§ 75D-13. Filing and attachment of RICO lien notice.

(a) Upon the institution of any proceeding under this Chapter, the Attorney General then or at any time during the pendency of the proceeding may file in the official records of any one or more counties a RICO lien notice. No filing fee or other charge shall be required as a condition for filing the RICO lien notice. The clerk of the superior court shall, upon the presentation of a RICO lien notice, immediately record it in the official records.

(b) The RICO lien shall be signed by the Attorney General or his designee or by a designated district attorney. The notice shall be in such form as the Attorney General prescribes and, in addition to a description of the particular property sought to be forfeited, shall set forth the following information:

(1) If brought in the name of a person, the name of the person against whom the civil proceeding has been brought. In his discretion, the Attorney General may also name in the RICO lien notice any other aliases, names or fictitious names under which the person may be known;

(2) If known to the Attorney General the present residence and business addresses of the person named in the RICO lien notice and of the other names set forth in the RICO lien notice;

(3) A reference to the civil proceeding stating that a proceeding under this Chapter has been brought against the person named in the RICO lien notice, the name of the county or counties where the proceeding has been brought, and, if known to the Attorney General at the time of filing the RICO lien notice, the case number of the proceeding;

(4) A statement that the notice is being filed pursuant to this Chapter; and

(5) The name and address of the person in the Attorney General's office filing the RICO lien notice and the name of the individual signing the RICO lien notice.

(c) A RICO lien notice shall apply only to one person and, to the extent applicable, any aliases, fictitious names, or other names, including names of corporations, partnerships, or other entities, to the extent permitted in paragraph (1) of subsection (b) of this section. A separate RICO lien notice shall be filed for any other person against whom the Attorney General desires to file a RICO lien notice under this section.

(d) The Attorney General shall, as soon as practicable after the filing of each RICO lien notice, serve, by any method provided for by G.S. 1A-1, Rule 4, upon the person named in the notice and any other person who holds an interest of record, either a copy of the recorded notice or a copy of the notice with a notation thereon of the county or counties in which the notice has been recorded.

(e) The filing of a RICO lien notice creates, from the time of its filing, a lien in favor of the State on the following property of the person named in the notice and against any other names sets forth in the notice:

(1) Any real property situated in the county where the notice is filed then or thereafter owned by the person or under any of the names; and

(2) Any beneficial interest situated in the county where the notice is filed then or thereafter owned by the person or under any of the names.

(f) The lien shall commence and attach as of the time of filing of the RICO lien notice and shall continue thereafter until expiration, termination, or release pursuant to G.S. 75D-14. The lien created in favor of the State shall be superior and prior to the interest of any other person in the real property or beneficial interests if the interest is acquired subsequent to the filing of the notice.

(g) In conjunction with any proceedings pursuant to this Chapter:

(1) The Attorney General may file without prior court order in any county a lis pendens and, in such case, any person acquiring an interest in the subject real property or beneficial interest subsequent to the filing of lis pendens, shall take the interest subject to the civil proceeding and any subsequent judgment of forfeiture; and

(2) If a RICO lien notice has been filed, the Attorney General may name as defendants, in addition to the person named in the notice, any persons acquiring an interest in the real property or beneficial interest subsequent to the filing of the notice. If a judgment of forfeiture is entered in the proceeding in favor of the State, the interest of any person in the property that was acquired subsequent to the filing of the notice shall be subject to the notice and judgment of forfeiture.

(h) (1) A trustee upon whom a RICO lien notice or a RICO civil proceeding has been served shall immediately furnish to the Attorney General the following:

a. The name and addresses, as known to the trustee, of all persons for whose benefit the trustee holds title to the real property; and

b. If requested by the Attorney General's office, a copy of the trust agreement or other instrument pursuant to which the trustee holds legal or record title to the real property.

(2) Any trustee who fails to comply with the provisions of this subsection shall be removed by court order and a substitute trustee shall be named in lieu of the trustee so removed.

(i) The filing of a RICO lien notice shall not affect the use to which real property or a beneficial interest owned by the person named in the RICO lien notice may be put or in the right of the person to receive any avails, rents, or other proceeds resulting from the use and ownership, but not the sale, of the property until a judgment of forfeiture is entered.

(j) All forfeitures or dispositions under this section shall be made with due provision for the rights of innocent persons. (1985 (Reg. Sess., 1986), c. 999, s. 1; 1989, c. 489, s. 1.)