

CHAPTER 158

AN ACT concerning the corruption of public resources and supplementing chapter 27 of Title 2C of the of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.2C:27-12 Crime of corruption of public resources; grading.

1. a. A person commits the crime of corruption of public resources if, with respect to a public resource which is subject to an obligation to be used for a specified purpose or purposes, the person knowingly uses or makes disposition of that public resource or any portion thereof for an unauthorized purpose.

(1) If the public resource involved is subject to an obligation to be used to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the first degree if the amount or value of the public resource involved is \$500,000 or more; the offense constitutes a crime of the second degree if the amount or value involved is \$75,000 or more but is less than \$500,000; and the offense constitutes a crime of the third degree if the amount or value involved is less than \$75,000.

(2) If the public resource involved is not subject to an obligation to be used for a purpose to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the second degree if the amount or value of the public resource involved is \$500,000 or more; the offense constitutes a crime of the third degree if the amount or value involved is \$75,000 or more but is less than \$500,000; and the offense constitutes a crime of the fourth degree if the amount or value involved is less than \$75,000.

b. Except as otherwise provided in section 97 of P.L.1999, c.440 (C.2C:21-34), a person commits a crime if he makes a material representation that is false to a government agency, officer or employee (1) with the purpose to obtain or retain a public resource, or (2) with the purpose to mislead or deceive any person as to the use or disposition of a public resource. This offense constitutes a crime of the second degree if the amount or value of the public resource involved is \$500,000 or more; the offense constitutes a crime of the third degree if the amount or value involved is \$75,000 or more but is less than \$500,000; and the offense constitutes a crime of the fourth degree if the amount or value involved is less than \$75,000.

c. For purposes of this section, "public resource" means any funds or property provided by the government, or a person acting on behalf of the government, which shall include but is not limited to: (1) money or the equivalent of money paid by the government directly or indirectly to or on behalf of a person or his employer; (2) transfer by the government of an asset of value for less than fair market price; (3) fees, costs, rents, insurance or bond premiums, loans, interest rates or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the government; (4) money loaned by the government that is to be repaid on a contingent basis; (5) money loaned by an entity based upon or in accordance with a guarantee provided by the government; (6) grants awarded by the government or an entity acting on behalf of the government; and (7) credits that are applied by the government against repayment obligations to the government. For purposes of this section, a purpose is unauthorized if it is not the specified purpose or purposes for which a public resource is obligated to be used, and the government agency having supervision of or jurisdiction over the person or public resource has not given its approval for such use.

d. Each act of corruption of public resources shall constitute an additional, separate and distinct offense, except that the amounts or values of public resources used for an

unauthorized purpose in separate acts of corruption of public resources may be aggregated for the purpose of establishing liability pursuant to this section.

e. Proof that a person made a false statement, prepared a false report or if the government agency having supervision of or jurisdiction over the person or public resource required a report to be prepared, failed to prepare a report concerning the conduct that is the subject of the prosecution, shall give rise to an inference that the actor knew that the public resource was used for an unauthorized purpose.

f. Nothing in this act shall preclude an indictment and conviction for any other offense defined by the laws of this State.

g. Nothing in this act shall preclude an assignment judge from dismissing a prosecution under this section if the assignment judge determines, pursuant to N.J.S.2C:2-11, the conduct charged to be a de minimis infraction.

2. This act shall take effect immediately.

Approved September 4, 2007.