

CHAPTER 159

AN ACT concerning certain criminal penalties and supplementing Title 2C of the New Jersey Statutes.

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

C.2C:30-8 "Public Corruption Profiteering Penalty Act."

1. a. This act shall be known and may be cited as the "Public Corruption Profiteering Penalty Act."

b. In addition to any other disposition authorized by the court, including but not limited to any fines, penalties or assessments which may be imposed pursuant to the provisions of Title 2C of the New Jersey Statutes where a person has been convicted of a crime enumerated in subsection c. of this section or an attempt or conspiracy to commit such crime, the court shall, upon the application of the Attorney General or the county prosecutor, impose a public corruption profiteering penalty in an amount determined pursuant to this section; provided that the trier of fact has found beyond a reasonable doubt that the defendant is guilty of a crime or an attempt or conspiracy to commit a crime involving the negotiation, award, performance or payment of a local, county or State contract as enumerated in subsection c. of this section.

c. The public corruption profiteering penalty set forth in this section may be imposed when a person is convicted of a crime or an attempt or conspiracy to commit a crime involving the negotiation, award, performance or payment of a local, county or State contract, including, but not limited to:

(1) a violation of any of the provisions of chapter 21 of Title 2C of the New Jersey Statutes;

(2) a violation of any of the provisions of chapter 27 of Title 2C of the New Jersey Statutes;

(3) a violation of any of the provisions of chapter 28 of Title 2C of the New Jersey Statutes;

(4) a violation of any of the provisions of chapter 29 of Title 2C of the New Jersey Statutes; or

(5) a violation of any of the provisions of chapter 30 of Title 2C of the New Jersey Statutes.

d. Where the defendant was convicted of any of the crimes enumerated in subsection c. of this section, the court shall assess a public corruption profiteering penalty as follows:

(1) \$500,000 in the case of a crime of the first degree; \$250,000 in the case of a crime of the second degree; \$75,000 in the case of a crime of the third degree; or

(2) an amount equal to three times the value of any property involved in any of the crimes enumerated in subsection c. of this section.

e. Where the prosecution requests that the court assess a public corruption profiteering penalty in an amount calculated pursuant to this section, the court shall take judicial notice of any evidence, testimony or information adduced at trial, plea hearing or other court proceedings and shall also consider the presentence report and other relevant information, including expert opinion in the form of live testimony or by affidavit. The court's findings shall be incorporated in the record, and such findings shall not be subject to modification by an appellate court except upon a showing that the finding was totally lacking support in the record or was arbitrary and capricious.

f. The court shall not revoke or reduce the public corruption profiteering penalty imposed pursuant to this section. A public corruption profiteering penalty imposed pursuant

to this section shall not be deemed a fine for purposes of N.J.S.2C:46-3.

g. The court may, for good cause shown, and subject to the provisions of this section, grant permission for the payment of a public corruption profiteering penalty imposed pursuant to this section to be made within a specified period of time or in specified installments, provided however that the payment schedule fixed by the court shall require the defendant to pay the penalty in the shortest period of time consistent with the nature and extent of his assets and his ability to pay, and further provided that the Attorney General or the county prosecutor shall be afforded the opportunity to present evidence or information concerning the nature, extent and location of the defendant's assets or interests in property which are or might be subject to levy and execution. In such event, the court may only grant permission for the payment to be made within a specified period of time or installments with respect to that portion of the assessed penalty which would not be satisfied by the liquidation of property which is or may be subject to levy and execution, unless the court finds that the immediate liquidation of such property would result in undue hardship to innocent persons. If no permission to make payment within a specified period of time or in installments is embodied in the sentence, the entire penalty shall be payable forthwith.

h. A public corruption profiteering penalty assessed pursuant to this section shall be imposed and paid in addition to any penalty, fine, fee or order for restitution which may be imposed pursuant to Title 2C of the New Jersey Statutes.

i. A public corruption profiteering penalty imposed pursuant to this section shall be in addition to and not in lieu of any forfeiture or other cause of action instituted pursuant to chapter 41 or 64 of Title 2C of the New Jersey Statutes, and nothing in this section shall be construed in any way to preclude, preempt or limit any such cause of action. A defendant shall not be entitled to receive credit toward the payment of a public corruption profiteering penalty imposed pursuant to this section for the value of property forfeited, or subject to forfeiture, pursuant to the provisions of chapter 41 or 64 of Title 2C of the New Jersey Statutes.

j. All public corruption profiteering penalties imposed pursuant to this section shall be docketed and collected as provided for the collection of fines, penalties, fees and restitution in chapter 46 of Title 2C of the New Jersey Statutes. The Attorney General or the county prosecutor may prosecute an action to collect any public corruption profiteering penalties imposed pursuant to this section. All public corruption profiteering penalties assessed pursuant to this section shall be disposed of, distributed, appropriated and used as if the collected penalties were the proceeds of property forfeited pursuant to chapter 64 of Title 2C of the New Jersey Statutes.

2. This act shall take effect immediately.

Approved September 4, 2007.