Substitute for SENATE BILL No. 300

As Act concerning crimes, punishment and criminal procedure; relating to the Kansas racketeer influenced and corrupt organization act; adding a person who has engaged in identity theft or identity fraud to the definition of covered person; identity theft and identity fraud to the definition of racketeering activity; amending K.S.A. 2021 Supp. 21-6328 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2021 Supp. 21-6328 is hereby amended to read as follows: 21-6328. As used in the Kansas racketeer influenced and corrupt organization act:

(a) (1) "Beneficial interest" means the interest of a person:
(A) The interest of a person as a beneficiary under any trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of such person; or
(B) 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.

(2) The term "beneficial interest" does not include the interest of a stock holder in a corporation or the interest of a partner in either a general partnership or a limited partnership. A beneficial interest shall be deemed to be located where the real property owned by the trustee is located.

(b) "Covered person" means any person who:
(1) Is a criminal street gang member or criminal street gang associate, as defined in K.S.A. 2021 Supp. 21-6313, and amendments thereto;
(2) has engaged in or is engaging in any conduct prohibited by K.S.A. 2021 Supp. 21-5426, and amendments thereto, human trafficking or aggravated human trafficking, or K.S.A. 2021 Supp. 21-6422, and amendments thereto, commercial sexual exploitation of a child; or
(3) has engaged in or is engaging in any conduct prohibited by K.S.A. 2021 Supp. 21-5703, and amendments thereto, unlawful manufacturing of controlled substances, or K.S.A. 2021 Supp. 21-5705, and amendments thereto, unlawful cultivation or distribution of controlled substances; or
(4) has engaged in or is engaging in any conduct prohibited by K.S.A. 2021 Supp. 21-6107, and amendments thereto, identity theft or identity fraud.

(c) "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.

(d) "Enterprise" means any individual, 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. A criminal street gang, as defined in K.S.A. 2021 Supp. 21-6313, and amendments thereto, constitutes an enterprise.

(e) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such incidents occurred after the effective date of this act and that the last of such incidents occurred within five years, excluding any period of imprisonment, after a prior incident of racketeering activity.

(f) "Racketeering activity" means to commit, attempt to commit, conspire to commit or to solicit, coerce or intimidate another person to commit any:
(2) any conduct defined as “racketeering activity” under 18 U.S.C. § 1961(1).

(g) “Real property” means any real property or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property.

(h) (1) “Trustee” means any:
   (A) Person acting as trustee pursuant to a trust in which the trustee holds legal or record title to real property;
   (B) person who holds legal or record title to real property in
which any other person has a beneficial interest; or
(C) any successor trustee or trustees to any or all of the foregoing persons.

(2) The term "trustee" does not include any person appointed or acting as a personal representative as defined in K.S.A. 59-102, and amendments thereto, or appointed or acting as a trustee of any testamentary trust or as a trustee of any indenture of trust under which any bonds have been or are to be issued.

(i) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted in:

(1) in Violation of any of the following provisions of law: Article 88 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, Kansas parimutuel racing act; K.S.A. 2021 Supp. 21-6404, and amendments thereto, gambling; K.S.A. 2021 Supp. 21-6405, and amendments thereto, illegal bingo operation; K.S.A. 2021 Supp. 21-6406, and amendments thereto, commercial gambling; K.S.A. 2021 Supp. 21-6407, and amendments thereto, dealing in gambling devices; K.S.A. 2021 Supp. 21-6408, and amendments thereto, unlawful possession of a gambling device; or K.S.A. 2021 Supp. 21-6409, and amendments thereto, installing communication facilities for gamblers; or

(2) in gambling activity in violation of federal law or in the business of lending money at a rate usurious under state or federal law.

Sec. 2. K.S.A. 2021 Supp. 21-6328 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above Bill originated in the Senate, and passed that body

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President of the Senate.

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Secretary of the Senate.

Passed the House ____________________________

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Speaker of the House.

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Chief Clerk of the House.

APPROVED ____________________________

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Governor.