

**26.3 RICO — USE OR INVESTMENT OF PROCEEDS FROM COLLECTION OF
UNLAWFUL DEBT**
§ 895.03(1), Fla. Stat.

To prove the crime of Unlawful Use or Investment of Proceeds from Collection of Unlawful Debt, the State must prove the following two elements beyond a reasonable doubt:

1. (Defendant), with criminal intent, received proceeds that were derived directly or indirectly through the collection of an unlawful debt.
2. (Defendant) [used] [invested] some of these proceeds [or proceeds derived from the investment or use thereof] either directly or indirectly [in acquiring some right, title, equity, or interest in real property] [in establishing or operating an enterprise].

Give in every case.

Receiving proceeds with criminal intent means that the defendant, at the time [he] [she] received the proceeds, either knew the source of the proceeds or had [his] [her] suspicions aroused but deliberately failed to make further inquiry as to the source of the proceeds.

§ 895.02(12), Fla. Stat.

“Unlawful debt” means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in Florida in whole or in part because the debt was incurred or contracted in violation of the following law: (give applicable section and define applicable crime).

Give if applicable. § 895.02(9), Fla. Stat.

“Real property” means land and whatever is erected on it. It includes but is not limited to any lease or mortgage or other interest in that property.

Give if applicable. § 895.02(5), Fla. Stat.

“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.

Gross v. State, 765 So. 2d 39 (Fla. 2000).

An “enterprise” is an ongoing organization, formal or informal, that functions both as a continuing unit and has a common purpose of engaging in a course of conduct.

Lesser Included Offenses

No lesser included offenses have been identified for this offense.

Comments

*In *State v. Nishi*, 521 So. 2d 252 (Fla. 3d DCA 1988), the Third District Court of Appeal held that for purposes of § 895.03(2), Fla. Stat., a person cannot be employed or associated with himself.

**In *State v. Bowen*, 413 So. 2d 798 (Fla. 1st DCA 1982), the First District Court of Appeal held that for purposes of § 895.03(2), Fla. Stat., a person can be employed or associated with his own sole proprietorship. However, the Second District Court of Appeal disagreed in *Masonoff v. State*, 546 So. 2d 72 (Fla. 2d DCA 1989).

A criminal gang, as defined in § 874.03, Fla. Stat., constitutes an enterprise.

This instruction was adopted in 1989 and amended in 2003 and 2019.