**South Carolina General Assembly**

122nd Session, 2017-2018

**H. 5319**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Elliott, Hamilton, Cogswell and Bennett

Document Path: l:\council\bills\nbd\11259cz18.docx

Introduced in the House on April 25, 2018

Currently residing in the House Committee on **Judiciary**

Summary: SC Anti-Racketeering Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/25/2018 House Introduced and read first time ([House Journal‑page 28](file:///h:\hj\20180425.docx))

4/25/2018 House Referred to Committee on **Judiciary** ([House Journal‑page 28](file:///h:\hj\20180425.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=5319&session=122&summary=B) at the website

**VERSIONS OF THIS BILL**

[4/25/2018](file:///p:\pprever\2017-18\5319_20180425.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 28 TO TITLE 16 SO AS TO ENACT THE “SOUTH CAROLINA ANTI‑RACKETEERING ACT”, TO PROHIBIT THE ACQUISITION OR RETENTION OF AN INTEREST IN AN ENTERPRISE, REAL PROPERTY, OR PERSONAL PROPERTY OBTAINED THROUGH A PATTERN OF RACKETEERING ACTIVITIES, TO PROVIDE A PENALTY AND ALLOW FOR CERTAIN ORDERS FROM A COURT OF APPROPRIATE JURISDICTION ON A PERSON, TO ESTABLISH AND PROVIDE CERTAIN RULES FOR A RICO FORFEITURE PROCEEDING, TO AUTHORIZE THE RECOGNITION AND ENFORCEMENT OF A VALID JUDGMENT OF A COURT OF A JURISDICTION THAT HAS A SUBSTANTIALLY SIMILAR LAW TO THE SOUTH CAROLINA ANTI‑RACKETEERING ACT, TO ESTABLISH AND PROVIDE CERTAIN RULES FOR A RICO LIEN NOTICE, AND TO ESTABLISH CERTAIN REQUIREMENTS FOR THE ACQUISITION OF REAL PROPERTY BY AN ALIEN CORPORATION; TO AMEND 2‑17‑110, RELATING TO PROHIBITED ACTS OF LOBBYISTS, SO AS TO PROHIBIT A LOBBYIST FROM SERVING IN A CAMPAIGN POSITION OR PROVIDING SERVICES FOR A CANDIDATE; TO AMEND SECTION 8‑13‑755, RELATING TO RESTRICTIONS ON FORMER PUBLIC OFFICIALS, SO AS TO PROHIBIT A CURRENT OR FORMER PUBLIC OFFICIAL FROM SERVING IN A CAMPAIGN POSITION OR PROVIDING SERVICES FOR A CANDIDATE AND PROHIBIT A FORMER PUBLIC EMPLOYEE FROM SERVING AS A LOBBYIST OR ACCEPTING EMPLOYMENT FROM A PERSON REGULATED BY THE FORMER PUBLIC EMPLOYER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 16 of the 1976 Code is amended by adding:

“CHAPTER 28

South Carolina Anti‑Racketeering Act

Section 16‑28‑10. As used in this chapter:

(1) ‘Alien corporation’ means a corporation organized under laws other than the laws of the United States or the laws of any state of the United States.

(2)(a) ‘Beneficial interest’ means:

(i) the interest of a person as a beneficiary under any trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of the person; or

(ii) the interest of a person under any form of express fiduciary arrangement pursuant to which any other person holds legal or record title to real property for the benefit of the person.

(b) ‘Beneficial interest’ does not mean the interest of a stockholder in a corporation or the interest of a partner in either a general partnership or limited partnership. A beneficial interest is deemed to be located where the real property owned by the trustee or other person is located.

(3) ‘Civil proceeding’ means a civil proceeding commenced by an investigative agency under a provision of this chapter.

(4) ‘Criminal proceeding’ means a criminal proceeding commenced by an investigative agency under a provision of this chapter.

(5) ‘Documentary material’ means a book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, or other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(6) ‘Enterprise’ means a person, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this State, other legal entity, or unchartered union, association, or group of individuals associated in fact although not a legal entity. ‘Enterprise’ includes illicit as well as licit enterprises and governmental as well as other entities.

(7) ‘Investigative agency’ means the Attorney General’s Office, the South Carolina Law Enforcement Division, or the Solicitor’s Office.

(8) ‘Pattern of racketeering activity’ means:

(a) engaging in at least two acts of racketeering activity in furtherance of one or more incidents, schemes, or transactions that have the same or similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics and are not isolated incidents, with the last of the acts having occurred within four years, excluding any periods of imprisonment, after the commission of a prior act of racketeering activity; or

(b) engaging in any one or more acts of domestic terrorism as described in Sections 16‑23‑710(18) and 16‑23‑715 or a criminal attempt, criminal solicitation, or criminal conspiracy related thereto.

(9)(a) ‘Racketeering activity’ means to commit, to attempt to commit, or to solicit, coerce, or intimidate another person to commit a crime that is chargeable by indictment under the following laws of this State:

(i) Article 3 of Chapter 53 of Title 44, relating to narcotics and controlled substances;

(ii) Section 16‑11‑617, relating to marijuana;

(iii) Article 1, Chapter 3, Title 16, relating to homicide;

(iv) Article 3, Chapter 3, Title 16, relating to lynching;

(v) Article 5, Chapter 3, Title 16, relating to dueling;

(vi) Article 7, Chapter 3, Title 16, relating to assault and criminal sexual conduct;

(vii) Article 8, Chapter 3, Title 16, relating to sexual performance by children;

(viii) Article 9, Chapter 3, Title 16, relating to kidnapping;

(ix) Section 16‑3‑1040, relating to threatening the life, person, or family of a public official or public employee;

(x) Section 16‑3‑1045, relating to the use or employment of a person under eighteen to commit certain crimes;

(xi) Section 16‑3‑1083, relating to the death or injury of a child in utero due to the commission of a violent crime;

(xii) Article 17, Chapter 3, Title 16, relating to harassment and stalking;

(xiii) Article 19, Chapter 3, Title 16, relating to trafficking in persons;

(xiv) Article 3, Chapter 11, Title 16, relating to arson and other offenses involving fire;

(xv) Article 5, Chapter 11, Title 16, relating to burglary, housebreaking, robbery, and the like;

(xvi) Article 9, Chapter 11, Title 16, relating to bootleg and counterfeit records, tapes, and recordings;

(xvii) Section 16‑13‑10, relating to forgery;

(xviii) Section 16‑13‑30, relating to petit and grand larceny;

(xix) Section 16‑13‑40, relating to the stealing of bonds and the like;

(xx) Sections 16‑13‑105 through 16‑13‑135, relating to shoplifting and retail theft;

(xxi) Section 16‑13‑70, relating to the stealing of vessels and equipment;

(xxii) Section 16‑13‑170, relating to entering a house or vessel, without breaking, with the intent to steal or commit another crime;

(xxiii) Section 16‑13‑180, relating to receiving stolen goods, chattels, or other property;

(xxiv) Sections 16‑13‑210 and 16‑13‑220, relating to the embezzlement of public funds;

(xxv) Section 16‑13‑230, relating to breach of trust with fraudulent intent;

(xxvi) Section 16‑13‑240, relating to obtaining a signature or property by false pretense;

(xxvii) Section 16‑13‑260, relating to obtaining property under false tokens or letters;

(xxviii) Section 16‑13‑290, relating to securing property by the fraudulent impersonation of an officer;

(xxix) Section 16‑13‑320, relating to swindling;

(xxx) Section 16‑13‑385, relating to altering, tampering with, or bypassing electric, gas, or water meters;

(xxxi) Section 16‑13‑400, relating to avoiding or attempting to avoid the payment of telecommunications services;

(xxxii) Section 16‑13‑430, relating to the fraudulent acquisition or use of food stamps;

(xxxiii) Sections 16‑13‑450, 16‑13‑451, and 16‑13‑480, relating to false identification documents;

(xxxiv) Sections 16‑15‑90 through 16‑15‑110, relating to prostitution;

(xxxv) Article 3, Chapter 15, Title 16, relating to obscenity, material harmful to minors, child exploitation, and child prostitution;

(xxxvi) Article 3, Chapter 9, Title 16, relating to bribery, the corruption of jurors, and the like;

(xxxvii) Sections 16‑9‑340, 16‑9‑350, and 16‑9‑370, relating to the influencing of court officials, jurors, or witnesses;

(xxxviii) Section 16‑9‑460, relating to unlawful entry into the United States and furthering illegal entry by or avoidance of detection of an undocumented alien;

(xxxix) Article 1, Chapter 9, Title 16, relating to perjury;

(xl) Chapter 19, Title 16, relating to gambling and lotteries;

(xli) Article 13, Chapter 6, Title 61, relating to unlawful manufacture, possession, and sales of alcohol;

(xlii) Chapter 23, Title 16, relating to offenses involving weapons;

(xliii) Chapter 1, Title 35, relating to violations of the South Carolina Uniform Securities Act of 2005;

(xliv) Chapter 14, Title 16, relating to violations of the Financial Transaction Card Crime Act;

(xlv) Chapter 29, Title 56, relating to violations of the Motor Vehicle Chop Shop, Stolen, and Altered Property Act;

(xlvi) Chapter 16, Title 16, relating to violations of the Computer Crime Act;

(xlvii) any conduct defined as ‘racketeering activity’ under 18 U.S.C. Section 1961 (1)(A), (B), (C), and (D);

(xlviii) Sections 5311 through 5330 of Title 31 of the United States Code relating to records and reports of currency transactions;

(xlix) Section 1028 of Title 18 of the United States Code, relating to fraudulent identification documents and information;

(l) Section 38‑55‑170, relating to presenting false insurance claims for payment;

(li) Article 5, Chapter 55, Title 38, relating to violations of the Omnibus Insurance Fraud and Reporting Immunity Act;

(lii) Chapter 36, Title 34, relating to violations in relation to loan brokers;

(liii) Chapter 23, Title 37, relating to violations of the South Carolina High‑Cost and Consumer Home Loans Act;

(liv) Chapter 13, Title 8, relating to ethics, government accountability, and campaign reform;

(lv) Chapter 11, Title 35, relating to violations of the South Carolina Anti‑Money Laundering Act; or

(lvi) Chapter 17, Title 2, relating to lobbyists and lobbying.

(b) ‘Racketeering activity’ also means an act or threat involving murder, kidnapping, gambling, arson, robbery, theft, receipt of stolen property, bribery, extortion, obstruction of justice, dealing in narcotic or dangerous drugs, or dealing in securities that is chargeable under the laws of the United States or any of the several states and that is punishable by imprisonment for more than one year.

(10) ‘Real property’ means real property situated in this State or an interest in such real property, including, but not limited to, a lease of or mortgage upon such real property.

(11) ‘RICO lien notice’ means the notice described in Section 16‑28‑50.

Section 16‑28‑20. (A) It is unlawful for a person, through a pattern of racketeering activity or proceeds derived therefrom, to acquire or maintain, directly or indirectly, an interest in or control of any enterprise, real property, or personal property of any nature, including money.

(B) It is unlawful for a person employed by or associated with an enterprise to conduct or participate in, directly or indirectly, such enterprise through a pattern of racketeering activity.

(C) It is unlawful for a person to conspire or endeavor to violate any of the provisions of this section.

Section 16‑28‑30. (A)(1) A person convicted of the offense of engaging in activity in violation of Section 16‑28‑20 is guilty of a felony and, upon conviction, must be punished by imprisonment for not less than five or more than twenty years and fined an amount that does not exceed the greater of twenty‑five thousand dollars or three times the amount of any pecuniary value gained by him from such violation.

(2) For purposes of this subsection, ‘pecuniary value’ means:

(a) anything of value in the form of money, a negotiable instrument, a commercial interest, or anything else, the primary significance of which is economic advantage; or

(b) other property or service that has a value in excess of one hundred dollars.

(B) The court shall hold a hearing to determine the amount of the fine.

Section 16‑28‑40. (A) A court of appropriate jurisdiction may, after making due provisions for the rights of innocent persons, enjoin violations of Section 16‑28‑20 by issuing appropriate orders and judgments, including, but not limited to:

(1) ordering a defendant to divest himself of any interest in any enterprise, real property, or personal property;

(2) imposing reasonable restrictions upon the future activities or investments of a defendant, including, but not limited to, prohibiting a defendant from engaging in the same type of endeavor as the enterprise in which he was engaged in violation of Section 16‑28‑20;

(3) ordering the dissolution or reorganization of an enterprise;

(4) ordering the suspension or revocation of a license, permit, or prior approval granted to an enterprise by an agency of the State; or

(5) ordering the forfeiture of the charter of a corporation organized under the laws of this State or the revocation of a certificate authorizing a foreign corporation to conduct business within this State upon a finding that the board of directors or a managerial agent acting on behalf of the corporation, in conducting affairs of the corporation, has authorized or engaged in conduct in violation of Section 16‑28‑20 and that, for the prevention of future criminal activity, the public interest requires that the charter of the corporation be forfeited and that the corporation be dissolved or the certificate be revoked.

(B) An aggrieved person or the State may institute a proceeding under subsection (A). In such proceeding, relief must be granted in conformity with the principles that govern the granting of injunctive relief from threatened loss or damage in other civil cases, provided that no showing of special or irreparable damage to the person shall have to be made. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any such action before a final determination on the merits.

(C) Any person who is injured by reason of any violation of Section 16‑28‑20 shall have a cause of action for three times the actual damages sustained and, as appropriate, punitive damages. Such person also shall recover attorneys’ fees in the trial and appellate courts and any costs of investigation and litigation reasonably incurred. The defendant or any injured person may demand a trial by jury in any civil action brought pursuant to this section.

(D) Any injured person shall have a right or claim to forfeited property or to the proceeds derived therefrom superior to any right or claim that the State or the county, other than for costs, has in the same property or proceeds. To enforce such a claim, the injured person must intervene in the forfeiture proceeding prior to its final disposition.

(E) A conviction in any criminal proceeding under this chapter shall estop the defendant in any subsequent civil action or proceeding as to all matters proved in the criminal proceeding.

Section 16‑28‑50. (A) All property used or intended for use in the course of, derived from, or realized through a pattern of racketeering activity is subject to forfeiture to the State. Forfeiture may be had by a civil procedure known as a RICO forfeiture proceeding subject to the rules of this section.

(B) A RICO forfeiture proceeding must be:

(1) governed by Title 15, South Carolina Civil Remedies and Procedures, except to the extent that special rules of procedure are stated in this chapter;

(2) an in rem proceeding against the property; and

(3) instituted by complaint and prosecuted by the solicitor of the county in which the property is located or seized. The proceeding may be commenced before or after seizure of the property.

(C)(1) If the complaint is filed before seizure, then the complaint shall state:

(a) what property is sought to be forfeited;

(b) that the property is within the jurisdiction of the court;

(c) the grounds for forfeiture; and

(d) the names of all persons known to have or who claim an interest in the property.

(2) The court shall determine ex parte whether there is reasonable cause to believe that the property is subject to forfeiture and that notice to those persons having or claiming an interest in the property prior to seizure would cause the loss or destruction of the property.

(3) If the court finds that reasonable cause does not exist to believe the property is subject to forfeiture, then it shall dismiss the complaint. If the court finds that reasonable cause does exist to believe the property is subject to forfeiture but that there is not reasonable cause to believe that prior notice would result in loss or destruction, then it shall order service on all persons known to have or who claim an interest in the property prior to a further hearing on whether to issue a writ of seizure. If the court finds that there is reasonable cause to believe that the property is subject to forfeiture and to believe that prior notice would cause loss or destruction, then it shall without any further hearing or notice issue a writ of seizure directing the sheriff of the county where the property is found to seize it.

(D) Seizure may be effected by a law enforcement officer authorized to enforce the penal laws of this State prior to the filing of the complaint and without a writ of seizure if the seizure is incident to a lawful arrest, search, or inspection and the officer has probable cause to believe the property is subject to forfeiture and will be lost or destroyed if not seized. Within ten days of the date of seizure, the seizure must be reported by the officer to the solicitor of the circuit in which the seizure is effected, and the solicitor shall, within a reasonable time after receiving notice of seizure, file a complaint for forfeiture. The complaint shall state, in addition to the information required pursuant to the provisions of this section, the date and place of seizure.

(E) After the complaint is filed or the seizure effected, whichever is later, every person known to have or who claims an interest in the property must be served, if not previously served, with a copy of the complaint and a notice of seizure in the manner provided by Title 15, South Carolina Civil Remedies and Procedures. Service by publication may be ordered upon any party for which whereabouts cannot be determined.

(F)(1) Any person claiming an interest in the property may become a party to the action at any time prior to judgment whether named in the complaint or not. Any party claiming a substantial interest in the property may upon motion be allowed by the court to take possession of the property upon posting bond with good and sufficient security in double the amount of the property’s value conditioned to pay the value of any interest in the property found to be subject to forfeiture or the value of any interest of another not subject to forfeiture. Such a party taking possession shall not remove the property from the territorial jurisdiction of the court without written permission from the court.

(2) The court may, upon such terms and conditions as prescribed by it, order that the property be sold by an innocent party that holds a lien on or security interest in the property at any time during the proceedings. Any proceeds from such sale over and above the amount necessary to satisfy the lien or security interest must be paid into court, pending final judgment in the forfeiture proceeding. However, no such sale may be ordered unless the obligation upon which the lien or security interest is based is in default.

(3) Pending final judgment in the forfeiture proceeding, the court may make any other disposition of the property that is in the interest of substantial justice.

(G) After service of process, all further proceedings must be as provided by Title 15, South Carolina Civil Remedies and Procedures, except that any party may bring one motion to dismiss at any time, and such motion must be heard and ruled on within ten days. Any party may demand a jury trial.

(H) The interest of an innocent party in the property may not be subject to forfeiture. An innocent party is one that did not have actual or constructive knowledge that the property was subject to forfeiture.

(I) Subject to the requirement of protecting the interest of all innocent parties, the court may, after judgment of forfeiture, make any of the following orders for disposition of the property:

(1) destruction of contraband, the possession of which is illegal;

(2) retention for official use by any agency of this State or any political subdivision thereof. When such agency or political subdivision no longer has use for the property, it must be disposed of by judicial sale;

(3) transfer to the Division of Archives and History of property useful for historical or instructional purposes;

(4) retention of the property by any innocent party having an interest therein, upon payment or approval of a plan for payment, into court, of the value of any forfeited interest in the property. The plan may include, in the case of an innocent party that holds a lien on or security interest in the property, the sale of the property by the innocent party under such terms and conditions as may be prescribed by the court and the payment into court of any proceeds from such sale over and above the amount necessary to satisfy the lien or security interest;

(5) judicial sale of the property;

(6) transfer of the property to any innocent party having an interest therein equal to or greater than the value of the property; or

(7) any other disposition of the property that is in the interest of substantial justice and adequately protects innocent parties.

(J) The net proceeds of any sale or disposition after satisfaction of the interest of any innocent party, less the greater of one‑half thereof or the costs borne by the county in bringing the forfeiture action, must be paid into the general fund. The costs borne by the county or one‑half of the net proceeds of sale or disposition, whichever is greater, must be paid into the treasury of the county where the forfeiture action is brought. Notwithstanding any other provision of this section, the court may, after satisfaction of the interest of any innocent party, make any other division of the proceeds among the State, county, or municipalities or agencies of the State, county, or municipalities that is commensurate with the proportion of the assistance that each contributed to the underlying criminal action, forfeiture, or criminal action and forfeiture.

(K) In lieu of the provisions of subsections (B)(2) through (E), the State may bring an in personam action for the forfeiture of property subject to forfeiture pursuant to this section.

(L)(1) Upon the entry of a final judgment of forfeiture in favor of the State, the title of the State to the forfeited property shall:

(a) in the case of real property or beneficial interest, relate back to the date of:

(i) filing of the RICO lien notice in the official records of the county where the real property or beneficial trust is located;

(ii) the filing of any notice of lis pendens pursuant to Chapter 11, Title 15, in the official records of the county where the real property or beneficial interest is located, if no RICO lien notice is filed; and

(iii) recording of the final judgment of forfeiture in the official records of the county where the real property or beneficial interest is located, if no RICO lien notice or notice of lis pendens is filed; and

(b) in the case of personal property, relate back to the date the personal property was seized by the investigating agency.

(2) If property subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered unavailable for forfeiture after the filing of a RICO lien notice or after the filing of a civil proceeding or criminal proceeding, whichever is earlier, then the investigative agency may, on behalf of the State, institute an action in the appropriate superior court against the person named in the RICO lien notice or the defendant in the civil proceeding or criminal proceeding, and the court shall enter final judgment against the person named in the RICO lien notice or the defendant in the civil proceeding or criminal proceeding in an amount equal to the fair market value of the property, together with investigative costs and attorney’s fees incurred by the investigative agency in the action. If a civil proceeding is pending, then such action must be filed only in the court where such civil proceeding is pending.

Section 16‑28‑60. Notwithstanding any other provision of law, a criminal or civil action or proceeding pursuant to this chapter may be commenced until five years after the conduct in violation of a provision of this chapter terminates or the cause of action accrues. If a criminal prosecution or civil action is brought by the State to punish or prevent a violation of this chapter, then the running of this period of limitations, with respect to a cause of action arising pursuant to Section 16‑28‑40(B) or (C) that is based upon any matter complained of in such prosecution or action by the State is suspended during the pendency of the prosecution or action by the State and for two years thereafter.

Section 16‑28‑70. The application of one civil remedy under this chapter does not preclude the application of any other remedy, civil or criminal, under this chapter or any other provision of law. Civil remedies under this chapter are supplemental and not mutually exclusive.

Section 16‑28‑80. (A) Notwithstanding any other provision of law, a valid judgment rendered by a court of an appropriate jurisdiction having a law substantially similar to this chapter must be recognized and enforced by the courts of this State to the extent that a judgment rendered by a court of this State pursuant to this chapter would be enforced in such other jurisdiction.

(B) The Attorney General is authorized to enter into reciprocal agreements with the attorney general or chief prosecuting attorney of a jurisdiction having a law substantially similar to this chapter so as to further the purposes of this chapter.

Section 16‑28‑90. In any criminal proceeding brought pursuant to this chapter, the crime must be considered to have been committed in any county in which an incident of racketeering occurred or in which an interest or control of an enterprise or real or personal property is acquired or maintained.

Section 16‑28‑100. The State may, in any civil action brought pursuant to this chapter, file with the clerk of court a certificate stating that the case is of special public importance. A copy of that certificate must be furnished immediately by such clerk to the chief judge or, in his absence, the presiding chief judge of the court in which such action is pending, and upon receipt of such copy, the judge shall immediately designate a judge to hear and determine the action. The judge so designated shall promptly assign such action for hearing, participate in the hearings and determination, and cause the action to be expedited.

Section 16‑28‑110. (A) Upon the institution of a civil proceeding, the investigative agency then or at any time during the pendency of the proceeding may file in the official records of any one or more counties a RICO lien notice. No filing fee or other charge may be required as a condition for filing the RICO lien notice, and the clerk of court shall, upon the presentation of a RICO lien notice, immediately record it in the official records.

(B) The RICO lien notice must be signed by the Attorney General or his designee or by a solicitor or his designee. The notice must be in such form as the Attorney General prescribes and shall set forth the following information:

(1) the name of the person against whom the civil proceeding has been brought. In its discretion, the investigative agency also may name in the RICO lien notice any other aliases, names, or fictitious names under which the person may be known. In its discretion, the investigative agency also may name in the RICO lien notice a corporation, partnership, or other entity that is either controlled by or entirely owned by the person;

(2) if known to the investigative agency, the present residence and business addresses of the person named in the RICO lien notice and of the other names set forth in the RICO lien notice;

(3) a reference to the civil proceeding stating that a proceeding under this chapter has been brought against the person named in the RICO lien notice, the name of the county or counties where the proceeding has been brought, and, if known to the investigative agency at the time of filing the RICO lien notice, the case number of the proceeding;

(4) a statement that the notice is being filed pursuant to this chapter; and

(5) the name and address of the investigative agency filing the RICO lien notice and the name of the individual signing the RICO lien notice.

(C) A RICO lien notice shall apply only to one person and, to the extent applicable, any aliases, fictitious names, or other names, including names of corporations, partnerships, or other entities, to the extent permitted pursuant to the provisions of this section. A separate RICO lien notice must be filed for any other person against whom the investigative agency desires to file a RICO lien notice.

(D) The investigative agency shall, as soon as practicable after the filing of each RICO lien notice, furnish to the person named in the notice either a copy of the recorded notice or a copy of the notice with a notation thereon of the county or counties in which the notice has been recorded. The failure of the investigative agency to so furnish a copy of the notice under this subsection does not invalidate or otherwise affect the notice.

(E) The filing of a RICO lien notice creates, from the time of its filing, a lien in favor of the State on the following property of the person named in the notice and against any other names set forth in the notice:

(1) any real property situated in the county where the notice is filed then or thereafter owned by the person or under any of his names; and

(2) any beneficial interest situated in the county where the notice is filed then or thereafter owned by the person or under any of his names.

(F) The lien shall commence and attach as of the time of filing of the RICO lien notice and shall continue thereafter until expiration, termination, or release pursuant to Section 16‑28‑120. The lien created in favor of the State is superior and prior to the interest of any other person in the real property or beneficial interest if the interest is acquired subsequent to the filing of the notice.

(G) In conjunction with any civil proceedings:

(1) the investigative agency may file without prior court order in any county a lis pendens, and in such case, any person acquiring an interest in the subject real property or beneficial interest, if the real property or beneficial interest is acquired subsequent to the filing of lis pendens, shall take the interest subject to the civil proceeding and any subsequent judgment of forfeiture; and

(2) if a RICO lien notice has been filed, then the investigative agency may name as defendants, in addition to the person named in the notice, any persons acquiring an interest in the real property or beneficial interest subsequent to the filing of the notice. If a judgment of forfeiture is entered in the proceeding in favor of the State, then the interest of any person in the property that was acquired subsequent to the filing of the notice is subject to the notice and judgment of forfeiture.

(H)(1) A trustee who acquires actual knowledge that a RICO lien notice or a civil proceeding or criminal proceeding has been filed against any person for whom he holds legal or record title to real property immediately shall furnish to the investigative agency the following:

(a) the name and address of the person, as known to the trustee;

(b) the name and address, as known to the trustee, of all other persons for whose benefit the trustee holds title to the real property; and

(c) if requested by the investigative agency, a copy of the trust agreement or other instrument pursuant to which the trustee holds legal or record title to the real property.

(I) Any trustee who conveys title to real property for which a RICO lien notice has been filed at the time of the conveyance in the county where the real property is situated naming a person who, to the actual knowledge of the trustee, holds a beneficial interest in the trust is liable to the State for the greater of:

(1) the amount of proceeds received directly by the person named in the RICO lien notice as a result of the conveyance;

(2) the amount of proceeds received by the trustee as a result of the conveyance and distributed to the person named in the RICO lien notice; or

(3) the fair market value of the interest of the person named in the RICO lien notice in the real property so conveyed; however, if the trustee conveys the real property and holds the proceeds that would otherwise be paid or distributed to the beneficiary or at the direction of the beneficiary or his designee, then the trustee’s liability may not exceed the amount of the proceeds held for as long as the proceeds are held by the trustee.

(J) The filing of a RICO lien notice does not constitute a lien on the record title to real property as owned by the trustee except to the extent that the trustee is named in the RICO lien notice. The investigative agency may bring a civil proceeding in a court of appropriate jurisdiction against the trustee to recover from the trustee the amounts set forth in subsection (I), and the State also is entitled to recover investigative costs and attorney’s fees incurred by the investigative agency.

(K) The filing of a RICO lien notice does not affect the use to which real property or a beneficial interest owned by the person named in the RICO lien notice may be put or the right of the person to receive any avails, rents, or other proceeds resulting from the use and ownership, but not the sale, of the property until a judgment of forfeiture is entered.

(L)(1) The provisions of this section do not apply to any conveyance by a trustee pursuant to a court order unless such court order is entered in an action between the trustee and the beneficiary.

(2) Unless the trustee has actual knowledge that a person owning a beneficial interest in the trust is named in a RICO lien notice or is otherwise a defendant in a civil proceeding, the provisions of this section shall not apply to a conveyance by a trustee:

(a) required under the terms of any trust agreement that is a matter of public record prior to the filing of any RICO lien notice; or

(b) to all of the persons who own a beneficial interest in the trust.

(M) All forfeitures or dispositions pursuant to this section must be made with due provision for the rights of innocent persons.

Section 16‑28‑120. (A) The term of a RICO lien notice is six years from the date of filing unless a renewal RICO lien notice is filed by the investigative agency, and in such case, the term of the RICO lien notice is extended for six years from the date of its filing. The investigative agency is entitled to only one renewal of the RICO lien notice.

(B) The investigative agency filing the RICO lien notice may release in whole or in part any RICO lien notice or may release any specific real property or beneficial interest from the RICO lien notice upon such terms and conditions as it may determine. A release of a RICO lien notice executed by the investigative agency may be filed in the official records of any county. No charge or fee may be imposed for the filing of any release of a RICO lien notice.

(C) If no civil proceeding has been instituted by the investigative agency seeking a forfeiture of any property owned by the person named in the RICO lien notice, then the acquittal in the criminal proceeding of the person named in the RICO lien notice or the dismissal of the criminal proceeding shall terminate the RICO lien notice, and in such case, the filing of the RICO lien notice has no effect. In the event that the criminal proceeding has been dismissed or the person named in the RICO lien notice has been acquitted in the criminal proceeding, the RICO lien notice continues for the duration of the civil proceeding.

(D) If no civil proceeding is then pending against the person named in a RICO lien notice, then the person named in the RICO lien notice may institute an action against the investigative agency filing the notice in the county where the notice has been filed seeking a release or extinguishment of the notice, and in such case:

(1) the court shall, upon the motion of such person, immediately enter an order setting a date for hearing, which may not be less than five nor more than ten days after the action has been filed, and the order, along with a copy of the complaint, must be served on the investigative agency within three days after the institution of the action. At the hearing, the court shall take evidence on the issue of whether any real property or beneficial interest owned by such person is covered by the RICO lien notice or otherwise subject to forfeiture under this chapter, and if such person shows by a preponderance of evidence that the RICO lien notice is not applicable to him or that any real property or beneficial interest owned by him is not subject to forfeiture under this chapter, then the court shall enter a judgment extinguishing the RICO lien notice or releasing the real property or beneficial interest from the RICO lien notice;

(2) the court immediately shall enter its order releasing from the RICO lien notice any specific real property or beneficial interest if a sale of the real property or beneficial interest is pending and the filing of the notice prevents the sale of the property or interest; however, the proceeds resulting from the sale of the real property or beneficial interest must be deposited with the court, subject to further order of the court; and

(3) at the hearing, the court may release from the RICO lien notice any real property or beneficial interest upon the posting by the person of such security as is equal to the value of the real property or beneficial interest owned by the person.

(E) In the event that a civil proceeding is pending against a person named in a RICO lien notice, the court, upon motion by said person, may grant the relief set forth in this section.

Section 16‑28‑130. (A) Each alien corporation desiring to acquire of record any real property shall have, prior to acquisition, and shall continuously maintain in this State during any year thereafter in which the real property is owned by the alien corporation a:

(1) registered office; and

(2) registered agent, which may be either:

(a) an individual resident in this State whose business office is identical with such registered office; or

(b) another corporation authorized to transact business in this State having a business office identical with such registered office.

(B) Each registered agent appointed pursuant to this section, on whom process may be served, shall file a statement in writing with the Secretary of State accepting appointment as a registered agent simultaneously with being designated.

(C) Each alien corporation shall file with the Secretary of State an annual registration setting forth the:

(1) name of the alien corporation and the country under whose law it is incorporated;

(2) mailing address of the principal office of the alien corporation;

(3) name and mailing address of each officer and each director of the alien corporation;

(4) name and street address of the registered agent and registered office of the alien corporation; and

(5) signature of the officers of the corporation attesting to the accuracy of the report as of the date that the annual registration is executed on behalf of the corporation.

(D) The first annual registration must be delivered to the Secretary of State between January first and April first, or such other date as the Secretary of State may specify by rules or regulations, of the year following the calendar year in which the alien corporation filed its initial application pursuant to subsection (A). Subsequent annual registrations must be delivered to the Secretary of State between January first and April first, or such other date as the Secretary of State may specify by rules or regulations, of the following calendar years.

(E) For filing reports required pursuant to this section, the Secretary of State shall collect an appropriate filing fee as provided by law.

(F) If an annual registration does not contain the information required by this section, then the Secretary of State promptly shall notify the reporting domestic, foreign, or alien corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within thirty days after the effective date of notice, then it is deemed to be timely filed.

(G) The Secretary of State shall record the status of any alien corporation that fails to comply with the requirements of this section.

(H) Each alien corporation that fails to file a report as required by subsection (C) or fails to maintain a registered office and a registered agent as required by subsection (A) is not entitled to own, purchase, or sell any real property and is not entitled to bring an action or defend in the courts of this State until such requirements have been met.

(I) The filing of a report by a corporation as required by subsection (C) must be solely for the purposes of this chapter and may not be used as a determination of whether the corporation is actually doing business in this State.”

SECTION 2. Section 2‑17‑110 of the 1976 Code is amended to read:

“Section 2‑17‑110. (A) A lobbyist may not solicit or accept compensation dependent in any manner upon the passage or defeat of any pending or proposed legislation, covered agency actions, or covered gubernatorial actions. A lobbyist’s principal may not employ, appoint, or retain a lobbyist for compensation dependent in any manner upon the passage or defeat of any pending or proposed legislation, covered agency actions, or covered gubernatorial actions.

(B) A lobbyist may not cause the introduction of legislation, covered agency actions, or covered gubernatorial actions for the purpose of obtaining employment to engage in lobbying in support of or in opposition to the action.

(C) A lobbyist may not serve ~~as a treasurer~~ in a campaign position for a candidate, as defined in Section 8‑13‑1300(4), while registered as a lobbyist and for two years after ceasing to be registered as a lobbyist.

(D) A lobbyist may not provide any services including, but not limited to, marketing, advisement, fundraising, and scheduling for a candidate, as defined in Section 8‑13‑1300(4), while registered as a lobbyist and for two years after ceasing to be a lobbyist.

(E) A lobbyist may not serve as a member of a state board or state commission, except that any lobbyist serving as a member of a state board or a state commission before January 1, 1991, may continue to serve as a member of the same state board or state commission until the end of his current term.

~~(E)~~(F) A lobbyist, including a lobbyist who is a former member of the General Assembly, may not enter the floor of the House of Representatives or the Senate unless invited by the membership of the respective chamber during a session of the General Assembly.

~~(F)~~(G) A lobbyist, a lobbyist’s principal, or a person acting on behalf of a lobbyist or a lobbyist’s principal may not host events to raise funds for public officials. No public official may solicit a lobbyist, a lobbyist’s principal, or a person acting on behalf of a lobbyist or a lobbyist’s principal to host a fundraising event for the public official.

~~(G)~~(H) A lobbyist, a lobbyist’s principal, or a person acting on behalf of a lobbyist or a lobbyist’s principal may not employ on retainer a public official, a public employee, a member of the immediate family of a public official or public employee, or a firm or organization in which the public official or public employee has an economic interest. A retainer, for purposes of this section, is a payment for availability to perform services rather than for actual services rendered.

~~(H)~~(I) A lobbyist, a lobbyist’s principal, or a person acting on behalf of a lobbyist or a lobbyist’s principal shall not pay an honorarium to a public official or a public employee. This subsection does not prohibit the reimbursement of or expenditure for actual expenses by a lobbyist’s principal as allowed in Section 2‑17‑100.

~~(I)~~(J) A lobbyist, a lobbyist’s principal, or a person acting on behalf of a lobbyist or a lobbyist’s principal may not offer, facilitate, or provide a loan to or on behalf of a statewide constitutional officer or a member of the General Assembly unless the lobbyist’s principal is a financial institution authorized to transact business in the State and makes the loan in the ordinary course of business.

~~(J)~~(K) A lobbyist, a lobbyist’s principal, or a person acting on behalf of a lobbyist or a lobbyist’s principal shall not offer or provide contributions or any other type of funds or financial assistance to a legislative special interest caucus as defined in Section 2‑17‑10(21).

(L) A lobbyist shall not offer or provide services or representation to a state agency or institution regardless of the funding source used by the agency or institution.”

SECTION 3. Section 8‑13‑755 of the 1976 Code is amended to read:

“Section 8‑13‑755. (A) A former public official, former public member, or former public employee holding public office, membership, or employment on or after January 1, ~~1992~~ 2019, may not ~~for a period of one year after terminating his public service or employment~~:

(1) serve as a lobbyist or represent clients before the agency or department on which he formerly served in a matter which he directly and substantially participated during his public service or employment; or

(2) accept employment if the employment:

(a) is from a person who is regulated by the agency or department on which the former public official, former public member, or former public employee served or was employed; and

(b) involves a matter in which the former public official, former public member, or former public employee directly and substantially participated during his public service or public employment.

(B) A current or former public official or public member holding public office or membership after January 1, 2019, may not for a period of two years after terminating his public service:

(1) serve in a campaign position for a candidate, as defined in Section 8‑13‑1300(4); or

(2) provide a service including, but not limited to, marketing, advisement, fundraising, and scheduling for a candidate, as defined in Section 8‑13‑1300(4).

(C) A former public employee holding public employment may not for a period of one year after terminating his public service or employment:

(1) serve as a lobbyist or represent clients before the agency or department that he formerly served regarding a matter in which he directly and substantially participated during his public employment; or

(2) accept employment if the employment:

(a) is from a person who is regulated by the agency or department that employed the former public employee; and

(b) involves a matter in which the former public employee directly and substantially participated during his public employment.”

SECTION 4. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑