

Cherokee Nation Code Annotated

Title 22: Criminal Procedure

Chapter 26: RICO

§ 1402. Definitions

Cite as: 22 CNCA § 1402

As used in the Cherokee Nation Racketeer-Influenced and Corrupt Organizations Act:

A. "Beneficial interest" includes:

1. the interest of a person as a beneficiary pursuant to a trust, in which the trustee holds legal title to personal or real property, or
2. the interest of a person as a beneficiary pursuant to any other arrangement under which any other person holds legal title to personal or real property for the benefit of such person.

B. The term beneficial interest does not include the interest of a stockholder in a corporation or the interest of a partner in either a general or limited partnership;

C. "Enterprise" includes any individual, sole proprietorship, partnership, corporation, trust, governmental entity, or other legal entity, or any union, association, unincorporated association or group of persons, associated in fact although not a legal entity, involved in any lawful or unlawful project or undertaking or any foreign organization that the United States Secretary of State has designated a foreign terrorist organization pursuant to Title 8 U.S.C.A., Section 1189;

D. "Innocent party" includes bona fide purchasers and victims;

E. "Lien notice" means the notice pursuant to the provisions of 21 CNCA § 1412;

F. "Pattern of racketeering activity" means two or more occasions of conduct:

1. that include each of the following:

- a. constitute racketeering activity,
- b. are related to the affairs of the enterprise,
- c. are not isolated, and
- d. are not so closely related to each other and connected in point of time and place that they constitute a single event, and

2. where each of the following is present:

- a. at least one of the occasions of conduct occurred after March 1, 2021,
- b. the last of the occasions of conduct occurred within three (3) years, excluding any period of imprisonment served by any person engaging in the conduct, of a prior occasion of conduct, and
- c. for the purposes of 21 CNCA § 1403, each of the occasions of conduct constituted a felony pursuant to the laws of the Cherokee Nation;

G. "Pecuniary value" means:

- 1. anything of value in the form of money, a negotiable instrument, or 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 One Hundred Dollars (\$100.00);

H. "Person" means any individual or entity holding or capable of holding a legal or beneficial interest in property;

I. "Personal property" includes any personal property, or any interest in such personal property, or any right, including bank accounts, debts, corporate stocks, patents or copyrights. Personal property and beneficial interest in personal property shall be deemed to be located where the trustee, the personal property, or the instrument evidencing the right is located;

J. "Principal" means a person who engages in conduct constituting a violation of the Cherokee Nation Racketeer-Influenced and Corrupt Organizations Act or who is legally accountable for the conduct of another who engages in a violation of the Cherokee Nation Racketeer-Influenced and Corrupt Organizations Act;

K. "Racketeering activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any conduct which is chargeable or indictable as constituting a felony violation of one or more of the following provisions of the Cherokee Nation Code Annotated, regardless of whether such act is in fact charged or indicted:

- 1. relating to homicide pursuant to the provisions of 21 CNCA §§651, 652, 653, 701, 701.8, 701.16, 711 or 716 or relating to concealment of homicidal death pursuant to the provisions of 21 CNCA § 543,
- 2. relating to kidnapping pursuant to the provisions of 21 CNCA §§ 741, 745, 891 or 1119,

3. relating to sex offenses pursuant to the provisions of 21 CNCA §§ 886, 888, 1021, 1021.2, 1021.3, 1021.4, 1024.2, 1111, 1111.1, 1114 or 1123,
4. relating to bodily harm pursuant to the provisions of 21 CNCA §§ 645, 647, 649, 650, 650.2, 1289.16, 1302, 1303 or 1767.1,
5. relating to theft, where the offense constitutes a felony, pursuant to the provisions of Section 1704, 1707, 1708, 1709, 1710, 1711, 1713, 1716, 1719, 1720, 1721, 1722, 1723 or 1731,
6. relating to forgery pursuant to the provisions of 21 CNCA §§ 1561, 1562, 1571, 1572, 1573, 1574, 1575, 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, or 1593,
7. relating to robbery pursuant to the provisions of 21 CNCA §§ 797, 800 or 801,
8. relating to burglary pursuant to the provisions of 21 CNCA §§ 1431, 1435 or 1437,
9. relating to arson pursuant to the provisions of 21 CNCA §§ 1368, 1401, 1402, 1403 or 1404,
10. relating to use or possession of a firearm or other offensive weapon while committing or attempting to commit a felony pursuant to the provisions of 21 CNCA §§ 1287, 1289.20 or 1289.21,
11. relating to gambling pursuant to the provisions of Section 941, 942, 944, 945, 946, 956, 957, 969, 971, 981, 982, 983, 985, 987, or 991,
12. relating to interference with public officers pursuant to the provisions of 21 CNCA §§ 434, 436, 437, 438, 439, 440, 441, 443, 444, 521, 522, 532, 540, 543, 545 or 546.
13. relating to interference with judicial procedure pursuant to the provisions of 21 CNCA §§ 388, 451, 453, 454, 455, 456, 491, or 504,
14. relating to official misconduct pursuant to the provisions of 21 CNCA §§ 380, 381, 382, 383, 384, 385, 386, 388, 389, or 390,
15. relating to the Uniform Controlled Dangerous Substances Act, where the offense constitutes a felony, pursuant to the provisions of 21 CNCA §§ 2101 et seq.,
16. relating to automobile theft pursuant to the provisions of 21 CNCA §§ 4-102, 4-103, 4-107, 4-108, 4-109 or 4-110,
17. relating to embezzlement pursuant to the provisions of 21 CNCA §§ 341, 531 or 1451,

18. relating to extortion, where the offense constitutes a felony, pursuant to the provisions of 21 CNCA §§ 1304, 1481, 1482, 1484, 1485, 1486, 1487, or 1488,

19. relating to fraud, where the offense constitutes a felony, pursuant to the provisions of 21 CNCA §§ 358, 1411, 1412, 1413, 1414, 1415, 1416, 1503, 1541.1, 1541.2, 1541.3, 1542, 1543, 1544, 1550.2, 1550.22, 1550.23, 1550.24, 1550.25, 1550.26, 1550.27, 1550.28, 1550.29, 1550.30, 1550.31, 1550.32, 1632, 1635 or 1662,

20. relating to conspiracy, where the offense constitutes a felony, pursuant to the provisions of 21 CNCA §§ 421, 422 or 424,

21. relating to prostitution, pornography or obscenity pursuant to the provisions of 21 CNCA §§ 1021, 1040.52, 1081, 1085, 1086, 1087 or 1088,

22. relating to human trafficking or trafficking in children pursuant to the provisions of 21 CNCA §§ 748, 866 or 867,

23. relating to organized voter fraud pursuant to the provisions of Title 26 of the Cherokee Nation Code Annotated,

24. relating to exploitation of elderly persons or disabled adults pursuant to the provisions of 21 CNCA § 843.4,

25. relating to computer crimes pursuant to the provisions of 21 CNCA §§ 1953 and 1958,

26. relating to unlawful proceeds pursuant to the provisions of 21 CNCA § 2001,

L. In addition, "racketeering activity" may be proven by proof of engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the above described conduct within another state, regardless of whether said conduct is chargeable or indictable in that state;

M. "Real property" means any real property or any interest in real property, including any lease of, or mortgage upon real property. Real property and beneficial interest in real property shall be deemed to be located where the real property is located;

N. "Trustee" includes trustees, a corporate as well as a natural person and a successor or substitute trustee as otherwise defined within the CNCA; and

O. "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is unenforceable in the courts of the Cherokee Nation, because the debt was incurred or contracted in violation of a law relating to the business of gambling activity or in violation of the CNCA or federal law.

Historical Data

LA 30-21, eff. June 18, 2021.