

# HOUSE BILL No. 5513

(As passed by the Senate, March 21, 2002)

December 12, 2001, Introduced by Reps. LaSata, Koetje, Toy, Julian, Bishop, Caul, Van Woerkom, Mead, Gosselin, Gilbert, Faunce, Meyer, Woronchak, Hummel, Birkholz, Tabor, Newell, Voorhees, Neumann, Middaugh, Ruth Johnson, Schauer, George, Bisbee, Shackleton, Richardville, Ehardt, Kowall, Pumford, Jelinek, Rocca, Bernero, Allen, Pestka, Basham, Sheltroun, DeVuyst, Callahan, Hager, Shulman, Kuipers, Zelenko, Lipsey, Frank, Pappageorge, Raczkowski, Phillips, Jacobs, McConico, Whitmer, Cassis and Lockwood and referred to the Committee on Insurance and Financial Services.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending sections 4701 and 4702 (MCL 600.4701 and 600.4702),  
section 4701 as amended by 2000 PA 184 and section 4702 as added  
by 1988 PA 104.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 4701. As used in this chapter:
- 2       (a) "Crime" means committing, attempting to commit, conspir-
- 3ing to commit, or soliciting another person to commit any of the
- 4following offenses in connection with which the forfeiture of
- 5property is sought:
- 6       (i) A violation of part 111 of the natural resources and
- 7environmental protection act, 1994 PA 451, MCL 324.11101 to
- 8-324.11152- 324.11153.

1       (ii) A violation of part 121 of the natural resources and  
2 environmental protection act, 1994 PA 451, MCL 324.12101 to  
3 324.12117.

4       (iii) A violation of section 4, 5, or 7 of the medicaid  
5 false claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607.

6       (iv) A violation of section 2 or 3 of the Michigan antitrust  
7 reform act, 1984 PA 274, MCL 445.772 and 445.773.

8       (v) A violation described in section 409 of the uniform  
9 securities act, 1964 PA 265, MCL 451.809.

10       (vi) A violation of section 5 or 7 of 1978 PA 33, MCL  
11 722.675 and 722.677.

12       (vii) A violation of section 49, 75, 94, 95, 96, 100, 104,  
13 105, 106, 110, 112, 117, 118, 119, 120, 121, 124, 145c, 145d,  
14 157q, 157r, 174, 175, 176, 180, 181, 182, 213, 214, 218, 219a,  
15 224, 248, 249, 250, 251, 252, 253, 254, 255, 263, 264, 271, 272,  
16 273, 274, 300, 356, 357, 357a, 359, 360, 529, 530, 531, 535,  
17 540c, or 540g OR CHAPTER LXXXIII-A of the Michigan penal code,  
18 1931 PA 328, MCL 750.49, 750.75, 750.94, 750.95, 750.96, 750.100,  
19 750.104, 750.105, 750.106, 750.110, 750.112, 750.117, 750.118,  
20 750.119, 750.120, 750.121, 750.124, 750.145c, 750.145d, 750.157q,  
21 750.157r, 750.174, 750.175, 750.176, 750.180, 750.181, 750.182,  
22 750.213, 750.214, 750.218, 750.219a, 750.224, 750.248, 750.249,  
23 750.250, 750.251, 750.252, 750.253, 750.254, 750.255, 750.263,  
24 750.264, 750.271, 750.272, 750.273, 750.274, 750.300, 750.356,  
25 750.357, 750.357a, 750.359, 750.360, 750.529, 750.530, 750.531,  
26 750.535, 750.540c, ~~and~~ 750.540g, AND 750.543A TO 750.543Z.

1 (viii) A violation of 1979 PA 53, MCL 752.791 to 752.797.

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

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

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

11 (e) "Security interest" means any interest in real or per-  
12 sonal property that secures payment or performance of an  
13 obligation.

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

17 Sec. 4702. (1) Except as otherwise provided in this sec-  
18 tion, the following property is subject to seizure by, and for-  
19 feiture to, a local unit of government or this state under this  
20 chapter:

21 (a) All personal property that is the proceeds of a crime,  
22 the substituted proceeds of a crime, or an instrumentality of a  
23 crime.

24 (b) All real property that is the proceeds of a crime or the  
25 substituted proceeds of a crime, except real property that is the  
26 primary residence of the spouse or a dependent child of the

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owner, unless that spouse or dependent child had prior knowledge  
of, and consented to the commission of, the crime.

3 (C) IN THE CASE OF A CRIME THAT IS A VIOLATION OF CHAPTER  
4LXXXIII-A OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.543A  
5TO 750.543Z, ALL PROPERTY DESCRIBED IN SUBDIVISIONS (A) AND (B)  
6AND ALL REAL PROPERTY OR PERSONAL PROPERTY THAT PERFORMED 1 OF  
7THE FOLLOWING FUNCTIONS:

8 (i) [CONTRIBUTED DIRECTLY AND MATERIALLY TO THE COMMISSION  
9OF THE CRIME.

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13 [(ii)] WAS USED IN THE PREPARATION OF THE CRIME.

14 [(iii)] WAS USED TO CONCEAL THE CRIME.

15 [(iv)] WAS USED TO ESCAPE FROM THE SCENE OF THE CRIME.

16 [(v)] WAS USED TO CONCEAL THE IDENTITY OF 1 OR MORE OF THE  
17INDIVIDUALS WHO COMMITTED THE CRIME.

18 (2) Property is not subject to seizure or forfeiture if  
19either of the following circumstances exists:

20 (a) The owner of the property did not have prior knowledge  
21of, or consent to the commission of, the crime.

22 (b) The owner served written notice of the commission of the  
23crime upon an appropriate law enforcement agency, and served a  
24written notice to quit upon the person who committed the crime.

25 (3) The forfeiture of property encumbered by a security  
26interest is subject to the interest of the holder of the security

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1interest who did not have prior knowledge of, or consent to the  
2commission of, the crime.

3 (4) The forfeiture of property encumbered by an unpaid bal-  
4ance on a land contract is subject to the interest of the land  
5contract vendor, if the vendor did not have prior knowledge of,  
6or consent to the commission of, the crime.

7 (5) The forfeiture of the substituted proceeds of a crime is  
8limited to the value of the proceeds of the crime plus the amount  
9by which any restitution or damages owed to the victim of the  
10crime exceeds the value of the proceeds of the crime.

[Enacting section 1. This amendatory act takes effect May 1, 2002.]