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TITLE 16. CRIMES AND OFFENSES  
CHAPTER 14. RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

O.C.G.A. § 16-14-1 (2011)

§ 16-14-1. Short title

This chapter shall be known and may be cited as the "Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act."

**HISTORY:** Code 1933, § 26-3401, enacted by Ga. L. 1980, p. 405, § 1.

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TITLE 16. CRIMES AND OFFENSES  
CHAPTER 14. RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

O.C.G.A. § 16-14-2 (2011)

§ 16-14-2. Findings and intent of General Assembly

(a) The General Assembly finds that a severe problem is posed in this state by the increasing sophistication of various criminal elements and the increasing extent to which the state and its citizens are harmed as a result of the activities of these elements.

(b) The General Assembly declares that the intent of this chapter is to impose sanctions against those who violate this chapter and to provide compensation to persons injured or aggrieved by such violations. It is not the intent of the General Assembly that isolated incidents of misdemeanor conduct or acts of civil disobedience be prosecuted under this chapter. It is the intent of the General Assembly, however, that this chapter apply to an interrelated pattern of criminal activity motivated by or the effect of which is pecuniary gain or economic or physical threat or injury. This chapter shall be liberally construed to effectuate the remedial purposes embodied in its operative provisions.

**HISTORY:** Code 1933, § 26-3401, enacted by Ga. L. 1980, p. 405, § 1; Ga. L. 1997, p. 672, § 1.

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TITLE 16. CRIMES AND OFFENSES  
CHAPTER 14. RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

O.C.G.A. § 16-14-3 (2011)

## § 16-14-3. Definitions

As used in this chapter, the term:

(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 either of the following:

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

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

(B) "Beneficial interest" does not include 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 shall be deemed to be located where the real property owned by the trustee is located.

(3) "Civil proceeding" means any civil proceeding commenced by an investigative agency under any provision of this chapter.

(4) "Criminal proceeding" means any criminal proceeding commenced by an investigative agency under any provision of this chapter.

(5) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, 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 any person, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity; or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental as well as other entities.

(7) "Investigative agency" means the Department of Law or the office of any district attorney.

(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, provided at least one of such acts occurred after July 1, 1980, and that the last of such acts 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 subsection (a) of Code Section 16-4-10 or any 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 any crime which is chargeable by indictment under the following laws of this state:

(i) Article 2 of Chapter 13 of this title, relating to controlled substances;

(ii) Article 3 of Chapter 13 of this title, known as the "Dangerous Drugs Act";

(iii) Subsection (j) of Code Section 16-13-30, relating to marijuana;

(iv) Article 1 of Chapter 5 of this title, relating to homicide;

(v) Article 2 of Chapter 5 of this title, relating to bodily injury and related offenses;

(vi) Articles 3 and 4 of Chapter 7 of this title, relating to arson and destructive devices, respectively;

(vii) Code Section 16-7-1, relating to burglary, or Code Section 16-7-2, relating to smash and grab burglary;

(viii) Code Section 16-9-1, relating to forgery in the first degree;

(ix) Article 1 of Chapter 8 of this title, relating to theft;

(x) Article 2 of Chapter 8 of this title, relating to robbery;

(xi) Code Sections 16-6-9 through 16-6-12 and 16-6-14, relating to prostitution and pandering;

(xii) Code Section 16-12-80, relating to distributing obscene materials;

(xiii) Code Section 16-10-2, relating to bribery;

(xiv) Code Section 16-10-93, relating to influencing witnesses;

(xv) Article 4 of Chapter 10 of this title and Code Sections 16-10-20, 16-10-23, and 16-10-91, relating to perjury and other falsifications;

(xvi) Code Section 16-10-94, relating to tampering with evidence;

(xvii) Code Section 16-12-22, relating to commercial gambling;

- (xviii) Code Section 3-3-27, relating to distilling or making liquors;
- (xix) Part 2 of Article 4 of Chapter 11 of this title, known as the "Georgia Firearms and Weapons Act";
- (xx) Code Section 16-8-60, relating to unauthorized transfers and reproductions of recorded material;
- (xxi) Chapter 5 of Title 10, relating to violations of the "Georgia Uniform Securities Act of 2008";
- (xxii) Code Section 3-3-27, relating to the unlawful distillation, manufacture, and transportation of alcoholic beverages;
- (xxiii) Code Sections 16-9-31, 16-9-32, 16-9-33, and 16-9-34, relating to the unlawful use of financial transaction cards;
- (xxiv) Code Section 40-3-90, relating to certain felonies involving certificates of title, security interest, or liens concerning motor vehicles;
- (xxv) Code Section 40-4-21, relating to removal or falsification of identification numbers;
- (xxvi) Code Section 40-4-22, relating to possession of motor vehicle parts from which the identification has been removed;
- (xxvii) Code Section 16-9-70, relating to use of an article with an altered identification mark;
- (xxviii) Article 6 of Chapter 9 of this title, known as the "Georgia Computer Systems Protection Act";
- (xxix) Any conduct defined as "racketeering activity" under 18 U.S.C. Section 1961 (1)(A), (B), (C), and (D);
- (xxx) Article 3 of Chapter 5 of this title, relating to kidnapping, false imprisonment, and related offenses, except for Code Section 16-5-44, relating to aircraft hijacking;
- (xxxi) Code Section 16-11-37, relating to terroristic threats and acts;
- (xxxii) Code Section 16-5-44.1, relating to motor vehicle hijacking;
- (xxxiii) Code Section 16-10-32, relating to tampering with witnesses, victims, or informants;
- (xxxiv) Code Section 16-10-97, relating to intimidation of grand or trial juror or court officer;
- (xxxv) Article 11 of Chapter 1 of Title 7 and Sections 5311 through 5330 of Title 31 of the United States Code relating to records and reports of currency transactions;
- (xxxvi) Article 8 of Chapter 9 of this title, relating to identity fraud, and Section 1028 of Title 18 of the United States Code, relating to fraudulent identification documents and information;
- (xxxvii) Code Section 33-1-9, relating to insurance fraud;

(xxxviii) Code Section 16-17-2, relating to payday loans;

(xxxix) Code Section 16-9-101, relating to deceptive commercial e-mail; or

(xl) Code Section 16-8-102, relating to residential mortgage fraud.

(B) "Racketeering activity" shall also mean any 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 which is chargeable under the laws of the United States or any of the several states and which is punishable by imprisonment for more than one year.

(10) "Real property" means any real property situated in this state or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property.

(11) "RICO lien notice" means the notice described in Code Section 16-14-13.

(12)(A) "Trustee" means either of the following:

(i) Any person who holds legal or record title to real property for which any other person has a beneficial interest; or

(ii) Any successor trustee or trustees to any of the foregoing persons.

(B) "Trustee" does not include the following:

(i) Any person appointed or acting as a guardian or conservator under Title 29, relating to guardian and ward, or personal representative under former Chapter 6 of Title 53 as such existed on December 31, 1997, relating to the administration of estates, if applicable, or Chapter 6 of Title 53 and other provisions in Chapter 1 through 11 of Title 53, the "Revised Probate Code of 1998," relating to the administration of estates; or

(ii) Any person appointed or acting as a trustee of any testamentary trust or as trustee of any indenture of trust under which any bonds are or are to be issued.

**HISTORY:** Code 1933, § 26-3402, enacted by Ga. L. 1980, p. 405, § 1; Ga. L. 1982, p. 1385, §§ 2, 8; Ga. L. 1983, p. 3, § 13; Ga. L. 1984, p. 22, § 16; Ga. L. 1989, p. 14, § 16; Ga. L. 1990, p. 8, § 16; Ga. L. 1994, p. 1625, § 4; Ga. L. 1996, p. 416, § 8; Ga. L. 1998, p. 128, § 16, Ga. L. 1998, p. 270, § 7; Ga. L. 1999, p. 81, § 16; Ga. L. 2001, p. 858, § 1; Ga. L. 2002, p. 551, § 3; Ga. L. 2002, p. 1284, § 3; Ga. L. 2003, p. 387, § 1; Ga. L. 2004, p. 60, § 2; Ga. L. 2004, p. 161, § 4; Ga. L. 2005, p. 199, § 5/SB 62; Ga. L. 2005, p. 848, § 3/SB 100; Ga. L. 2006, p. 69, § 2/HB 804; Ga. L. 2008, p. 381, § 9/SB 358; Ga. L. 2010, p. 1147, § 8/HB 1104; Ga. L. 2011, p. 59, § 1-64/HB 415; Ga. L. 2011, p. 752, § 16/HB 142.

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## TITLE 16. CRIMES AND OFFENSES

## CHAPTER 14. RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

O.C.G.A. § 16-14-4 (2011)

## § 16-14-4. Prohibited activities

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

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

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

**HISTORY:** Code 1933, § 26-3403, enacted by Ga. L. 1980, p. 405, § 1; Ga. L. 1982, p. 1385, §§ 3, 9; Ga. L. 1984, p. 22, § 16.

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CHAPTER 14. RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

O.C.G.A. § 16-14-5 (2011)

§ 16-14-5. Criminal penalties for violation of Code Section 16-14-4

(a) Any person convicted of the offense of engaging in activity in violation of Code Section 16-14-4 is guilty of a felony and shall be punished by not less than five nor more than 20 years' imprisonment or the fine specified in subsection (b) of this Code section, or both.

(b) In lieu of any fine otherwise authorized by law, any person convicted of the offense of engaging in conduct in violation of Code Section 16-14-4 may be sentenced to pay a fine that does not exceed the greater of \$25,000.00 or three times the amount of any pecuniary value gained by him from such violation.

(c) The court shall hold a hearing to determine the amount of the fine authorized by subsection (b) of this Code section.

(d) For the purposes of subsection (b) of this Code section, "pecuniary value" means:

(1) 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

(2) Any other property or service that has a value in excess of \$100.00.

**HISTORY:** Code 1933, § 26-3404, enacted by Ga. L. 1980, p. 405, § 1; Ga. L. 1985, p. 149, § 16.

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## CHAPTER 14. RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

O.C.G.A. § 16-14-6 (2011)

## § 16-14-6. Available civil remedies

(a) Any superior court may, after making due provisions for the rights of innocent persons, enjoin violations of Code Section 16-14-4 by issuing appropriate orders and judgments including, but not limited to:

(1) Ordering any 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 any defendant including, but not limited to, prohibiting any defendant from engaging in the same type of endeavor as the enterprise in which he was engaged in violation of Code Section 16-14-4;

(3) Ordering the dissolution or reorganization of any enterprise;

(4) Ordering the suspension or revocation of any license, permit, or prior approval granted to any enterprise by any 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 Code Section 16-14-4 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) Any aggrieved person or the state may institute a proceeding under subsection (a) of this Code section. In such proceeding, relief shall 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 Code Section 16-14-4 shall have a cause of action for three times the actual damages sustained and, where appropriate, punitive damages. Such person shall also recover attorneys' fees in the trial and appellate courts and 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 Code 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 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.

**HISTORY:** Code 1933, § 26-3406, enacted by Ga. L. 1980, p. 405, § 1.

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CHAPTER 14. RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

O.C.G.A. § 16-14-7 (2011)

## § 16-14-7. Forfeiture proceedings

(a) All property of every kind 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 shall be had by a civil procedure known as a RICO forfeiture proceeding under the following rules.

(b) A RICO forfeiture proceeding shall be governed by Chapter 11 of Title 9, the "Georgia Civil Practice Act," except to the extent that special rules of procedure are stated in this chapter.

(c) A RICO forfeiture proceeding shall be an in rem proceeding against the property.

(d) A RICO forfeiture proceeding shall be instituted by complaint and prosecuted by the district attorney of the county in which the property is located or seized. The proceeding may be commenced before or after seizure of the property.

(e) If the complaint is filed before seizure, it shall state what property is sought to be forfeited, that the property is within the jurisdiction of the court, the grounds for forfeiture, and the names of all persons known to have or claim an interest in the property. 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. If the court finds that reasonable cause does not exist to believe the property is subject to forfeiture, it shall dismiss the complaint. If the court finds that reasonable cause does exist to believe the property is subject to forfeiture but there is not reasonable cause to believe that prior notice would result in loss or destruction, it shall order service on all persons known to have or claim an interest in the property prior to a further hearing on whether a writ of seizure should issue. 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, 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.

(f) 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 shall be reported by the officer to the district attorney of the circuit in which

the seizure is effected; and the district attorney 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 in subsection (e) of this Code section, the date and place of seizure.

(g) After the complaint is filed or the seizure effected, whichever is later, every person known to have or claim an interest in the property shall be served, if not previously served, with a copy of the complaint and a notice of seizure in the manner provided by Chapter 11 of Title 9, the "Georgia Civil Practice Act." Service by publication may be ordered upon any party whose whereabouts cannot be determined.

(h)(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 who 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 shall be paid into court pending final judgment in the forfeiture proceeding. No such sale shall be ordered, however, 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 which is in the interest of substantial justice.

(i) After service of process, all further proceedings shall be as provided in Chapter 11 of Title 9, the "Georgia Civil Practice Act," except that any party may bring one motion to dismiss at any time and such motion shall be heard and ruled on within ten days. Any party may demand a jury trial.

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

(k) 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 such property, it shall 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 who 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 which is in the interest of substantial justice and adequately protects innocent parties.

(l) 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, shall be paid into the general fund of the state treasury. The costs borne by the county or one-half of the net proceeds of sale or disposition, whichever is greater, shall be paid into the treasury of the county where the forfeiture action is brought. Notwithstanding any other provision in this Code 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, which is commensurate with the proportion of the assistance that each contributed to the underlying criminal action, forfeiture, or criminal action and forfeiture.

(m) In lieu of the provisions of subsections (c) through (g) of this Code section, the state may bring an in personam action for the forfeiture of any property subject to forfeiture under subsection (a) of this Code section.

(n)(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 filing of the RICO lien notice in the official records of the county where the real property or beneficial trust is located and, if no RICO lien notice is filed, then to the date of the filing of any notice of lis pendens under Article 9 of Chapter 14 of Title 44 in the official records of the county where the real property or beneficial interest is located and, if no RICO lien notice or notice of lis pendens is so filed, then to the date of recording of the final judgment of forfeiture in the official records of the county where the real property or beneficial interest is located; 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, 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, such action shall be filed only in the court where such civil proceeding is pending.

**HISTORY:** Code 1933, § 26-3405, enacted by Ga. L. 1980, p. 405, § 1; Ga. L. 1982, p. 1385, §§ 4, 5, 10, 11; Ga. L. 1984, p. 22, § 16; Ga. L. 1992, p. 6, § 16; Ga. L. 2000, p. 1114, § 1; Ga. L. 2002, p. 532, § 4.

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O.C.G.A. § 16-14-8 (2011)

§ 16-14-8. Period of limitations as to criminal or civil proceedings under this chapter

Notwithstanding any other provision of law, a criminal or civil action or proceeding under this chapter may be commenced up 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 any violation of this chapter, then the running of this period of limitations, with respect to any cause of action arising under subsection (b) or (c) of Code Section 16-14-6 which is based upon any matter complained of in such prosecution or action by the state, shall be suspended during the pendency of the prosecution or action by the state and for two years thereafter.

**HISTORY:** Code 1933, § 26-3407, enacted by Ga. L. 1980, p. 405, § 1.

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O.C.G.A. § 16-14-9 (2011)

§ 16-14-9. Civil remedies as supplemental and not mutually exclusive

The application of one civil remedy under this chapter shall 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.

**HISTORY:** Code 1933, § 26-3408, enacted by Ga. L. 1980, p. 405, § 1.

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O.C.G.A. § 16-14-10 (2011)

§ 16-14-10. Recognition and enforcement of judgments of other states; reciprocal agreements with other states

(a) Notwithstanding any other provision of law, a valid judgment rendered by a court of a jurisdiction having a law substantially similar to this chapter will 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 any jurisdiction having a law substantially similar to this chapter so as to further the purposes of this chapter.

**HISTORY:** Code 1933, § 26-3409, enacted by Ga. L. 1982, p. 1385, § 6; Code 1981, § 16-14-10, enacted by Ga. L. 1982, p. 1385, § 12.

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O.C.G.A. § 16-14-11 (2011)

§ 16-14-11. Venue

In any criminal proceeding brought pursuant to this chapter, the crime shall 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.

**HISTORY:** Code 1933, § 26-3410, enacted by Ga. L. 1982, p. 1385, § 6; Code 1981, § 16-14-11, enacted by Ga. L. 1982, p. 1385, § 12.

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O.C.G.A. § 16-14-12 (2011)

§ 16-14-12. Cases of special public importance

This state may, in any civil action brought pursuant to this chapter, file with the clerk of the superior court a certificate stating that the case is of special public importance. A copy of that certificate shall be furnished immediately by such clerk to the chief judge or, in his absence, the presiding chief judge of the superior 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.

**HISTORY:** Code 1933, § 26-3411, enacted by Ga. L. 1982, p. 1385, § 6; Code 1981, § 16-14-12, enacted by Ga. L. 1982, p. 1385, § 12.

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## TITLE 16. CRIMES AND OFFENSES

## CHAPTER 14. RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

## O.C.G.A. § 16-14-13 (2011)

## § 16-14-13. Filing and attachment of lien notice

(a) Upon the institution of any 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 shall be required as a condition for filing the RICO lien notice; and the clerk of the superior court shall, upon the presentation of a RICO lien notice, immediately record it in the official records.

(b) The RICO lien notice shall be signed by the Attorney General or his designee or by a district attorney or his designee. The notice shall 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 may also 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 may also name in the RICO lien notice any 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 in paragraph (1) of subsection (b) of this Code section. A separate RICO lien notice shall be filed for any other person against whom the investigative agency desires to

file a RICO lien notice under this Code section.

(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 shall 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 the 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 the 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 Code Section 16-14-14. The lien created in favor of the state shall be 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, 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, the interest of any person in the property that was acquired subsequent to the filing of the notice shall be 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 shall immediately 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.

(2) Any trustee who fails to comply with the provisions of this subsection is guilty of a misdemeanor.

(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 shall be 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, the trustee's liability shall not exceed the amount of the proceeds so held for so long as the proceeds are held by the trustee.

(j) The filing of a RICO lien notice shall not constitute a lien on the record title to real property as owned by the trustee except to the extent the trustee is named in the RICO lien notice. The investigative agency may bring a civil proceeding in any superior court against the trustee to recover from the trustee the amounts set forth in subsection (i), and the state shall also be entitled to recover investigative costs and attorney's fees incurred by the investigative agency.

(k) The filing of a RICO lien notice shall 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 Code section shall 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 Code section shall not apply to:

(A) Any conveyance by a trustee required under the terms of any trust agreement, which trust agreement is a matter of public record prior to the filing of any RICO lien notice; or

(B) Any conveyance by a trustee to all of the persons who own a beneficial interest in the trust.

(m) All forfeitures or dispositions under this Code section shall be made with due provision for the rights of innocent persons.

**HISTORY:** Code 1933, § 26-3412, enacted by Ga. L. 1982, p. 1385, § 6; Code 1981, § 16-14-13, enacted by Ga. L. 1982, p. 1385, § 12; Ga. L. 1984, p. 22, § 16.

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O.C.G.A. § 16-14-14 (2011)

## § 16-14-14. Term of lien notice; release, extinguishment, or termination

(a) The term of a RICO lien notice shall be for a period of six years from the date of filing unless a renewal RICO lien notice has been filed by the investigative agency; and, in such case, the term of the renewal RICO lien notice shall be for a period of six years from the date of its filing. The investigative agency shall be 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. Any 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 shall 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, 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 shall have no effect. In the event 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 shall continue for the duration of the civil proceeding.

(d) If no civil proceeding is then pending against the person named in a RICO lien notice, the person named in a 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 date shall be not less than five nor more than ten days after the action has been filed; and the order, along with a copy of the complaint, shall 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 the preponderance of the 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, 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 shall immediately 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 shall be deposited into the registry of the court, subject to the further order of the court; and

(3) At the hearing set forth in paragraph (1), the court may release from the RICO lien notice any real property or beneficial interest upon the posting by such person of such security as is equal to the value of the real property or beneficial interest owned by such person.

(e) In the event 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 Code section.

**HISTORY:** Code 1933, § 26-3413, enacted by Ga. L. 1982, p. 1385, § 6; Code 1981, § 16-14-14, enacted by Ga. L. 1982, p. 1385, § 12; Ga. L. 1996, p. 6, § 16.

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## O.C.G.A. § 16-14-15 (2011)

## § 16-14-15. Acquisition of record of real property by alien corporation

(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 such real property is owned by the alien corporation:

- (1) A registered office; and
- (2) A registered agent, which agent 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 Code section, on whom process may be served, shall file a statement in writing with the Secretary of State accepting the appointment as registered agent simultaneously with being designated.

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

- (1) The name of the alien corporation and the country under whose law it is incorporated;
- (2) The mailing address of the principal office of the alien corporation;
- (3) The name and mailing address of each officer and each director of the alien corporation;
- (4) The name and street address of the registered agent and registered office of the alien corporation; and
- (5) The signature of the corporate president, vice-president, secretary, assistant secretary, or treasurer attesting to the accuracy of the report as of the date 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 1 and April 1, or such other date as the Secretary of State may specify by rules or regulations, of the year following a calendar year in which an alien corporation filed its initial application pursuant to subsection (a) of this Code section. Subsequent annual registrations must be delivered to the Secretary of State between January 1 and April 1, 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 Code section, the Secretary of State shall collect a filing fee as set out in Code Section 14-2-122 for the filing of annual registrations.

(f) If an annual registration does not contain the information required by this Code section, the Secretary of State shall promptly 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 Code section and delivered to the Secretary of State within 30 days after the effective date of notice, 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 Code section.

(h) Each alien corporation that fails to file a report as required by subsection (c) of this Code section or fails to maintain a registered office and a registered agent as required by subsection (a) of this Code section shall not be entitled to own, purchase, or sell any real property and shall not be entitled to bring an action or defend in the courts of the state until such requirements have been complied with.

(i) The filing of a report by a corporation as required by subsection (c) of this Code section shall be solely for the purposes of this chapter and, notwithstanding Code Section 14-2-510 or any other relevant law, shall not be used as a determination of whether the corporation is actually doing business in this state.

**HISTORY:** Code 1933, § 26-3414, enacted by Ga. L. 1982, p. 1385, § 6; Code 1981, § 16-14-15, enacted by Ga. L. 1982, p. 1385, § 12; Ga. L. 1984, p. 22, § 16; Ga. L. 1989, p. 946, § 110; Ga. L. 1990, p. 322, § 1.

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