

Act No. 547
Public Acts of 1998
Approved by the Governor
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senators Bennett, Dunaskiss, Geake, McManus, North, Bullard, Hoffman, Koivisto, Byrum, DeBeaussaert, Hart and Dingell

ENROLLED SENATE BILL No. 768

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act," by amending sections 4701, 8401a, and 8424 (MCL 600.4701, 600.8401a, and 600.8424), section 4701 as amended by 1998 PA 141, section 8401a as added by 1984 PA 278, and section 8424 as amended by 1991 PA 192.

The People of the State of Michigan enact:

Sec. 4701. As used in this chapter:

- (a) "Crime" means 1 of the following offenses in connection with which the forfeiture of property is sought:
 - (i) A violation of part 111 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11101 to 324.11152.
 - (ii) A violation of part 121 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.12101 to 324.12117.
 - (iii) A violation of section 4, 5, or 7 of the medicaid false claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607.
 - (iv) A violation of section 2 or 3 of the Michigan antitrust reform act, 1984 PA 274, MCL 445.772 and 445.773.
 - (v) A violation described in section 409 of the uniform securities act, 1964 PA 265, MCL 451.809.
 - (vi) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675 and 722.677.
 - (vii) A violation of section 49, 75, 94, 95, 96, 100, 104, 105, 106, 110, 112, 117, 118, 119, 120, 121, 124, 145c, 157q, 157r, 174, 175, 176, 180, 181, 182, 213, 214, 218, 219a, 224, 248, 249, 250, 251, 252, 253, 254, 255, 263, 264, 271, 272, 273, 274, 300, 356, 357, 357a, 359, 360, 529, 530, 531, 535, 540c, or 540g of the Michigan penal code, 1931 PA 328, MCL 750.49, 750.75, 750.94, 750.95, 750.96, 750.100, 750.104, 750.105, 750.106, 750.110, 750.112, 750.117, 750.118, 750.119, 750.120, 750.121, 750.124, 750.145c, 750.157q, 750.157r, 750.174, 750.175, 750.176, 750.180, 750.181, 750.182, 750.213, 750.214, 750.218, 750.219a, 750.224, 750.248, 750.249, 750.250, 750.251, 750.252, 750.253, 750.254, 750.255, 750.263, 750.264, 750.271, 750.272, 750.273, 750.274, 750.300, 750.356, 750.357, 750.357a, 750.359, 750.360, 750.529, 750.530, 750.531, 750.535, 750.540c, and 750.540g.
 - (viii) A violation described in section 7 of 1979 PA 53, MCL 752.797.
 - (ix) Conspiracy to commit an offense listed in subparagraphs (i) to (viii).

(b) "Instrumentality of a crime" means any property, other than real property, the use of which contributes directly and materially to the commission of a crime.

(c) "Person" means an individual, corporation, partnership, or other business entity, or an unincorporated or voluntary association.

(d) "Proceeds of a crime" means any property obtained through the commission of a crime, including any appreciation in the value of the property.

(e) "Security interest" means any interest in real or personal property that secures payment or performance of an obligation.

(f) "Substituted proceeds of a crime" means any property obtained or any gain realized by the sale or exchange of proceeds of a crime.

Sec. 8401a. (1) The state court administrator shall prepare instruction sheets clearly explaining in plain English how the small claims division functions and how to commence and defend an action in the small claims division. A copy of the instruction sheet must be given to the claimant upon filing a claim. Copies of the instruction sheets shall be made available at the office of each clerk and deputy clerk of the district court and a copy of the defendant's instruction sheet shall be sent by the clerk or deputy clerk to the defendant along with the copy of the affidavit served upon the defendant under section 8404.

(2) In addition to general instruction sheets, the state court administrator shall prepare instruction sheets under subsection (1) specifically for an action under section 73109 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.73109.

Sec. 8424. (1) Actions of fraud and actions of libel, slander, assault, battery, or other intentional torts shall not be instituted in the small claims division. This subsection does not apply to either of the following:

(a) An action for fraud under section 2952 or under the Michigan consumer protection act, 1976 PA 331, MCL 445.901 to 445.922.

(b) An action under section 73109 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.73109.

(2) Except as provided in subsection (3), the state, a political subdivision of the state, or any other governmental agency shall not be a party to an action in the small claims division.

(3) A county, city, village, township, or local or intermediate school district may file an action in the small claims division. An action may be filed in the small claims division against a county, city, village, township, or local or intermediate school district, but a party may not assert a claim with respect to which the county, city, village, township, or local or intermediate school district has immunity.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 767 of the 89th Legislature is enacted into law.

Carol Morey Viventi

Secretary of the Senate.

Mary Bonilla

Clerk of the House of Representatives.

Approved _____

Governor.