

**26.5 RICO — ACQUISITION OR MAINTENANCE OF AN INTEREST IN OR
CONTROL OF [AN ENTERPRISE] [REAL PROPERTY] THROUGH COLLECTION
OF UNLAWFUL DEBT**

§ 895.03(2), Fla. Stat.

To prove the crime of Unlawfully [Acquiring] [Maintaining] an Interest in or Control of [an Enterprise] [Real Property], the State must prove the following two elements beyond a reasonable doubt:

1. (Defendant) [acquired] [maintained], directly or indirectly, interest in or control of [an enterprise] [real property].
2. [He] [She] did so through the knowing collection of an unlawful debt.

Give in every case. § 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(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.

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.

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.