct of, in violation of any of the  
22 offenses listed in clauses (1) through (3) of this  
23 subsection (a) that the court determines, after a  
24 forfeiture hearing under subsection (b) of this Section, to  
25 have been acquired or maintained as a result of violating  
26 any of the offenses listed in clauses (1) through (3) of

1           this subsection (a) or used to facilitate a violation of  
2           one of the offenses listed in clauses (1) through (3) of  
3           this subsection (a).

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

20               (1) such property or property interest was acquired by  
21               such person during the period of the violation of any of  
22               the offenses listed in clauses (1) through (3) of  
23               subsection (a) of this Section or within a reasonable time  
24               after such period; and

25               (2) there was no likely source for such property or  
26               property interest other than the violation of any of the

1 offenses listed in clauses (1) through (3) of subsection  
2 (a) of this Section.

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

16 In order to make such a determination, prior to entering  
17 any such order, the court shall conduct a hearing without a  
18 jury, wherein the People shall establish that there is: (i)  
19 probable cause that the person or persons so charged have  
20 committed one of the offenses listed in clauses (1) through (3)  
21 of subsection (a) of this Section and (ii) probable cause that  
22 any property or property interest may be subject to forfeiture  
23 pursuant to this Act. Such hearing may be conducted  
24 simultaneously with a preliminary hearing, if the prosecution  
25 is commenced by information or complaint, or by motion of the  
26 People, at any stage in the proceedings. The court may accept a

1 finding of probable cause at a preliminary hearing following  
2 the filing of a charge for violating one of the offenses listed  
3 in clauses (1) through (3) of subsection (a) of this Section or  
4 the return of an indictment by a grand jury charging one of the  
5 offenses listed in clauses (1) through (3) of subsection (a) of  
6 this Section as sufficient evidence of probable cause as  
7 provided in item (i) above.

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

24 The court may, at any time, upon verified petition by the  
25 defendant, conduct a hearing to release all or portions of any  
26 such property or interest which the court previously determined

1 to be subject to forfeiture or subject to any restraining  
2 order, injunction, or prohibition or other action. The court  
3 may release such property to the defendant for good cause shown  
4 and within the sound discretion of the court.

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

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

22 (f) The Attorney General or his or her designee is  
23 authorized to sell all property forfeited and seized pursuant  
24 to this Act, unless such property is required by law to be  
25 destroyed or is harmful to the public, and, after the deduction  
26 of all requisite expenses of administration and sale, shall

1 distribute the proceeds of such sale, along with any moneys  
2 forfeited or seized, in accordance with subsection (g).

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

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

1           (2) An amount equal to 12.5% shall be distributed to  
2           the county in which the prosecution resulting in the  
3           forfeiture was instituted, deposited in a special fund in  
4           the county treasury and appropriated to the State's  
5           Attorney for use in accordance with law. If the prosecution  
6           was conducted by the Attorney General, then the amount  
7           provided under this subsection shall be paid into the  
8           Attorney General's Whistleblower Reward and Protection  
9           Fund in the State treasury to be used by the Attorney  
10          General in accordance with law.

11          (3) An amount equal to 12.5% shall be distributed to  
12          the Office of the State's Attorneys Appellate Prosecutor  
13          and deposited in the State's Attorneys Appellate  
14          Prosecutor Anti-Corruption Fund, to be used by the Office  
15          of the State's Attorneys Appellate Prosecutor for  
16          additional expenses incurred in prosecuting appeals  
17          arising under this Act. Any amounts remaining in the Fund  
18          after all additional expenses have been paid shall be used  
19          by the Office to reduce the participating county  
20          contributions to the Office on a prorated basis as  
21          determined by the board of governors of the Office of the  
22          State's Attorneys Appellate Prosecutor based on the  
23          populations of the participating counties. If the appeal is  
24          to be conducted by the Attorney General, then the amount  
25          provided under this subsection shall be paid into the  
26          Attorney General's Whistleblower Reward and Protection



1 Fund in the State treasury to be used by the Attorney  
2 General in accordance with law.

3 (4) An amount equal to 25% shall be paid into the State  
4 Asset Forfeiture Fund in the State treasury to be used by  
5 the Department of State Police for the funding of the  
6 investigation of public corruption activities. Any amounts  
7 remaining in the Fund after full funding of such  
8 investigations shall be used by the Department in  
9 accordance with law to fund its other enforcement  
10 activities.

11 (h) All moneys deposited pursuant to this Act in the State  
12 Asset Forfeiture Fund shall, subject to appropriation, be used  
13 by the Department of State Police in the manner set forth in  
14 this Section. All moneys deposited pursuant to this Act in the  
15 Attorney General's Whistleblower Reward and Protection Fund  
16 shall, subject to appropriation, be used by the Attorney  
17 General for State law enforcement purposes and for the  
18 performance of the duties of that office. All moneys deposited  
19 pursuant to this Act in the State's Attorneys Appellate  
20 Prosecutor Anti-Corruption Fund shall, subject to  
21 appropriation, be used by the Office of the State's Attorneys  
22 Appellate Prosecutor in the manner set forth in this Section.

23 Section 15. Forfeiture of political contribution. Whenever  
24 any person pleads guilty to, or is found guilty of, any offense  
25 under subsection (a) of Section 10 of this Act, or is convicted

1 of a violation of any of the following Sections of Title 18 of  
2 the United States Code: (i) Section 872 (extortion); (ii)  
3 Section 880 (receiving the proceeds of extortion); (iii)  
4 Section 201 (bribery); or (iv) Section 874 (kickbacks), in  
5 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 9-1.8 of the  
9 Election Code), which is controlled by that person, shall be  
10 paid to the State within 30 days from the date of the entry of  
11 the guilty plea or conviction. Payments received by the State  
12 pursuant to this Section shall be deposited into the General  
13 Revenue Fund.

14 Section 20. Fines.

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

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

21 (1) consider the defendant's income, regardless of  
22 source, the defendant's earning capacity, and the  
23 defendant's financial resources, as well as the nature of  
24 the burden the fine will impose on the defendant and any  
25 person legally or financially dependent upon the

1 defendant;

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

6 (3) take into account any other pertinent equitable  
7 considerations; and

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

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

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

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

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

- 1           (i) the circumstances that warranted payment by  
2           the time or method specified no longer exist; or  
3           (ii) it is otherwise unjust to require payment of  
4           the fine by the time or method specified.

5           Section 25. Distribution of proceeds of fines.

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

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

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

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

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

22          Section 30. Preventing and restraining violations.

23          (a) The circuit courts of the State shall have jurisdiction  
24          to prevent and restrain violations of this Act by issuing  
25          appropriate orders, including, but not limited to: ordering any

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

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

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

23 (d) A final judgment entered in favor of the People of the  
24 State of Illinois in any criminal proceeding brought under this  
25 Act shall estop the defendant in the criminal case from denying  
26 the essential allegations of the criminal offense in any

1 subsequent civil proceeding brought under this Act.

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

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

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

18 Section 50. The Election Code is amended by changing  
19 Section 9-8.10 as follows:

20 (10 ILCS 5/9-8.10)

21 Sec. 9-8.10. Use of political committee and other reporting

1 organization funds.

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

4 (1) In violation of any law of the United States or of  
5 this State.

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

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

25 (4) For the satisfaction or repayment of any debts or  
26 for the payment of any expenses relating to a personal



1 residence. Campaign funds may not be used as collateral for  
2 home mortgages.

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

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

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

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

23 (9) For the purchase of or installment payment for a  
24 motor vehicle unless the political committee can  
25 demonstrate that purchase of a motor vehicle is more  
26 cost-effective than leasing a motor vehicle as permitted

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

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

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

1 June 30, 1998.

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

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

20 (d) Nothing in this Section prohibits the funds of a  
21 political committee which is controlled by a person convicted  
22 of a violation of any of the offenses listed in subsection (a)  
23 of Section 10 of the Public Corruption Profit Forfeiture Act  
24 from being forfeited to the State under Section 15 of the  
25 Public Corruption Profit Forfeiture Act.

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

1           Section 55. The State Finance Act is amended by adding  
2 Section 5.755 as follows:

3           (30 ILCS 105/5.755 new)

4           Sec. 5.755. The State's Attorneys Appellate Prosecutor  
5 Anti-Corruption Fund.

6           Section 99. Effective date. This Act takes effect January  
7 1, 2011.