

HOUSE BILL NO. 6368

November 12, 2020, Introduced by Reps. Meerman and Steven Johnson and referred to the Committee on Government Operations.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 7523 and 12753 (MCL 333.7523 and 333.12753),
section 7523 as amended by 2019 PA 9.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7523. (1) Subject to section 7521a, if property is seized
2 under section 7522, forfeiture proceedings must be instituted

promptly. If the property is seized without process under section 7522, and the total value of the property seized does not exceed \$50,000.00, the following procedure must be used:

(a) The local unit of government that seized the property or, if the property was seized by this state, the state shall notify the owner of the property that the property has been seized and, if charges have been filed against a person for a crime, the person charged, and that the local unit of government or, if applicable, the state intends to forfeit and dispose of the property by delivering a written notice to the owner of the property or by sending the notice to the owner by certified mail. If the name and address of the owner are not reasonably ascertainable, or delivery of the notice cannot be reasonably accomplished, the notice must be ~~published on~~ **provided as follows:**

(i) Through December 31, 2021, by publishing the notice on the local unit of government's or the department of the attorney general's public website and in a newspaper of general circulation in the county in which the property was seized, for 10 successive publishing days.

(ii) Beginning January 1, 2022, by posting public notice as provided in the local government public notice act.

(b) Unless all criminal proceedings involving or relating to the property have been completed, the seizing agency shall immediately notify the prosecuting attorney for the county in which the property was seized or, if the attorney general is actively handling a case involving or relating to the property, the attorney general of the seizure of the property and the intention to forfeit and dispose of the property.

(c) Any person claiming an interest in property that is the

1 subject of a notice under subdivision (a) may, within 20 days after
2 receipt of the notice or of the date of the first publication of
3 the notice, file a written claim signed by the claimant with the
4 local unit of government or the state expressing his or her
5 interest in the property and any objection to forfeiture. A claim
6 or an objection under this subsection must be written, verified,
7 and signed by the claimant, and include a detailed description of
8 the property and the property interest asserted. The verification
9 must include a certification under the penalty of perjury stating
10 that the undersigned has examined the claim and believes it to be,
11 to the best of the claimant's knowledge, true and complete. A
12 written claim under this subsection must be made on the form
13 developed by the state court administrative office as required
14 under subsection (2). Upon the filing of the claim, the local unit
15 of government or, if applicable, this state shall transmit the
16 claim with a list and description of the property seized to the
17 attorney general, the prosecuting attorney for the county, or the
18 city or township attorney for the local unit of government in which
19 the seizure was made. The attorney general, the prosecuting
20 attorney, or the city or township attorney shall promptly institute
21 forfeiture proceedings after the expiration of the 20-day period.
22 However, unless all criminal proceedings involving or relating to
23 the property have been completed, a city or township attorney shall
24 not institute forfeiture proceedings without the consent of the
25 prosecuting attorney or, if the attorney general is actively
26 handling a case involving or relating to the property, the attorney
27 general.

28 (d) If no claim is filed within the 20-day period as described
29 in subdivision (c), the local unit of government or this state

1 shall declare the property forfeited and shall dispose of the
2 property as provided under section 7524. However, unless all
3 criminal proceedings involving or relating to the property have
4 been completed, the local unit of government or the state shall not
5 dispose of the property under this subdivision without the written
6 consent of the prosecuting attorney or, if the attorney general is
7 actively handling a case involving or relating to the property, the
8 attorney general.

9 (2) The state court administrative office shall develop and
10 make available to law enforcement agencies, courts, and the public
11 a form for asserting an ownership interest in seized property under
12 subsection (1)(c). The form must require a claimant to provide a
13 detailed description of the property, the claimant's ownership
14 interest in the property, and a signed attestation that the
15 claimant has a bona fide ownership interest in the property.

16 (3) Property taken or detained under this article is not
17 subject to an action to recover personal property, but is deemed to
18 be in the custody of the seizing agency subject only to this
19 section or an order and judgment of the court having jurisdiction
20 over the forfeiture proceedings. When property is seized under this
21 article, the seizing agency may do any of the following:

22 (a) Place the property under seal.

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

24 (c) Require the administrator to take custody of the property
25 and remove it to an appropriate location for disposition in
26 accordance with law.

27 (d) Deposit money seized under this article into an interest-
28 bearing account in a financial institution. As used in this
29 subdivision, "financial institution" means a state or nationally

1 chartered bank or a state or federally chartered savings and loan
 2 association, savings bank, or credit union whose deposits are
 3 insured by an agency of the United States government and that
 4 maintains a principal office or branch office located in this state
 5 under the laws of this state or the United States.

6 (4) Title to real property forfeited under this article must
 7 be determined by a court of competent jurisdiction. A forfeiture of
 8 real property encumbered by a bona fide security interest is
 9 subject to the interest of the secured party who neither had
 10 knowledge of nor consented to the act or omission.

11 (5) An attorney for a person who is charged with a crime
 12 involving or related to the money seized under this article must be
 13 afforded a period of 60 days within which to examine that money.
 14 This 60-day period begins to run after notice is given under
 15 subsection (1)(a) but before the money is deposited into a
 16 financial institution under subsection (3)(d). If the attorney
 17 general, prosecuting attorney, or city or township attorney fails
 18 to sustain his or her burden of proof in forfeiture proceedings
 19 under this article, the court shall order the return of the money,
 20 including any interest earned on money deposited into a financial
 21 institution under subsection (3)(d).

22 Sec. 12753. (1) Structures in which sanitary sewage originates
 23 ~~lying-that~~ **are located** within the limits of a city, village, or
 24 township ~~shall-must~~ be connected to an available public sanitary
 25 sewer in the city, village, or township if required by the city,
 26 village, or township.

27 (2) Structures in which sanitary sewage originates ~~lying-that~~
 28 **are located** outside the limits of the city, village, or township in
 29 which the available public sanitary sewer ~~lies-shall~~ **is located**

1 **must** be connected to the available public sanitary sewer after the
2 approval of both the city, village, or township in which the
3 structure and the public sanitary sewer system ~~lies~~**are located** and
4 if required by the city, village, or township in which the sewage
5 originates.

6 (3) Except as **otherwise** provided in subsection (4), the
7 connection provided for in subsections (1) and (2) ~~shall~~**must** be
8 completed promptly but not later than 18 months after the date of
9 occurrence of the last of the following events or before the city,
10 village, or township in which the sewage originates requires the
11 connection:

12 (a) ~~Publication~~**Through December 31, 2021, publication** of a
13 notice by the governmental entity ~~which~~**that** operates the public
14 sanitary sewer system of availability of the public sanitary sewer
15 system in a newspaper of general circulation in the city, village,
16 or township in which the structure is located. **Beginning January 1,**
17 **2022, the governmental entity that operates the public sanitary**
18 **sewer system shall post public notice as set forth in the local**
19 **government public notice act of availability of the public sanitary**
20 **sewer system in the city, village, or township in which the**
21 **structure is located.**

22 (b) Modification of a structure so as to become a structure in
23 which sanitary sewage originates.

24 (4) A city, village, or township may enact ordinances, or a
25 county or district board of health ~~may~~ adopt regulations, to
26 require completion of the connection within a shorter period of
27 time for reasons of public health.

28 Enacting section 1. This amendatory act does not take effect
29 unless Senate Bill No. ____ or House Bill No. 6440 (request no.

1 02449'19) of the 100th Legislature is enacted into law.