

Act No. 142
Public Acts of 2002
Approved by the Governor
April 1, 2002
Filed with the Secretary of State
April 1, 2002
EFFECTIVE DATE: May 1, 2002

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

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

ENROLLED HOUSE BILL No. 5513

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; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," 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:

Sec. 4701. As used in this chapter:

(a) "Crime" means committing, attempting to commit, conspiring to commit, or soliciting another person to commit any 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 324.11153.

(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, 145d, 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 or chapter LXXXIII-A 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, 750.145d, 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, 750.540g, and 750.543a to 750.543z.

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

(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. 4702. (1) Except as otherwise provided in this section, the following property is subject to seizure by, and forfeiture to, a local unit of government or this state under this chapter:

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

(b) All real property that is the proceeds of a crime or the substituted proceeds of a crime, except real property that is the primary residence of the spouse or a dependent child of the owner, unless that spouse or dependent child had prior knowledge of, and consented to the commission of, the crime.

(c) In the case of a crime that is a violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, all property described in subdivisions (a) and (b) and all real property or personal property that performed 1 of the following functions:

(i) Contributed directly and materially to the commission of the crime.

(ii) Was used to conceal the crime.

(iii) Was used to escape from the scene of the crime.

(iv) Was used to conceal the identity of 1 or more of the individuals who committed the crime.

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

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

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

(3) The forfeiture of property encumbered by a security interest is subject to the interest of the holder of the security interest who did not have prior knowledge of, or consent to the commission of, the crime.

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

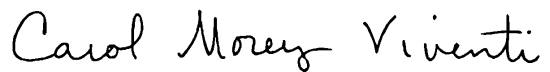
(5) The forfeiture of the substituted proceeds of a crime is limited to the value of the proceeds of the crime plus the amount by which any restitution or damages owed to the victim of the crime exceeds the value of the proceeds of the crime.

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.