

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 HOUSE BILL 2095

By: Lepak

7 AS INTRODUCED

8 An Act relating to criminal procedure; amending 22
9 O.S. 2011, Section 1402, as amended by Section 1,
10 Chapter 234, O.S.L. 2013 (22 O.S. Supp. 2020, Section
11 1402), which relates to the Oklahoma Racketeer-
12 Influenced and Corrupt Organizations Act; modifying
13 definition to include certain crime; updating
14 statutory references; and providing an effective
15 date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1402, as
17 amended by Section 1, Chapter 234, O.S.L. 2013 (22 O.S. Supp. 2020,
18 Section 1402), is amended to read as follows:

19 Section 1402. As used in the Oklahoma Racketeer-Influenced and
20 Corrupt Organizations Act:

21 1. "Beneficial interest" includes:

- 22 a. the interest of a person as a beneficiary pursuant to
23 a trust, in which the trustee holds legal title to
24 personal or real property, or

1 b. the interest of a person as a beneficiary pursuant to
2 any other arrangement under which any other person
3 holds legal title to personal or real property for the
4 benefit of such person.

5 The term beneficial interest does not include the interest of a
6 stockholder in a corporation or the interest of a partner in either
7 a general or limited partnership;

8 2. "Enterprise" includes any individual, sole proprietorship,
9 partnership, corporation, trust, governmental entity, or other legal
10 entity, or any union, association, unincorporated association or
11 group of persons, associated in fact although not a legal entity,
12 involved in any lawful or unlawful project or undertaking or any
13 foreign organization that the United States Secretary of State has
14 designated a foreign terrorist organization pursuant to Title 8
15 U.S.C.A., Section 1189;

16 3. "Innocent party" includes bona fide purchasers and victims;

17 4. "Lien notice" means the notice pursuant to the provisions of
18 Section 1412 of this title;

19 5. "Pattern of racketeering activity" means two or more
20 occasions of conduct:

21 a. that include each of the following:

22 (1) constitute racketeering activity,

23 (2) are related to the affairs of the enterprise,

24 (3) are not isolated, and

1 (4) are not so closely related to each other and
2 connected in point of time and place that they
3 constitute a single event, and

4 b. where each of the following is present:

5 (1) at least one of the occasions of conduct occurred
6 after November 1, 1988,

7 (2) the last of the occasions of conduct occurred
8 within three (3) years, excluding any period of
9 imprisonment served by any person engaging in the
10 conduct, of a prior occasion of conduct, and

11 (3) for the purposes of Section 1403 of this title
12 each of the occasions of conduct constituted a
13 felony pursuant to the laws of this state;

14 6. "Pecuniary value" means:

15 a. anything of value in the form of money, a negotiable
16 instrument, or a commercial interest, or anything
17 else, the primary significance of which is economic
18 advantage, or

19 b. any other property or service that has a value in
20 excess of One Hundred Dollars (\$100.00);

21 7. "Person" means any individual or entity holding or capable
22 of holding a legal or beneficial interest in property;

23 8. "Personal property" includes any personal property, or any
24 interest in such personal property, or any right, including bank

1 accounts, debts, corporate stocks, patents or copyrights. Personal
2 property and beneficial interest in personal property shall be
3 deemed to be located where the trustee, the personal property, or
4 the instrument evidencing the right is located;

5 9. "Principal" means a person who engages in conduct
6 constituting a violation of the Oklahoma Racketeer-Influenced and
7 Corrupt Organizations Act or who is legally accountable for the
8 conduct of another who engages in a violation of the Oklahoma
9 Racketeer-Influenced and Corrupt Organizations Act;

10 10. "Racketeering activity" means engaging in, attempting to
11 engage in, conspiring to engage in, or soliciting, coercing, or
12 intimidating another person to engage in any conduct which is
13 chargeable or indictable as constituting a felony violation of one
14 or more of the following provisions of the Oklahoma Statutes,
15 regardless of whether such act is in fact charged or indicted:

16 a. relating to homicide pursuant to the provisions of
17 Section 651, 652, 653, 701.7, 701.8, 701.16, 711 or
18 716 of Title 21 of the Oklahoma Statutes or relating
19 to concealment of homicidal death pursuant to the
20 provisions of Section 543 of Title 21 of the Oklahoma
21 Statutes,

22 b. relating to kidnapping pursuant to the provisions of
23 Section 741, 745, 891 or 1119 of Title 21 of the
24 Oklahoma Statutes,

- 1 c. relating to sex offenses pursuant to the provisions of
2 Section 886, 888, 1021, 1021.2, 1021.4, 1024.2, 1111,
3 1111.1, 1114 or 1123 of Title 21 of the Oklahoma
4 Statutes,
- 5 d. relating to bodily harm pursuant to the provisions of
6 Section 645, 650, 650.2, 1289.16, 1302, 1303 or 1767.1
7 of Title 21 of the Oklahoma Statutes,
- 8 e. relating to theft, where the offense constitutes a
9 felony, pursuant to the provisions of Section 1704,
10 1707, 1708, 1709, 1710, 1711, 1713, 1716, 1719, 1720,
11 1721, 1722, 1723 or 1731 of Title 21 of the Oklahoma
12 Statutes,
- 13 f. relating to forgery pursuant to the provisions of
14 Section 1561, 1562, 1571, 1572, 1574, 1575, 1577,
15 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586,
16 1587, 1588, 1589, 1590, 1591 or 1593 of Title 21 of
17 the Oklahoma Statutes,
- 18 g. relating to robbery pursuant to the provisions of
19 Section 797, 800 or 801 of Title 21 of the Oklahoma
20 Statutes,
- 21 h. relating to burglary pursuant to the provisions of
22 Section 1431, 1435 or 1437 of Title 21 of the Oklahoma
23 Statutes,
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- 1 i. relating to arson pursuant to the provisions of
2 Section 1368, 1401, 1402, 1403 or 1404 of Title 21 of
3 the Oklahoma Statutes,
- 4 j. relating to use or possession of a firearm or other
5 offensive weapon while committing or attempting to
6 commit a felony pursuant to the provisions of Section
7 1287, 1289.20 or 1289.21 of Title 21 of the Oklahoma
8 Statutes,
- 9 k. relating to gambling pursuant to the provisions of
10 Section 941, 942, 944, 945, 946, 948, 954, 956, 957,
11 969, 970, 971, 981, 982, 983, 984, 985, 986, 987, 991
12 or 992 of Title 21 of the Oklahoma Statutes,
- 13 l. relating to bribery in contests pursuant to the
14 provisions of Section 399 or 400 of Title 21 of the
15 Oklahoma Statutes,
- 16 m. relating to interference with public officers pursuant
17 to the provisions of Section 434, 436, 437, 438, 439,
18 440, 441, 443, 444, 521, 522, 532, 540, 543, 545 or
19 546 of Title 21 of the Oklahoma Statutes,
- 20 n. relating to interference with judicial procedure
21 pursuant to the provisions of Section 388, 453, 455,
22 456, 491, 496 or 504 of Title 21 of the Oklahoma
23 Statutes,
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- 1 o. relating to official misconduct pursuant to the
2 provisions of Section 380, 381, 382, 383, 384, 385,
3 386, 389, 390, 950 or 976 of Title 21 of the Oklahoma
4 Statutes, or Section 3404 of Title 74 of the Oklahoma
5 Statutes,
- 6 p. relating to the Uniform Controlled Dangerous
7 Substances Act, where the offense constitutes a
8 felony, pursuant to the provisions of Section 2-101 et
9 seq. of Title 63 of the Oklahoma Statutes,
- 10 q. relating to automobile theft pursuant to the
11 provisions of Section 4-102, 4-103, 4-107, 4-108, 4-
12 109 or 4-110 of Title 47 of the Oklahoma Statutes,
- 13 r. relating to embezzlement pursuant to the provisions of
14 Section 1412 of Title 6 of the Oklahoma Statutes,
15 Section 641 of Title 19 of the Oklahoma Statutes,
16 Section 341, 531 or 1451 of Title 21 of the Oklahoma
17 Statutes, Section ~~163.4~~ 5-135 of Title ~~37~~ 37A of the
18 Oklahoma Statutes, Section 1025 of Title 64 of the
19 Oklahoma Statutes or Section 1361 of Title 68 of the
20 Oklahoma Statutes,
- 21 s. relating to extortion, where the offense constitutes a
22 felony, pursuant to the provisions of Section 1304,
23 1481, 1482, 1485, 1486 or 1488 of Title 21 of the
24 Oklahoma Statutes,

- 1 t. relating to fraud, where the offense constitutes a
2 felony, pursuant to the provisions of Section 208.6,
3 208.7 or 208.8 of Title 3A of the Oklahoma Statutes,
4 Section 753 of Title 15 of the Oklahoma Statutes,
5 Section 552.14a of Title 18 of the Oklahoma Statutes,
6 Section 358, 1411, 1412, 1413, 1414, 1415, 1416, 1503,
7 1521, 1541.1, 1541.2, 1541.3, 1542, 1543, 1544,
8 1550.2, 1550.22, 1550.23, 1550.24, 1550.25, 1550.26,
9 1550.27, 1550.28, 1550.29, 1550.30, 1550.31, 1550.32,
10 1632, 1635 or 1662 of Title 21 of the Oklahoma
11 Statutes, Section 243 of Title 56 of the Oklahoma
12 Statutes, or Section 604 of Title 62 of the Oklahoma
13 Statutes,
- 14 u. relating to conspiracy, where the offense constitutes
15 a felony, pursuant to the provisions of Section 421,
16 422 or 424 of Title 21 of the Oklahoma Statutes,
- 17 v. relating to prostitution, pornography or obscenity
18 pursuant to the provisions of Section 1021, 1040.52,
19 1081, 1085, 1086, 1087 or 1088 of Title 21 of the
20 Oklahoma Statutes,
- 21 w. relating to the Oklahoma Alcoholic Beverage Control
22 Act, where the offense constitutes a felony, pursuant
23 to the provisions of Section ~~506.1~~ 1-101 et seq. of
24 Title ~~37~~ 37A of the Oklahoma Statutes,

- 1 x. relating to the Oklahoma Uniform Securities Act of
2 2004, where the offense constitutes a felony, pursuant
3 to the provisions of Sections 1-101 through 1-701 of
4 Title 71 of the Oklahoma Statutes,
- 5 y. relating to human trafficking or trafficking in
6 children pursuant to the provisions of Section 748,
7 866 or 867 of Title 21 of the Oklahoma Statutes,
- 8 z. relating to illegal aliens pursuant to the provisions
9 of Section 446 of Title 21 of the Oklahoma Statutes,
- 10 aa. relating to organized voter fraud pursuant to the
11 provisions of Section 16-102, 16-102.1, 16-102.2, 16-
12 103, 16-103.1, 16-104, 16-105, 16-106, 16-113, 16-120
13 or 16-123.1 of Title 26 of the Oklahoma Statutes,
- 14 bb. relating to terrorism and terrorist activities
15 pursuant to the provisions of the Sabotage Prevention
16 Act or the Oklahoma Antiterrorism Act,
- 17 cc. relating to exploitation of elderly persons or
18 disabled adults pursuant to the provisions of Section
19 843.4 of Title 21 of the Oklahoma Statutes,
- 20 dd. relating to computer crimes pursuant to the provisions
21 of Sections 1953 and 1958 of Title 21 of the Oklahoma
22 Statutes,
- 23
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1 ee. relating to unlawful proceeds pursuant to the
2 provisions of Section 2001 of Title 21 of the Oklahoma
3 Statutes,

4 ff. relating to insurance fraud pursuant to the provisions
5 of Section 311.1 of Title 36 of the Oklahoma Statutes,

6 ~~or~~

7 gg. relating to workers' compensation fraud pursuant to
8 the provisions of Section 1663 of Title 21 of the
9 Oklahoma Statutes, or

10 hh. relating to unlawful assemblies pursuant to the
11 provisions of Section 1320.3 of Title 21 of the
12 Oklahoma Statutes.

13 In addition, "racketeering activity" may be proven by proof of
14 engaging in, attempting to engage in, conspiring to engage in, or
15 soliciting, coercing, or intimidating another person to engage in
16 any of the above described conduct within another state, regardless
17 of whether said conduct is chargeable or indictable in that state;

18 11. "Real property" means any real property or any interest in
19 real property, including any lease of, or mortgage upon real
20 property. Real property and beneficial interest in real property
21 shall be deemed to be located where the real property is located;

22 12. "Trustee" includes trustees, a corporate as well as a
23 natural person and a successor or substitute trustee in accordance
24 with the Oklahoma Trust Act; and

1 13. "Unlawful debt" means any money or other thing of value
2 constituting principal or interest of a debt that is unenforceable
3 in the courts of Oklahoma, because the debt was incurred or
4 contracted in violation of a law relating to the business of
5 gambling activity or in violation of federal or state law but does
6 not include any debt owed to a bank, savings and loan association,
7 credit union or supervised lender licensed by the Oklahoma
8 Administrator of Consumer Credit or to any debt referred or assigned
9 to a debt collection agency, which referral or assignment is
10 accepted in good faith by the debt collection agency as a debt
11 collectible under the Uniform Commercial Code or other laws of this
12 state and enforceable in the courts of this state.

13 SECTION 2. This act shall become effective November 1, 2021.

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15 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated
16 02/17/2021 - DO PASS.

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