

SENATE BILL No. 234

March 21, 1991, Introduced by Senators EMMONS, GAST, CISKY, WARTNER, SCHWARZ and MC MANUS and referred to the Committee on Judiciary.

A bill to amend section 7523 of Act No. 368 of the Public Acts of 1978, entitled as amended "Public health code," as amended by Act No. 336 of the Public Acts of 1990, being section 333.7523 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 7523 of Act No. 368 of the Public Acts
2 of 1978, as amended by Act No. 336 of the Public Acts of 1990,
3 being section 333.7523 of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 7523. (1) If property is seized pursuant to section
6 7522, forfeiture proceedings shall be instituted promptly. If
7 the property is seized without process as provided under
8 section 7522, and the total value of the PERSONAL property seized

1 OR THE TOTAL VALUE OF THE REAL PROPERTY SEIZED does not exceed
2 ~~\$50,000.00~~ \$100,000.00, the following procedure shall be used:

3 (a) The local unit of government that seized the property,
4 or, if the property was seized by the state, the state shall
5 notify the owner of the property that the property has been
6 seized, and that the local unit of government or, if applicable,
7 the state intends to forfeit and dispose of the property by
8 delivering a written notice to the owner of the property or by
9 sending the notice to the owner by certified mail. If the name
10 and address of the owner are not reasonably ascertainable, or
11 delivery of the notice cannot be reasonably accomplished, the
12 notice shall be published in a newspaper of general circulation
13 in the county in which the property was seized, for 10 successive
14 publishing days.

15 (b) Unless all criminal proceedings involving or relating to
16 the property have been completed, the seizing agency shall imme-
17 diately notify the prosecuting attorney for the county in which
18 the property was seized or, if the attorney general is actively
19 handling a case involving or relating to the property, the attor-
20 ney general of the seizure of the property and the intention to
21 forfeit and dispose of the property.

22 (c) Any person claiming an interest in property ~~which~~ THAT
23 is the subject of a notice under subdivision (a) may, within 20
24 days after receipt of the notice or of the date of the first pub-
25 lication of the notice, file a written claim signed by the claim-
26 ant with the local unit of government or the state expressing his
27 or her interest in the property. Upon the filing of the claim,

1 and the giving of a bond to the local unit of government or the
2 state in the amount of 10% of the value of the claimed property,
3 but not less than \$250.00 or greater than \$5,000.00, with sure-
4 ties approved by the local unit of government or the state condi-
5 tioned that if the property is ordered forfeited by the court the
6 obligor shall pay all costs and expenses of the forfeiture pro-
7 ceedings, ~~—The~~ THE local unit of government or, if applica-
8 ble, the state shall transmit the claim and bond with a list and
9 description of the property seized to the attorney general, the
10 prosecuting attorney for the county, or the city or township
11 attorney for the local unit of government in which the seizure
12 was made. The attorney general, the prosecuting attorney, or the
13 city or township attorney shall promptly institute forfeiture
14 proceedings after the expiration of the 20-day period. However,
15 unless all criminal proceedings involving or relating to the
16 property have been completed, a city or township attorney shall
17 not institute forfeiture proceedings without the consent of the
18 prosecuting attorney or, if the attorney general is actively han-
19 dling a case involving or relating to the property, the attorney
20 general.

21 (d) If no claim is filed or bond given within the 20-day
22 period as described in subdivision (c), the local unit of govern-
23 ment or the state shall declare the property forfeited and shall
24 dispose of the property as provided under section 7524. However,
25 unless all criminal proceedings involving or relating to the
26 property have been completed, the local unit of government or the
27 state shall not dispose of the property pursuant to this

1 subdivision without the written consent of the prosecuting
2 attorney or, if the attorney general is actively handling a case
3 involving or relating to the property, the attorney general.

4 (2) Property taken or detained under this article or pursu-
5 ant to section 17766a shall not be subject to an action to
6 recover personal property, but is deemed to be in the custody of
7 the seizing agency subject only to this section or an order and
8 judgment of the court having jurisdiction over the forfeiture
9 proceedings. When property is seized under this article or pur-
10 suant to section 17766a, the seizing agency may do any of the
11 following:

12 (a) Place the property under seal.

13 (b) Remove the property to a place designated by the court.

14 (c) Require the administrator to take custody of the prop-
15 erty and remove it to an appropriate location for disposition in
16 accordance with law.

17 (3) TITLE TO PROPERTY FORFEITED UNDER THIS PART VESTS IN THE
18 LOCAL UNIT OF GOVERNMENT THAT SEIZED THE PROPERTY, OR THE STATE
19 IF THE STATE SEIZED THE PROPERTY, UPON THE COMMISSION OF THE ACT
20 GIVING RISE TO FORFEITURE UNDER THIS PART.

21 (4) ~~-(3) Title to real property forfeited under this article~~
22 ~~or pursuant to section 17766a shall be determined by a court of~~
23 ~~competent jurisdiction.~~ A forfeiture of ~~real~~ property encum-
24 bered by a bona fide security interest is subject to the interest
25 of the secured party who neither had knowledge of nor consented
26 to the act or omission.