

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

333.7523 Seizure under MCL 333.7522; forfeiture proceedings; procedure; property subject to section or to order and judgment of court; powers of seizing agency; determining title to forfeited real property; forfeiture of real property encumbered by bona fide security interest; examination of money.

Sec. 7523. (1) Subject to section 7521a, if property is seized 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 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.

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

(d) If no claim is filed within the 20-day period as described in subdivision (c), the local unit of government or this state shall declare the property forfeited and shall dispose of the property as provided under section 7524. However, unless all criminal proceedings involving or relating to the property have been completed, the local unit of government or the state shall not dispose of the property under this subdivision without the written consent of the prosecuting attorney or, if the attorney general is actively handling a case involving or relating to the property, the attorney general.

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

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

(a) Place the property under seal.

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

(c) Require the administrator to take custody of the property and remove it to an appropriate location for

disposition in accordance with law.

(d) Deposit money seized under this article into an interest-bearing account in a financial institution. As used in this subdivision, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or the United States.

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

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

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 251, Imd. Eff. Sept. 29, 1982;—Am. 1985, Act 135, Imd. Eff. Sept. 30, 1985;—Am. 1988, Act 7, Imd. Eff. Feb. 8, 1988;—Am. 1990, Act 30, Eff. Mar. 28, 1991;—Am. 1990, Act 336, Eff. Apr. 1, 1991;—Am. 2006, Act 130, Imd. Eff. May 5, 2006;—Am. 2016, Act 418, Eff. Apr. 4, 2017;—Am. 2019, Act 9, Eff. Aug. 7, 2019.

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