



Rep. Jack D. Franks

Filed: 4/1/2009

09600HB4078ham002

LRB096 08471 RLC 24971 a

1 AMENDMENT TO HOUSE BILL 4078

2 AMENDMENT NO. _____. Amend House Bill 4078 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Elected Officials Misconduct Forfeiture Act.

6 Section 5. Definitions. For the purposes of this Act,
7 "elected official" means any former elected official whose term
8 of office is terminated by operation of law for conviction of
9 an offense, who is removed from office on conviction of
10 impeachment for misconduct in office, or who resigned from
11 office prior, upon, or after conviction; and "proceeds" means
12 any interest in property of any kind acquired through or caused
13 by an act or omission, or derived from the act or omission,
14 directly or indirectly, and any fruits of this interest, in
15 whatever form.

1 Section 10. Purposes. The General Assembly finds that it
2 has compelling governmental interests in: (1) preventing
3 criminals from profiting from their crimes, and (2) ensuring
4 that the victims of crime are compensated by those who harm
5 them. Further, the General Assembly finds that the unlawful or
6 deceitful actions of elected officials can erode the public's
7 confidence in its government and debase the public's belief in
8 a fair democratic process.

9 Section 15. Forfeiture action. The Attorney General may
10 file an action in circuit court on behalf of the people of
11 Illinois against an elected official who has, by his or her
12 violation of Article 33 of the Criminal Code of 1961 or
13 violation of a similar federal offense, injured the people of
14 Illinois. The purpose of such suit is to recover all proceeds
15 traceable to the elected official's offense and by so doing,
16 prevent, restrain or remedy violations of Article 33 of the
17 Criminal Code of 1961 or similar federal offenses.

18 Section 20. Procedure.

19 (a) The circuit court has jurisdiction to prevent,
20 restrain, and remedy violations of Article 33 of the Criminal
21 Code of 1961 or violations of a similar federal offense after a
22 hearing or trial, as appropriate, by issuing appropriate
23 orders. Prior to a determination of liability such orders may
24 include, but are not limited to, issuing seizure warrants,

1 entering findings of probable cause for in personam or in rem
2 forfeiture, or taking such other actions, in connection with
3 any property or other interest subject to forfeiture or other
4 remedies or restraints pursuant to this Section as the court
5 deems proper.

6 (b) If the Attorney General prevails in his or her action,
7 the court shall order the forfeiture of all proceeds traceable
8 to the elected official's violations of Article 33 of the
9 Criminal Code of 1961 or similar federal offenses. Proceeds
10 seized and forfeited as a result of the Attorney General's
11 action will be deposited into the General Revenue Fund or the
12 corporate county fund, as appropriate.

13 Section 25. Term of forfeiture. The maximum term of a civil
14 forfeiture under this Act shall be equal to the term of
15 imprisonment, probation and mandatory supervised release or
16 parole received by the elected official as a result of his or
17 her conviction for violating Article 33 of the Criminal Code of
18 1961 or similar federal offenses.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.".