



Sen. Don Harmon

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1 AMENDMENT TO HOUSE BILL 303

2 AMENDMENT NO. _____. Amend House Bill 303 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Seizure and Forfeiture Reporting Act.

6 Section 5. Applicability. This Act is applicable to
7 property seized or forfeited under the following provisions of
8 law:

- 9 (1) Section 3.23 of the Illinois Food, Drug and
10 Cosmetic Act;
- 11 (2) Section 44.1 of the Environmental Protection Act;
- 12 (3) Section 105-55 of the Herptiles-Herps Act;
- 13 (4) Section 1-215 of the Fish and Aquatic Life Code;
- 14 (5) Section 1.25 of the Wildlife Code;
- 15 (6) Section 17-10.6 of the Criminal Code of 2012
16 (financial institution fraud);

1 (7) Section 28-5 of the Criminal Code of 2012
2 (gambling);

3 (8) Article 29B of the Criminal Code of 2012 (money
4 laundering);

5 (9) Article 33G of the Criminal Code of 2012 (Illinois
6 Street Gang and Racketeer Influenced And Corrupt
7 Organizations Law);

8 (10) Article 36 of the Criminal Code of 2012 (seizure
9 and forfeiture of vessels, vehicles, and aircraft);

10 (11) Section 47-15 of the Criminal Code of 2012
11 (dumping garbage upon real property);

12 (12) Article 124B of the Code of Criminal procedure
13 (forfeiture);

14 (13) Drug Asset Forfeiture Procedure Act;

15 (14) Narcotics Profit Forfeiture Act;

16 (15) Illinois Streetgang Terrorism Omnibus Prevention
17 Act; and

18 (16) Illinois Securities Law of 1953.

19 Section 10. Reporting by law enforcement agency.

20 (a) Each law enforcement agency that seizes property
21 subject to reporting under this Act shall report the following
22 information about property seized or forfeited under State law:

23 (1) the name of the law enforcement agency that seized
24 the property;

25 (2) the date of the seizure;

1 (3) the type of property seized, including a building,
2 vehicle, boat, cash, negotiable security, or firearm,
3 except reporting is not required for seizures of contraband
4 including alcohol, gambling devices, drug paraphernalia,
5 and controlled substances;

6 (4) a description of the property seized and the
7 estimated value of the property and if the property is a
8 conveyance, the description shall include the make, model,
9 year, and vehicle identification number or serial number;
10 and

11 (5) the location where the seizure occurred.

12 The filing requirement shall be met upon filing the form
13 4-64 with the State's Attorney's Office in the county where the
14 forfeiture action is being commenced or with the Attorney
15 General's Office if the forfeiture action is being commenced by
16 that office, and the forwarding of the form 4-64 upon approval
17 of the State's Attorney's Office or the Attorney General's
18 Office to the Department of State Police Asset Forfeiture
19 Section. With regard to seizures for which form 4-64 is not
20 required to be filed, the filing requirement shall be met by
21 the filing of an annual summary report with the Department of
22 State Police no later than 60 days after December 31 of that
23 year.

24 (b) Each law enforcement agency, including a drug task
25 force or Metropolitan Enforcement Group (MEG) unit, that
26 receives proceeds from forfeitures subject to reporting under

1 this Act shall file an annual report with the Department of
2 State Police no later than 60 days after December 31 of that
3 year. The format of the report shall be developed by the
4 Department of State Police and shall be completed by the law
5 enforcement agency. The report shall include, at a minimum, the
6 amount of funds and other property distributed to the law
7 enforcement agency by the Department of State Police, the
8 amount of funds expended by the law enforcement agency, and the
9 category of expenditure, including:

10 (1) crime, gang, or abuse prevention or intervention
11 programs;

12 (2) compensation or services for crime victims;

13 (3) witness protection, informant fees, and controlled
14 purchases of contraband;

15 (4) salaries, overtime, and benefits, as permitted by
16 law;

17 (5) operating expenses, including but not limited to,
18 capital expenditures for vehicles, firearms, equipment,
19 computers, furniture, office supplies, postage, printing,
20 membership fees paid to trade associations, and fees for
21 professional services including auditing, court reporting,
22 expert witnesses, and attorneys;

23 (6) travel, meals, entertainment, conferences,
24 training, and continuing education seminars; and

25 (7) other expenditures of forfeiture proceeds.

26 (c) The Department of State Police shall establish and

1 maintain on its official website a public database that
2 includes annual aggregate data for each law enforcement agency
3 that reports seizures of property under subsection (a) of this
4 Section, that receives distributions of forfeiture proceeds
5 subject to reporting under this Act, or reports expenditures
6 under subsection (b) of this Section. This aggregate data shall
7 include, for each law enforcement agency:

8 (1) the total number of asset seizures reported by each
9 law enforcement agency during the calendar year;

10 (2) the monetary value of all currency or its
11 equivalent seized by the law enforcement agency during the
12 calendar year;

13 (3) the number of conveyances seized by the law
14 enforcement agency during the calendar year, and the
15 aggregate estimated value;

16 (4) the aggregate estimated value of all other property
17 seized by the law enforcement agency during the calendar
18 year;

19 (5) the monetary value of distributions by the
20 Department of State Police of forfeited currency or auction
21 proceeds from forfeited property to the law enforcement
22 agency during the calendar year; and

23 (6) the total amount of the law enforcement agency's
24 expenditures of forfeiture proceeds during the calendar
25 year, categorized as provided under subsection (b) of this
26 Section.

1 The database shall not provide names, addresses, phone
2 numbers, or other personally identifying information of owners
3 or interest holders, persons, business entities, covert office
4 locations, or business entities involved in the forfeiture
5 action and shall not disclose the vehicle identification number
6 or serial number of any conveyance.

7 (d) The Department of State Police shall adopt rules to
8 administer the asset forfeiture program, including the
9 categories of authorized expenditures consistent with the
10 statutory guidelines for each of the included forfeiture
11 statutes, the use of forfeited funds, other expenditure
12 requirements, and the reporting of seizure and forfeiture
13 information. The Department may adopt rules necessary to
14 implement this Act through the use of emergency rulemaking
15 under Section 5-45 of the Illinois Administrative Procedure Act
16 for a period not to exceed 180 days after the effective date of
17 this Act.

18 (e) The Department of State Police shall have authority and
19 oversight over all law enforcement agencies receiving
20 forfeited funds from the Department. This authority shall
21 include enforcement of rules and regulations adopted by the
22 Department and sanctions for violations of any rules and
23 regulations, including the withholding of distributions of
24 forfeiture proceeds from the law enforcement agency in
25 violation.

26 (f) Upon application by a law enforcement agency to the

1 Department of State Police, the reporting of a particular asset
2 forfeited under this Section may be delayed if the asset in
3 question was seized from a person who has become a confidential
4 informant under the agency's confidential informant policy, or
5 if the asset was seized as part of an ongoing investigation.
6 This delayed reporting shall be granted by the Department of
7 State Police for a maximum period of 6 months if the
8 confidential informant is still providing cooperation to law
9 enforcement or the investigation is still ongoing, and at that
10 time the asset shall be reported as required under this Act.

11 (g) The Department of State Police shall on or before
12 January 1, 2019, establish and implement the requirements of
13 this Act. In order to implement the reporting and public
14 database requirements under this Act, the Department of State
15 Police Asset Forfeiture Section requires a one-time upgrade of
16 its information technology software and hardware. This
17 one-time upgrade shall be funded by a temporary allocation of
18 5% of all forfeited currency and 5% of the auction proceeds
19 from each forfeited asset, which are to be distributed after
20 the effective date of this Act. The Department of State Police
21 shall transfer these funds at the time of distribution to a
22 separate fund established by the Department of State Police.
23 Monies deposited in this fund shall be accounted for and shall
24 be used only to pay for the actual one-time cost of purchasing
25 and installing the hardware and software required to comply
26 with this new reporting and public database requirement. Monies

1 deposited in the fund shall not be subject to re-appropriation,
2 reallocation, or redistribution for any other purpose. After
3 sufficient funds are transferred to the fund to cover the
4 actual one-time cost of purchasing and installing the hardware
5 and software required to comply with this new reporting and
6 public database requirement, no additional funds shall be
7 transferred to the fund for any purpose. At the completion of
8 the one-time upgrade of the information technology hardware and
9 software to comply with this new reporting and public database
10 requirement, any remaining funds in the fund shall be returned
11 to the participating agencies under the distribution
12 requirements of the statutes from which the funds were
13 transferred, and the fund shall no longer exist.

14 (h) (1) The Department of State Police, in consultation with
15 and subject to the approval of the Chief Procurement Officer,
16 may procure a single contract or multiple contracts to
17 implement the provisions of this Act.

18 (2) A contract or contracts under this subsection (h)
19 are not subject to the Illinois Procurement Code, except
20 for Sections 20-60, 20-65, 20-70, and 20-160 and Article 50
21 of that Code, provided that the Chief Procurement Officer
22 may, in writing with justification, waive any
23 certification required under Article 50 of the Illinois
24 Procurement Code. The provisions of this paragraph (2),
25 other than this sentence, are inoperative on and after July
26 1, 2019.

1 Section 15. Fund audits.

2 (a) The Auditor General shall conduct as a part of its 2
3 year compliance audit, an audit of the State Asset Forfeiture
4 Fund for compliance with the requirements of this Act. The
5 audit shall include, but not be limited to, the following
6 determinations:

7 (1) if detailed records of all receipts and
8 disbursements from the State Asset Forfeiture Fund are
9 being maintained;

10 (2) if administrative costs charged to the fund are
11 adequately documented and are reasonable; and

12 (3) if the procedures for making disbursements under
13 the Act are adequate.

14 (b) The Department of State Police, and any other entity or
15 person that may have information relevant to the audit, shall
16 cooperate fully and promptly with the Office of the Auditor
17 General in conducting the audit. The Auditor General shall
18 begin the audit during the next regular two year compliance
19 audit of the Department of State Police and distribute the
20 report upon completion under Section 3-14 of the Illinois State
21 Auditing Act.

22 Section 105. The Freedom of Information Act is amended by
23 changing Section 7.5 as follows:

1 (5 ILCS 140/7.5)

2 Sec. 7.5. Statutory exemptions. To the extent provided for
3 by the statutes referenced below, the following shall be exempt
4 from inspection and copying:

5 (a) All information determined to be confidential
6 under Section 4002 of the Technology Advancement and
7 Development Act.

8 (b) Library circulation and order records identifying
9 library users with specific materials under the Library
10 Records Confidentiality Act.

11 (c) Applications, related documents, and medical
12 records received by the Experimental Organ Transplantation
13 Procedures Board and any and all documents or other records
14 prepared by the Experimental Organ Transplantation
15 Procedures Board or its staff relating to applications it
16 has received.

17 (d) Information and records held by the Department of
18 Public Health and its authorized representatives relating
19 to known or suspected cases of sexually transmissible
20 disease or any information the disclosure of which is
21 restricted under the Illinois Sexually Transmissible
22 Disease Control Act.

23 (e) Information the disclosure of which is exempted
24 under Section 30 of the Radon Industry Licensing Act.

25 (f) Firm performance evaluations under Section 55 of
26 the Architectural, Engineering, and Land Surveying

1 Qualifications Based Selection Act.

2 (g) Information the disclosure of which is restricted
3 and exempted under Section 50 of the Illinois Prepaid
4 Tuition Act.

5 (h) Information the disclosure of which is exempted
6 under the State Officials and Employees Ethics Act, and
7 records of any lawfully created State or local inspector
8 general's office that would be exempt if created or
9 obtained by an Executive Inspector General's office under
10 that Act.

11 (i) Information contained in a local emergency energy
12 plan submitted to a municipality in accordance with a local
13 emergency energy plan ordinance that is adopted under
14 Section 11-21.5-5 of the Illinois Municipal Code.

15 (j) Information and data concerning the distribution
16 of surcharge moneys collected and remitted by wireless
17 carriers under the Wireless Emergency Telephone Safety
18 Act.

19 (k) Law enforcement officer identification information
20 or driver identification information compiled by a law
21 enforcement agency or the Department of Transportation
22 under Section 11-212 of the Illinois Vehicle Code.

23 (l) Records and information provided to a residential
24 health care facility resident sexual assault and death
25 review team or the Executive Council under the Abuse
26 Prevention Review Team Act.

1 (m) Information provided to the predatory lending
2 database created pursuant to Article 3 of the Residential
3 Real Property Disclosure Act, except to the extent
4 authorized under that Article.

5 (n) Defense budgets and petitions for certification of
6 compensation and expenses for court appointed trial
7 counsel as provided under Sections 10 and 15 of the Capital
8 Crimes Litigation Act. This subsection (n) shall apply
9 until the conclusion of the trial of the case, even if the
10 prosecution chooses not to pursue the death penalty prior
11 to trial or sentencing.

12 (o) Information that is prohibited from being
13 disclosed under Section 4 of the Illinois Health and
14 Hazardous Substances Registry Act.

15 (p) Security portions of system safety program plans,
16 investigation reports, surveys, schedules, lists, data, or
17 information compiled, collected, or prepared by or for the
18 Regional Transportation Authority under Section 2.11 of
19 the Regional Transportation Authority Act or the St. Clair
20 County Transit District under the Bi-State Transit Safety
21 Act.

22 (q) Information prohibited from being disclosed by the
23 Personnel Records Review Act.

24 (r) Information prohibited from being disclosed by the
25 Illinois School Student Records Act.

26 (s) Information the disclosure of which is restricted

1 under Section 5-108 of the Public Utilities Act.

2 (t) All identified or deidentified health information
3 in the form of health data or medical records contained in,
4 stored in, submitted to, transferred by, or released from
5 the Illinois Health Information Exchange, and identified
6 or deidentified health information in the form of health
7 data and medical records of the Illinois Health Information
8 Exchange in the possession of the Illinois Health
9 Information Exchange Authority due to its administration
10 of the Illinois Health Information Exchange. The terms
11 "identified" and "deidentified" shall be given the same
12 meaning as in the Health Insurance Portability and
13 Accountability Act of 1996, Public Law 104-191, or any
14 subsequent amendments thereto, and any regulations
15 promulgated thereunder.

16 (u) Records and information provided to an independent
17 team of experts under Brian's Law.

18 (v) Names and information of people who have applied
19 for or received Firearm Owner's Identification Cards under
20 the Firearm Owners Identification Card Act or applied for
21 or received a concealed carry license under the Firearm
22 Concealed Carry Act, unless otherwise authorized by the
23 Firearm Concealed Carry Act; and databases under the
24 Firearm Concealed Carry Act, records of the Concealed Carry
25 Licensing Review Board under the Firearm Concealed Carry
26 Act, and law enforcement agency objections under the

1 Firearm Concealed Carry Act.

2 (w) Personally identifiable information which is
3 exempted from disclosure under subsection (g) of Section
4 19.1 of the Toll Highway Act.

5 (x) Information which is exempted from disclosure
6 under Section 5-1014.3 of the Counties Code or Section
7 8-11-21 of the Illinois Municipal Code.

8 (y) Confidential information under the Adult
9 Protective Services Act and its predecessor enabling
10 statute, the Elder Abuse and Neglect Act, including
11 information about the identity and administrative finding
12 against any caregiver of a verified and substantiated
13 decision of abuse, neglect, or financial exploitation of an
14 eligible adult maintained in the Registry established
15 under Section 7.5 of the Adult Protective Services Act.

16 (z) Records and information provided to a fatality
17 review team or the Illinois Fatality Review Team Advisory
18 Council under Section 15 of the Adult Protective Services
19 Act.

20 (aa) Information which is exempted from disclosure
21 under Section 2.37 of the Wildlife Code.

22 (bb) Information which is or was prohibited from
23 disclosure by the Juvenile Court Act of 1987.

24 (cc) Recordings made under the Law Enforcement
25 Officer-Worn Body Camera Act, except to the extent
26 authorized under that Act.

1 (dd) Information that is prohibited from being
2 disclosed under Section 45 of the Condominium and Common
3 Interest Community Ombudsperson Act.

4 (ee) ~~(dd)~~ Information that is exempted from disclosure
5 under Section 30.1 of the Pharmacy Practice Act.

6 (ff) Information prohibited from disclosure under the
7 Seizure and Forfeiture Reporting Act.

8 (Source: P.A. 98-49, eff. 7-1-13; 98-63, eff. 7-9-13; 98-756,
9 eff. 7-16-14; 98-1039, eff. 8-25-14; 98-1045, eff. 8-25-14;
10 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352, eff. 1-1-16;
11 99-642, eff. 7-28-16; 99-776, eff. 8-12-16; 99-863, eff.
12 8-19-16; revised 9-1-16.)

13 Section 110. The Illinois Food, Drug and Cosmetic Act is
14 amended by changing Section 3.23 as follows:

15 (410 ILCS 620/3.23)

16 Sec. 3.23. Legend drug prohibition.

17 (a) In this Section:

18 "Legend drug" means a drug limited by the Federal Food,
19 Drug and Cosmetic Act to being dispensed by or upon a medical
20 practitioner's prescription because the drug is:

21 (1) habit forming;

22 (2) toxic or having potential for harm; or

23 (3) limited in use by the new drug application for the
24 drug to use only under a medical practitioner's

1 supervision.

2 "Medical practitioner" means any person licensed to
3 practice medicine in all its branches in the State.

4 "Deliver" or "delivery" means the actual, constructive, or
5 attempted transfer of possession of a legend drug, with or
6 without consideration, whether or not there is an agency
7 relationship.

8 "Manufacture" means the production, preparation,
9 propagation, compounding, conversion, or processing of a
10 legend drug, either directly or indirectly, by extraction from
11 substances of natural origin, or independently by means of
12 chemical synthesis, or by a combination of extraction and
13 chemical synthesis, and includes any packaging or repackaging
14 of the substance or labeling of its container. "Manufacture"
15 does not include:

16 (1) by an ultimate user, the preparation or compounding
17 of a legend drug for his own use; or

18 (2) by a medical practitioner, or his authorized agent
19 under his supervision, the preparation, compounding,
20 packaging, or labeling of a legend drug:

21 (A) as an incident to his administering or
22 dispensing of a legend drug in the course of his
23 professional practice; or

24 (B) as an incident to lawful research, teaching, or
25 chemical analysis and not for sale.

26 "Prescription" has the same meaning ascribed to it in

1 Section 3 of the Pharmacy Practice Act.

2 (b) It is unlawful for any person to knowingly manufacture
3 or deliver or possess with the intent to manufacture or deliver
4 a legend drug of 6 or more pills, tablets, capsules, or caplets
5 or 30 ml or more of a legend drug in liquid form who is not
6 licensed by applicable law to prescribe or dispense legend
7 drugs or is not an employee of the licensee operating in the
8 normal course of business under the supervision of the
9 licensee. Any person who violates this Section is guilty of a
10 Class 3 felony, the fine for which shall not exceed \$100,000. A
11 person convicted of a second or subsequent violation of this
12 Section is guilty of a Class 1 felony, the fine for which shall
13 not exceed \$250,000.

14 (c) The following are subject to forfeiture:

15 (1) (blank); ~~all substances that have been~~
16 ~~manufactured, distributed, dispensed, or possessed in~~
17 ~~violation of this Act;~~

18 (2) all raw materials, products, and equipment of any
19 kind which are used, or intended for use in manufacturing,
20 distributing, dispensing, administering, or possessing any
21 substance in violation of this Section ~~Act~~;

22 (3) all conveyances, including aircraft, vehicles, or
23 vessels, which are used, or intended for use, to transport,
24 or in any manner to facilitate the transportation, sale,
25 receipt, possession, or concealment of any substance
26 manufactured, distributed, dispensed, or possessed in

1 violation of this Section or property described in
2 paragraph ~~items (1) and~~ (2) of this subsection (c), but:

3 (A) no conveyance used by any person as a common
4 carrier in the transaction of business as a common
5 carrier is subject to forfeiture under this Section
6 unless it appears that the owner or other person in
7 charge of the conveyance is a consenting party or privy
8 to the ~~a violation of this Act;~~

9 (B) no conveyance is subject to forfeiture under
10 this Section by reason of any act or omission which the
11 owner proves to have been committed or omitted without
12 his knowledge or consent; and

13 (C) a forfeiture of a conveyance encumbered by a
14 bona fide security interest is subject to the interest
15 of the secured party if he neither had knowledge of nor
16 consented to the act or omission;

17 (4) all money, things of value, books, records, and
18 research products and materials including formulas,
19 microfilm, tapes, and data that are used, or intended to be
20 used in violation of this Section ~~Act;~~

21 (5) everything of value furnished, or intended to be
22 furnished, in exchange for a substance in violation of this
23 Section ~~Act~~, all proceeds traceable to such an exchange,
24 and all moneys, negotiable instruments, and securities
25 used, or intended to be used, to commit or in any manner to
26 facilitate any violation of this Section ~~Act;~~ and

1 (6) all real property, including any right, title, and
2 interest, including, but not limited to, any leasehold
3 interest or the beneficial interest in a land trust, in the
4 whole of any lot or tract of land and any appurtenances or
5 improvements, which is used or intended to be used, in any
6 manner or part, to commit, or in any manner to facilitate
7 the commission of, any violation or act that constitutes a
8 violation of this Section ~~33.1 of this Act~~ or that is the
9 proceeds of any violation or act that constitutes a
10 violation of this Section ~~33.1 of this Act~~.

11 (d) Property subject to forfeiture under this Act may be
12 seized under the Drug Asset Forfeiture Procedure Act. In the
13 event of seizure, forfeiture proceedings shall be instituted
14 under the Drug Asset Forfeiture Procedure Act. ~~by the Director~~
15 ~~of the Department of State Police or any peace officer upon~~
16 ~~process or seizure warrant issued by any court having~~
17 ~~jurisdiction over the property. Seizure by the Director of the~~
18 ~~Department of State Police or any peace officer without process~~
19 ~~may be made:~~

20 ~~(1) if the seizure is incident to inspection under an~~
21 ~~administrative inspection warrant;~~

22 ~~(2) if the property subject to seizure has been the~~
23 ~~subject of a prior judgment in favor of the State in a~~
24 ~~criminal proceeding, or in an injunction or forfeiture~~
25 ~~proceeding based upon this Act or the Drug Asset Forfeiture~~
26 ~~Procedure Act;~~

1 ~~(3) if there is probable cause to believe that the~~
2 ~~property is directly or indirectly dangerous to health or~~
3 ~~safety;~~

4 ~~(4) if there is probable cause to believe that the~~
5 ~~property is subject to forfeiture under this Act and the~~
6 ~~property is seized under circumstances in which a~~
7 ~~warrantless seizure or arrest would be reasonable; or~~

8 ~~(5) in accordance with the Code of Criminal Procedure~~
9 ~~of 1963.~~

10 (e) Forfeiture under this Act is subject to an 8th
11 amendment to the United States Constitution disproportionate
12 penalties analysis as provided under Section 9.5 of the Drug
13 Asset Forfeiture Procedure Act. ~~In the event of seizure~~
14 ~~pursuant to subsection (c) of this Section, forfeiture~~
15 ~~proceedings shall be instituted in accordance with the Drug~~
16 ~~Asset Forfeiture Procedure Act.~~

17 (f) With regard to possession of legend drug offenses only,
18 a sum of currency with a value of less than \$500 shall not be
19 subject to forfeiture under this Act. For all other offenses
20 under this Act, currency with a value of under \$100 shall not
21 be subject to forfeiture under this Act. ~~Property taken or~~
22 ~~detained under this Section shall not be subject to replevin,~~
23 ~~but is deemed to be in the custody of the Director of the~~
24 ~~Department of State Police subject only to the order and~~
25 ~~judgments of the circuit court having jurisdiction over the~~
26 ~~forfeiture proceedings and the decisions of the State's~~

1 ~~Attorney under the Drug Asset Forfeiture Procedure Act. If~~
2 ~~property is seized under this Act, then the seizing agency~~
3 ~~shall promptly conduct an inventory of the seized property and~~
4 ~~estimate the property's value, and shall forward a copy of the~~
5 ~~inventory of seized property and the estimate of the property's~~
6 ~~value to the Director of the Department of State Police. Upon~~
7 ~~receiving notice of seizure, the Secretary may:~~

8 ~~(1) place the property under seal;~~

9 ~~(2) remove the property to a place designated by the~~
10 ~~Secretary;~~

11 ~~(3) keep the property in the possession of the seizing~~
12 ~~agency;~~

13 ~~(4) remove the property to a storage area for~~
14 ~~safekeeping or, if the property is a negotiable instrument~~
15 ~~or money and is not needed for evidentiary purposes,~~
16 ~~deposit it in an interest bearing account;~~

17 ~~(5) place the property under constructive seizure by~~
18 ~~posting notice of pending forfeiture on it, by giving~~
19 ~~notice of pending forfeiture to its owners and interest~~
20 ~~holders, or by filing notice of pending forfeiture in any~~
21 ~~appropriate public record relating to the property; or~~

22 ~~(6) provide for another agency or custodian, including~~
23 ~~an owner, secured party, or lienholder, to take custody of~~
24 ~~the property upon the terms and conditions set by the~~
25 ~~Director of the Department of State Police.~~

26 (f-5) For felony offenses involving possession of legend

1 drug only, no property shall be subject to forfeiture under
2 this Act because of the possession of less than 2 single unit
3 doses of a controlled substance. This exemption shall not apply
4 in instances when the possessor, or another person at the
5 direction of the possessor, is engaged in the destruction of
6 any amount of a legend drug. The amount of a single unit dose
7 shall be the State's burden to prove in their case in chief.

8 (g) If the Department suspends or revokes a registration,
9 all legend drugs owned or possessed by the registrant at the
10 time of suspension or the effective date of the revocation
11 order may be placed under seal. No disposition may be made of
12 substances under seal until the time for taking an appeal has
13 elapsed or until all appeals have been concluded unless a
14 court, upon application therefor, orders the sale of perishable
15 substances and the deposit of the proceeds of the sale with the
16 court. Upon a revocation rule becoming final, all substances
17 are subject to seizure and forfeiture under the Drug Asset
18 Forfeiture Procedure Act ~~may be forfeited to the Department.~~

19 (h) (Blank). ~~If property is forfeited under this Act, then~~
20 ~~the Director of the Department of State Police must sell all~~
21 ~~such property unless such property is required by law to be~~
22 ~~destroyed or is harmful to the public, and shall distribute the~~
23 ~~proceeds of the sale, together with any moneys forfeited or~~
24 ~~seized, in accordance with subsection (i) of this Section. Upon~~
25 ~~the application of the seizing agency or prosecutor who was~~
26 ~~responsible for the investigation, arrest or arrests, and~~

1 ~~prosecution that led to the forfeiture, the Director of the~~
2 ~~Department of State Police may return any item of forfeited~~
3 ~~property to the seizing agency or prosecutor for official use~~
4 ~~in the enforcement of laws if the agency or prosecutor can~~
5 ~~demonstrate that the item requested would be useful to the~~
6 ~~agency or prosecutor in their enforcement efforts. If any~~
7 ~~forfeited conveyance, including an aircraft, vehicle, or~~
8 ~~vessel, is returned to the seizing agency or prosecutor, then~~
9 ~~the conveyance may be used immediately in the enforcement of~~
10 ~~the criminal laws of the State. Upon disposal, all proceeds~~
11 ~~from the sale of the conveyance must be used for drug~~
12 ~~enforcement purposes. If any real property returned to the~~
13 ~~seizing agency is sold by the agency or its unit of government,~~
14 ~~then the proceeds of the sale shall be delivered to the~~
15 ~~Director of the Department of State Police and distributed in~~
16 ~~accordance with subsection (i) of this Section.~~

17 (i) (Blank). ~~All moneys and the sale proceeds of all other~~
18 ~~property forfeited and seized under this Act shall be~~
19 ~~distributed as follows:~~

20 ~~(1) 65% shall be distributed to the metropolitan~~
21 ~~enforcement group, local, municipal, county, or State law~~
22 ~~enforcement agency or agencies which conducted or~~
23 ~~participated in the investigation resulting in the~~
24 ~~forfeiture. The distribution shall bear a reasonable~~
25 ~~relationship to the degree of direct participation of the~~
26 ~~law enforcement agency in the effort resulting in the~~

1 ~~forfeiture, taking into account the total value of the~~
2 ~~property forfeited and the total law enforcement effort~~
3 ~~with respect to the violation of the law upon which the~~
4 ~~forfeiture is based. Amounts distributed to the agency or~~
5 ~~agencies shall be used for the enforcement of laws.~~

6 ~~(2) 12.5% shall be distributed to the Office of the~~
7 ~~State's Attorney of the county in which the prosecution~~
8 ~~resulting in the forfeiture was instituted, deposited in a~~
9 ~~special fund in the county treasury and appropriated to the~~
10 ~~State's Attorney for use in the enforcement of laws. In~~
11 ~~counties over 3,000,000 population, 25% will be~~
12 ~~distributed to the Office of the State's Attorney for use~~
13 ~~in the enforcement of laws governing cannabis and~~
14 ~~controlled substances. If the prosecution is undertaken~~
15 ~~solely by the Attorney General, the portion provided~~
16 ~~hereunder shall be distributed to the Attorney General for~~
17 ~~use in the enforcement of laws.~~

18 ~~(3) 12.5% shall be distributed to the Office of the~~
19 ~~State's Attorneys Appellate Prosecutor and deposited in a~~
20 ~~separate fund of that office to be used for additional~~
21 ~~expenses incurred in the investigation, prosecution and~~
22 ~~appeal of cases. The Office of the State's Attorneys~~
23 ~~Appellate Prosecutor shall not receive distribution from~~
24 ~~cases brought in counties with over 3,000,000 population.~~

25 ~~(4) 10% shall be retained by the Department of State~~
26 ~~Police for expenses related to the administration and sale~~

1 ~~of seized and forfeited property.~~

2 (j) Contraband, including legend drugs possessed without a
3 prescription or other authorization under State or federal law,
4 is not subject to forfeiture. No property right exists in
5 contraband. Contraband is subject to seizure and shall be
6 disposed of according to State law.

7 (Source: P.A. 96-573, eff. 8-18-09.)

8 Section 115. The Environmental Protection Act is amended by
9 changing Section 44.1 as follows:

10 (415 ILCS 5/44.1) (from Ch. 111 1/2, par. 1044.1)

11 Sec. 44.1. (a) In addition to all other civil and criminal
12 penalties provided by law, any person convicted of a criminal
13 violation of this Act or the regulations adopted thereunder
14 shall forfeit to the State (1) an amount equal to the value of
15 all profits earned, savings realized, and benefits incurred as
16 a direct or indirect result of such violation, and (2) any
17 vehicle or conveyance used in the perpetration of such
18 violation, except as provided in subsection (b).

19 (b) Forfeiture of conveyances shall be subject to the
20 following exceptions:

21 (1) No conveyance used by any person as a common
22 carrier in the transaction of business as a common carrier
23 is subject to forfeiture under this Section unless it is
24 proven that the owner or other person in charge of the

1 conveyance consented to or was privy to the covered
2 violation.

3 (2) No conveyance is subject to forfeiture under this
4 Section by reason of any covered violation which the owner
5 proves to have been committed without his knowledge or
6 consent.

7 (3) A forfeiture of a conveyance encumbered by a bona
8 fide security interest is subject to the interest of the
9 secured party if he neither had knowledge of nor consented
10 to the covered violation.

11 (c) Except as provided in subsection (d), all property
12 subject to forfeiture under this Section shall be seized
13 pursuant to the order of a circuit court.

14 (d) Property subject to forfeiture under this Section may
15 be seized by the Director or any peace officer without process:

16 (1) if the seizure is incident to an inspection under
17 an administrative inspection warrant, or incident to the
18 execution of a criminal search or arrest warrant;

19 (2) if the property subject to seizure has been the
20 subject of a prior judgment in favor of the State in a
21 criminal proceeding, or in an injunction or forfeiture
22 proceeding based upon this Act; or

23 (3) if there is probable cause to believe that the
24 property is directly or indirectly dangerous to health or
25 safety.

26 (e) Property taken or detained under this Section shall not

1 be subject to forcible entry and detainer or replevin, but is
2 deemed to be in the custody of the Director subject only to the
3 order and judgments of the circuit court having jurisdiction
4 over the forfeiture proceedings. When property is seized under
5 this Act, the Director may:

6 (1) place the property under seal;

7 (2) secure the property or remove the property to a
8 place designated by him; or

9 (3) require the sheriff of the county in which the
10 seizure occurs to take custody of the property and secure
11 or remove it to an appropriate location for disposition in
12 accordance with law.

13 (f) All amounts forfeited under item (1) of subsection (a)
14 shall be apportioned in the following manner:

15 (1) 40% shall be deposited in the Hazardous Waste Fund
16 created in Section 22.2;

17 (2) 30% shall be paid to the office of the Attorney
18 General or the State's Attorney of the county in which the
19 violation occurred, whichever brought and prosecuted the
20 action; and

21 (3) 30% shall be paid to the law enforcement agency
22 which investigated the violation.

23 Any funds received under this subsection (f) shall be used
24 solely for the enforcement of the environmental protection laws
25 of this State.

26 (g) When property is forfeited under this Section the court

1 may order:

2 (1) that the property shall be made available for the
3 official use of the Agency, the Office of the Attorney
4 General, the State's Attorney of the county in which the
5 violation occurred, or the law enforcement agency which
6 investigated the violation, to be used solely for the
7 enforcement of the environmental protection laws of this
8 State;

9 (2) the sheriff of the county in which the forfeiture
10 occurs to take custody of the property and remove it for
11 disposition in accordance with law; or

12 (3) the sheriff of the county in which the forfeiture
13 occurs to sell that which is not required to be destroyed
14 by law and which is not harmful to the public. The proceeds
15 of such sale shall be used for payment of all proper
16 expenses of the proceedings for forfeiture and sale,
17 including expenses of seizure, maintenance of custody,
18 advertising and court costs, and the balance, if any, shall
19 be apportioned pursuant to subsection (f).

20 (h) Property seized or forfeited under this Section is
21 subject to reporting under the Seizure and Forfeiture Reporting
22 Act.

23 (Source: P.A. 85-487.)

24 Section 120. The Herptiles-Herps Act is amended by changing
25 Section 105-55 as follows:

1 (510 ILCS 68/105-55)

2 Sec. 105-55. Illegal collecting devices; public nuisance.
3 Every collecting device, including seines, nets, traps,
4 pillowcases, bags, snake hooks or tongs, or any electrical
5 device or any other devices including vehicles or conveyance,
6 watercraft, or aircraft used or operated illegally or attempted
7 to be used or operated illegally by any person in taking,
8 transporting, holding, or conveying any reptile or amphibian
9 life or any part of reptile or amphibian life, contrary to this
10 Act, including administrative rules, shall be deemed a public
11 nuisance and therefore illegal and subject to seizure and
12 confiscation by any authorized employee of the Department. Upon
13 the seizure of this item, the Department shall take and hold
14 the item until disposed of as provided in this Act.

15 Upon the seizure of any device because of its illegal use,
16 the officer or authorized employee of the Department making the
17 seizure shall, as soon as reasonably possible, cause a
18 complaint to be filed before the circuit court and a summons to
19 be issued requiring the owner or person in possession of the
20 property to appear in court and show cause why the device
21 seized should not be forfeited to the State. Upon the return of
22 the summons duly served or upon posting or publication of
23 notice as provided in this Act, the court shall proceed to
24 determine the question of the illegality of the use of the
25 seized property. Upon judgment being entered that the property

1 was illegally used, an order shall be entered providing for the
2 forfeiture of the seized property to the State. The owner of
3 the property may have a jury determine the illegality of its
4 use and shall have the right of an appeal as in other civil
5 cases. Confiscation or forfeiture shall not preclude or
6 mitigate against prosecution and assessment of penalties
7 provided in Article 90 of this Act.

8 Upon seizure of any property under circumstances
9 supporting a reasonable belief that the property was abandoned,
10 lost, stolen, or otherwise illegally possessed or used contrary
11 to this Act, except property seized during a search or arrest,
12 and ultimately returned, destroyed, or otherwise disposed of
13 under order of a court in accordance with this Act, the
14 authorized employee of the Department shall make reasonable
15 inquiry and efforts to identify and notify the owner or other
16 person entitled to possession of the property and shall return
17 the property after the person provides reasonable and
18 satisfactory proof of his or her ownership or right to
19 possession and reimburses the Department for all reasonable
20 expenses of custody. If the identity or location of the owner
21 or other person entitled to possession of the property has not
22 been ascertained within 6 months after the Department obtains
23 possession, the Department shall effectuate the sale of the
24 property for cash to the highest bidder at a public auction.
25 The owner or other person entitled to possession of the
26 property may claim and recover possession of the property at

1 any time before its sale at public auction upon providing
2 reasonable and satisfactory proof of ownership or right of
3 possession and reimbursing the Department for all reasonable
4 expenses of custody.

5 Any property forfeited to the State by court order under
6 this Section may be disposed of by public auction, except that
7 any property that is the subject of a court order shall not be
8 disposed of pending appeal of the order. The proceeds of the
9 sales at auction shall be deposited in the Wildlife and Fish
10 Fund.

11 The Department shall pay all costs of posting or
12 publication of notices required by this Section.

13 Property seized or forfeited under this Section is subject
14 to reporting under the Seizure and Forfeiture Reporting Act.

15 (Source: P.A. 98-752, eff. 1-1-15.)

16 Section 125. The Fish and Aquatic Life Code is amended by
17 changing Section 1-215 as follows:

18 (515 ILCS 5/1-215) (from Ch. 56, par. 1-215)

19 Sec. 1-215. Illegal fishing devices; public nuisance.
20 Every fishing device, including seines, nets, or traps, or any
21 electrical device or any other devices, including vehicles,
22 watercraft, or aircraft, used or operated illegally or
23 attempted to be used or operated illegally by any person in
24 taking, transporting, holding, or conveying any aquatic life

1 contrary to this Code, including administrative rules, shall be
2 deemed a public nuisance and therefore illegal and subject to
3 seizure and confiscation by any authorized employee of the
4 Department. Upon the seizure of such an item the Department
5 shall take and hold the item until disposed of as provided in
6 this Code.

7 Upon the seizure of any device because of its illegal use,
8 the officer or authorized employee of the Department making the
9 seizure shall, as soon as reasonably possible, cause a
10 complaint to be filed before the Circuit Court and a summons to
11 be issued requiring the owner or person in possession of the
12 property to appear in court and show cause why the device
13 seized should not be forfeited to the State. Upon the return of
14 the summons duly served or upon posting or publication of
15 notice as provided in this Code, the court shall proceed to
16 determine the question of the illegality of the use of the
17 seized property. Upon judgment being entered to the effect that
18 the property was illegally used, an order shall be entered
19 providing for the forfeiture of the seized property to the
20 State. The owner of the property, however, may have a jury
21 determine the illegality of its use, and shall have the right
22 of an appeal as in other civil cases. Confiscation or
23 forfeiture shall not preclude or mitigate against prosecution
24 and assessment of penalties provided in Section 20-35 of this
25 Code.

26 Upon seizure of any property under circumstances

1 supporting a reasonable belief that the property was abandoned,
2 lost, stolen, or otherwise illegally possessed or used contrary
3 to this Code, except property seized during a search or arrest,
4 and ultimately returned, destroyed, or otherwise disposed of
5 under order of a court in accordance with this Code, the
6 authorized employee of the Department shall make reasonable
7 inquiry and efforts to identify and notify the owner or other
8 person entitled to possession of the property and shall return
9 the property after the person provides reasonable and
10 satisfactory proof of his or her ownership or right to
11 possession and reimburses the Department for all reasonable
12 expenses of custody. If the identity or location of the owner
13 or other person entitled to possession of the property has not
14 been ascertained within 6 months after the Department obtains
15 possession, the Department shall effectuate the sale of the
16 property for cash to the highest bidder at a public auction.
17 The owner or other person entitled to possession of the
18 property may claim and recover possession of the property at
19 any time before its sale at public auction upon providing
20 reasonable and satisfactory proof of ownership or right of
21 possession and reimbursing the Department for all reasonable
22 expenses of custody.

23 Any property forfeited to the State by court order under
24 this Section may be disposed of by public auction, except that
25 any property that is the subject of a court order shall not be
26 disposed of pending appeal of the order. The proceeds of the

1 sales at auction shall be deposited in the Wildlife and Fish
2 Fund.

3 The Department shall pay all costs of posting or
4 publication of notices required by this Section.

5 Property seized or forfeited under this Section is subject
6 to reporting under the Seizure and Forfeiture Reporting Act.

7 (Source: P.A. 87-833.)

8 Section 130. The Wildlife Code is amended by changing
9 Section 1.25 as follows:

10 (520 ILCS 5/1.25) (from Ch. 61, par. 1.25)

11 Sec. 1.25. Every hunting or trapping device, vehicle or
12 conveyance, when used or operated illegally, or attempted to be
13 used or operated illegally by any person in taking,
14 transporting, holding, or conveying any wild bird or wild
15 mammal, contrary to the provisions of this Act, including
16 administrative rules, is a public nuisance and subject to
17 seizure and confiscation by any authorized employee of the
18 Department; upon the seizure of such item the Department shall
19 take and hold the same until disposed of as hereinafter
20 provided.

21 Upon the seizure of any property as herein provided, the
22 authorized employee of the Department making such seizure shall
23 forthwith cause a complaint to be filed before the Circuit
24 Court and a summons to be issued requiring the person who

1 illegally used or operated or attempted to use or operate such
2 property and the owner and person in possession of such
3 property to appear in court and show cause why the property
4 seized should not be forfeited to the State. Upon the return of
5 the summons duly served or other notice as herein provided, the
6 court shall proceed to determine the question of the illegality
7 of the use of the seized property and upon judgment being
8 entered to the effect that such property was illegally used, an
9 order may be entered providing for the forfeiture of such
10 seized property to the Department and shall thereupon become
11 the property of the Department; but the owner of such property
12 may have a jury determine the illegality of its use, and shall
13 have the right of an appeal, as in other cases. Such
14 confiscation or forfeiture shall not preclude or mitigate
15 against prosecution and assessment of penalties otherwise
16 provided in this Act.

17 Upon seizure of any property under circumstances
18 supporting a reasonable belief that such property was
19 abandoned, lost or stolen or otherwise illegally possessed or
20 used contrary to the provisions of this Act, except property
21 seized during a search or arrest, and ultimately returned,
22 destroyed, or otherwise disposed of pursuant to order of a
23 court in accordance with this Act, the authorized employee of
24 the Department shall make reasonable inquiry and efforts to
25 identify and notify the owner or other person entitled to
26 possession thereof, and shall return the property after such

1 person provides reasonable and satisfactory proof of his
2 ownership or right to possession and reimburses the Department
3 for all reasonable expenses of such custody. If the identity or
4 location of the owner or other person entitled to possession of
5 the property has not been ascertained within 6 months after the
6 Department obtains such possession, the Department shall
7 effectuate the sale of the property for cash to the highest
8 bidder at a public auction. The owner or other person entitled
9 to possession of such property may claim and recover possession
10 of the property at any time before its sale at public auction,
11 upon providing reasonable and satisfactory proof of ownership
12 or right of possession and reimbursing the Department for all
13 reasonable expenses of custody thereof.

14 Any property, including guns, forfeited to the State by
15 court order pursuant to this Section, may be disposed of by
16 public auction, except that any property which is the subject
17 of such a court order shall not be disposed of pending appeal
18 of the order. The proceeds of the sales at auction shall be
19 deposited in the Wildlife and Fish Fund.

20 The Department shall pay all costs of notices required by
21 this Section.

22 Property seized or forfeited under this Section is subject
23 to reporting under the Seizure and Forfeiture Reporting Act.

24 (Source: P.A. 85-152.)

25 Section 135. The Criminal Code of 2012 is amended by

1 changing Sections 17-10.6, 28-5, 29B-1, 33G-6, 36-1, 36-1.5,
2 36-2, 36-3, and 47-15 and by adding Sections 36-1.1, 36-1.2,
3 36-1.3, 36-1.4, 36-2.1, 36-2.2, 36-2.5, 36-2.7, 36-3.1, 36-6,
4 36-7, and 36-9 as follows:

5 (720 ILCS 5/17-10.6)

6 Sec. 17-10.6. Financial institution fraud.

7 (a) Misappropriation of financial institution property. A
8 person commits misappropriation of a financial institution's
9 property whenever he or she knowingly obtains or exerts
10 unauthorized control over any of the moneys, funds, credits,
11 assets, securities, or other property owned by or under the
12 custody or control of a financial institution, or under the
13 custody or care of any agent, officer, director, or employee of
14 such financial institution.

15 (b) Commercial bribery of a financial institution.

16 (1) A person commits commercial bribery of a financial
17 institution when he or she knowingly confers or offers or
18 agrees to confer any benefit upon any employee, agent, or
19 fiduciary without the consent of the latter's employer or
20 principal, with the intent to influence his or her conduct
21 in relation to his or her employer's or principal's
22 affairs.

23 (2) An employee, agent, or fiduciary of a financial
24 institution commits commercial bribery of a financial
25 institution when, without the consent of his or her

1 employer or principal, he or she knowingly solicits,
2 accepts, or agrees to accept any benefit from another
3 person upon an agreement or understanding that such benefit
4 will influence his or her conduct in relation to his or her
5 employer's or principal's affairs.

6 (c) Financial institution fraud. A person commits
7 financial institution fraud when he or she knowingly executes
8 or attempts to execute a scheme or artifice:

9 (1) to defraud a financial institution; or

10 (2) to obtain any of the moneys, funds, credits,
11 assets, securities, or other property owned by or under the
12 custody or control of a financial institution, by means of
13 pretenses, representations, or promises he or she knows to
14 be false.

15 (d) Loan fraud. A person commits loan fraud when he or she
16 knowingly, with intent to defraud, makes any false statement or
17 report, or overvalues any land, property, or security, with the
18 intent to influence in any way the action of a financial
19 institution to act upon any application, advance, discount,
20 purchase, purchase agreement, repurchase agreement,
21 commitment, or loan, or any change or extension of any of the
22 same, by renewal, deferment of action, or otherwise, or the
23 acceptance, release, or substitution of security.

24 (e) Concealment of collateral. A person commits
25 concealment of collateral when he or she, with intent to
26 defraud, knowingly conceals, removes, disposes of, or converts

1 to the person's own use or to that of another any property
2 mortgaged or pledged to or held by a financial institution.

3 (f) Financial institution robbery. A person commits
4 robbery when he or she knowingly, by force or threat of force,
5 or by intimidation, takes, or attempts to take, from the person
6 or presence of another, or obtains or attempts to obtain by
7 extortion, any property or money or any other thing of value
8 belonging to, or in the care, custody, control, management, or
9 possession of, a financial institution.

10 (g) Conspiracy to commit a financial crime.

11 (1) A person commits conspiracy to commit a financial
12 crime when, with the intent that any violation of this
13 Section be committed, he or she agrees with another person
14 to the commission of that offense.

15 (2) No person may be convicted of conspiracy to commit
16 a financial crime unless an overt act or acts in
17 furtherance of the agreement is alleged and proved to have
18 been committed by that person or by a co-conspirator and
19 the accused is a part of a common scheme or plan to engage
20 in the unlawful activity.

21 (3) It shall not be a defense to conspiracy to commit a
22 financial crime that the person or persons with whom the
23 accused is alleged to have conspired:

24 (A) has not been prosecuted or convicted;

25 (B) has been convicted of a different offense;

26 (C) is not amenable to justice;

1 (D) has been acquitted; or

2 (E) lacked the capacity to commit the offense.

3 (h) Continuing financial crimes enterprise. A person
4 commits a continuing financial crimes enterprise when he or she
5 knowingly, within an 18-month period, commits 3 or more
6 separate offenses constituting any combination of the
7 following:

8 (1) an offense under this Section;

9 (2) a felony offense in violation of Section 16A-3 or
10 subsection (a) of Section 16-25 or paragraph (4) or (5) of
11 subsection (a) of Section 16-1 of this Code for the purpose
12 of reselling or otherwise re-entering the merchandise in
13 commerce, including conveying the merchandise to a
14 merchant in exchange for anything of value; or

15 (3) if involving a financial institution, any other
16 felony offense under this Code.

17 (i) Organizer of a continuing financial crimes enterprise.

18 (1) A person commits being an organizer of a continuing
19 financial crimes enterprise when he or she:

20 (A) with the intent to commit any offense, agrees
21 with another person to the commission of any
22 combination of the following offenses on 3 or more
23 separate occasions within an 18-month period:

24 (i) an offense under this Section;

25 (ii) a felony offense in violation of Section
26 16A-3 or subsection (a) of Section 16-25 or

1 paragraph (4) or (5) of subsection (a) of Section
2 16-1 of this Code for the purpose of reselling or
3 otherwise re-entering the merchandise in commerce,
4 including conveying the merchandise to a merchant
5 in exchange for anything of value; or

6 (iii) if involving a financial institution,
7 any other felony offense under this Code; and

8 (B) with respect to the other persons within the
9 conspiracy, occupies a position of organizer,
10 supervisor, or financier or other position of
11 management.

12 (2) The person with whom the accused agreed to commit
13 the 3 or more offenses under this Section, or, if involving
14 a financial institution, any other felony offenses under
15 this Code, need not be the same person or persons for each
16 offense, as long as the accused was a part of the common
17 scheme or plan to engage in each of the 3 or more alleged
18 offenses.

19 (j) Sentence.

20 (1) Except as otherwise provided in this subsection, a
21 violation of this Section, the full value of which:

22 (A) does not exceed \$500, is a Class A misdemeanor;

23 (B) does not exceed \$500, and the person has been
24 previously convicted of a financial crime or any type
25 of theft, robbery, armed robbery, burglary,
26 residential burglary, possession of burglary tools, or

1 home invasion, is guilty of a Class 4 felony;

2 (C) exceeds \$500 but does not exceed \$10,000, is a
3 Class 3 felony;

4 (D) exceeds \$10,000 but does not exceed \$100,000,
5 is a Class 2 felony;

6 (E) exceeds \$100,000 but does not exceed \$500,000,
7 is a Class 1 felony;

8 (F) exceeds \$500,000 but does not exceed
9 \$1,000,000, is a Class 1 non-probationable felony;
10 when a charge of financial crime, the full value of
11 which exceeds \$500,000 but does not exceed \$1,000,000,
12 is brought, the value of the financial crime involved
13 is an element of the offense to be resolved by the
14 trier of fact as either exceeding or not exceeding
15 \$500,000;

16 (G) exceeds \$1,000,000, is a Class X felony; when a
17 charge of financial crime, the full value of which
18 exceeds \$1,000,000, is brought, the value of the
19 financial crime involved is an element of the offense
20 to be resolved by the trier of fact as either exceeding
21 or not exceeding \$1,000,000.

22 (2) A violation of subsection (f) is a Class 1 felony.

23 (3) A violation of subsection (h) is a Class 1 felony.

24 (4) A violation for subsection (i) is a Class X felony.

25 (k) A "financial crime" means an offense described in this
26 Section.

1 (1) Period of limitations. The period of limitations for
2 prosecution of any offense defined in this Section begins at
3 the time when the last act in furtherance of the offense is
4 committed.

5 (m) Forfeiture. Any violation of subdivision (2) of
6 subsection (h) or subdivision (i) (1) (A) (ii) shall be subject to
7 the remedies, procedures, and forfeiture as set forth in
8 subsections (f) through (s) of Section 29B-1 of this Code.

9 Property seized or forfeited under this Section is subject
10 to reporting under the Seizure and Forfeiture Reporting Act.

11 (Source: P.A. 96-1551, eff. 7-1-11; incorporates P.A. 96-1532,
12 eff. 1-1-12, and 97-147, eff. 1-1-12; 97-1109, eff. 1-1-13.)

13 (720 ILCS 5/28-5) (from Ch. 38, par. 28-5)

14 Sec. 28-5. Seizure of gambling devices and gambling funds.

15 (a) Every device designed for gambling which is incapable
16 of lawful use or every device used unlawfully for gambling
17 shall be considered a "gambling device", and shall be subject
18 to seizure, confiscation and destruction by the Department of
19 State Police or by any municipal, or other local authority,
20 within whose jurisdiction the same may be found. As used in
21 this Section, a "gambling device" includes any slot machine,
22 and includes any machine or device constructed for the
23 reception of money or other thing of value and so constructed
24 as to return, or to cause someone to return, on chance to the
25 player thereof money, property or a right to receive money or

1 property. With the exception of any device designed for
2 gambling which is incapable of lawful use, no gambling device
3 shall be forfeited or destroyed unless an individual with a
4 property interest in said device knows of the unlawful use of
5 the device.

6 (b) Every gambling device shall be seized and forfeited to
7 the county wherein such seizure occurs. Any money or other
8 thing of value integrally related to acts of gambling shall be
9 seized and forfeited to the county wherein such seizure occurs.

10 (c) If, within 60 days after any seizure pursuant to
11 subparagraph (b) of this Section, a person having any property
12 interest in the seized property is charged with an offense, the
13 court which renders judgment upon such charge shall, within 30
14 days after such judgment, conduct a forfeiture hearing to
15 determine whether such property was a gambling device at the
16 time of seizure. Such hearing shall be commenced by a written
17 petition by the State, including material allegations of fact,
18 the name and address of every person determined by the State to
19 have any property interest in the seized property, a
20 representation that written notice of the date, time and place
21 of such hearing has been mailed to every such person by
22 certified mail at least 10 days before such date, and a request
23 for forfeiture. Every such person may appear as a party and
24 present evidence at such hearing. The quantum of proof required
25 shall be a preponderance of the evidence, and the burden of
26 proof shall be on the State. If the court determines that the

1 seized property was a gambling device at the time of seizure,
2 an order of forfeiture and disposition of the seized property
3 shall be entered: a gambling device shall be received by the
4 State's Attorney, who shall effect its destruction, except that
5 valuable parts thereof may be liquidated and the resultant
6 money shall be deposited in the general fund of the county
7 wherein such seizure occurred; money and other things of value
8 shall be received by the State's Attorney and, upon
9 liquidation, shall be deposited in the general fund of the
10 county wherein such seizure occurred. However, in the event
11 that a defendant raises the defense that the seized slot
12 machine is an antique slot machine described in subparagraph
13 (b) (7) of Section 28-1 of this Code and therefore he is exempt
14 from the charge of a gambling activity participant, the seized
15 antique slot machine shall not be destroyed or otherwise
16 altered until a final determination is made by the Court as to
17 whether it is such an antique slot machine. Upon a final
18 determination by the Court of this question in favor of the
19 defendant, such slot machine shall be immediately returned to
20 the defendant. Such order of forfeiture and disposition shall,
21 for the purposes of appeal, be a final order and judgment in a
22 civil proceeding.

23 (d) If a seizure pursuant to subparagraph (b) of this
24 Section is not followed by a charge pursuant to subparagraph
25 (c) of this Section, or if the prosecution of such charge is
26 permanently terminated or indefinitely discontinued without

1 any judgment of conviction or acquittal (1) the State's
2 Attorney shall commence an in rem proceeding for the forfeiture
3 and destruction of a gambling device, or for the forfeiture and
4 deposit in the general fund of the county of any seized money
5 or other things of value, or both, in the circuit court and (2)
6 any person having any property interest in such seized gambling
7 device, money or other thing of value may commence separate
8 civil proceedings in the manner provided by law.

9 (e) Any gambling device displayed for sale to a riverboat
10 gambling operation or used to train occupational licensees of a
11 riverboat gambling operation as authorized under the Riverboat
12 Gambling Act is exempt from seizure under this Section.

13 (f) Any gambling equipment, devices and supplies provided
14 by a licensed supplier in accordance with the Riverboat
15 Gambling Act which are removed from the riverboat for repair
16 are exempt from seizure under this Section.

17 (g) The following video gaming terminals are exempt from
18 seizure under this Section:

19 (1) Video gaming terminals for sale to a licensed
20 distributor or operator under the Video Gaming Act.

21 (2) Video gaming terminals used to train licensed
22 technicians or licensed terminal handlers.

23 (3) Video gaming terminals that are removed from a
24 licensed establishment, licensed truck stop establishment,
25 licensed fraternal establishment, or licensed veterans
26 establishment for repair.

1 (h) Property seized or forfeited under this Section is
2 subject to reporting under the Seizure and Forfeiture Reporting
3 Act.

4 (Source: P.A. 98-31, eff. 6-24-13.)

5 (720 ILCS 5/29B-1) (from Ch. 38, par. 29B-1)

6 Sec. 29B-1. (a) A person commits the offense of money
7 laundering:

8 (1) when, knowing that the property involved in a
9 financial transaction represents the proceeds of some form
10 of unlawful activity, he or she conducts or attempts to
11 conduct such a financial transaction which in fact involves
12 criminally derived property:

13 (A) with the intent to promote the carrying on of
14 the unlawful activity from which the criminally
15 derived property was obtained; or

16 (B) where he or she knows or reasonably should know
17 that the financial transaction is designed in whole or
18 in part:

19 (i) to conceal or disguise the nature, the
20 location, the source, the ownership or the control
21 of the criminally derived property; or

22 (ii) to avoid a transaction reporting
23 requirement under State law; or

24 (1.5) when he or she transports, transmits, or
25 transfers, or attempts to transport, transmit, or transfer

1 a monetary instrument:

2 (A) with the intent to promote the carrying on of
3 the unlawful activity from which the criminally
4 derived property was obtained; or

5 (B) knowing, or having reason to know, that the
6 financial transaction is designed in whole or in part:

7 (i) to conceal or disguise the nature, the
8 location, the source, the ownership or the control
9 of the criminally derived property; or

10 (ii) to avoid a transaction reporting
11 requirement under State law; or

12 (2) when, with the intent to:

13 (A) promote the carrying on of a specified criminal
14 activity as defined in this Article; or

15 (B) conceal or disguise the nature, location,
16 source, ownership, or control of property believed to
17 be the proceeds of a specified criminal activity as
18 defined by subdivision (b) (6); or

19 (C) avoid a transaction reporting requirement
20 under State law,

21 he or she conducts or attempts to conduct a financial
22 transaction involving property he or she believes to be the
23 proceeds of specified criminal activity as defined by
24 subdivision (b) (6) or property used to conduct or
25 facilitate specified criminal activity as defined by
26 subdivision (b) (6).

1 (b) As used in this Section:

2 (0.5) "Knowing that the property involved in a
3 financial transaction represents the proceeds of some form
4 of unlawful activity" means that the person knew the
5 property involved in the transaction represented proceeds
6 from some form, though not necessarily which form, of
7 activity that constitutes a felony under State, federal, or
8 foreign law.

9 (1) "Financial transaction" means a purchase, sale,
10 loan, pledge, gift, transfer, delivery or other
11 disposition utilizing criminally derived property, and
12 with respect to financial institutions, includes a
13 deposit, withdrawal, transfer between accounts, exchange
14 of currency, loan, extension of credit, purchase or sale of
15 any stock, bond, certificate of deposit or other monetary
16 instrument, use of safe deposit box, or any other payment,
17 transfer or delivery by, through, or to a financial
18 institution. For purposes of clause (a) (2) of this Section,
19 the term "financial transaction" also means a transaction
20 which without regard to whether the funds, monetary
21 instruments, or real or personal property involved in the
22 transaction are criminally derived, any transaction which
23 in any way or degree: (1) involves the movement of funds by
24 wire or any other means; (2) involves one or more monetary
25 instruments; or (3) the transfer of title to any real or
26 personal property. The receipt by an attorney of bona fide

1 fees for the purpose of legal representation is not a
2 financial transaction for purposes of this Section.

3 (2) "Financial institution" means any bank; saving and
4 loan association; trust company; agency or branch of a
5 foreign bank in the United States; currency exchange;
6 credit union, mortgage banking institution; pawnbroker;
7 loan or finance company; operator of a credit card system;
8 issuer, redeemer or cashier of travelers checks, checks or
9 money orders; dealer in precious metals, stones or jewels;
10 broker or dealer in securities or commodities; investment
11 banker; or investment company.

12 (3) "Monetary instrument" means United States coins
13 and currency; coins and currency of a foreign country;
14 travelers checks; personal checks, bank checks, and money
15 orders; investment securities; bearer negotiable
16 instruments; bearer investment securities; or bearer
17 securities and certificates of stock in such form that
18 title thereto passes upon delivery.

19 (4) "Criminally derived property" means: (A) any
20 property, real or personal, constituting or derived from
21 proceeds obtained, directly or indirectly, from activity
22 that constitutes a felony under State, federal, or foreign
23 law; or (B) any property represented to be property
24 constituting or derived from proceeds obtained, directly
25 or indirectly, from activity that constitutes a felony
26 under State, federal, or foreign law.

1 (5) "Conduct" or "conducts" includes, in addition to
2 its ordinary meaning, initiating, concluding, or
3 participating in initiating or concluding a transaction.

4 (6) "Specified criminal activity" means any violation
5 of Section 29D-15.1 (720 ILCS 5/29D-15.1) and any violation
6 of Article 29D of this Code.

7 (7) "Director" means the Director of State Police or
8 his or her designated agents.

9 (8) "Department" means the Department of State Police
10 of the State of Illinois or its successor agency.

11 (9) "Transaction reporting requirement under State
12 law" means any violation as defined under the Currency
13 Reporting Act.

14 (c) Sentence.

15 (1) Laundering of criminally derived property of a
16 value not exceeding \$10,000 is a Class 3 felony;

17 (2) Laundering of criminally derived property of a
18 value exceeding \$10,000 but not exceeding \$100,000 is a
19 Class 2 felony;

20 (3) Laundering of criminally derived property of a
21 value exceeding \$100,000 but not exceeding \$500,000 is a
22 Class 1 felony;

23 (4) Money laundering in violation of subsection (a)(2)
24 of this Section is a Class X felony;

25 (5) Laundering of criminally derived property of a
26 value exceeding \$500,000 is a Class 1 non-probationable

1 felony;

2 (6) In a prosecution under clause (a) (1.5) (B) (ii) of
3 this Section, the sentences are as follows:

4 (A) Laundering of property of a value not exceeding
5 \$10,000 is a Class 3 felony;

6 (B) Laundering of property of a value exceeding
7 \$10,000 but not exceeding \$100,000 is a Class 2 felony;

8 (C) Laundering of property of a value exceeding
9 \$100,000 but not exceeding \$500,000 is a Class 1
10 felony;

11 (D) Laundering of property of a value exceeding
12 \$500,000 is a Class 1 non-probationable felony.

13 (d) Evidence. In a prosecution under this Article, either
14 party may introduce the following evidence pertaining to the
15 issue of whether the property or proceeds were known to be some
16 form of criminally derived property or from some form of
17 unlawful activity:

18 (1) A financial transaction was conducted or
19 structured or attempted in violation of the reporting
20 requirements of any State or federal law; or

21 (2) A financial transaction was conducted or attempted
22 with the use of a false or fictitious name or a forged
23 instrument; or

24 (3) A falsely altered or completed written instrument
25 or a written instrument that contains any materially false
26 personal identifying information was made, used, offered

1 or presented, whether accepted or not, in connection with a
2 financial transaction; or

3 (4) A financial transaction was structured or
4 attempted to be structured so as to falsely report the
5 actual consideration or value of the transaction; or

6 (5) A money transmitter, a person engaged in a trade or
7 business or any employee of a money transmitter or a person
8 engaged in a trade or business, knows or reasonably should
9 know that false personal identifying information has been
10 presented and incorporates the false personal identifying
11 information into any report or record; or

12 (6) The criminally derived property is transported or
13 possessed in a fashion inconsistent with the ordinary or
14 usual means of transportation or possession of such
15 property and where the property is discovered in the
16 absence of any documentation or other indicia of legitimate
17 origin or right to such property; or

18 (7) A person pays or receives substantially less than
19 face value for one or more monetary instruments; or

20 (8) A person engages in a transaction involving one or
21 more monetary instruments, where the physical condition or
22 form of the monetary instrument or instruments makes it
23 apparent that they are not the product of bona fide
24 business or financial transactions.

25 (e) Duty to enforce this Article.

26 (1) It is the duty of the Department of State Police,

1 and its agents, officers, and investigators, to enforce all
2 provisions of this Article, except those specifically
3 delegated, and to cooperate with all agencies charged with
4 the enforcement of the laws of the United States, or of any
5 state, relating to money laundering. Only an agent,
6 officer, or investigator designated by the Director may be
7 authorized in accordance with this Section to serve seizure
8 notices, warrants, subpoenas, and summonses under the
9 authority of this State.

10 (2) Any agent, officer, investigator, or peace officer
11 designated by the Director may: (A) make seizure of
12 property pursuant to the provisions of this Article; and
13 (B) perform such other law enforcement duties as the
14 Director designates. It is the duty of all State's
15 Attorneys to prosecute violations of this Article and
16 institute legal proceedings as authorized under this
17 Article.

18 (f) Protective orders.

19 (1) Upon application of the State, the court may enter
20 a restraining order or injunction, require the execution of
21 a satisfactory performance bond, or take any other action
22 to preserve the availability of property described in
23 subsection (h) for forfeiture under this Article:

24 (A) upon the filing of an indictment, information,
25 or complaint charging a violation of this Article for
26 which forfeiture may be ordered under this Article and

1 alleging that the property with respect to which the
2 order is sought would be subject to forfeiture under
3 this Article; or

4 (B) prior to the filing of such an indictment,
5 information, or complaint, if, after notice to persons
6 appearing to have an interest in the property and
7 opportunity for a hearing, the court determines that:

8 (i) there is probable cause to believe that the
9 State will prevail on the issue of forfeiture and
10 that failure to enter the order will result in the
11 property being destroyed, removed from the
12 jurisdiction of the court, or otherwise made
13 unavailable for forfeiture; and

14 (ii) the need to preserve the availability of
15 the property through the entry of the requested
16 order outweighs the hardship on any party against
17 whom the order is to be entered.

18 Provided, however, that an order entered pursuant
19 to subparagraph (B) shall be effective for not more
20 than 90 days, unless extended by the court for good
21 cause shown or unless an indictment, information,
22 complaint, or administrative notice has been filed.

23 (2) A temporary restraining order under this
24 subsection may be entered upon application of the State
25 without notice or opportunity for a hearing when an
26 indictment, information, complaint, or administrative

1 notice has not yet been filed with respect to the property,
2 if the State demonstrates that there is probable cause to
3 believe that the property with respect to which the order
4 is sought would be subject to forfeiture under this Section
5 and that provision of notice will jeopardize the
6 availability of the property for forfeiture. Such a
7 temporary order shall expire not more than 30 days after
8 the date on which it is entered, unless extended for good
9 cause shown or unless the party against whom it is entered
10 consents to an extension for a longer period. A hearing
11 requested concerning an order entered under this paragraph
12 shall be held at the earliest possible time and prior to
13 the expiration of the temporary order.

14 (3) The court may receive and consider, at a hearing
15 held pursuant to this subsection (f), evidence and
16 information that would be inadmissible under the Illinois
17 rules of evidence.

18 (4) Order to repatriate and deposit.

19 (A) In general. Pursuant to its authority to enter
20 a pretrial restraining order under this Section, the
21 court may order a defendant to repatriate any property
22 that may be seized and forfeited and to deposit that
23 property pending trial with the Illinois State Police
24 or another law enforcement agency designated by the
25 Illinois State Police.

26 (B) Failure to comply. Failure to comply with an

1 order under this subsection (f) is punishable as a
2 civil or criminal contempt of court.

3 (g) Warrant of seizure. The State may request the issuance
4 of a warrant authorizing the seizure of property described in
5 subsection (h) in the same manner as provided for a search
6 warrant. If the court determines that there is probable cause
7 to believe that the property to be seized would be subject to
8 forfeiture, the court shall issue a warrant authorizing the
9 seizure of such property.

10 (h) Forfeiture.

11 (1) The following are subject to forfeiture:

12 (A) any property, real or personal, constituting,
13 derived from, or traceable to any proceeds the person
14 obtained directly or indirectly, as a result of a
15 violation of this Article;

16 (B) any of the person's property used, or intended
17 to be used, in any manner or part, to commit, or to
18 facilitate the commission of, a violation of this
19 Article;

20 (C) all conveyances, including aircraft, vehicles
21 or vessels, which are used, or intended for use, to
22 transport, or in any manner to facilitate the
23 transportation, sale, receipt, possession, or
24 concealment of property described in subparagraphs (A)
25 and (B), but:

26 (i) no conveyance used by any person as a

1 common carrier in the transaction of business as a
2 common carrier is subject to forfeiture under this
3 Section unless it appears that the owner or other
4 person in charge of the conveyance is a consenting
5 party or privy to a violation of this Article;

6 (ii) no conveyance is subject to forfeiture
7 under this Section by reason of any act or omission
8 which the owner proves to have been committed or
9 omitted without his or her knowledge or consent;

10 (iii) a forfeiture of a conveyance encumbered
11 by a bona fide security interest is subject to the
12 interest of the secured party if he or she neither
13 had knowledge of nor consented to the act or
14 omission;

15 (D) all real property, including any right, title,
16 and interest (including, but not limited to, any
17 leasehold interest or the beneficial interest in a land
18 trust) in the whole of any lot or tract of land and any
19 appurtenances or improvements, which is used or
20 intended to be used, in any manner or part, to commit,
21 or in any manner to facilitate the commission of, any
22 violation of this Article or that is the proceeds of
23 any violation or act that constitutes a violation of
24 this Article.

25 (2) Property subject to forfeiture under this Article
26 may be seized by the Director or any peace officer upon

1 process or seizure warrant issued by any court having
2 jurisdiction over the property. Seizure by the Director or
3 any peace officer without process may be made:

4 (A) if the seizure is incident to a seizure
5 warrant;

6 (B) if the property subject to seizure has been the
7 subject of a prior judgment in favor of the State in a
8 criminal proceeding, or in an injunction or forfeiture
9 proceeding based upon this Article;

10 (C) if there is probable cause to believe that the
11 property is directly or indirectly dangerous to health
12 or safety;

13 (D) if there is probable cause to believe that the
14 property is subject to forfeiture under this Article
15 and the property is seized under circumstances in which
16 a warrantless seizure or arrest would be reasonable; or

17 (E) in accordance with the Code of Criminal
18 Procedure of 1963.

19 (3) In the event of seizure pursuant to paragraph (2),
20 forfeiture proceedings shall be instituted in accordance
21 with subsections (i) through (r).

22 (4) Property taken or detained under this Section shall
23 not be subject to replevin, but is deemed to be in the
24 custody of the Director subject only to the order and
25 judgments of the circuit court having jurisdiction over the
26 forfeiture proceedings and the decisions of the State's

1 Attorney under this Article. When property is seized under
2 this Article, the seizing agency shall promptly conduct an
3 inventory of the seized property and estimate the
4 property's value and shall forward a copy of the inventory
5 of seized property and the estimate of the property's value
6 to the Director. Upon receiving notice of seizure, the
7 Director may:

8 (A) place the property under seal;

9 (B) remove the property to a place designated by
10 the Director;

11 (C) keep the property in the possession of the
12 seizing agency;

13 (D) remove the property to a storage area for
14 safekeeping or, if the property is a negotiable
15 instrument or money and is not needed for evidentiary
16 purposes, deposit it in an interest bearing account;

17 (E) place the property under constructive seizure
18 by posting notice of pending forfeiture on it, by
19 giving notice of pending forfeiture to its owners and
20 interest holders, or by filing notice of pending
21 forfeiture in any appropriate public record relating
22 to the property; or

23 (F) provide for another agency or custodian,
24 including an owner, secured party, or lienholder, to
25 take custody of the property upon the terms and
26 conditions set by the Director.

1 (5) When property is forfeited under this Article, the
2 Director shall sell all such property unless such property
3 is required by law to be destroyed or is harmful to the
4 public, and shall distribute the proceeds of the sale,
5 together with any moneys forfeited or seized, in accordance
6 with paragraph (6). ~~However, upon the application of the~~
7 ~~seizing agency or prosecutor who was responsible for the~~
8 ~~investigation, arrest or arrests and prosecution which~~
9 ~~lead to the forfeiture, the Director may return any item of~~
10 ~~forfeited property to the seizing agency or prosecutor for~~
11 ~~official use in the enforcement of laws, if the agency or~~
12 ~~prosecutor can demonstrate that the item requested would be~~
13 ~~useful to the agency or prosecutor in its enforcement~~
14 ~~efforts. When any real property returned to the seizing~~
15 ~~agency is sold by the agency or its unit of government, the~~
16 ~~proceeds of the sale shall be delivered to the Director and~~
17 ~~distributed in accordance with paragraph (6).~~

18 (6) All monies and the sale proceeds of all other
19 property forfeited and seized under this Article shall be
20 distributed as follows:

21 (A) 65% shall be distributed to the metropolitan
22 enforcement group, local, municipal, county, or State
23 law enforcement agency or agencies which conducted or
24 participated in the investigation resulting in the
25 forfeiture. The distribution shall bear a reasonable
26 relationship to the degree of direct participation of

1 the law enforcement agency in the effort resulting in
2 the forfeiture, taking into account the total value of
3 the property forfeited and the total law enforcement
4 effort with respect to the violation of the law upon
5 which the forfeiture is based. Amounts distributed to
6 the agency or agencies shall be used for the
7 enforcement of laws.

8 (B) (i) 12.5% shall be distributed to the Office of
9 the State's Attorney of the county in which the
10 prosecution resulting in the forfeiture was
11 instituted, deposited in a special fund in the county
12 treasury and appropriated to the State's Attorney for
13 use in the enforcement of laws. In counties over
14 3,000,000 population, 25% shall be distributed to the
15 Office of the State's Attorney for use in the
16 enforcement of laws. If the prosecution is undertaken
17 solely by the Attorney General, the portion provided
18 hereunder shall be distributed to the Attorney General
19 for use in the enforcement of laws.

20 (ii) 12.5% shall be distributed to the Office of
21 the State's Attorneys Appellate Prosecutor and
22 deposited in the Narcotics Profit Forfeiture Fund of
23 that office to be used for additional expenses incurred
24 in the investigation, prosecution and appeal of cases
25 arising under laws. The Office of the State's Attorneys
26 Appellate Prosecutor shall not receive distribution

1 from cases brought in counties with over 3,000,000
2 population.

3 (C) 10% shall be retained by the Department of
4 State Police for expenses related to the
5 administration and sale of seized and forfeited
6 property.

7 Moneys and the sale proceeds distributed to the
8 Department of State Police under this Article shall be
9 deposited in the Money Laundering Asset Recovery Fund
10 created in the State treasury and shall be used by the
11 Department of State Police for State law enforcement
12 purposes.

13 (7) All moneys and sale proceeds of property forfeited
14 and seized under this Article and distributed according to
15 paragraph (6) may also be used to purchase opioid
16 antagonists as defined in Section 5-23 of the Alcoholism
17 and Other Drug Abuse and Dependency Act.

18 (7.5) Preliminary Review.

19 (A) Within 14 days of the seizure, the State shall
20 seek a preliminary determination from the circuit
21 court as to whether there is probable cause that the
22 property may be subject to forfeiture.

23 (B) The rules of evidence shall not apply to any
24 proceeding conducted under this Section.

25 (C) The court may conduct the review under
26 subparagraph (A) of this paragraph (7.5)

1 simultaneously with a proceeding under Section 109-1
2 of the Code of Criminal Procedure of 1963 for a related
3 criminal offense if a prosecution is commenced by
4 information or complaint.

5 (D) The court may accept a finding of probable
6 cause at a preliminary hearing following the filing of
7 an information or complaint charging a related
8 criminal offense or following the return of indictment
9 by a grand jury charging the related offense as
10 sufficient evidence of probable cause as required
11 under subparagraph (A) of this paragraph (7.5).

12 (E) Upon a finding of probable cause as required
13 under this Section, the circuit court shall order the
14 property subject to the applicable forfeiture Act held
15 until the conclusion of any forfeiture proceeding.

16 (i) Notice to owner or interest holder.

17 (1) The first attempted service shall be commenced
18 within 28 days of the latter of filing of the verified
19 claim or the receipt of the notice from seizing agency by
20 form 4-64. A complaint for forfeiture or a notice of
21 pending forfeiture shall be served on a claimant if the
22 owner's or interest holder's name and current address are
23 known, then by either: (i) personal service or; (ii)
24 mailing a copy of the notice by certified mail, return
25 receipt requested and first class mail, to that address. If
26 no signed return receipt is received by the State's

1 Attorney within 28 days of mailing or no communication from
2 the owner or interest holder is received by the State's
3 Attorney documenting actual notice by the parties, the
4 State's Attorney shall, within a reasonable period of time,
5 mail a second copy of the notice by certified mail, return
6 receipt requested and first class mail, to that address. If
7 no signed return receipt is received by the State's
8 Attorney within 28 days of the second mailing, or no
9 communication from the owner or interest holder is received
10 by the State's Attorney documenting actual notice by the
11 parties, the State's Attorney shall have 60 days to attempt
12 to personally serve the notice by personal service,
13 including substitute service by leaving a copy at the usual
14 place of abode with some person of the family or a person
15 residing there, of the age of 13 years or upwards. If after
16 3 attempts at service in this manner, and no service of the
17 notice is accomplished, the notice shall be posted in a
18 conspicuous manner at this address and service shall be
19 made by the posting. The attempts at service and the
20 posting if required, shall be documented by the person
21 attempting service and the documentation shall be made part
22 of a return of service returned to the State's Attorney.
23 The State's Attorney may utilize any Sheriff or Deputy
24 Sheriff, a peace officer, a private process server or
25 investigator, or an employee, agent, or investigator of the
26 State's Attorney's Office to attempt service without

1 seeking leave of court. After the procedures listed are
2 followed, service shall be effective on the owner or
3 interest holder on the date of receipt by the State's
4 Attorney of a returned return receipt requested, or on the
5 date of receipt of a communication from an owner or
6 interest holder documenting actual notice, whichever is
7 first in time, or on the date of the last act performed by
8 the State's Attorney in attempting personal service. For
9 purposes of notice under this Section, if a person has been
10 arrested for the conduct giving rise to the forfeiture, the
11 address provided to the arresting agency at the time of
12 arrest shall be deemed to be that person's known address.
13 Provided, however, if an owner or interest holder's address
14 changes prior to the effective date of the notice of
15 pending forfeiture, the owner or interest holder shall
16 promptly notify the seizing agency of the change in address
17 or, if the owner or interest holder's address changes
18 subsequent to the effective date of the notice of pending
19 forfeiture, the owner or interest holder shall promptly
20 notify the State's Attorney of the change in address. If
21 the property seized is a conveyance, notice shall also be
22 directed to the address reflected in the office of the
23 agency or official in which title or interest to the
24 conveyance is required by law to be recorded. ~~Whenever~~
25 ~~notice of pending forfeiture or service of an in rem~~
26 ~~complaint is required under the provisions of this Article,~~

1 ~~such notice or service shall be given as follows:~~

2 (A) (Blank); ~~If the owner's or interest holder's~~
3 ~~name and current address are known, then by either~~
4 ~~personal service or mailing a copy of the notice by~~
5 ~~certified mail, return receipt requested, to that~~
6 ~~address. For purposes of notice under this Section, if~~
7 ~~a person has been arrested for the conduct giving rise~~
8 ~~to the forfeiture, then the address provided to the~~
9 ~~arresting agency at the time of arrest shall be deemed~~
10 ~~to be that person's known address. Provided, however,~~
11 ~~if an owner or interest holder's address changes prior~~
12 ~~to the effective date of the notice of pending~~
13 ~~forfeiture, the owner or interest holder shall~~
14 ~~promptly notify the seizing agency of the change in~~
15 ~~address or, if the owner or interest holder's address~~
16 ~~changes subsequent to the effective date of the notice~~
17 ~~of pending forfeiture, the owner or interest holder~~
18 ~~shall promptly notify the State's Attorney of the~~
19 ~~change in address; or~~

20 (A-5) If the owner's or interest holder's address
21 is not known, and is not on record as provided in
22 paragraph (1), service by publication for 3 successive
23 weeks in a newspaper of general circulation in the
24 county in which the seizure occurred shall suffice for
25 service requirements.

26 (A-10) Notice to any business entity, corporation,

1 LLC, LLP, or partnership shall be complete by a single
2 mailing of a copy of the notice by certified mail,
3 return receipt requested and first class mail, to that
4 address. This notice is complete regardless of the
5 return of a signed "return receipt requested".

6 (A-15) Notice to a person whose address is not
7 within the State shall be completed by a single mailing
8 of a copy of the notice by certified mail, return
9 receipt requested and first class mail to that address.
10 This notice is complete regardless of the return of a
11 signed "return receipt requested".

12 (A-20) Notice to a person whose address is not
13 within the United States shall be completed by a single
14 mailing of a copy of the notice by certified mail,
15 return receipt requested and first class mail to that
16 address. This notice is complete regardless of the
17 return of a signed "return receipt requested". If
18 certified mail is not available in the foreign country
19 where the person has an address, notice shall proceed
20 by paragraph (A-15) publication requirements.

21 (A-25) A person who the State's Attorney
22 reasonably should know is incarcerated within this
23 State, shall also include, mailing a copy of the notice
24 by certified mail, return receipt requested and first
25 class mail, to the address of the detention facility
26 with the inmate's name clearly marked on the envelope.

1 After a claimant files a verified claim with the
2 State's Attorney and provides an address at which they
3 will accept service, the complaint shall be served and
4 notice shall be complete upon the mailing of the
5 complaint to the claimant at the address the claimant
6 provided via certified mail, return receipt requested
7 and first class mail. No return receipt card need be
8 received, or any other attempts at service need be made
9 to comply with service and notice requirements under
10 this Section. This certified mailing, return receipt
11 requested shall be proof of service of the complaint on
12 the claimant. If notice is to be shown by actual notice
13 from communication with a claimant, then the State's
14 Attorney shall file an affidavit as proof of service
15 providing details of the communication which shall be
16 accepted as proof of service by the court.

17 (B) If the property seized is a conveyance, to the
18 address reflected in the office of the agency or
19 official in which title or interest to the conveyance
20 is required by law to be recorded, then by mailing a
21 copy of the notice by certified mail, return receipt
22 requested, to that address; or

23 (C) (Blank). ~~If the owner's or interest holder's~~
24 ~~address is not known, and is not on record as provided~~
25 ~~in paragraph (B), then by publication for 3 successive~~
26 ~~weeks in a newspaper of general circulation in the~~

1 ~~county in which the seizure occurred.~~

2 (2) Notice served under this Article is effective upon
3 personal service, the last date of publication, or the
4 mailing of written notice, whichever is earlier.

5 (j) Notice to State's Attorney. The law enforcement agency
6 seizing property for forfeiture under this Article shall,
7 within 60 ~~90~~ days after seizure, notify the State's Attorney
8 for the county, either where an act or omission giving rise to
9 the forfeiture occurred or where the property was seized, of
10 the seizure of the property and the facts and circumstances
11 giving rise to the seizure and shall provide the State's
12 Attorney with the inventory of the property and its estimated
13 value. When the property seized for forfeiture is a vehicle,
14 the law enforcement agency seizing the property shall
15 immediately notify the Secretary of State that forfeiture
16 proceedings are pending regarding such vehicle. This notice
17 shall be by the form 4-64.

18 (k) Non-judicial forfeiture. If non-real property that
19 exceeds \$20,000 in value excluding the value of any conveyance,
20 or if real property is seized under the provisions of this
21 Article, the State's Attorney shall institute judicial in rem
22 forfeiture proceedings as described in subsection (l) of this
23 Section within 28 ~~45~~ days from receipt of notice of seizure
24 from the seizing agency under subsection (j) of this Section.
25 However, if non-real property that does not exceed \$20,000 in
26 value excluding the value of any conveyance is seized, the

1 following procedure shall be used:

2 (1) If, after review of the facts surrounding the
3 seizure, the State's Attorney is of the opinion that the
4 seized property is subject to forfeiture, then within 45
5 days after the receipt of notice of seizure from the
6 seizing agency, the State's Attorney shall cause notice of
7 pending forfeiture to be given to the owner of the property
8 and all known interest holders of the property in
9 accordance with subsection (i) of this Section.

10 (2) The notice of pending forfeiture must include a
11 description of the property, the estimated value of the
12 property, the date and place of seizure, the conduct giving
13 rise to forfeiture or the violation of law alleged, and a
14 summary of procedures and procedural rights applicable to
15 the forfeiture action.

16 (3) (A) Any person claiming an interest in property
17 which is the subject of notice under paragraph (1) of this
18 subsection (k), must, in order to preserve any rights or
19 claims to the property, within 45 days after the effective
20 date of notice as described in subsection (i) of this
21 Section, file a verified claim with the State's Attorney
22 expressing his or her interest in the property. The claim
23 must set forth:

24 (i) the caption of the proceedings as set forth on
25 the notice of pending forfeiture and the name of the
26 claimant;

1 (ii) the address at which the claimant will accept
2 mail;

3 (iii) the nature and extent of the claimant's
4 interest in the property;

5 (iv) the date, identity of the transferor, and
6 circumstances of the claimant's acquisition of the
7 interest in the property;

8 (v) the name and address of all other persons known
9 to have an interest in the property;

10 (vi) the specific provision of law relied on in
11 asserting the property is not subject to forfeiture;

12 (vii) all essential facts supporting each
13 assertion; and

14 (viii) the relief sought.

15 (B) If a claimant files the claim ~~and deposits with the~~
16 ~~State's Attorney a cost bond, in the form of a cashier's~~
17 ~~check payable to the clerk of the court, in the sum of 10%~~
18 ~~of the reasonable value of the property as alleged by the~~
19 ~~State's Attorney or the sum of \$100, whichever is greater,~~
20 ~~upon condition that, in the case of forfeiture, the~~
21 ~~claimant must pay all costs and expenses of forfeiture~~
22 ~~proceedings,~~ then the State's Attorney shall institute
23 judicial in rem forfeiture proceedings ~~and deposit the cost~~
24 ~~bond~~ with the clerk of the court as described in subsection
25 (1) of this Section within 45 days after receipt of the
26 claim ~~and cost bond. In lieu of a cost bond, a person~~

1 ~~claiming interest in the seized property may file, under~~
2 ~~penalty of perjury, an indigency affidavit which has been~~
3 ~~approved by a circuit court judge.~~

4 (C) (Blank). ~~If none of the seized property is~~
5 ~~forfeited in the judicial in rem proceeding, the clerk of~~
6 ~~the court shall return to the claimant, unless the court~~
7 ~~orders otherwise, 90% of the sum which has been deposited~~
8 ~~and shall retain as costs 10% of the money deposited. If~~
9 ~~any of the seized property is forfeited under the judicial~~
10 ~~forfeiture proceeding, the clerk of the court shall~~
11 ~~transfer 90% of the sum which has been deposited to the~~
12 ~~State's Attorney prosecuting the civil forfeiture to be~~
13 ~~applied to the costs of prosecution and the clerk shall~~
14 ~~retain as costs 10% of the sum deposited.~~

15 (4) If no claim is filed ~~or bond given~~ within the 45
16 day period as described in paragraph (3) of this subsection
17 (k), the State's Attorney shall declare the property
18 forfeited and shall promptly notify the owner and all known
19 interest holders of the property and the Director of State
20 Police of the declaration of forfeiture and the Director
21 shall dispose of the property in accordance with law.

22 (1) Judicial in rem procedures. If property seized under
23 the provisions of this Article is non-real property that
24 exceeds \$20,000 in value excluding the value of any conveyance,
25 or is real property, or a claimant has filed a claim ~~and a cost~~
26 ~~bond~~ under paragraph (3) of subsection (k) of this Section, the

1 following judicial in rem procedures shall apply:

2 (1) If, after a review of the facts surrounding the
3 seizure, the State's Attorney is of the opinion that the
4 seized property is subject to forfeiture, then within ~~28~~ 45
5 days of the receipt of notice of seizure by the seizing
6 agency or the filing of the claim ~~and cost bond~~, whichever
7 is later, the State's Attorney shall institute judicial
8 forfeiture proceedings by filing a verified complaint for
9 forfeiture ~~and, if the claimant has filed a claim and cost~~
10 ~~bond, by depositing the cost bond with the clerk of the~~
11 ~~court~~. When authorized by law, a forfeiture must be ordered
12 by a court on an action in rem brought by a State's
13 Attorney under a verified complaint for forfeiture.

14 (1.5) A complaint of forfeiture shall include:

15 (i) a description of the property seized;

16 (ii) the date and place of seizure of the property;

17 (iii) the name and address of the law enforcement
18 agency making the seizure; and

19 (iv) the specific statutory and factual grounds
20 for the seizure.

21 (1.10) The complaint shall be served upon the person
22 from whom the property was seized and all persons known or
23 reasonably believed by the State to claim an interest in
24 the property, as provided in subsection (i) of this
25 Section. The complaint shall be accompanied by the
26 following written notice:

1 "This is a civil court proceeding subject to the Code
2 of Civil Procedure. You received this Complaint of
3 Forfeiture because the State's Attorney's office has
4 brought a legal action seeking forfeiture of your seized
5 property. This complaint starts the court process where the
6 State seeks to prove that your property should be forfeited
7 and not returned to you. This process is also your
8 opportunity to try to prove to a judge that you should get
9 your property back. The complaint lists the date, time, and
10 location of your first court date. You must appear in court
11 on that day, or you may lose the case automatically. You
12 must also file an appearance and answer. If you are unable
13 to pay the appearance fee, you may qualify to have the fee
14 waived. If there is a criminal case related to the seizure
15 of your property, your case may be set for trial after the
16 criminal case has been resolved. Before trial, the judge
17 may allow discovery, where the State can ask you to respond
18 in writing to questions and give them certain documents,
19 and you can make similar requests of the State. The trial
20 is your opportunity to explain what happened when your
21 property was seized and why you should get the property
22 back."

23 (2) The laws of evidence relating to civil actions
24 shall apply to proceedings under this Article with the
25 following exception. The parties shall be allowed to use,
26 and the court shall receive and consider all relevant

1 hearsay evidence which relates to evidentiary foundation,
2 chain of custody, business records, recordings, laboratory
3 analysis, laboratory reports, and relevant hearsay related
4 to the use of technology in the investigation which
5 resulted in the seizure of property which is now subject to
6 this forfeiture action. ~~During the probable cause portion~~
7 ~~of the judicial in rem proceeding wherein the State~~
8 ~~presents its case in chief, the court must receive and~~
9 ~~consider, among other things, all relevant hearsay~~
10 ~~evidence and information. The laws of evidence relating to~~
11 ~~civil actions apply to all other portions of the judicial~~
12 ~~in rem proceeding.~~

13 (3) Only an owner of or interest holder in the property
14 may file an answer asserting a claim against the property
15 in the action in rem. For purposes of this Section, the
16 owner or interest holder shall be referred to as claimant.
17 Upon motion of the State, the court shall first hold a
18 hearing, wherein any claimant must establish by a
19 preponderance of the evidence, that he or she has a lawful,
20 legitimate ownership interest in the property and that it
21 was obtained through a lawful source.

22 (4) The answer must be signed by the owner or interest
23 holder under penalty of perjury and must set forth:

24 (A) the caption of the proceedings as set forth on
25 the notice of pending forfeiture and the name of the
26 claimant;

1 (B) the address at which the claimant will accept
2 mail;

3 (C) the nature and extent of the claimant's
4 interest in the property;

5 (D) the date, identity of transferor, and
6 circumstances of the claimant's acquisition of the
7 interest in the property;

8 (E) the name and address of all other persons known
9 to have an interest in the property;

10 (F) all essential facts supporting each assertion;
11 ~~and~~

12 (G) the precise relief sought; and -

13 (H) the answer shall follow the rules under the
14 Code of Civil Procedure.

15 (5) The answer must be filed with the court within 45
16 days after service of the civil in rem complaint.

17 (6) The hearing must be held within 60 days after
18 filing of the answer unless continued for good cause.

19 (7) At the judicial in rem proceeding, in the State's
20 case in chief, the State shall show by a preponderance of
21 the evidence that the property is subject to forfeiture. If
22 the State makes such a showing, the claimant shall have the
23 burden of production to set forth evidence that the
24 property is not related to the alleged factual basis of the
25 forfeiture. After this production of evidence, the State
26 shall maintain the burden of proof to overcome this

1 assertion. A claimant shall provide the State notice of its
2 intent to allege that the currency or its equivalent is not
3 related to the alleged factual basis of the forfeiture and
4 why. As to conveyances, at the judicial in rem proceeding,
5 in their case in chief, the State shall show by a
6 preponderance of the evidence, that (1) the property is
7 subject to forfeiture; and (2) at least one of the
8 following:

9 (i) that the claimant was legally accountable for
10 the conduct giving rise to the forfeiture;

11 (ii) that the claimant knew or reasonably should
12 have known of the conduct giving rise to the
13 forfeiture;

14 (iii) that the claimant knew or reasonable should
15 have known that the conduct giving rise to the
16 forfeiture was likely to occur;

17 (iv) that the claimant held the property for the
18 benefit of, or as nominee for, any person whose conduct
19 gave rise to its forfeiture;

20 (v) that if the claimant acquired their interest
21 through any person engaging in any of the conduct
22 described above or conduct giving rise to the
23 forfeiture;

24 (1) the claimant did not acquire it as a bona
25 fide purchaser for value; or

26 (2) the claimant acquired the interest under

1 the circumstances that they reasonably should have
2 known the property was derived from, or used in,
3 the conduct giving rise to the forfeiture; or
4 (vii) that the claimant is not the true owner of
5 the property that is subject to forfeiture. ~~The State~~
6 ~~shall show the existence of probable cause for~~
7 ~~forfeiture of the property. If the State shows probable~~
8 ~~cause, the claimant has the burden of showing by a~~
9 ~~preponderance of the evidence that the claimant's~~
10 ~~interest in the property is not subject to forfeiture.~~

11 (8) If the State does not meet its burden to show that
12 the property is subject to forfeiture ~~show existence of~~
13 ~~probable cause,~~ the court shall order the interest in the
14 property returned or conveyed to the claimant and shall
15 order all other property forfeited to the State. If the
16 State does meet its burden to show that the property is
17 subject to forfeiture ~~If the State does show existence of~~
18 ~~probable cause,~~ the court shall order all property
19 forfeited to the State.

20 (9) A defendant convicted in any criminal proceeding is
21 precluded from later denying the essential allegations of
22 the criminal offense of which the defendant was convicted
23 in any proceeding under this Article regardless of the
24 pendency of an appeal from that conviction. However,
25 evidence of the pendency of an appeal is admissible.

26 (10) On ~~An acquittal or dismissal in a criminal~~

1 ~~proceeding does not preclude civil proceedings under this~~
2 ~~Article; however, for good cause shown, on a motion by the~~
3 ~~the parties State's Attorney,~~ the court may stay civil
4 forfeiture proceedings during the criminal trial for a
5 related criminal indictment or information alleging a
6 money laundering violation. Such a stay shall not be
7 available pending an appeal. Property subject to
8 forfeiture under this Article shall not be subject to
9 return or release by a court exercising jurisdiction over a
10 criminal case involving the seizure of such property unless
11 such return or release is consented to by the State's
12 Attorney.

13 Notwithstanding any other provision of this Section,
14 the State's burden of proof at the trial of the forfeiture
15 action shall be by clear and convincing evidence if: (1) a
16 finding of not guilty is entered as to all counts and all
17 defendants in a criminal proceeding relating to the conduct
18 giving rise to the forfeiture action; or (2) the State
19 receives an adverse finding at a preliminary hearing and
20 fails to secure an indictment in a criminal proceeding
21 relating to the factual allegations of the forfeiture
22 action.

23 (11) All property declared forfeited under this
24 Article vests in this State on the commission of the
25 conduct giving rise to forfeiture together with the
26 proceeds of the property after that time. Except as

1 otherwise provided in this Article, title to any ~~Any~~ such
2 property or proceeds subsequently transferred to any
3 person remain subject to forfeiture and thereafter shall be
4 ordered forfeited unless the person to whom the property
5 was transferred makes an appropriate claim and has his or
6 her claim adjudicated at the judicial in rem hearing.

7 (12) A civil action under this Article must be
8 commenced within 5 years after the last conduct giving rise
9 to forfeiture became known or should have become known or 5
10 years after the forfeitable property is discovered,
11 whichever is later, excluding any time during which either
12 the property or claimant is out of the State or in
13 confinement or during which criminal proceedings relating
14 to the same conduct are in progress.

15 (m) Stay of time periods. If property is seized for
16 evidence and for forfeiture, the time periods for instituting
17 judicial and non-judicial forfeiture proceedings shall not
18 begin until the property is no longer necessary for evidence.

19 (n) Settlement of claims. Notwithstanding other provisions
20 of this Article, the State's Attorney and a claimant of seized
21 property may enter into an agreed-upon settlement concerning
22 the seized property in such an amount and upon such terms as
23 are set out in writing in a settlement agreement. All proceeds
24 from a settlement agreement shall be tendered to the Department
25 of State Police and distributed under paragraph (6) of
26 subsection (h) of this Section.

1 (o) Property constituting attorney fees. Nothing in this
2 Article applies to property which constitutes reasonable bona
3 fide attorney's fees paid to an attorney for services rendered
4 or to be rendered in the forfeiture proceeding or criminal
5 proceeding relating directly thereto where such property was
6 paid before its seizure, before the issuance of any seizure
7 warrant or court order prohibiting transfer of the property and
8 where the attorney, at the time he or she received the property
9 did not know that it was property subject to forfeiture under
10 this Article.

11 (p) Construction. It is the intent of the General Assembly
12 that the forfeiture provisions of this Article be liberally
13 construed so as to effect their remedial purpose. The
14 forfeiture of property and other remedies hereunder shall be
15 considered to be in addition to, and not exclusive of, any
16 sentence or other remedy provided by law.

17 (q) Judicial review. If property has been declared
18 forfeited under subsection (k) of this Section, any person who
19 has an interest in the property declared forfeited may, within
20 30 days after the effective date of the notice of the
21 declaration of forfeiture, file a claim ~~and cost bond~~ as
22 described in paragraph (3) of subsection (k) of this Section.
23 If a claim ~~and cost bond~~ is filed under this Section, then the
24 procedures described in subsection (l) of this Section apply.

25 (r) (Blank). ~~Burden of proof of exemption or exception. It~~
26 ~~is not necessary for the State to negate any exemption or~~

1 ~~exception in this Article in any complaint, information,~~
2 ~~indictment or other pleading or in any trial, hearing, or other~~
3 ~~proceeding under this Article. The burden of proof of any~~
4 ~~exemption or exception is upon the person claiming it.~~

5 (s) Review of administrative decisions. All administrative
6 findings, rulings, final determinations, findings, and
7 conclusions of the State's Attorney's Office under this Article
8 are final and conclusive decisions of the matters involved. Any
9 person aggrieved by the decision may obtain review of the
10 decision pursuant to the provisions of the Administrative
11 Review Law and the rules adopted pursuant to that Law. Pending
12 final decision on such review, the administrative acts, orders,
13 and rulings of the State's Attorney's Office remain in full
14 force and effect unless modified or suspended by order of court
15 pending final judicial decision. Pending final decision on such
16 review, the acts, orders, and rulings of the State's Attorney's
17 Office remain in full force and effect, unless stayed by order
18 of court. However, no stay of any decision of the
19 administrative agency shall issue unless the person aggrieved
20 by the decision establishes by a preponderance of the evidence
21 that good cause exists for the stay. In determining good cause,
22 the court shall find that the aggrieved party has established a
23 substantial likelihood of prevailing on the merits and that
24 granting the stay will not have an injurious effect on the
25 general public.

26 (t) Actual physical seizure of real property subject to

1 forfeiture under this Act requires the issuance of a seizure
2 warrant. Nothing in this Section prohibits the constructive
3 seizure of real property through the filing of a complaint for
4 forfeiture in circuit court and the recording of a lis pendens
5 against the real property which is subject to forfeiture
6 without any hearing, warrant application, or judicial
7 approval.

8 (u) Property which is forfeited shall be subject to an 8th
9 amendment to the United States Constitution disproportionate
10 penalties analysis and the property forfeiture may be denied in
11 whole or in part if the court finds that the forfeiture would
12 constitute an excessive fine in violation of the 8th amendment
13 as interpreted by case law.

14 (v) If property is ordered forfeited under this Section
15 from a claimant who held title to the property in joint tenancy
16 or tenancy in common with another claimant, the court shall
17 determine the amount of each owner's interest in the property
18 according to principles of property law.

19 (w) A claimant or a party interested in personal property
20 contained within a seized conveyance may file a request with
21 the State's Attorney in a non-judicial forfeiture action, or a
22 motion with the court in a judicial forfeiture action for the
23 return of any personal property contained within a conveyance
24 which is seized under this Article. The return of personal
25 property shall not be unreasonably withheld if the personal
26 property is not mechanically or electrically coupled to the

1 conveyance, needed for evidentiary purposes, or otherwise
2 contraband. Any law enforcement agency that returns property
3 under a court order under this Section shall not be liable to
4 any person who claims ownership to the property if it is
5 returned to an improper party.

6 (x) Innocent owner hearing.

7 (1) After a complaint for forfeiture has been filed and
8 all claimants have appeared and answered, a claimant may
9 file a motion with the court for an innocent owner hearing
10 prior to trial. This motion shall be made and supported by
11 sworn affidavit and shall assert the following along with
12 specific facts which support each assertion:

13 (i) that the claimant filing the motion is the true
14 owner of the conveyance as interpreted by case law;

15 (ii) that the claimant was not legally accountable
16 for the conduct giving rise to the forfeiture or
17 acquiesced in the conduct;

18 (iii) that the claimant did not solicit, conspire,
19 or attempt to commit the conduct giving rise to the
20 forfeiture;

21 (iv) that the claimant did not know or did not have
22 reason to know that the conduct giving rise to the
23 forfeiture was likely to occur; and

24 (v) that the claimant did not hold the property for
25 the benefit of, or as nominee for any person whose
26 conduct gave rise to its forfeiture or if the owner or

1 interest holder acquired the interest through any
2 person, the owner or interest holder did not acquire it
3 as a bona fide purchaser for value or acquired the
4 interest without knowledge of the seizure of the
5 property for forfeiture.

6 (2) The claimant shall include specific facts which
7 support these assertions in their motion.

8 (3) Upon this filing, a hearing may only be conducted
9 after the parties have been given the opportunity to
10 conduct limited discovery as to the ownership and control
11 of the property, the claimant's knowledge, or any matter
12 relevant to the issues raised or facts alleged in the
13 claimant's motion. Discovery shall be limited to the
14 People's requests in these areas but may proceed by any
15 means allowed in the Code of Civil Procedure.

16 (i) After discovery is complete and the court has
17 allowed for sufficient time to review and investigate
18 the discovery responses, the court shall conduct a
19 hearing. At the hearing, the fact that the conveyance
20 is subject to forfeiture shall not be at issue. The
21 court shall only hear evidence relating to the issue of
22 innocent ownership.

23 (ii) At the hearing on the motion, it shall be the
24 burden of the claimant to prove each of the assertions
25 listed in paragraph (1) of this subsection (x) by a
26 preponderance of the evidence.

1 (iii) If a claimant meets his burden of proof, the
2 court shall grant the motion and order the property
3 returned to the claimant. If the claimant fails to meet
4 his or her burden of proof then the court shall deny
5 the motion.

6 (y) No property shall be forfeited under this Section from
7 a person who, without actual or constructive notice that the
8 property was the subject of forfeiture proceedings, obtained
9 possession of the property as a bona fide purchaser for value.
10 A person who purports to affect transfer of property after
11 receiving actual or constructive notice that the property is
12 subject to seizure or forfeiture is guilty of contempt of
13 court, and shall be liable to the State for a penalty in the
14 amount of the fair market value of the property.

15 (z) Forfeiture proceedings under this Section shall be
16 subject to the Code of Civil Procedure and the rules of
17 evidence relating to civil actions.

18 (aa) Return of property, damages, and costs.

19 (1) The law enforcement agency that holds custody of
20 property seized for forfeiture shall deliver property
21 ordered by the court to be returned or conveyed to the
22 claimant within a reasonable time not to exceed 7 days,
23 unless the order is stayed by the trial court or a
24 reviewing court pending an appeal, motion to reconsider, or
25 other reason.

26 (2) The law enforcement agency that holds custody of

1 property is responsible for any damages, storage fees, and
2 related costs applicable to property returned. The
3 claimant shall not be subject to any charges by the State
4 for storage of the property or expenses incurred in the
5 preservation of the property. Charges for the towing of a
6 conveyance shall be borne by the claimant unless the
7 conveyance was towed for the sole reason of seizure for
8 forfeiture. This Section does not prohibit the imposition
9 of any fees or costs by a home rule unit of local
10 government related to the impoundment of a conveyance under
11 an ordinance enacted by the unit of government.

12 (3) A law enforcement agency shall not retain forfeited
13 property for its own use or transfer the property to any
14 person or entity, except as provided under this Section. A
15 law enforcement agency may apply in writing to the Director
16 of State Police to request that a forfeited property be
17 awarded to the agency for a specifically articulated
18 official law enforcement use in an investigation. The
19 Director of State Police shall provide a written
20 justification in each instance detailing the reasons why
21 the forfeited property was placed into official use and the
22 justification shall be retained for a period of not less
23 than 3 years.

24 (bb) The changes made to this Section by this amendatory
25 Act of the 100th General Assembly are subject to Sections 2 and
26 4 of the Statute on Statutes.

1 (Source: P.A. 99-480, eff. 9-9-15.)

2 (720 ILCS 5/33G-6)

3 (Section scheduled to be repealed on June 11, 2017)

4 Sec. 33G-6. Remedial proceedings, procedures, and
5 forfeiture. Under this Article:

6 (a) The circuit court shall have jurisdiction to prevent
7 and restrain violations of this Article by issuing appropriate
8 orders, including:

9 (1) ordering any person to disgorge illicit proceeds
10 obtained by a violation of this Article or divest himself
11 or herself of any interest, direct or indirect, in any
12 enterprise or real or personal property of any character,
13 including money, obtained, directly or indirectly, by a
14 violation of this Article;

15 (2) imposing reasonable restrictions on the future
16 activities or investments of any person or enterprise,
17 including prohibiting any person or enterprise from
18 engaging in the same type of endeavor as the person or
19 enterprise engaged in, that violated this Article; or

20 (3) ordering dissolution or reorganization of any
21 enterprise, making due provision for the rights of innocent
22 persons.

23 (b) Any violation of this Article is subject to the
24 remedies, procedures, and forfeiture as set forth in
25 subsections (f) through (s) of Section 29B-1 of this Code.

1 (c) Property seized or forfeited under this Article is
2 subject to reporting under the Seizure and Forfeiture Reporting
3 Act.

4 (Source: P.A. 97-686, eff. 6-11-12.)

5 (720 ILCS 5/36-1) (from Ch. 38, par. 36-1)

6 Sec. 36-1. Property subject to forfeiture ~~Seizure~~.

7 (a) Any vessel or watercraft, vehicle, or aircraft is
8 subject to forfeiture under this Article ~~may be seized and~~
9 ~~impounded by the law enforcement agency~~ if the vessel or
10 watercraft, vehicle, or aircraft is used with the knowledge and
11 consent of the owner in the commission of or in the attempt to
12 commit as defined in Section 8-4 of this Code:

13 (1) an offense prohibited by Section 9-1 (first degree
14 murder), Section 9-3 (involuntary manslaughter and
15 reckless homicide), Section 10-2 (aggravated kidnaping),
16 Section 11-1.20 (criminal sexual assault), Section 11-1.30
17 (aggravated criminal sexual assault), Section 11-1.40
18 (predatory criminal sexual assault of a child), subsection
19 (a) of Section 11-1.50 (criminal sexual abuse), subsection
20 (a), (c), or (d) of Section 11-1.60 (aggravated criminal
21 sexual abuse), Section 11-6 (indecent solicitation of a
22 child), Section 11-14.4 (promoting juvenile prostitution
23 except for keeping a place of juvenile prostitution),
24 Section 11-20.1 (child pornography), paragraph (a) (1),
25 (a) (2), (a) (4), (b) (1), (b) (2), (e) (1), (e) (2), (e) (3),

1 (e) (4), (e) (5), (e) (6), or (e) (7) of Section 12-3.05
2 (aggravated battery), Section 12-7.3 (stalking), Section
3 12-7.4 (aggravated stalking), Section 16-1 (theft if the
4 theft is of precious metal or of scrap metal), subdivision
5 (f) (2) or (f) (3) of Section 16-25 (retail theft), Section
6 18-2 (armed robbery), Section 19-1 (burglary), Section
7 19-2 (possession of burglary tools), Section 19-3
8 (residential burglary), Section 20-1 (arson; residential
9 arson; place of worship arson), Section 20-2 (possession of
10 explosives or explosive or incendiary devices),
11 subdivision (a) (6) or (a) (7) of Section 24-1 (unlawful use
12 of weapons), Section 24-1.2 (aggravated discharge of a
13 firearm), Section 24-1.2-5 (aggravated discharge of a
14 machine gun or a firearm equipped with a device designed or
15 used for silencing the report of a firearm), Section 24-1.5
16 (reckless discharge of a firearm), Section 28-1
17 (gambling), or Section 29D-15.2 (possession of a deadly
18 substance) of this Code;

19 (2) an offense prohibited by Section 21, 22, 23, 24 or
20 26 of the Cigarette Tax Act if the vessel or watercraft,
21 vehicle, or aircraft contains more than 10 cartons of such
22 cigarettes;

23 (3) an offense prohibited by Section 28, 29, or 30 of
24 the Cigarette Use Tax Act if the vessel or watercraft,
25 vehicle, or aircraft contains more than 10 cartons of such
26 cigarettes;

1 (4) an offense prohibited by Section 44 of the
2 Environmental Protection Act;

3 (5) an offense prohibited by Section 11-204.1 of the
4 Illinois Vehicle Code (aggravated fleeing or attempting to
5 elude a peace officer);

6 (6) an offense prohibited by Section 11-501 of the
7 Illinois Vehicle Code (driving while under the influence of
8 alcohol or other drug or drugs, intoxicating compound or
9 compounds or any combination thereof) or a similar
10 provision of a local ordinance, and:

11 (A) during a period in which his or her driving
12 privileges are revoked or suspended if the revocation
13 or suspension was for:

14 (i) Section 11-501 (driving under the
15 influence of alcohol or other drug or drugs,
16 intoxicating compound or compounds or any
17 combination thereof),

18 (ii) Section 11-501.1 (statutory summary
19 suspension or revocation),

20 (iii) paragraph (b) of Section 11-401 (motor
21 vehicle accidents involving death or personal
22 injuries), or

23 (iv) reckless homicide as defined in Section
24 9-3 of this Code;

25 (B) has been previously convicted of reckless
26 homicide or a similar provision of a law of another

1 state relating to reckless homicide in which the person
2 was determined to have been under the influence of
3 alcohol, other drug or drugs, or intoxicating compound
4 or compounds as an element of the offense or the person
5 has previously been convicted of committing a
6 violation of driving under the influence of alcohol or
7 other drug or drugs, intoxicating compound or
8 compounds or any combination thereof and was involved
9 in a motor vehicle accident that resulted in death,
10 great bodily harm, or permanent disability or
11 disfigurement to another, when the violation was a
12 proximate cause of the death or injuries;

13 (C) the person committed a violation of driving
14 under the influence of alcohol or other drug or drugs,
15 intoxicating compound or compounds or any combination
16 thereof under Section 11-501 of the Illinois Vehicle
17 Code or a similar provision for the third or subsequent
18 time;

19 (D) he or she did not possess a valid driver's
20 license or permit or a valid restricted driving permit
21 or a valid judicial driving permit or a valid
22 monitoring device driving permit; or

23 (E) he or she knew or should have known that the
24 vehicle he or she was driving was not covered by a
25 liability insurance policy;

26 (7) an offense described in subsection (g) of Section

1 6-303 of the Illinois Vehicle Code;

2 (8) an offense described in subsection (e) of Section
3 6-101 of the Illinois Vehicle Code; or

4 (9) (A) operating a watercraft under the influence of
5 alcohol, other drug or drugs, intoxicating compound or
6 compounds, or combination thereof under Section 5-16 of the
7 Boat Registration and Safety Act during a period in which
8 his or her privileges to operate a watercraft are revoked
9 or suspended and the revocation or suspension was for
10 operating a watercraft under the influence of alcohol,
11 other drug or drugs, intoxicating compound or compounds, or
12 combination thereof; (B) operating a watercraft under the
13 influence of alcohol, other drug or drugs, intoxicating
14 compound or compounds, or combination thereof and has been
15 previously convicted of reckless homicide or a similar
16 provision of a law in another state relating to reckless
17 homicide in which the person was determined to have been
18 under the influence of alcohol, other drug or drugs,
19 intoxicating compound or compounds, or combination thereof
20 as an element of the offense or the person has previously
21 been convicted of committing a violation of operating a
22 watercraft under the influence of alcohol, other drug or
23 drugs, intoxicating compound or compounds, or combination
24 thereof and was involved in an accident that resulted in
25 death, great bodily harm, or permanent disability or
26 disfigurement to another, when the violation was a

1 proximate cause of the death or injuries; or (C) the person
2 committed a violation of operating a watercraft under the
3 influence of alcohol, other drug or drugs, intoxicating
4 compound or compounds, or combination thereof under
5 Section 5-16 of the Boat Registration and Safety Act or a
6 similar provision for the third or subsequent time.

7 (b) In addition, any mobile or portable equipment used in
8 the commission of an act which is in violation of Section 7g of
9 the Metropolitan Water Reclamation District Act shall be
10 subject to seizure and forfeiture under the same procedures
11 provided in this Article for the seizure and forfeiture of
12 vessels or watercraft, vehicles, and aircraft, and any such
13 equipment shall be deemed a vessel or watercraft, vehicle, or
14 aircraft for purposes of this Article.

15 (c) In addition, when a person discharges a firearm at
16 another individual from a vehicle with the knowledge and
17 consent of the owner of the vehicle and with the intent to
18 cause death or great bodily harm to that individual and as a
19 result causes death or great bodily harm to that individual,
20 the vehicle shall be subject to seizure and forfeiture under
21 the same procedures provided in this Article for the seizure
22 and forfeiture of vehicles used in violations of clauses (1),
23 (2), (3), or (4) of subsection (a) of this Section.

24 (d) If the spouse of the owner of a vehicle seized for an
25 offense described in subsection (g) of Section 6-303 of the
26 Illinois Vehicle Code, a violation of subdivision (d)(1)(A),

1 (d) (1) (D), (d) (1) (G), (d) (1) (H), or (d) (1) (I) of Section
2 11-501 of the Illinois Vehicle Code, or Section 9-3 of this
3 Code makes a showing that the seized vehicle is the only source
4 of transportation and it is determined that the financial
5 hardship to the family as a result of the seizure outweighs the
6 benefit to the State from the seizure, the vehicle may be
7 forfeited to the spouse or family member and the title to the
8 vehicle shall be transferred to the spouse or family member who
9 is properly licensed and who requires the use of the vehicle
10 for employment or family transportation purposes. A written
11 declaration of forfeiture of a vehicle under this Section shall
12 be sufficient cause for the title to be transferred to the
13 spouse or family member. The provisions of this paragraph shall
14 apply only to one forfeiture per vehicle. If the vehicle is the
15 subject of a subsequent forfeiture proceeding by virtue of a
16 subsequent conviction of either spouse or the family member,
17 the spouse or family member to whom the vehicle was forfeited
18 under the first forfeiture proceeding may not utilize the
19 provisions of this paragraph in another forfeiture proceeding.
20 If the owner of the vehicle seized owns more than one vehicle,
21 the procedure set out in this paragraph may be used for only
22 one vehicle.

23 (e) In addition, property subject to forfeiture ~~declared~~
24 ~~contraband~~ under Section 40 of the Illinois Streetgang
25 Terrorism Omnibus Prevention Act may be seized and forfeited
26 under this Article.

1 (Source: P.A. 98-699, eff. 1-1-15; 98-1020, eff. 8-22-14;
2 99-78, eff. 7-20-15.)

3 (720 ILCS 5/36-1.1 new)

4 Sec. 36-1.1. Seizure.

5 (a) Any property subject to forfeiture under this Article
6 may be seized and impounded by the Director of State Police or
7 any peace officer upon process or seizure warrant issued by any
8 court having jurisdiction over the property.

9 (b) Any property subject to forfeiture under this Article
10 may be seized and impounded by the Director of State Police or
11 any peace officer without process if there is probable cause to
12 believe that the property is subject to forfeiture under
13 Section 36-1 of this Article and the property is seized under
14 circumstances in which a warrantless seizure or arrest would be
15 reasonable.

16 (c) If the seized property is a conveyance, an
17 investigation shall be made by the law enforcement agency as to
18 any person whose right, title, interest, or lien is of record
19 in the office of the agency or official in which title or
20 interest to the conveyance is required by law to be recorded.

21 (d) After seizure under this Section, notice shall be given
22 to all known interest holders that forfeiture proceedings,
23 including a preliminary review, may be instituted and the
24 proceedings may be instituted under this Article.

1 (720 ILCS 5/36-1.2 new)

2 Sec. 36-1.2. Receipt for seized property. If a law
3 enforcement officer seizes property for forfeiture under this
4 Article, the officer shall provide an itemized receipt to the
5 person possessing the property or, in the absence of a person
6 to whom the receipt could be given, shall leave the receipt in
7 the place where the property was found, if possible.

8 (720 ILCS 5/36-1.3 new)

9 Sec. 36-1.3. Safekeeping of seized property pending
10 disposition.

11 (a) Property seized under this Article is deemed to be in
12 the custody of the Director of State Police subject only to the
13 order and judgments of the circuit court having jurisdiction
14 over the forfeiture proceedings and the decisions of the
15 State's Attorney under this Article.

16 (b) If property is seized under this Article, the seizing
17 agency shall promptly conduct an inventory of the seized
18 property and estimate the property's value, and shall forward a
19 copy of the inventory of seized property and the estimate of
20 the property's value to the Director of State Police. Upon
21 receiving notice of seizure, the Director of State Police may:

22 (1) place the property under seal;

23 (2) remove the property to a place designated by the
24 Director of State Police;

25 (3) keep the property in the possession of the seizing

1 agency;

2 (4) remove the property to a storage area for
3 safekeeping; or

4 (5) place the property under constructive seizure by
5 posting notice of pending forfeiture on it, by giving
6 notice of pending forfeiture to its owners and interest
7 holders, or by filing notice of pending forfeiture in any
8 appropriate public record relating to the property; or

9 (6) provide for another agency or custodian, including
10 an owner, secured party, or lienholder, to take custody of
11 the property upon the terms and conditions set by the
12 seizing agency.

13 (c) The seizing agency shall exercise ordinary care to
14 protect the subject of the forfeiture from negligent loss,
15 damage, or destruction.

16 (d) Property seized or forfeited under this Article is
17 subject to reporting under the Seizure and Forfeiture Reporting
18 Act.

19 (720 ILCS 5/36-1.4 new)

20 Sec. 36-1.4. Notice to State's Attorney. The law
21 enforcement agency seizing property for forfeiture under this
22 Article shall, as soon as practicable but not later than 28
23 days after the seizure, notify the State's Attorney for the
24 county in which an act or omission giving rise to the seizure
25 occurred or in which the property was seized and the facts and

1 circumstances giving rise to the seizure, and shall provide the
2 State's Attorney with the inventory of the property and its
3 estimated value. The notice shall be by the delivery of the
4 form 4-64. If the property seized for forfeiture is a vehicle,
5 the law enforcement agency seizing the property shall
6 immediately notify the Secretary of State that forfeiture
7 proceedings are pending regarding the vehicle.

8 (720 ILCS 5/36-1.5)

9 Sec. 36-1.5. Preliminary review.

10 (a) Within 14 days of the seizure, the State's Attorney in
11 the county in which the seizure occurred shall seek a
12 preliminary determination from the circuit court as to whether
13 there is probable cause that the property may be subject to
14 forfeiture.

15 (b) The rules of evidence shall not apply to any proceeding
16 conducted under this Section.

17 (c) The court may conduct the review under subsection (a)
18 simultaneously with a proceeding pursuant to Section 109-1 of
19 the Code of Criminal Procedure of 1963 for a related criminal
20 offense if a prosecution is commenced by information or
21 complaint.

22 (d) The court may accept a finding of probable cause at a
23 preliminary hearing following the filing of an information or
24 complaint charging a related criminal offense or following the
25 return of indictment by a grand jury charging the related

1 offense as sufficient evidence of probable cause as required
2 under subsection (a).

3 (e) Upon making a finding of probable cause as required
4 under this Section, the circuit court shall order the property
5 subject to the provisions of the applicable forfeiture Act held
6 until the conclusion of any forfeiture proceeding.

7 For seizures of conveyances, within 28 ~~7~~ days of a finding
8 of probable cause under subsection (a), the registered owner or
9 other claimant may file a motion in writing supported by sworn
10 affidavits claiming that denial of the use of the conveyance
11 during the pendency of the forfeiture proceedings creates a
12 substantial hardship and alleges facts showing that the delay
13 was not due to his or her culpable negligence. The court shall
14 consider the following factors in determining whether a
15 substantial hardship has been proven:

16 (1) the nature of the claimed hardship;

17 (2) the availability of public transportation or other
18 available means of transportation; and

19 (3) any available alternatives to alleviate the
20 hardship other than the return of the seized conveyance.

21 If the court determines that a substantial hardship has
22 been proven, the court shall then balance the nature of the
23 hardship against the State's interest in safeguarding the
24 conveyance. If the court determines that the hardship outweighs
25 the State's interest in safeguarding the conveyance, the court
26 may temporarily release the conveyance to the registered owner

1 or the registered owner's authorized designee, or both, until
2 the conclusion of the forfeiture proceedings or for such
3 shorter period as ordered by the court provided that the person
4 to whom the conveyance is released provides proof of insurance
5 and a valid driver's license and all State and local
6 registrations for operation of the conveyance are current. The
7 court shall place conditions on the conveyance limiting its use
8 to the stated hardship and providing transportation for
9 employment, religious purposes, medical needs, child care, and
10 restricting the conveyance's use to only those individuals
11 authorized to use the conveyance by the registered owner. The
12 use of the vehicle shall be further restricted to exclude all
13 recreational and entertainment purposes. The court may order
14 additional restrictions it deems reasonable and just on its own
15 motion or on motion of the People. The court shall revoke the
16 order releasing the conveyance and order that the conveyance be
17 resealed by law enforcement if the conditions of release are
18 violated or if the conveyance is used in the commission of any
19 offense identified in subsection (a) of Section 6-205 of the
20 Illinois Vehicle Code.

21 If the court orders the release of the conveyance during
22 the pendency of the forfeiture proceedings, the court may order
23 the registered owner or his or her authorized designee to ~~shall~~
24 post a cash security with the Clerk of the Court as ordered by
25 the court. If cash security is ordered, the ~~The~~ court shall
26 consider the following factors in determining the amount of the

1 cash security:

2 (A) the full market value of the conveyance;

3 (B) the nature of the hardship;

4 (C) the extent and length of the usage of the
5 conveyance; ~~and~~

6 (D) the ability of the owner or designee to pay; and
7 ~~such other conditions as the court deems necessary to~~
8 ~~safeguard the conveyance.~~

9 (E) other conditions as the court deems necessary to
10 safeguard the conveyance.

11 If the conveyance is released, the court shall order that
12 the registered owner or his or her designee safeguard the
13 conveyance, not remove the conveyance from the jurisdiction,
14 not conceal, destroy, or otherwise dispose of the conveyance,
15 not encumber the conveyance, and not diminish the value of the
16 conveyance in any way. The court shall also make a
17 determination of the full market value of the conveyance prior
18 to it being released based on a source or sources defined in 50
19 Ill. Adm. Code 919.80(c)(2)(A) or 919.80(c)(2)(B).

20 If the conveyance subject to forfeiture is released under
21 this Section and is subsequently forfeited, the person to whom
22 the conveyance was released shall return the conveyance to the
23 law enforcement agency that seized the conveyance within 7 days
24 from the date of the declaration of forfeiture or order of
25 forfeiture. If the conveyance is not returned within 7 days,
26 the cash security shall be forfeited in the same manner as the

1 conveyance subject to forfeiture. If the cash security was less
2 than the full market value, a judgment shall be entered against
3 the parties to whom the conveyance was released and the
4 registered owner, jointly and severally, for the difference
5 between the full market value and the amount of the cash
6 security. If the conveyance is returned in a condition other
7 than the condition in which it was released, the cash security
8 shall be returned to the surety who posted the security minus
9 the amount of the diminished value, and that amount shall be
10 forfeited in the same manner as the conveyance subject to
11 forfeiture. Additionally, the court may enter an order allowing
12 any law enforcement agency in the State of Illinois to seize
13 the conveyance wherever it may be found in the State to satisfy
14 the judgment if the cash security was less than the full market
15 value of the conveyance.

16 (Source: P.A. 97-544, eff. 1-1-12; 97-680, eff. 3-16-12;
17 98-1020, eff. 8-22-14.)

18 (720 ILCS 5/36-2) (from Ch. 38, par. 36-2)

19 Sec. 36-2. Complaint ~~Action~~ for forfeiture.

20 (a) If the ~~The~~ State's Attorney in the county in which such
21 seizure occurs ~~if he or she~~ finds that the alleged violation of
22 law giving rise to the seizure ~~forfeiture~~ was incurred without
23 willful negligence or without any intention on the part of the
24 owner of the vessel or watercraft, vehicle or aircraft or any
25 person whose right, title or interest is of record as described

1 in Section 36-1 of this Article, to violate the law, or finds
2 the existence of such mitigating circumstances as to justify
3 remission of the forfeiture, he or she may cause the law
4 enforcement agency having custody of the property to return the
5 property to the owner within a reasonable time not to exceed 7
6 days to remit the same upon such terms and conditions as the
7 State's Attorney deems reasonable and just. The State's
8 Attorney shall exercise his or her discretion under this
9 subsection (a) the foregoing provision of this Section 36-2(a)
10 prior to or promptly after the preliminary review under Section
11 36-1.5.

12 (b) If, after review of the facts surrounding the seizure,
13 the State's Attorney is of the opinion that the seized property
14 is subject to forfeiture and the State's Attorney does not
15 cause the forfeiture to be remitted under subsection (a) of
16 this Section, he or she shall forthwith bring an action for
17 forfeiture in the Circuit Court within whose jurisdiction the
18 seizure and confiscation has taken place by filing a verified
19 complaint of forfeiture in the circuit court within whose
20 jurisdiction the seizure occurred, or within whose
21 jurisdiction an act or omission giving rise to the seizure
22 occurred, subject to Supreme Court Rule 187. The complaint
23 shall be filed as soon as practicable but not less than 28 days
24 after a finding of probable cause at a preliminary review under
25 Section 36-1.5 of this Article. A complaint of forfeiture shall
26 include:

1 (1) a description of the property seized;

2 (2) the date and place of seizure of the property;

3 (3) the name and address of the law enforcement agency
4 making the seizure; and

5 (4) the specific statutory and factual grounds for the
6 seizure.

7 The complaint shall be served upon each person whose right,
8 title, or interest is of record in the office of the Secretary
9 of State, the Secretary of Transportation, the Administrator of
10 the Federal Aviation Agency, or any other department of this
11 State, or any other state of the United States if the vessel or
12 watercraft, vehicle, or aircraft is required to be so
13 registered, as the case may be, the person from whom the
14 property was seized, and all persons known or reasonably
15 believed by the State to claim an interest in the property, as
16 provided in this Article. The complaint shall be accompanied by
17 the following written notice:

18 "This is a civil court proceeding subject to the Code of
19 Civil Procedure. You received this Complaint of Forfeiture
20 because the State's Attorney's office has brought a legal
21 action seeking forfeiture of your seized property. This
22 complaint starts the court process where the State seeks to
23 prove that your property should be forfeited and not returned
24 to you. This process is also your opportunity to try to prove
25 to a judge that you should get your property back. The
26 complaint lists the date, time, and location of your first

1 court date. You must appear in court on that day, or you may
2 lose the case automatically. You must also file an appearance
3 and answer. If you are unable to pay the appearance fee, you
4 may qualify to have the fee waived. If there is a criminal case
5 related to the seizure of your property, your case may be set
6 for trial after the criminal case has been resolved. Before
7 trial, the judge may allow discovery, where the State can ask
8 you to respond in writing to questions and give them certain
9 documents, and you can make similar requests of the State. The
10 trial is your opportunity to explain what happened when your
11 property was seized and why you should get the property back."

12 ~~The State's Attorney shall give notice of seizure and the~~
13 ~~forfeiture proceeding to each person according to the following~~
14 ~~method: upon each person whose right, title, or interest is of~~
15 ~~record in the office of the Secretary of State, the Secretary~~
16 ~~of Transportation, the Administrator of the Federal Aviation~~
17 ~~Agency, or any other department of this State, or any other~~
18 ~~state of the United States if the vessel or watercraft,~~
19 ~~vehicle, or aircraft is required to be so registered, as the~~
20 ~~case may be, by delivering the notice and complaint in open~~
21 ~~court or by certified mail to the address as given upon the~~
22 ~~records of the Secretary of State, the Division of Aeronautics~~
23 ~~of the Department of Transportation, the Capital Development~~
24 ~~Board, or any other department of this State or the United~~
25 ~~States if the vessel or watercraft, vehicle, or aircraft is~~
26 ~~required to be so registered.~~

1 (c) (Blank). ~~The owner of the seized vessel or watercraft,~~
2 ~~vehicle, or aircraft or any person whose right, title, or~~
3 ~~interest is of record as described in Section 36-1, may within~~
4 ~~20 days after delivery in open court or the mailing of such~~
5 ~~notice file a verified answer to the Complaint and may appear~~
6 ~~at the hearing on the action for forfeiture.~~

7 (d) (Blank). ~~The State shall show at such hearing by a~~
8 ~~preponderance of the evidence, that such vessel or watercraft,~~
9 ~~vehicle, or aircraft was used in the commission of an offense~~
10 ~~described in Section 36-1.~~

11 (e) (Blank). ~~The owner of such vessel or watercraft,~~
12 ~~vehicle, or aircraft or any person whose right, title, or~~
13 ~~interest is of record as described in Section 36-1, may show by~~
14 ~~a preponderance of the evidence that he did not know, and did~~
15 ~~not have reason to know, that the vessel or watercraft,~~
16 ~~vehicle, or aircraft was to be used in the commission of such~~
17 ~~an offense or that any of the exceptions set forth in Section~~
18 ~~36-3 are applicable.~~

19 (f) (Blank). ~~Unless the State shall make such showing, the~~
20 ~~Court shall order such vessel or watercraft, vehicle, or~~
21 ~~aircraft released to the owner. Where the State has made such~~
22 ~~showing, the Court may order the vessel or watercraft, vehicle,~~
23 ~~or aircraft destroyed or may order it forfeited to any local,~~
24 ~~municipal or county law enforcement agency, or the Department~~
25 ~~of State Police or the Department of Revenue of the State of~~
26 ~~Illinois.~~

1 (g) (Blank). ~~A copy of the order shall be filed with the~~
2 ~~law enforcement agency, and with each Federal or State office~~
3 ~~or agency with which such vessel or watercraft, vehicle, or~~
4 ~~aircraft is required to be registered. Such order, when filed,~~
5 ~~constitutes authority for the issuance of clear title to such~~
6 ~~vessel or watercraft, vehicle, or aircraft, to the department~~
7 ~~or agency to whom it is delivered or any purchaser thereof. The~~
8 ~~law enforcement agency shall comply promptly with instructions~~
9 ~~to remit received from the State's Attorney or Attorney General~~
10 ~~in accordance with Sections 36-2(a) or 36-3.~~

11 (h) (Blank). ~~The proceeds of any sale at public auction~~
12 ~~pursuant to Section 36-2 of this Act, after payment of all~~
13 ~~liens and deduction of the reasonable charges and expenses~~
14 ~~incurred by the State's Attorney's Office shall be paid to the~~
15 ~~law enforcement agency having seized the vehicle for~~
16 ~~forfeiture.~~

17 (Source: P.A. 98-699, eff. 1-1-15; 98-1020, eff. 8-22-14;
18 99-78, eff. 7-20-15.)

19 (720 ILCS 5/36-2.1 new)

20 Sec. 36-2.1. Notice to Owner or Interest Holder. The first
21 attempted service shall be commenced within 28 days of the
22 receipt of the notice from the seizing agency by the form 4-64.
23 If the property seized is a conveyance, notice shall also be
24 directed to the address reflected in the office of the agency
25 or official in which title or interest to the conveyance is

1 required by law to be recorded. A complaint for forfeiture
2 shall be served upon the property owner or interest holder in
3 the following manner:

4 (1) If the owner's or interest holder's name and
5 current address are known, then by either:

6 (A) personal service; or

7 (B) mailing a copy of the notice by certified mail,
8 return receipt requested and first class mail, to that
9 address.

10 (i) If notice is sent by certified mail and no
11 signed return receipt is received by the State's
12 Attorney within 28 days of mailing, and no
13 communication from the owner or interest holder is
14 received by the State's Attorney documenting
15 actual notice by said parties, the State's
16 Attorney shall, within a reasonable period of
17 time, mail a second copy of the notice by certified
18 mail, return receipt requested and first class
19 mail, to that address.

20 (ii) If no signed return receipt is received by
21 the State's Attorney within 28 days of the second
22 attempt at service by certified mail, and no
23 communication from the owner or interest holder is
24 received by the State's Attorney documenting
25 actual notice by said parties, the State's
26 Attorney shall have 60 days to attempt to serve the

1 notice by personal service, which also includes
2 substitute service by leaving a copy at the usual
3 place of abode, with some person of the family or a
4 person residing there, of the age of 13 years or
5 upwards. If after 3 attempts at service in this
6 manner, no service of the notice is accomplished,
7 then the notice shall be posted in a conspicuous
8 manner at this address and service shall be made by
9 the posting.

10 The attempts at service and the posting if
11 required, shall be documented by the person attempting
12 service and said documentation shall be made part of a
13 return of service returned to the State's Attorney.

14 The State's Attorney may utilize a Sheriff or
15 Deputy Sheriff, any peace officer, a private process
16 server or investigator, or any employee, agent, or
17 investigator of the State's Attorney's office to
18 attempt service without seeking leave of court.

19 After the procedures are followed, service shall
20 be effective on an owner or interest holder on the date
21 of receipt by the State's Attorney of a returned return
22 receipt requested, or on the date of receipt of a
23 communication from an owner or interest holder
24 documenting actual notice, whichever is first in time,
25 or on the date of the last act performed by the State's
26 Attorney in attempting personal service under item

1 (ii) of this paragraph (1). If notice is to be shown by
2 actual notice from communication with a claimant, then
3 the State's Attorney shall file an affidavit providing
4 details of the communication, which shall be accepted
5 as sufficient proof of service by the court.

6 For purposes of notice under this Section, if a
7 person has been arrested for the conduct giving rise to
8 the forfeiture, the address provided to the arresting
9 agency at the time of arrest shall be deemed to be that
10 person's known address. Provided, however, if an owner
11 or interest holder's address changes prior to the
12 effective date of the complaint for forfeiture, the
13 owner or interest holder shall promptly notify the
14 seizing agency of the change in address or, if the
15 owner or interest holder's address changes subsequent
16 to the effective date of the notice of pending
17 forfeiture, the owner or interest holder shall
18 promptly notify the State's Attorney of the change in
19 address; or if the property seized is a conveyance, to
20 the address reflected in the office of the agency or
21 official in which title or interest to the conveyance
22 is required by law to be recorded.

23 (2) If the owner's or interest holder's address is not
24 known, and is not on record, then notice shall be served by
25 publication for 3 successive weeks in a newspaper of
26 general circulation in the county in which the seizure

1 occurred.

2 (3) Notice to any business entity, corporation, LLC,
3 LLP, or partnership shall be complete by a single mailing
4 of a copy of the notice by certified mail, return receipt
5 requested and first class mail, to that address. This
6 notice is complete regardless of the return of a signed
7 "return receipt requested".

8 (4) Notice to a person whose address is not within the
9 State shall be complete by a single mailing of a copy of
10 the notice by certified mail, return receipt requested and
11 first class mail, to that address. This notice is complete
12 regardless of the return of a signed "return receipt
13 requested".

14 (5) Notice to a person whose address is not within the
15 United States shall be complete by a single mailing of a
16 copy of the notice by certified mail, return receipt
17 requested and first class mail, to that address. This
18 notice shall be complete regardless of the return of a
19 signed "return receipt requested". If certified mail is not
20 available in the foreign country where the person has an
21 address, then notice shall proceed by publication under
22 paragraph (2) of this Section.

23 (6) Notice to any person whom the State's Attorney
24 reasonably should know is incarcerated within the State
25 shall also include the mailing a copy of the notice by
26 certified mail, return receipt requested and first class

1 mail, to the address of the detention facility with the
2 inmate's name clearly marked on the envelope.

3 (720 ILCS 5/36-2.2 new)

4 Sec. 36-2.2. Replevin prohibited; return of personal
5 property inside seized conveyance.

6 (a) Property seized under this Article shall not be subject
7 to replevin, but is deemed to be in the custody of the Director
8 of State Police subject only to the order and judgments of the
9 circuit court having jurisdiction over the forfeiture
10 proceedings and the decisions of the State's Attorney.

11 (b) A claimant or a party interested in personal property
12 contained within a seized conveyance may file a motion with the
13 court in a judicial forfeiture action for the return of any
14 personal property contained within a conveyance seized under
15 this Article. The return of personal property shall not be
16 unreasonably withheld if the personal property is not
17 mechanically or electrically coupled to the conveyance, needed
18 for evidentiary purposes, or otherwise contraband. A law
19 enforcement agency that returns property under a court order
20 under this Section shall not be liable to any person who claims
21 ownership to the property if the property is returned to an
22 improper party.

23 (720 ILCS 5/36-2.5 new)

24 Sec. 36-2.5. Judicial in rem procedures.

1 (a) The laws of evidence relating to civil actions shall
2 apply to judicial in rem proceedings under this Article.

3 (b) Only an owner of or interest holder in the property may
4 file an answer asserting a claim against the property in the
5 action in rem. For purposes of this Section, the owner or
6 interest holder shall be referred to as claimant. A person not
7 named in the forfeiture complaint who claims to have an
8 interest in the property may petition to intervene as a
9 claimant under Section 2-408 of the Code of Civil Procedure.

10 (c) The answer shall be filed with the court within 45 days
11 after service of the civil in rem complaint.

12 (d) The trial shall be held within 60 days after filing of
13 the answer unless continued for good cause.

14 (e) In its case in chief, the State shall show by a
15 preponderance of the evidence that:

16 (1) the property is subject to forfeiture; and

17 (2) at least one of the following:

18 (i) the claimant knew or should have known that the
19 conduct was likely to occur; or

20 (ii) the claimant is not the true owner of the
21 property that is subject to forfeiture.

22 In any forfeiture case under this Article, a claimant may
23 present evidence to overcome evidence presented by the State
24 that the property is subject to forfeiture.

25 (f) Notwithstanding any other provision of this Section,
26 the State's burden of proof at the trial of the forfeiture

1 action shall be by clear and convincing evidence if:

2 (1) a finding of not guilty is entered as to all counts
3 and all defendants in a criminal proceeding relating to the
4 conduct giving rise to the forfeiture action; or

5 (2) the State receives an adverse finding at a
6 preliminary hearing and fails to secure an indictment in a
7 criminal proceeding related to the factual allegations of
8 the forfeiture action.

9 (g) If the State does not meet its burden of proof, the
10 court shall order the interest in the property returned or
11 conveyed to the claimant and shall order all other property in
12 which the State does meet its burden of proof forfeited to the
13 State. If the State does meet its burden of proof, the court
14 shall order all property forfeited to the State.

15 (h) A defendant convicted in any criminal proceeding is
16 precluded from later denying the essential allegations of the
17 criminal offense of which the defendant was convicted in any
18 proceeding under this Article regardless of the pendency of an
19 appeal from that conviction. However, evidence of the pendency
20 of an appeal is admissible.

21 (i) An acquittal or dismissal in a criminal proceeding
22 shall not preclude civil proceedings under this Act; however,
23 for good cause shown, on a motion by either party, the court
24 may stay civil forfeiture proceedings during the criminal trial
25 for a related criminal indictment or information alleging a
26 violation of law authorizing forfeiture under Section 36-1 of

1 this Article.

2 (j) Title to all property declared forfeited under this Act
3 vests in this State on the commission of the conduct giving
4 rise to forfeiture together with the proceeds of the property
5 after that time. Except as otherwise provided in this Article,
6 any property or proceeds subsequently transferred to any person
7 remain subject to forfeiture unless a person to whom the
8 property was transferred makes an appropriate claim under or
9 has their claim adjudicated at the judicial in rem hearing.

10 (k) No property shall be forfeited under this Article from
11 a person who, without actual or constructive notice that the
12 property was the subject of forfeiture proceedings, obtained
13 possession of the property as a bona fide purchaser for value.
14 A person who purports to transfer property after receiving
15 actual or constructive notice that the property is subject to
16 seizure or forfeiture is guilty of contempt of court, and shall
17 be liable to the State for a penalty in the amount of the fair
18 market value of the property.

19 (l) A civil action under this Article shall be commenced
20 within 5 years after the last conduct giving rise to forfeiture
21 became known or should have become known or 5 years after the
22 forfeitable property is discovered, whichever is later,
23 excluding any time during which either the property or claimant
24 is out of the State or in confinement or during which criminal
25 proceedings relating to the same conduct are in progress.

26 (m) If property is ordered forfeited under this Article

1 from a claimant who held title to the property in joint tenancy
2 or tenancy in common with another claimant, the court shall
3 determine the amount of each owner's interest in the property
4 according to principles of property law.

5 (720 ILCS 5/36-2.7 new)

6 Sec. 36-2.7. Innocent owner hearing.

7 (a) After a complaint for forfeiture has been filed and all
8 claimants have appeared and answered, a claimant may file a
9 motion with the court for an innocent owner hearing prior to
10 trial. This motion shall be made and supported by sworn
11 affidavit and shall assert the following along with specific
12 facts which support each assertion:

13 (1) that the claimant filing the motion is the true
14 owner of the conveyance as interpreted by case law; and

15 (2) that the claimant did not know or did not have
16 reason to know the conduct giving rise to the forfeiture
17 was likely to occur.

18 (b) The claimant shall include specific facts which support
19 these assertions in their motion.

20 (c) Upon the filing, a hearing may only be conducted after
21 the parties have been given the opportunity to conduct limited
22 discovery as to the ownership and control of the property, the
23 claimant's knowledge, or any matter relevant to the issues
24 raised or facts alleged in the claimant's motion. Discovery
25 shall be limited to the People's requests in these areas but

1 may proceed by any means allowed in the Code of Civil
2 Procedure.

3 (d) After discovery is complete and the court has allowed
4 for sufficient time to review and investigate the discovery
5 responses, the court shall conduct a hearing. At the hearing,
6 the fact that the conveyance is subject to forfeiture shall not
7 be at issue. The court shall only hear evidence relating to the
8 issue of innocent ownership.

9 (e) At the hearing on the motion, the claimant shall bear
10 the burden of proving each of the assertions listed in
11 subsection (a) of this Section by a preponderance of the
12 evidence.

13 (f) If a claimant meets their burden of proof, the court
14 shall grant the motion and order the conveyance returned to the
15 claimant. If the claimant fails to meet their burden of proof,
16 the court shall deny the motion and the forfeiture case shall
17 proceed according to the Rules of Civil Procedure.

18 (720 ILCS 5/36-3) (from Ch. 38, par. 36-3)

19 Sec. 36-3. Exemptions from ~~Exceptions to~~ forfeiture.

20 (a) No vessel or watercraft, vehicle, or aircraft used by
21 any person as a common carrier in the transaction of business
22 as such common carrier may be forfeited under the provisions of
23 Section 36-2 unless the State proves by a preponderance of the
24 evidence it appears that (1) in the case of a railway car or
25 engine, the owner, or (2) in the case of any other such vessel

1 or watercraft, vehicle or aircraft, the owner or the master of
2 such vessel or watercraft or the owner or conductor, driver,
3 pilot, or other person in charge of such vehicle or aircraft
4 was at the time of the alleged illegal act a consenting party
5 or privy thereto.

6 (b) No vessel or watercraft, vehicle, or aircraft shall be
7 forfeited under the provisions of Section 36-2 of this Article
8 by reason of any act or omission ~~established by the owner~~
9 ~~thereof to have been~~ committed or omitted by any person other
10 than such owner while such vessel or watercraft, vehicle, or
11 aircraft was unlawfully in the possession of a person who
12 acquired possession thereof in violation of the criminal laws
13 of the United States, or of any state.

14 (Source: P.A. 98-699, eff. 1-1-15.)

15 (720 ILCS 5/36-3.1 new)

16 Sec. 36-3.1. Proportionality. Property forfeited under
17 this Article shall be subject to an 8th Amendment to the United
18 States Constitution disproportionate penalties analysis, and
19 the property forfeiture may be denied in whole or in part if
20 the court finds that the forfeiture would constitute an
21 excessive fine in violation of the 8th Amendment to the United
22 States Constitution, as interpreted by case law.

23 (720 ILCS 5/36-6 new)

24 Sec. 36-6. Return of property, damages and costs.

1 (a) The law enforcement agency that holds custody of
2 property seized for forfeiture shall return to the claimant,
3 within a reasonable period of time not to exceed 7 days unless
4 the order is stayed by the trial court or a reviewing court
5 pending an appeal, motion to reconsider, or other reason after
6 the court orders the property to be returned or conveyed to the
7 claimant:

8 (1) property ordered by the court to be conveyed or
9 returned to the claimant; and

10 (2) property ordered by the court to be conveyed or
11 returned to the claimant under subsection (d) of Section
12 36-3.1 of this Article.

13 (b) The law enforcement agency that holds custody of
14 property seized under this Article is responsible for any
15 damages, storage fees, and related costs applicable to property
16 returned to a claimant under this Article. The claimant shall
17 not be subject to any charges by the State for storage of the
18 property or expenses incurred in the preservation of the
19 property. Charges for the towing of a conveyance shall be borne
20 by the claimant unless the conveyance was towed for the sole
21 reason of seizure for forfeiture. This subsection does not
22 prohibit the imposition of any fees or costs by a home rule
23 unit of local government related to the impoundment of a
24 conveyance under an ordinance enacted by the unit of
25 government.

1 (720 ILCS 5/36-7 new)

2 Sec. 36-7. Distribution of proceeds; selling or retaining
3 seized property prohibited.

4 (a) Except as otherwise provided in this Section, the court
5 shall order that property forfeited under this Article be
6 delivered to the Department of State Police within 60 days.

7 (b) The Department of State Police or its designee shall
8 dispose of all property at public auction and shall distribute
9 the proceeds of the sale, together with any moneys forfeited or
10 seized, under subsection (c) of this Section.

11 (c) All monies and the sale proceeds of all other property
12 forfeited and seized under this Act shall be distributed as
13 follows:

14 (1) 65% shall be distributed to the drug task force,
15 metropolitan enforcement group, local, municipal, county,
16 or state law enforcement agency or agencies which conducted
17 or participated in the investigation resulting in the
18 forfeiture. The distribution shall bear a reasonable
19 relationship to the degree of direct participation of the
20 law enforcement agency in the effort resulting in the
21 forfeiture, taking into account the total value of the
22 property forfeited and the total law enforcement effort
23 with respect to the violation of the law upon which the
24 forfeiture is based. Amounts distributed to the agency or
25 agencies shall be used, at the discretion of the agency,
26 for the enforcement of criminal laws; or for public

1 education in the community or schools in the prevention or
2 detection of the abuse of drugs or alcohol; or for security
3 cameras used for the prevention or detection of violence,
4 except that amounts distributed to the Secretary of State
5 shall be deposited into the Secretary of State Evidence
6 Fund to be used as provided in Section 2-115 of the
7 Illinois Vehicle Code.

8 Any local, municipal, or county law enforcement agency
9 entitled to receive a monetary distribution of forfeiture
10 proceeds may share those forfeiture proceeds pursuant to
11 the terms of an intergovernmental agreement with a
12 municipality that has a population in excess of 20,000 if:

13 (A) the receiving agency has entered into an
14 intergovernmental agreement with the municipality to
15 provide police services;

16 (B) the intergovernmental agreement for police
17 services provides for consideration in an amount of not
18 less than \$1,000,000 per year;

19 (C) the seizure took place within the geographical
20 limits of the municipality; and

21 (D) the funds are used only for the enforcement of
22 criminal laws; for public education in the community or
23 schools in the prevention or detection of the abuse of
24 drugs or alcohol; or for security cameras used for the
25 prevention or detection of violence or the
26 establishment of a municipal police force, including

1 the training of officers, construction of a police
2 station, the purchase of law enforcement equipment, or
3 vehicles.

4 (2) 12.5% shall be distributed to the Office of the
5 State's Attorney of the county in which the prosecution
6 resulting in the forfeiture was instituted, deposited in a
7 special fund in the county treasury and appropriated to the
8 State's Attorney for use, at the discretion of the State's
9 Attorney, in the enforcement of criminal laws; or for
10 public education in the community or schools in the
11 prevention or detection of the abuse of drugs or alcohol;
12 or at the discretion of the State's Attorney, in addition
13 to other authorized purposes, to make grants to local
14 substance abuse treatment facilities and half-way houses.
15 In counties over 3,000,000 population, 25% will be
16 distributed to the Office of the State's Attorney for use,
17 at the discretion of the State's Attorney, in the
18 enforcement of criminal laws; or for public education in
19 the community or schools in the prevention or detection of
20 the abuse of drugs or alcohol; or at the discretion of the
21 State's Attorney, in addition to other authorized
22 purposes, to make grants to local substance abuse treatment
23 facilities and half-way houses. If the prosecution is
24 undertaken solely by the Attorney General, the portion
25 provided shall be distributed to the Attorney General for
26 use in the enforcement of criminal laws governing cannabis

1 and controlled substances or for public education in the
2 community or schools in the prevention or detection of the
3 abuse of drugs or alcohol.

4 12.5% shall be distributed to the Office of the State's
5 Attorneys Appellate Prosecutor and shall be used at the
6 discretion of the State's Attorneys Appellate Prosecutor
7 for additional expenses incurred in the investigation,
8 prosecution and appeal of cases arising in the enforcement
9 of criminal laws; or for public education in the community
10 or schools in the prevention or detection of the abuse of
11 drugs or alcohol. The Office of the State's Attorneys
12 Appellate Prosecutor shall not receive distribution from
13 cases brought in counties with over 3,000,000 population.

14 (3) 10% shall be retained by the Department of State
15 Police for expenses related to the administration and sale
16 of seized and forfeited property.

17 (d) A law enforcement agency shall not retain forfeited
18 property for its own use or transfer the property to any person
19 or entity, except as provided under this Section. A law
20 enforcement agency may apply in writing to the Director of
21 State Police to request that a forfeited property be awarded to
22 the agency for a specifically articulated official law
23 enforcement use in an investigation. The Director of State
24 Police shall provide a written justification in each instance
25 detailing the reasons why the forfeited property was placed
26 into official use, and the justification shall be retained for

1 a period of not less than 3 years.

2 (720 ILCS 5/36-9 new)

3 Sec. 36-9. Reporting. Property seized or forfeited under
4 this Article is subject to reporting under the Seizure and
5 Forfeiture Reporting Act.

6 (720 ILCS 5/47-15)

7 Sec. 47-15. Dumping garbage upon real property.

8 (a) It is unlawful for a person to dump, deposit, or place
9 garbage, rubbish, trash, or refuse upon real property not owned
10 by that person without the consent of the owner or person in
11 possession of the real property.

12 (b) A person who violates this Section is liable to the
13 owner or person in possession of the real property on which the
14 garbage, rubbish, trash, or refuse is dumped, deposited, or
15 placed for the reasonable costs incurred by the owner or person
16 in possession for cleaning up and properly disposing of the
17 garbage, rubbish, trash, or refuse, and for reasonable
18 attorneys' fees.

19 (c) A person violating this Section is guilty of a Class B
20 misdemeanor for which the court must impose a minimum fine of
21 \$500. A second conviction for an offense committed after the
22 first conviction is a Class A misdemeanor for which the court
23 must impose a minimum fine of \$500. A third or subsequent
24 violation, committed after a second conviction, is a Class 4

1 felony for which the court must impose a minimum fine of \$500.
2 A person who violates this Section and who has an equity
3 interest in a motor vehicle used in violation of this Section
4 is presumed to have the financial resources to pay the minimum
5 fine not exceeding his or her equity interest in the vehicle.
6 Personal property used by a person in violation of this Section
7 shall on the third or subsequent conviction of the person be
8 forfeited to the county where the violation occurred and
9 disposed of at a public sale. Before the forfeiture, the court
10 shall conduct a hearing to determine whether property is
11 subject to forfeiture under this Section. At the forfeiture
12 hearing the State has the burden of establishing by a
13 preponderance of the evidence that property is subject to
14 forfeiture under this Section. Property seized or forfeited
15 under this Section is subject to reporting under the Seizure
16 and Forfeiture Reporting Act.

17 (d) The statutory minimum fine required by subsection (c)
18 is not subject to reduction or suspension unless the defendant
19 is indigent. If the defendant files a motion with the court
20 asserting his or her inability to pay the mandatory fine
21 required by this Section, the court must set a hearing on the
22 motion before sentencing. The court must require an affidavit
23 signed by the defendant containing sufficient information to
24 ascertain the assets and liabilities of the defendant. If the
25 court determines that the defendant is indigent, the court must
26 require that the defendant choose either to pay the minimum

1 fine of \$500 or to perform 100 hours of community service.

2 (Source: P.A. 90-655, eff. 7-30-98; 91-409, eff. 1-1-00.)

3 (720 ILCS 5/36-1a rep.)

4 (720 ILCS 5/36-5 rep.)

5 Section 140. The Criminal Code of 2012 is amended by
6 repealing Sections 36-1a and 36-5.

7 Section 145. The Cannabis Control Act is amended by
8 changing Section 12 as follows:

9 (720 ILCS 550/12) (from Ch. 56 1/2, par. 712)

10 Sec. 12. (a) The following are subject to forfeiture:

11 (1) (blank); ~~all substances containing cannabis which~~
12 ~~have been produced, manufactured, delivered, or possessed~~
13 ~~in violation of this Act;~~

14 (2) all raw materials, products and equipment of any
15 kind which are produced, delivered, or possessed in
16 connection with any substance containing cannabis in a
17 felony violation of this Act;

18 (3) all conveyances, including aircraft, vehicles or
19 vessels, which are used, or intended for use, to transport,
20 or in any manner to facilitate the transportation, sale,
21 receipt, possession, or concealment of any substance
22 containing cannabis or property described in paragraph ~~(1)~~
23 ~~or~~ (2) of this subsection (a) that constitutes a felony

1 violation of the Act, but:

2 (i) no conveyance used by any person as a common
3 carrier in the transaction of business as a common
4 carrier is subject to forfeiture under this Section
5 unless it appears that the owner or other person in
6 charge of the conveyance is a consenting party or privy
7 to the ~~a violation of this Act;~~

8 (ii) no conveyance is subject to forfeiture under
9 this Section by reason of any act or omission which the
10 owner proves to have been committed or omitted without
11 his knowledge or consent;

12 (iii) a forfeiture of a conveyance encumbered by a
13 bona fide security interest is subject to the interest
14 of the secured party if he neither had knowledge of nor
15 consented to the act or omission;

16 (4) all money, things of value, books, records, and
17 research products and materials including formulas,
18 microfilm, tapes, and data which are used, or intended for
19 use in a felony violation of this Act;

20 (5) everything of value furnished or intended to be
21 furnished by any person in exchange for a substance in
22 violation of this Act, all proceeds traceable to such an
23 exchange, and all moneys, negotiable instruments, and
24 securities used, or intended to be used, to commit or in
25 any manner to facilitate any felony violation of this Act;

26 (6) all real property, including any right, title, and

1 interest including, but not limited to, any leasehold
2 interest or the beneficial interest to a land trust, in the
3 whole of any lot or tract of land and any appurtenances or
4 improvements, that is used or intended to be used to
5 facilitate the manufacture, distribution, sale, receipt,
6 or concealment of a substance containing cannabis or
7 property described in paragraph ~~(1) or~~ (2) of this
8 subsection (a) that constitutes a felony violation of this
9 Act involving more than 2,000 grams of a substance
10 containing cannabis or that is the proceeds of any felony
11 violation of this Act.

12 (b) Property subject to forfeiture under this Act may be
13 seized under the Drug Asset Forfeiture Procedure Act. In the
14 event of seizure, forfeiture proceedings shall be instituted
15 under the Drug Asset Forfeiture Procedure Act. by the Director
16 ~~or any peace officer upon process or seizure warrant issued by~~
17 ~~any court having jurisdiction over the property. Seizure by the~~
18 ~~Director or any peace officer without process may be made:~~

19 ~~(1) if the property subject to seizure has been the~~
20 ~~subject of a prior judgment in favor of the State in a~~
21 ~~criminal proceeding or in an injunction or forfeiture~~
22 ~~proceeding based upon this Act or the Drug Asset Forfeiture~~
23 ~~Procedure Act;~~

24 ~~(2) if there is probable cause to believe that the~~
25 ~~property is directly or indirectly dangerous to health or~~
26 ~~safety;~~

1 ~~(3) if there is probable cause to believe that the~~
2 ~~property is subject to forfeiture under this Act and the~~
3 ~~property is seized under circumstances in which a~~
4 ~~warrantless seizure or arrest would be reasonable; or~~

5 ~~(4) in accordance with the Code of Criminal Procedure~~
6 ~~of 1963.~~

7 (c) Forfeiture under this Act is subject to subject to an
8 8th amendment to the United States Constitution
9 disproportionate penalties analysis as provided under Section
10 9.5 of the Drug Asset Forfeiture Procedure Act. In the event of
11 ~~seizure pursuant to subsection (b), notice shall be given~~
12 ~~forthwith to all known interest holders that forfeiture~~
13 ~~proceedings, including a preliminary review, shall be~~
14 ~~instituted in accordance with the Drug Asset Forfeiture~~
15 ~~Procedure Act and such proceedings shall thereafter be~~
16 ~~instituted in accordance with that Act. Upon a showing of good~~
17 ~~cause, the notice required for a preliminary review under this~~
18 ~~Section may be postponed.~~

19 (c-1) With regard to possession of cannabis offenses only,
20 a sum of currency with a value of less than \$500 shall not be
21 subject to forfeiture under this Act. For all other offenses
22 under this Act, a sum of currency with a value of less than
23 \$100 shall not be subject to forfeiture under this Act. In
24 seizures of currency in excess of these amounts, this Section
25 shall not create an exemption for these amounts. In the event
26 ~~the State's Attorney is of the opinion that real property is~~

1 ~~subject to forfeiture under this Act, forfeiture proceedings~~
2 ~~shall be instituted in accordance with the Drug Asset~~
3 ~~Forfeiture Procedure Act. The exemptions from forfeiture~~
4 ~~provisions of Section 8 of the Drug Asset Forfeiture Procedure~~
5 ~~Act are applicable.~~

6 (d) (Blank). ~~Property taken or detained under this Section~~
7 ~~shall not be subject to replevin, but is deemed to be in the~~
8 ~~custody of the Director subject only to the order and judgments~~
9 ~~of the circuit court having jurisdiction over the forfeiture~~
10 ~~proceedings and the decisions of the State's Attorney under the~~
11 ~~Drug Asset Forfeiture Procedure Act. When property is seized~~
12 ~~under this Act, the seizing agency shall promptly conduct an~~
13 ~~inventory of the seized property, estimate the property's~~
14 ~~value, and shall forward a copy of the inventory of seized~~
15 ~~property and the estimate of the property's value to the~~
16 ~~Director. Upon receiving notice of seizure, the Director may:~~

17 ~~(1) place the property under seal;~~

18 ~~(2) remove the property to a place designated by him;~~

19 ~~(3) keep the property in the possession of the seizing~~
20 ~~agency;~~

21 ~~(4) remove the property to a storage area for~~
22 ~~safekeeping or, if the property is a negotiable instrument~~
23 ~~or money and is not needed for evidentiary purposes,~~
24 ~~deposit it in an interest bearing account;~~

25 ~~(5) place the property under constructive seizure by~~
26 ~~posting notice of pending forfeiture on it, by giving~~

1 ~~notice of pending forfeiture to its owners and interest~~
2 ~~holders, or by filing notice of pending forfeiture in any~~
3 ~~appropriate public record relating to the property; or~~

4 ~~(6) provide for another agency or custodian, including~~
5 ~~an owner, secured party, or lienholder, to take custody of~~
6 ~~the property upon the terms and conditions set by the~~
7 ~~Director.~~

8 (e) (Blank). ~~No disposition may be made of property under~~
9 ~~seal until the time for taking an appeal has elapsed or until~~
10 ~~all appeals have been concluded unless a court, upon~~
11 ~~application therefor, orders the sale of perishable substances~~
12 ~~and the deposit of the proceeds of the sale with the court.~~

13 (f) (Blank). ~~When property is forfeited under this Act the~~
14 ~~Director shall sell all such property unless such property is~~
15 ~~required by law to be destroyed or is harmful to the public,~~
16 ~~and shall distribute the proceeds of the sale, together with~~
17 ~~any moneys forfeited or seized, in accordance with subsection~~
18 ~~(g). However, upon the application of the seizing agency or~~
19 ~~prosecutor who was responsible for the investigation, arrest or~~
20 ~~arrests and prosecution which lead to the forfeiture, the~~
21 ~~Director may return any item of forfeited property to the~~
22 ~~seizing agency or prosecutor for official use in the~~
23 ~~enforcement of laws relating to cannabis or controlled~~
24 ~~substances, if the agency or prosecutor can demonstrate that~~
25 ~~the item requested would be useful to the agency or prosecutor~~
26 ~~in their enforcement efforts. When any forfeited conveyance,~~

1 ~~including an aircraft, vehicle, or vessel, is returned to the~~
2 ~~seizing agency or prosecutor, the conveyance may be used~~
3 ~~immediately in the enforcement of the criminal laws of this~~
4 ~~State. Upon disposal, all proceeds from the sale of the~~
5 ~~conveyance must be used for drug enforcement purposes. When any~~
6 ~~real property returned to the seizing agency is sold by the~~
7 ~~agency or its unit of government, the proceeds of the sale~~
8 ~~shall be delivered to the Director and distributed in~~
9 ~~accordance with subsection (g).~~

10 (g) (Blank). ~~All monies and the sale proceeds of all other~~
11 ~~property forfeited and seized under this Act shall be~~
12 ~~distributed as follows:~~

13 ~~(1) (i) 65% shall be distributed to the metropolitan~~
14 ~~enforcement group, local, municipal, county, or state law~~
15 ~~enforcement agency or agencies which conducted or~~
16 ~~participated in the investigation resulting in the~~
17 ~~forfeiture. The distribution shall bear a reasonable~~
18 ~~relationship to the degree of direct participation of the~~
19 ~~law enforcement agency in the effort resulting in the~~
20 ~~forfeiture, taking into account the total value of the~~
21 ~~property forfeited and the total law enforcement effort~~
22 ~~with respect to the violation of the law upon which the~~
23 ~~forfeiture is based. Amounts distributed to the agency or~~
24 ~~agencies shall be used for the enforcement of laws~~
25 ~~governing cannabis and controlled substances; for public~~
26 ~~education in the community or schools in the prevention or~~

1 ~~detection of the abuse of drugs or alcohol; or for security~~
2 ~~cameras used for the prevention or detection of violence,~~
3 ~~except that amounts distributed to the Secretary of State~~
4 ~~shall be deposited into the Secretary of State Evidence~~
5 ~~Fund to be used as provided in Section 2-115 of the~~
6 ~~Illinois Vehicle Code.~~

7 ~~(ii) Any local, municipal, or county law enforcement~~
8 ~~agency entitled to receive a monetary distribution of~~
9 ~~forfeiture proceeds may share those forfeiture proceeds~~
10 ~~pursuant to the terms of an intergovernmental agreement~~
11 ~~with a municipality that has a population in excess of~~
12 ~~20,000 if:~~

13 ~~(I) the receiving agency has entered into an~~
14 ~~intergovernmental agreement with the municipality to~~
15 ~~provide police services;~~

16 ~~(II) the intergovernmental agreement for police~~
17 ~~services provides for consideration in an amount of not~~
18 ~~less than \$1,000,000 per year;~~

19 ~~(III) the seizure took place within the~~
20 ~~geographical limits of the municipality; and~~

21 ~~(IV) the funds are used only for the enforcement of~~
22 ~~laws governing cannabis and controlled substances; for~~
23 ~~public education in the community or schools in the~~
24 ~~prevention or detection of the abuse of drugs or~~
25 ~~alcohol; or for security cameras used for the~~
26 ~~prevention or detection of violence or the~~

1 ~~establishment of a municipal police force, including~~
2 ~~the training of officers, construction of a police~~
3 ~~station, the purchase of law enforcement equipment, or~~
4 ~~vehicles.~~

5 ~~(2) (i) 12.5% shall be distributed to the Office of the~~
6 ~~State's Attorney of the county in which the prosecution~~
7 ~~resulting in the forfeiture was instituted, deposited in a~~
8 ~~special fund in the county treasury and appropriated to the~~
9 ~~State's Attorney for use in the enforcement of laws~~
10 ~~governing cannabis and controlled substances; for public~~
11 ~~education in the community or schools in the prevention or~~
12 ~~detection of the abuse of drugs or alcohol; or at the~~
13 ~~discretion of the State's Attorney, in addition to other~~
14 ~~authorized purposes, to make grants to local substance~~
15 ~~abuse treatment facilities and half way houses. In~~
16 ~~counties over 3,000,000 population, 25% will be~~
17 ~~distributed to the Office of the State's Attorney for use~~
18 ~~in the enforcement of laws governing cannabis and~~
19 ~~controlled substances; for public education in the~~
20 ~~community or schools in the prevention or detection of the~~
21 ~~abuse of drugs or alcohol; or at the discretion of the~~
22 ~~State's Attorney, in addition to other authorized~~
23 ~~purposes, to make grants to local substance abuse treatment~~
24 ~~facilities and half way houses. If the prosecution is~~
25 ~~undertaken solely by the Attorney General, the portion~~
26 ~~provided hereunder shall be distributed to the Attorney~~

1 ~~General for use in the enforcement of laws governing~~
2 ~~cannabis and controlled substances.~~

3 ~~(ii) 12.5% shall be distributed to the Office of the~~
4 ~~State's Attorneys Appellate Prosecutor and deposited in~~
5 ~~the Narcotics Profit Forfeiture Fund of that Office to be~~
6 ~~used for additional expenses incurred in the~~
7 ~~investigation, prosecution and appeal of cases arising~~
8 ~~under laws governing cannabis and controlled substances or~~
9 ~~for public education in the community or schools in the~~
10 ~~prevention or detection of the abuse of drugs or alcohol.~~
11 ~~The Office of the State's Attorneys Appellate Prosecutor~~
12 ~~shall not receive distribution from cases brought in~~
13 ~~counties with over 3,000,000 population.~~

14 ~~(3) 10% shall be retained by the Department of State~~
15 ~~Police for expenses related to the administration and sale~~
16 ~~of seized and forfeited property.~~

17 (h) Contraband, including cannabis possessed without
18 authorization under State or federal law, is not subject to
19 forfeiture. No property right exists in contraband. Contraband
20 is subject to seizure and shall be disposed of according to
21 State law.

22 (Source: P.A. 99-686, eff. 7-29-16.)

23 Section 150. The Illinois Controlled Substances Act is
24 amended by changing Section 505 as follows:

1 (720 ILCS 570/505) (from Ch. 56 1/2, par. 1505)

2 Sec. 505. (a) The following are subject to forfeiture:

3 (1) (blank); ~~all substances which have been~~
4 ~~manufactured, distributed, dispensed, or possessed in~~
5 ~~violation of this Act;~~

6 (2) all raw materials, products and equipment of any
7 kind which are used, or intended for use in manufacturing,
8 distributing, dispensing, administering or possessing any
9 substance in violation of this Act;

10 (3) all conveyances, including aircraft, vehicles or
11 vessels, which are used, or intended for use, to transport,
12 or in any manner to facilitate the transportation, sale,
13 receipt, possession, or concealment of substances
14 manufactured, distributed, dispensed, or possessed in
15 violation of this Act, or property described in paragraphs
16 ~~(1) and (2)~~ of this subsection (a), but:

17 (i) no conveyance used by any person as a common
18 carrier in the transaction of business as a common
19 carrier is subject to forfeiture under this Section
20 unless it appears that the owner or other person in
21 charge of the conveyance is a consenting party or privy
22 to a violation of this Act;

23 (ii) no conveyance is subject to forfeiture under
24 this Section by reason of any act or omission which the
25 owner proves to have been committed or omitted without
26 his or her knowledge or consent;

1 (iii) a forfeiture of a conveyance encumbered by a
2 bona fide security interest is subject to the interest
3 of the secured party if he or she neither had knowledge
4 of nor consented to the act or omission;

5 (4) all money, things of value, books, records, and
6 research products and materials including formulas,
7 microfilm, tapes, and data which are used, or intended to
8 be used in violation of this Act;

9 (5) everything of value furnished, or intended to be
10 furnished, in exchange for a substance in violation of this
11 Act, all proceeds traceable to such an exchange, and all
12 moneys, negotiable instruments, and securities used, or
13 intended to be used, to commit or in any manner to
14 facilitate any violation of this Act;

15 (6) all real property, including any right, title, and
16 interest (including, but not limited to, any leasehold
17 interest or the beneficial interest in a land trust) in the
18 whole of any lot or tract of land and any appurtenances or
19 improvements, which is used or intended to be used, in any
20 manner or part, to commit, or in any manner to facilitate
21 the commission of, any violation or act that constitutes a
22 violation of Section 401 or 405 of this Act or that is the
23 proceeds of any violation or act that constitutes a
24 violation of Section 401 or 405 of this Act.

25 (b) Property subject to forfeiture under this Act may be
26 seized under the Drug Asset Forfeiture Procedure Act. In the

1 event of seizure, forfeiture proceedings shall be instituted
2 under the Drug Asset Forfeiture Procedure Act. ~~seized by the~~
3 ~~Director or any peace officer upon process or seizure warrant~~
4 ~~issued by any court having jurisdiction over the property.~~
5 ~~Seizure by the Director or any peace officer without process~~
6 ~~may be made:~~

7 ~~(1) if the seizure is incident to inspection under an~~
8 ~~administrative inspection warrant;~~

9 ~~(2) if the property subject to seizure has been the~~
10 ~~subject of a prior judgment in favor of the State in a~~
11 ~~criminal proceeding, or in an injunction or forfeiture~~
12 ~~proceeding based upon this Act or the Drug Asset Forfeiture~~
13 ~~Procedure Act;~~

14 ~~(3) if there is probable cause to believe that the~~
15 ~~property is directly or indirectly dangerous to health or~~
16 ~~safety;~~

17 ~~(4) if there is probable cause to believe that the~~
18 ~~property is subject to forfeiture under this Act and the~~
19 ~~property is seized under circumstances in which a~~
20 ~~warrantless seizure or arrest would be reasonable; or~~

21 ~~(5) in accordance with the Code of Criminal Procedure~~
22 ~~of 1963.~~

23 (c) Forfeiture under this Act is subject to subject to an
24 8th amendment to the United States Constitution
25 disproportionate penalties analysis as provided under Section
26 9.5 of the Drug Asset Forfeiture Procedure Act. ~~In the event of~~

1 ~~seizure pursuant to subsection (b), notice shall be given~~
2 ~~forthwith to all known interest holders that forfeiture~~
3 ~~proceedings, including a preliminary review, shall be~~
4 ~~instituted in accordance with the Drug Asset Forfeiture~~
5 ~~Procedure Act and such proceedings shall thereafter be~~
6 ~~instituted in accordance with that Act. Upon a showing of good~~
7 ~~cause, the notice required for a preliminary review under this~~
8 ~~Section may be postponed.~~

9 (d) With regard to possession of controlled substances
10 offenses only, a sum of currency with a value of less than \$500
11 shall not be subject to forfeiture under this Act. For all
12 other offenses under this Act, currency with a value of under
13 \$100 shall not be subject to forfeiture under this Act.

14 ~~Property taken or detained under this Section shall not be~~
15 ~~subject to replevin, but is deemed to be in the custody of the~~
16 ~~Director subject only to the order and judgments of the circuit~~
17 ~~court having jurisdiction over the forfeiture proceedings and~~
18 ~~the decisions of the State's Attorney under the Drug Asset~~
19 ~~Forfeiture Procedure Act. When property is seized under this~~
20 ~~Act, the seizing agency shall promptly conduct an inventory of~~
21 ~~the seized property and estimate the property's value, and~~
22 ~~shall forward a copy of the inventory of seized property and~~
23 ~~the estimate of the property's value to the Director. Upon~~
24 ~~receiving notice of seizure, the Director may:~~

25 ~~(1) place the property under seal;~~

26 ~~(2) remove the property to a place designated by the~~

1 ~~Director;~~

2 ~~(3) keep the property in the possession of the seizing~~
3 ~~agency;~~

4 ~~(4) remove the property to a storage area for~~
5 ~~safekeeping or, if the property is a negotiable instrument~~
6 ~~or money and is not needed for evidentiary purposes,~~
7 ~~deposit it in an interest bearing account;~~

8 ~~(5) place the property under constructive seizure by~~
9 ~~posting notice of pending forfeiture on it, by giving~~
10 ~~notice of pending forfeiture to its owners and interest~~
11 ~~holders, or by filing notice of pending forfeiture in any~~
12 ~~appropriate public record relating to the property; or~~

13 ~~(6) provide for another agency or custodian, including~~
14 ~~an owner, secured party, or lienholder, to take custody of~~
15 ~~the property upon the terms and conditions set by the~~
16 ~~Director.~~

17 (d-5) For felony offenses involving possession of
18 controlled substances only, no property shall be subject to
19 forfeiture under this Act because of the possession of less
20 than 2 single unit doses of a controlled substance. This
21 exemption shall not apply in instances when the possessor, or
22 another person at the direction of the possessor, engaged in
23 the destruction of any amount of a controlled substance. The
24 amount of a single unit dose shall be the State's burden to
25 prove in their case in chief.

26 (e) If the Department of Financial and Professional

1 Regulation suspends or revokes a registration, all controlled
2 substances owned or possessed by the registrant at the time of
3 suspension or the effective date of the revocation order may be
4 placed under seal by the Director. No disposition may be made
5 of substances under seal until the time for taking an appeal
6 has elapsed or until all appeals have been concluded unless a
7 court, upon application therefor, orders the sale of perishable
8 substances and the deposit of the proceeds of the sale with the
9 court. Upon a suspension or revocation order becoming final,
10 all substances are subject to seizure and forfeiture under the
11 Drug Asset Forfeiture Procedure Act ~~may be forfeited to the~~
12 ~~Illinois State Police.~~

13 (f) (Blank). ~~When property is forfeited under this Act the~~
14 ~~Director shall sell all such property unless such property is~~
15 ~~required by law to be destroyed or is harmful to the public,~~
16 ~~and shall distribute the proceeds of the sale, together with~~
17 ~~any moneys forfeited or seized, in accordance with subsection~~
18 ~~(g). However, upon the application of the seizing agency or~~
19 ~~prosecutor who was responsible for the investigation, arrest or~~
20 ~~arrests and prosecution which lead to the forfeiture, the~~
21 ~~Director may return any item of forfeited property to the~~
22 ~~seizing agency or prosecutor for official use in the~~
23 ~~enforcement of laws relating to cannabis or controlled~~
24 ~~substances, if the agency or prosecutor can demonstrate that~~
25 ~~the item requested would be useful to the agency or prosecutor~~
26 ~~in their enforcement efforts. When any forfeited conveyance,~~

1 ~~including an aircraft, vehicle, or vessel, is returned to the~~
2 ~~seizing agency or prosecutor, the conveyance may be used~~
3 ~~immediately in the enforcement of the criminal laws of this~~
4 ~~State. Upon disposal, all proceeds from the sale of the~~
5 ~~conveyance must be used for drug enforcement purposes. When any~~
6 ~~real property returned to the seizing agency is sold by the~~
7 ~~agency or its unit of government, the proceeds of the sale~~
8 ~~shall be delivered to the Director and distributed in~~
9 ~~accordance with subsection (g).~~

10 (g) (Blank). ~~All monies and the sale proceeds of all other~~
11 ~~property forfeited and seized under this Act shall be~~
12 ~~distributed as follows:~~

13 ~~(1) (i) 65% shall be distributed to the metropolitan~~
14 ~~enforcement group, local, municipal, county, or state law~~
15 ~~enforcement agency or agencies which conducted or~~
16 ~~participated in the investigation resulting in the~~
17 ~~forfeiture. The distribution shall bear a reasonable~~
18 ~~relationship to the degree of direct participation of the~~
19 ~~law enforcement agency in the effort resulting in the~~
20 ~~forfeiture, taking into account the total value of the~~
21 ~~property forfeited and the total law enforcement effort~~
22 ~~with respect to the violation of the law upon which the~~
23 ~~forfeiture is based. Amounts distributed to the agency or~~
24 ~~agencies shall be used for the enforcement of laws~~
25 ~~governing cannabis and controlled substances; for public~~
26 ~~education in the community or schools in the prevention or~~

1 ~~detection of the abuse of drugs or alcohol; or for security~~
2 ~~cameras used for the prevention or detection of violence,~~
3 ~~except that amounts distributed to the Secretary of State~~
4 ~~shall be deposited into the Secretary of State Evidence~~
5 ~~Fund to be used as provided in Section 2-115 of the~~
6 ~~Illinois Vehicle Code.~~

7 ~~(ii) Any local, municipal, or county law enforcement~~
8 ~~agency entitled to receive a monetary distribution of~~
9 ~~forfeiture proceeds may share those forfeiture proceeds~~
10 ~~pursuant to the terms of an intergovernmental agreement~~
11 ~~with a municipality that has a population in excess of~~
12 ~~20,000 if:~~

13 ~~(I) the receiving agency has entered into an~~
14 ~~intergovernmental agreement with the municipality to~~
15 ~~provide police services;~~

16 ~~(II) the intergovernmental agreement for police~~
17 ~~services provides for consideration in an amount of not~~
18 ~~less than \$1,000,000 per year;~~

19 ~~(III) the seizure took place within the~~
20 ~~geographical limits of the municipality; and~~

21 ~~(IV) the funds are used only for the enforcement of~~
22 ~~laws governing cannabis and controlled substances; for~~
23 ~~public education in the community or schools in the~~
24 ~~prevention or detection of the abuse of drugs or~~
25 ~~alcohol; or for security cameras used for the~~
26 ~~prevention or detection of violence or the~~

1 ~~establishment of a municipal police force, including~~
2 ~~the training of officers, construction of a police~~
3 ~~station, the purchase of law enforcement equipment, or~~
4 ~~vehicles.~~

5 ~~(2) (i) 12.5% shall be distributed to the Office of the~~
6 ~~State's Attorney of the county in which the prosecution~~
7 ~~resulting in the forfeiture was instituted, deposited in a~~
8 ~~special fund in the county treasury and appropriated to the~~
9 ~~State's Attorney for use in the enforcement of laws~~
10 ~~governing cannabis and controlled substances; for public~~
11 ~~education in the community or schools in the prevention or~~
12 ~~detection of the abuse of drugs or alcohol; or at the~~
13 ~~discretion of the State's Attorney, in addition to other~~
14 ~~authorized purposes, to make grants to local substance~~
15 ~~abuse treatment facilities and half way houses. In~~
16 ~~counties over 3,000,000 population, 25% will be~~
17 ~~distributed to the Office of the State's Attorney for use~~
18 ~~in the enforcement of laws governing cannabis and~~
19 ~~controlled substances; for public education in the~~
20 ~~community or schools in the prevention or detection of the~~
21 ~~abuse of drugs or alcohol; or at the discretion of the~~
22 ~~State's Attorney, in addition to other authorized~~
23 ~~purposes, to make grants to local substance abuse treatment~~
24 ~~facilities and half way houses. If the prosecution is~~
25 ~~undertaken solely by the Attorney General, the portion~~
26 ~~provided hereunder shall be distributed to the Attorney~~

1 ~~General for use in the enforcement of laws governing~~
2 ~~cannabis and controlled substances or for public education~~
3 ~~in the community or schools in the prevention or detection~~
4 ~~of the abuse of drugs or alcohol.~~

5 ~~(ii) 12.5% shall be distributed to the Office of the~~
6 ~~State's Attorneys Appellate Prosecutor and deposited in~~
7 ~~the Narcotics Profit Forfeiture Fund of that office to be~~
8 ~~used for additional expenses incurred in the~~
9 ~~investigation, prosecution and appeal of cases arising~~
10 ~~under laws governing cannabis and controlled substances or~~
11 ~~for public education in the community or schools in the~~
12 ~~prevention or detection of the abuse of drugs or alcohol.~~
13 ~~The Office of the State's Attorneys Appellate Prosecutor~~
14 ~~shall not receive distribution from cases brought in~~
15 ~~counties with over 3,000,000 population.~~

16 ~~(3) 10% shall be retained by the Department of State~~
17 ~~Police for expenses related to the administration and sale~~
18 ~~of seized and forfeited property.~~

19 (h) (Blank). ~~Species of plants from which controlled~~
20 ~~substances in Schedules I and II may be derived which have been~~
21 ~~planted or cultivated in violation of this Act, or of which the~~
22 ~~owners or cultivators are unknown, or which are wild growths,~~
23 ~~may be seized and summarily forfeited to the State. The~~
24 ~~failure, upon demand by the Director or any peace officer, of~~
25 ~~the person in occupancy or in control of land or premises upon~~
26 ~~which the species of plants are growing or being stored, to~~

1 ~~produce registration, or proof that he or she is the holder~~
2 ~~thereof, constitutes authority for the seizure and forfeiture~~
3 ~~of the plants.~~

4 (i) Contraband, including controlled substances possessed
5 without authorization under State or federal law, is not
6 subject to forfeiture. No property right exists in contraband.
7 Contraband is subject to seizure and shall be disposed of
8 according to State law.

9 (Source: P.A. 99-686, eff. 7-29-16.)

10 Section 155. The Methamphetamine Control and Community
11 Protection Act is amended by changing Section 85 as follows:

12 (720 ILCS 646/85)

13 Sec. 85. Forfeiture.

14 (a) The following are subject to forfeiture:

15 (1) (blank); ~~all substances containing methamphetamine~~
16 ~~which have been produced, manufactured, delivered, or~~
17 ~~possessed in violation of this Act;~~

18 (2) all methamphetamine manufacturing materials which
19 have been produced, delivered, or possessed in connection
20 with any substance containing methamphetamine in violation
21 of this Act;

22 (3) all conveyances, including aircraft, vehicles or
23 vessels, which are used, or intended for use, to transport,
24 or in any manner to facilitate the transportation, sale,

1 receipt, possession, or concealment of any substance
2 containing methamphetamine or property described in
3 paragraph ~~(1) or~~ (2) of this subsection (a) that
4 constitutes a felony violation of the Act, but:

5 (i) no conveyance used by any person as a common
6 carrier in the transaction of business as a common
7 carrier is subject to forfeiture under this Section
8 unless it appears that the owner or other person in
9 charge of the conveyance is a consenting party or privy
10 to the ~~a violation of this Act;~~

11 (ii) no conveyance is subject to forfeiture under
12 this Section by reason of any act or omission which the
13 owner proves to have been committed or omitted without
14 his or her knowledge or consent;

15 (iii) a forfeiture of a conveyance encumbered by a
16 bona fide security interest is subject to the interest
17 of the secured party if he or she neither had knowledge
18 of nor consented to the act or omission;

19 (4) all money, things of value, books, records, and
20 research products and materials including formulas,
21 microfilm, tapes, and data which are used, or intended for
22 use in a felony violation of this Act;

23 (5) everything of value furnished or intended to be
24 furnished by any person in exchange for a substance in
25 violation of this Act, all proceeds traceable to such an
26 exchange, and all moneys, negotiable instruments, and

1 securities used, or intended to be used, to commit or in
2 any manner to facilitate any felony violation of this Act.

3 (6) all real property, including any right, title, and
4 interest (including, but not limited to, any leasehold
5 interest or the beneficial interest in a land trust) in the
6 whole of any lot or tract of land and any appurtenances or
7 improvements, which is used, or intended to be used, in any
8 manner or part, to commit, or in any manner to facilitate
9 the commission of, any violation or act that constitutes a
10 violation of this Act or that is the proceeds of any
11 violation or act that constitutes a violation of this Act.

12 (b) Property subject to forfeiture under this Act may be
13 seized under the Drug Asset Forfeiture Procedure Act. In the
14 event of seizure, forfeiture proceedings shall be instituted
15 under the Drug Asset Forfeiture Procedure Act. ~~by the Director~~
16 ~~or any peace officer upon process or seizure warrant issued by~~
17 ~~any court having jurisdiction over the property. Seizure by the~~
18 ~~Director or any peace officer without process may be made:~~

19 ~~(1) if the property subject to seizure has been the~~
20 ~~subject of a prior judgment in favor of the State in a~~
21 ~~criminal proceeding or in an injunction or forfeiture~~
22 ~~proceeding based upon this Act or the Drug Asset Forfeiture~~
23 ~~Procedure Act;~~

24 ~~(2) if there is probable cause to believe that the~~
25 ~~property is directly or indirectly dangerous to health or~~
26 ~~safety;~~

1 ~~(3) if there is probable cause to believe that the~~
2 ~~property is subject to forfeiture under this Act and the~~
3 ~~property is seized under circumstances in which a~~
4 ~~warrantless seizure or arrest would be reasonable; or~~

5 ~~(4) in accordance with the Code of Criminal Procedure~~
6 ~~of 1963.~~

7 (c) Forfeiture under this Act is subject to subject to an
8 8th amendment to the United States Constitution
9 disproportionate penalties analysis as provided under Section
10 9.5 of the Drug Asset Forfeiture Procedure Act. In the event of
11 ~~seizure pursuant to subsection (b), notice shall be given~~
12 ~~forthwith to all known interest holders that forfeiture~~
13 ~~proceedings, including a preliminary review, shall be~~
14 ~~instituted in accordance with the Drug Asset Forfeiture~~
15 ~~Procedure Act and such proceedings shall thereafter be~~
16 ~~instituted in accordance with that Act. Upon a showing of good~~
17 ~~cause, the notice required for a preliminary review under this~~
18 ~~Section may be postponed.~~

19 (d) With regard to possession of methamphetamine offenses
20 only, a sum of currency with a value of less than \$500 shall
21 not be subject to forfeiture under this Act. For all other
22 offenses under this Act, currency with a value of under \$100
23 shall not be subject to forfeiture under this Act. Property
24 ~~taken or detained under this Section is not subject to~~
25 ~~replevin, but is deemed to be in the custody of the Director~~
26 ~~subject only to the order and judgments of the circuit court~~

1 ~~having jurisdiction over the forfeiture proceedings and the~~
2 ~~decisions of the State's Attorney under the Drug Asset~~
3 ~~Forfeiture Procedure Act. When property is seized under this~~
4 ~~Act, the seizing agency shall promptly conduct an inventory of~~
5 ~~the seized property, estimate the property's value, and forward~~
6 ~~a copy of the inventory of seized property and the estimate of~~
7 ~~the property's value to the Director. Upon receiving notice of~~
8 ~~seizure, the Director may:~~

9 ~~(1) place the property under seal;~~

10 ~~(2) remove the property to a place designated by him or~~
11 ~~her;~~

12 ~~(3) keep the property in the possession of the seizing~~
13 ~~agency;~~

14 ~~(4) remove the property to a storage area for~~
15 ~~safekeeping or, if the property is a negotiable instrument~~
16 ~~or money and is not needed for evidentiary purposes,~~
17 ~~deposit it in an interest bearing account;~~

18 ~~(5) place the property under constructive seizure by~~
19 ~~posting notice of pending forfeiture on it, by giving~~
20 ~~notice of pending forfeiture to its owners and interest~~
21 ~~holders, or by filing notice of pending forfeiture in any~~
22 ~~appropriate public record relating to the property; or~~

23 ~~(6) provide for another agency or custodian, including~~
24 ~~an owner, secured party, or lienholder, to take custody of~~
25 ~~the property upon the terms and conditions set by the~~
26 ~~Director.~~

1 (e) For felony offenses involving possession of a substance
2 containing methamphetamine only, no property shall be subject
3 to forfeiture under this Act because of the possession of less
4 than 2 single unit doses of a substance. This exemption shall
5 not apply in instances when the possessor, or another person at
6 the direction of the possessor, is engaged in the destruction
7 of any amount of a substance containing methamphetamine. The
8 amount of a single unit dose shall be the State's burden to
9 prove in their case in chief. ~~No disposition may be made of~~
10 ~~property under seal until the time for taking an appeal has~~
11 ~~elapsed or until all appeals have been concluded unless a~~
12 ~~court, upon application therefor, orders the sale of perishable~~
13 ~~substances and the deposit of the proceeds of the sale with the~~
14 ~~court.~~

15 (f) (Blank). ~~When property is forfeited under this Act, the~~
16 ~~Director shall sell the property unless the property is~~
17 ~~required by law to be destroyed or is harmful to the public,~~
18 ~~and shall distribute the proceeds of the sale, together with~~
19 ~~any moneys forfeited or seized, in accordance with subsection~~
20 ~~(g). However, upon the application of the seizing agency or~~
21 ~~prosecutor who was responsible for the investigation, arrest or~~
22 ~~arrests and prosecution which lead to the forfeiture, the~~
23 ~~Director may return any item of forfeited property to the~~
24 ~~seizing agency or prosecutor for official use in the~~
25 ~~enforcement of laws relating to methamphetamine, cannabis, or~~
26 ~~controlled substances, if the agency or prosecutor~~

1 ~~demonstrates that the item requested would be useful to the~~
2 ~~agency or prosecutor in their enforcement efforts. When any~~
3 ~~forfeited conveyance, including an aircraft, vehicle, or~~
4 ~~vessel, is returned to the seizing agency or prosecutor, the~~
5 ~~conveyance may be used immediately in the enforcement of the~~
6 ~~criminal laws of this State. Upon disposal, all proceeds from~~
7 ~~the sale of the conveyance must be used for drug enforcement~~
8 ~~purposes. When any real property returned to the seizing agency~~
9 ~~is sold by the agency or its unit of government, the proceeds~~
10 ~~of the sale shall be delivered to the Director and distributed~~
11 ~~in accordance with subsection (g).~~

12 (g) (Blank). ~~All moneys and the sale proceeds of all other~~
13 ~~property forfeited and seized under this Act shall be~~
14 ~~distributed as follows:~~

15 ~~(1)(i) 65% shall be distributed to the metropolitan~~
16 ~~enforcement group, local, municipal, county, or State law~~
17 ~~enforcement agency or agencies which conducted or~~
18 ~~participated in the investigation resulting in the~~
19 ~~forfeiture. The distribution shall bear a reasonable~~
20 ~~relationship to the degree of direct participation of the~~
21 ~~law enforcement agency in the effort resulting in the~~
22 ~~forfeiture, taking into account the total value of the~~
23 ~~property forfeited and the total law enforcement effort~~
24 ~~with respect to the violation of the law upon which the~~
25 ~~forfeiture is based. Amounts distributed to the agency or~~
26 ~~agencies shall be used for the enforcement of laws~~

1 ~~governing methamphetamine, cannabis, and controlled~~
2 ~~substances; for public education in the community or~~
3 ~~schools in the prevention or detection of the abuse of~~
4 ~~drugs or alcohol; or for security cameras used for the~~
5 ~~prevention or detection of violence, except that amounts~~
6 ~~distributed to the Secretary of State shall be deposited~~
7 ~~into the Secretary of State Evidence Fund to be used as~~
8 ~~provided in Section 2-115 of the Illinois Vehicle Code.~~

9 ~~(ii) Any local, municipal, or county law enforcement~~
10 ~~agency entitled to receive a monetary distribution of~~
11 ~~forfeiture proceeds may share those forfeiture proceeds~~
12 ~~pursuant to the terms of an intergovernmental agreement~~
13 ~~with a municipality that has a population in excess of~~
14 ~~20,000 if:~~

15 ~~(I) the receiving agency has entered into an~~
16 ~~intergovernmental agreement with the municipality to~~
17 ~~provide police services;~~

18 ~~(II) the intergovernmental agreement for police~~
19 ~~services provides for consideration in an amount of not~~
20 ~~less than \$1,000,000 per year;~~

21 ~~(III) the seizure took place within the~~
22 ~~geographical limits of the municipality; and~~

23 ~~(IV) the funds are used only for the enforcement of~~
24 ~~laws governing cannabis and controlled substances; for~~
25 ~~public education in the community or schools in the~~
26 ~~prevention or detection of the abuse of drugs or~~

1 ~~alcohol; or for security cameras used for the~~
2 ~~prevention or detection of violence or the~~
3 ~~establishment of a municipal police force, including~~
4 ~~the training of officers, construction of a police~~
5 ~~station, the purchase of law enforcement equipment, or~~
6 ~~vehicles.~~

7 ~~(2) (i) 12.5% shall be distributed to the Office of the~~
8 ~~State's Attorney of the county in which the prosecution~~
9 ~~resulting in the forfeiture was instituted, deposited in a~~
10 ~~special fund in the county treasury and appropriated to the~~
11 ~~State's Attorney for use in the enforcement of laws~~
12 ~~governing methamphetamine, cannabis, and controlled~~
13 ~~substances; for public education in the community or~~
14 ~~schools in the prevention or detection of the abuse of~~
15 ~~drugs or alcohol; or at the discretion of the State's~~
16 ~~Attorney, in addition to other authorized purposes, to make~~
17 ~~grants to local substance abuse treatment facilities and~~
18 ~~half way houses. In counties with a population over~~
19 ~~3,000,000, 25% shall be distributed to the Office of the~~
20 ~~State's Attorney for use in the enforcement of laws~~
21 ~~governing methamphetamine, cannabis, and controlled~~
22 ~~substances; for public education in the community or~~
23 ~~schools in the prevention or detection of the abuse of~~
24 ~~drugs or alcohol; or at the discretion of the State's~~
25 ~~Attorney, in addition to other authorized purposes, to make~~
26 ~~grants to local substance abuse treatment facilities and~~

1 ~~half-way houses. If the prosecution is undertaken solely by~~
2 ~~the Attorney General, the portion provided hereunder shall~~
3 ~~be distributed to the Attorney General for use in the~~
4 ~~enforcement of laws governing methamphetamine, cannabis,~~
5 ~~and controlled substances or for public education in the~~
6 ~~community or schools in the prevention or detection of the~~
7 ~~abuse of drugs or alcohol.~~

8 ~~(ii) 12.5% shall be distributed to the Office of the~~
9 ~~State's Attorneys Appellate Prosecutor and deposited in~~
10 ~~the Narcotics Profit Forfeiture Fund of that Office to be~~
11 ~~used for additional expenses incurred in the~~
12 ~~investigation, prosecution and appeal of cases arising~~
13 ~~under laws governing methamphetamine, cannabis, and~~
14 ~~controlled substances or for public education in the~~
15 ~~community or schools in the prevention or detection of the~~
16 ~~abuse of drugs or alcohol. The Office of the State's~~
17 ~~Attorneys Appellate Prosecutor shall not receive~~
18 ~~distribution from cases brought in counties with a~~
19 ~~population over 3,000,000.~~

20 ~~(3) 10% shall be retained by the Department of State~~
21 ~~Police for expenses related to the administration and sale~~
22 ~~of seized and forfeited property.~~

23 (h) Contraband, including methamphetamine or any
24 controlled substance possessed without authorization under
25 State or federal law, is not subject to forfeiture. No property
26 right exists in contraband. Contraband is subject to seizure

1 and shall be disposed of according to State law.

2 (Source: P.A. 99-686, eff. 7-29-16.)

3 Section 160. The Code of Criminal Procedure of 1963 is
4 amended by changing Sections 124B-710 and 124B-715 and by
5 adding Section 124B-195 as follows:

6 (725 ILCS 5/124B-195 new)

7 Sec. 124B-195. Reporting. Property seized or forfeited
8 under this Article is subject to reporting under the Seizure
9 and Forfeiture Reporting Act.

10 (725 ILCS 5/124B-710)

11 Sec. 124B-710. Sale of forfeited property by Director of
12 State Police, ~~return to seizing agency or prosecutor.~~

13 (a) The court shall authorize the Director of State Police
14 to seize any property declared forfeited under this Article on
15 terms and conditions the court deems proper.

16 (b) When property is forfeited under this Part 700, the
17 Director of State Police shall sell the property unless the
18 property is required by law to be destroyed or is harmful to
19 the public. The Director shall distribute the proceeds of the
20 sale, together with any moneys forfeited or seized, in
21 accordance with Section 124B-715.

22 (c) (Blank). ~~On the application of the seizing agency or~~
23 ~~prosecutor who was responsible for the investigation, arrest,~~

1 ~~and prosecution that lead to the forfeiture, however, the~~
2 ~~Director may return any item of forfeited property to the~~
3 ~~seizing agency or prosecutor for official use in the~~
4 ~~enforcement of laws relating to Article 17B or Section 17-6.3~~
5 ~~of the Criminal Code of 1961 or the Criminal Code of 2012 if~~
6 ~~the agency or prosecutor can demonstrate that the item~~
7 ~~requested would be useful to the agency or prosecutor in their~~
8 ~~enforcement efforts. When any real property returned to the~~
9 ~~seizing agency is sold by the agency or its unit of government,~~
10 ~~the proceeds of the sale shall be delivered to the Director and~~
11 ~~distributed in accordance with Section 124B-715.~~

12 (Source: P.A. 96-712, eff. 1-1-10; 97-1108, eff. 1-1-13;
13 97-1150, eff. 1-25-13.)

14 (725 ILCS 5/124B-715)

15 Sec. 124B-715. Distribution of all other property and sale
16 proceeds. All moneys and the sale proceeds of all property
17 forfeited and seized under this Part 700 ~~and not returned to a~~
18 ~~seizing agency or prosecutor under subsection (c) of Section~~
19 ~~124B-705~~ shall be distributed to the Special Supplemental Food
20 Program for Women, Infants and Children (WIC) program
21 administered by the Illinois Department of Human Services.

22 (Source: P.A. 96-712, eff. 1-1-10.)

23 (725 ILCS 5/124B-1030 rep.)

24 Section 165. The Code of Criminal Procedure of 1963 is

1 amended by repealing Section 124B-1030.

2 Section 170. The Drug Asset Forfeiture Procedure Act is
3 amended by changing Sections 3.5, 4, 5, 6, 7, 8, 9, 11, and 14
4 and by adding Sections 3.1, 3.2, 3.3, 5.1, 9.1, 9.5, 15, 17,
5 and 20 as follows:

6 (725 ILCS 150/3.1 new)

7 Sec. 3.1. Seizure.

8 (a) Actual physical seizure of real property subject to
9 forfeiture under this Act requires the issuance of a seizure
10 warrant. Nothing in this Section prohibits the constructive
11 seizure of real property through the filing of a complaint for
12 forfeiture in circuit court and the recording of a lis pendens
13 against the real property without a hearing, warrant
14 application, or judicial approval.

15 (b) Personal property subject to forfeiture under the
16 Illinois Controlled Substances Act, the Cannabis Control Act,
17 the Illinois Food, Drug and Cosmetic Act, or the
18 Methamphetamine Control and Community Protection Act may be
19 seized by the Director of State Police or any peace officer
20 upon process or seizure warrant issued by any court having
21 jurisdiction over the property.

22 (c) Personal property subject to forfeiture under the
23 Illinois Controlled Substances Act, the Cannabis Control Act,
24 the Illinois Food, Drug and Cosmetic Act, or the

1 Methamphetamine Control and Community Protection Act may be
2 seized by the Director of State Police or any peace officer
3 without process:

4 (1) if the seizure is incident to inspection under an
5 administrative inspection warrant;

6 (2) if the property subject to seizure has been the
7 subject of a prior judgment in favor of the State in a
8 criminal proceeding or in an injunction or forfeiture
9 proceeding based upon this Act;

10 (3) if there is probable cause to believe that the
11 property is directly or indirectly dangerous to health or
12 safety;

13 (4) if there is probable cause to believe that the
14 property is subject to forfeiture under the Illinois
15 Controlled Substances Act, the Cannabis Control Act, the
16 Illinois Food, Drug and Cosmetic Act, or the
17 Methamphetamine Control and Community Protection Act, and
18 the property is seized under circumstances in which a
19 warrantless seizure or arrest would be reasonable; or

20 (5) under the Code of Criminal Procedure of 1963.

21 (d) If a conveyance is seized under this Act, an
22 investigation shall be made by the law enforcement agency as to
23 any person whose right, title, interest, or lien is of record
24 in the office of the agency or official in which title or
25 interest to the conveyance is required by law to be recorded.

26 (e) After seizure under this Section, notice shall be given

1 to all known interest holders that forfeiture proceedings,
2 including a preliminary review, may be instituted and the
3 proceedings may be instituted under this Act. Upon a showing of
4 good cause related to an ongoing investigation, the notice
5 required for a preliminary review under this Section may be
6 postponed.

7 (725 ILCS 150/3.2 new)

8 Sec. 3.2. Receipt for seized property. If a law enforcement
9 officer seizes property that is subject to forfeiture, the
10 officer shall provide an itemized receipt to the person
11 possessing the property or, in the absence of a person to whom
12 the receipt could be given, shall leave the receipt in the
13 place where the property was found, if possible.

14 (725 ILCS 150/3.3 new)

15 Sec. 3.3. Safekeeping of seized property pending
16 disposition.

17 (a) Property seized under this Act is deemed to be in the
18 custody of the Director of State Police subject only to the
19 order and judgments of the circuit court having jurisdiction
20 over the forfeiture proceedings and the decisions of the
21 State's Attorney under this Act.

22 (b) If property is seized under this Act, the seizing
23 agency shall promptly conduct an inventory of the seized
24 property and estimate the property's value, and shall forward a

1 copy of the inventory of seized property and the estimate of
2 the property's value to the Director of State Police. Upon
3 receiving notice of seizure, the Director of State Police may:

4 (1) place the property under seal;

5 (2) remove the property to a place designated by the
6 seizing agency;

7 (3) keep the property in the possession of the Director
8 of State Police;

9 (4) remove the property to a storage area for
10 safekeeping; or

11 (5) place the property under constructive seizure by
12 posting notice of pending forfeiture on it, by giving
13 notice of pending forfeiture to its owners and interest
14 holders, or by filing notice of pending forfeiture in any
15 appropriate public record relating to the property; or

16 (6) provide for another agency or custodian, including
17 an owner, secured party, or lienholder, to take custody of
18 the property upon the terms and conditions set by the
19 seizing agency.

20 (c) The seizing agency is required to exercise ordinary
21 care to protect the seized property from negligent loss,
22 damage, or destruction.

23 (725 ILCS 150/3.5)

24 Sec. 3.5. Preliminary Review.

25 (a) Within 14 days of the seizure, the State shall seek a

1 preliminary determination from the circuit court as to whether
2 there is probable cause that the property may be subject to
3 forfeiture.

4 (b) The rules of evidence shall not apply to any proceeding
5 conducted under this Section.

6 (c) The court may conduct the review under subsection (a)
7 simultaneously with a proceeding pursuant to Section 109-1 of
8 the Code of Criminal Procedure of 1963 for a related criminal
9 offense if a prosecution is commenced by information or
10 complaint.

11 (d) The court may accept a finding of probable cause at a
12 preliminary hearing following the filing of an information or
13 complaint charging a related criminal offense or following the
14 return of indictment by a grand jury charging the related
15 offense as sufficient evidence of probable cause as required
16 under subsection (a).

17 (e) Upon making a finding of probable cause as required
18 under this Section, the circuit court shall order the property
19 subject to the provisions of the applicable forfeiture Act held
20 until the conclusion of any forfeiture proceeding.

21 For seizures of conveyances, within 28 days after ~~within 7~~
22 ~~days of~~ a finding of probable cause under subsection (a), the
23 registered owner or other claimant may file a motion in writing
24 supported by sworn affidavits claiming that denial of the use
25 of the conveyance during the pendency of the forfeiture
26 proceedings creates a substantial hardship and alleges facts

1 showing that the delay was not due to his or her culpable
2 negligence. The court shall consider the following factors in
3 determining whether a substantial hardship has been proven:

4 (1) the nature of the claimed hardship;

5 (2) the availability of public transportation or other
6 available means of transportation; and

7 (3) any available alternatives to alleviate the
8 hardship other than the return of the seized conveyance.

9 If the court determines that a substantial hardship has
10 been proven, the court shall then balance the nature of the
11 hardship against the State's interest in safeguarding the
12 conveyance. If the court determines that the hardship outweighs
13 the State's interest in safeguarding the conveyance, the court
14 may temporarily release the conveyance to the registered owner
15 or the registered owner's authorized designee, or both, until
16 the conclusion of the forfeiture proceedings or for such
17 shorter period as ordered by the court provided that the person
18 to whom the conveyance is released provides proof of insurance
19 and a valid driver's license and all State and local
20 registrations for operation of the conveyance are current. The
21 court shall place conditions on the conveyance limiting its use
22 to the stated hardship and providing transportation for
23 employment, religious purposes, medical needs, child care, and
24 obtaining food, and restricting the conveyance's use to only
25 those individuals authorized to use the conveyance by the
26 registered owner. The use of the vehicle shall be further

1 restricted to exclude all recreational and entertainment
2 purposes. The court may order any additional restrictions it
3 deems reasonable and just on its own motion or on motion of the
4 People. The court shall revoke the order releasing the
5 conveyance and order that the conveyance be resealed by law
6 enforcement if the conditions of release are violated or if the
7 conveyance is used in the commission of any offense identified
8 in subsection (a) of Section 6-205 of the Illinois Vehicle
9 Code.

10 If the court orders the release of the conveyance during
11 the pendency of the forfeiture proceedings, the court may order
12 the registered owner or his or her authorized designee to ~~shall~~
13 post a cash security with the Clerk of the Court as ordered by
14 the court. If cash security is ordered, the ~~The~~ court shall
15 consider the following factors in determining the amount of the
16 cash security:

17 (A) the full market value of the conveyance;

18 (B) the nature of the hardship;

19 (C) the extent and length of the usage of the
20 conveyance; ~~and~~

21 (D) the ability of the owner or designee to pay; and
22 ~~such other conditions as the court deems necessary to~~
23 ~~safeguard the conveyance.~~

24 (E) other conditions as the court deems necessary to
25 safeguard the conveyance.

26 If the conveyance is released, the court shall order that

1 the registered owner or his or her designee safeguard the
2 conveyance, not remove the conveyance from the jurisdiction,
3 not conceal, destroy, or otherwise dispose of the conveyance,
4 not encumber the conveyance, and not diminish the value of the
5 conveyance in any way. The court shall also make a
6 determination of the full market value of the conveyance prior
7 to it being released based on a source or sources defined in 50
8 Ill. Adm. Code 919.80(c)(2)(A) or 919.80(c)(2)(B).

9 If the conveyance subject to forfeiture is released under
10 this Section and is subsequently forfeited, the person to whom
11 the conveyance was released shall return the conveyance to the
12 law enforcement agency that seized the conveyance within 7 days
13 from the date of the declaration of forfeiture or order of
14 forfeiture. If the conveyance is not returned within 7 days,
15 the cash security shall be forfeited in the same manner as the
16 conveyance subject to forfeiture. If the cash security was less
17 than the full market value, a judgment shall be entered against
18 the parties to whom the conveyance was released and the
19 registered owner, jointly and severally, for the difference
20 between the full market value and the amount of the cash
21 security. If the conveyance is returned in a condition other
22 than the condition in which it was released, the cash security
23 shall be returned to the surety who posted the security minus
24 the amount of the diminished value, and that amount shall be
25 forfeited in the same manner as the conveyance subject to
26 forfeiture. Additionally, the court may enter an order allowing

1 any law enforcement agency in the State of Illinois to seize
2 the conveyance wherever it may be found in the State to satisfy
3 the judgment if the cash security was less than the full market
4 value of the conveyance.

5 (Source: P.A. 97-544, eff. 1-1-12; 97-680, eff. 3-16-12.)

6 (725 ILCS 150/4) (from Ch. 56 1/2, par. 1674)

7 Sec. 4. Notice to Owner or Interest Holder. The first
8 attempted service shall be commenced within 28 days of the
9 filing of the verified claim or the receipt of the notice from
10 seizing agency by the form 4-64, whichever occurs sooner. A
11 complaint for forfeiture or a notice of pending forfeiture
12 shall be served upon the property owner or interest holder in
13 the following manner:

14 (1) If the owner's or interest holder's name and
15 current address are known, then by either:

16 (A) personal service; or

17 (B) mailing a copy of the notice by certified mail,
18 return receipt requested and first class mail, to that
19 address.

20 (i) If notice is sent by certified mail and no
21 signed return receipt is received by the State's
22 Attorney within 28 days of mailing, and no
23 communication from the owner or interest holder is
24 received by the State's Attorney documenting
25 actual notice by said parties, then the State's

1 Attorney shall, within a reasonable period of
2 time, mail a second copy of the notice by certified
3 mail, return receipt requested and first class
4 mail, to that address.

5 (ii) If no signed return receipt is received by
6 the State's Attorney within 28 days of the second
7 attempt at service by certified mail, and no
8 communication from the owner or interest holder is
9 received by the State's Attorney documenting
10 actual notice by said parties, then the State's
11 Attorney shall have 60 days to attempt to serve the
12 notice by personal service, which also includes
13 substitute service by leaving a copy at the usual
14 place of abode, with some person of the family or a
15 person residing there, of the age of 13 years or
16 upwards. If after 3 attempts at service in this
17 manner, no service of the notice is accomplished,
18 then the notice shall be posted in a conspicuous
19 manner at this address and service shall be made by
20 posting.

21 The attempts at service and the posting if
22 required, shall be documented by the person
23 attempting service and said documentation shall be
24 made part of a return of service returned to the
25 State's Attorney.

26 The State's Attorney may utilize any Sheriff

1 or Deputy Sheriff any peace officer, a private
2 process server or investigator, or any employee,
3 agent, or investigator of the State's Attorney's
4 Office to attempt service without seeking leave of
5 court.

6 After the procedures set forth are followed,
7 service shall be effective on an owner or interest
8 holder on the date of receipt by the State's
9 Attorney of a returned return receipt requested,
10 or on the date of receipt of a communication from
11 an owner or interest holder documenting actual
12 notice, whichever is first in time, or on the date
13 of the last act performed by the State's Attorney
14 in attempting personal service under subparagraph
15 (ii) above. If notice is to be shown by actual
16 notice from communication with a claimant, then
17 the State's Attorney shall file an affidavit
18 providing details of the communication, which may
19 be accepted as sufficient proof of service by the
20 court.

21 After a claimant files a verified claim with
22 the State's Attorney and provide an address at
23 which they will accept service, the complaint
24 shall be served and notice shall be perfected upon
25 mailing of the complaint to the claimant at the
26 address the claimant provided via certified mail,

1 return receipt requested and first class mail. No
2 return receipt card need be received, or any other
3 attempts at service need be made to comply with
4 service and notice requirements under this Act.
5 This certified mailing, return receipt requested
6 shall be proof of service of the complaint on the
7 claimant.

8 For purposes of notice under this Section, if a
9 person has been arrested for the conduct giving
10 rise to the forfeiture, then the address provided
11 to the arresting agency at the time of arrest shall
12 be deemed to be that person's known address.
13 Provided, however, if an owner or interest
14 holder's address changes prior to the effective
15 date of the notice of pending forfeiture, the owner
16 or interest holder shall promptly notify the
17 seizing agency of the change in address or, if the
18 owner or interest holder's address changes
19 subsequent to the effective date of the notice of
20 pending forfeiture, the owner or interest holder
21 shall promptly notify the State's Attorney of the
22 change in address; or if the property seized is a
23 conveyance, to the address reflected in the office
24 of the agency or official in which title or
25 interest to the conveyance is required by law to be
26 recorded.

1 (2) If the owner's or interest holder's address is not
2 known, and is not on record, then notice shall be served by
3 publication for 3 successive weeks in a newspaper of
4 general circulation in the county in which the seizure
5 occurred.

6 (3) After a claimant files a verified claim with the
7 State's Attorney and provides an address at which they will
8 accept service, the complaint shall be served and notice
9 shall be perfected upon mailing of the complaint to the
10 claimant at the address the claimant provided via certified
11 mail, return receipt requested and first class mail. No
12 return receipt card need be received or any other attempts
13 at service need be made to comply with service and notice
14 requirements under this Act. This certified mailing,
15 return receipt requested shall be proof of service of the
16 complaint on the claimant.

17 (4) Notice to any business entity, corporation, LLC,
18 LLP, or partnership shall be complete by a single mailing
19 of a copy of the notice by certified mail, return receipt
20 requested and first class mail, to that address. This
21 notice is complete regardless of the return of a signed
22 "return receipt requested".

23 (5) Notice to a person whose address is not within the
24 State shall be complete by a single mailing of a copy of
25 the notice by certified mail, return receipt requested and
26 first class mail, to that address. This notice is complete

1 regardless of the return of a signed "return receipt
2 requested".

3 (6) Notice to a person whose address is not within the
4 United States shall be complete by a single mailing of a
5 copy of the notice by certified mail, return receipt
6 requested and first class mail, to that address. This
7 notice shall be complete regardless of the return of a
8 signed "return receipt requested". If certified mail is not
9 available in the foreign country where the person has an
10 address, then notice shall proceed by publication under
11 paragraph (2) of this Section.

12 (7) Notice to any person whom the State's Attorney
13 reasonably should know is incarcerated within the State
14 shall also include the mailing a copy of the notice by
15 certified mail, return receipt requested and first class
16 mail, to the address of the detention facility with the
17 inmate's name clearly marked on the envelope.

18 (A) (Blank). ~~Whenever notice of pending forfeiture or~~
19 ~~service of an in rem complaint is required under the provisions~~
20 ~~of this Act, such notice or service shall be given as follows:~~

21 ~~(1) If the owner's or interest holder's name and~~
22 ~~current address are known, then by either personal service~~
23 ~~or mailing a copy of the notice by certified mail, return~~
24 ~~receipt requested, to that address. For purposes of notice~~
25 ~~under this Section, if a person has been arrested for the~~
26 ~~conduct giving rise to the forfeiture, then the address~~

1 ~~provided to the arresting agency at the time of arrest~~
2 ~~shall be deemed to be that person's known address.~~
3 ~~Provided, however, if an owner or interest holder's address~~
4 ~~changes prior to the effective date of the notice of~~
5 ~~pending forfeiture, the owner or interest holder shall~~
6 ~~promptly notify the seizing agency of the change in address~~
7 ~~or, if the owner or interest holder's address changes~~
8 ~~subsequent to the effective date of the notice of pending~~
9 ~~forfeiture, the owner or interest holder shall promptly~~
10 ~~notify the State's Attorney of the change in address; or~~

11 ~~(2) If the property seized is a conveyance, to the~~
12 ~~address reflected in the office of the agency or official~~
13 ~~in which title or interest to the conveyance is required by~~
14 ~~law to be recorded, then by mailing a copy of the notice by~~
15 ~~certified mail, return receipt requested, to that address;~~
16 ~~or~~

17 ~~(3) If the owner's or interest holder's address is not~~
18 ~~known, and is not on record as provided in paragraph (2),~~
19 ~~then by publication for 3 successive weeks in a newspaper~~
20 ~~of general circulation in the county in which the seizure~~
21 ~~occurred.~~

22 (B) (Blank). ~~Notice served under this Act is effective upon~~
23 ~~personal service, the last date of publication, or the mailing~~
24 ~~of written notice, whichever is earlier.~~

25 (Source: P.A. 86-1382; 87-614.)

1 (725 ILCS 150/5) (from Ch. 56 1/2, par. 1675)

2 Sec. 5. Notice to State's Attorney. The law enforcement
3 agency seizing property for forfeiture under the Illinois
4 Controlled Substances Act, the Cannabis Control Act, or the
5 Methamphetamine Control and Community Protection Act, or the
6 Illinois Food, Drug, and Cosmetic Act shall, as soon as
7 practicable but not later than 28 days after the ~~shall, within~~
8 ~~52 days of~~ seizure, notify the State's Attorney for the county
9 in which an act or omission giving rise to the seizure
10 ~~forfeiture~~ occurred or in which the property was seized of the
11 seizure of the property and the facts and circumstances giving
12 rise to the seizure and shall provide the State's Attorney with
13 the inventory of the property and its estimated value. Said
14 notice shall be by the delivery of the form 4-64. When the
15 property seized for forfeiture is a vehicle, the law
16 enforcement agency seizing the property shall immediately
17 notify the Secretary of State that forfeiture proceedings are
18 pending regarding such vehicle.

19 (Source: P.A. 94-556, eff. 9-11-05.)

20 (725 ILCS 150/5.1 new)

21 Sec. 5.1. Replevin prohibited; return of personal property
22 inside seized conveyance.

23 (a) Property seized under this Act shall not be subject to
24 replevin, but is deemed to be in the custody of the Director of
25 State Police subject only to the order and judgments of the

1 circuit court having jurisdiction over the forfeiture
2 proceedings and the decisions of the State's Attorney.

3 (b) A claimant or a party interested in personal property
4 contained within a seized conveyance may file a request with
5 the State's Attorney in an administrative forfeiture action, or
6 a motion with the court in a judicial forfeiture action, for
7 the return of any personal property contained within a
8 conveyance seized under this Act. The return of personal
9 property shall not be unreasonably withheld if the personal
10 property is not mechanically or electrically coupled to the
11 conveyance, needed for evidentiary purposes, or otherwise
12 contraband. A law enforcement agency that returns property
13 under a court order under this Section shall not be liable to
14 any person who claims ownership to the property if the property
15 is returned to an improper party.

16 (725 ILCS 150/6) (from Ch. 56 1/2, par. 1676)

17 Sec. 6. Non-Judicial Forfeiture. If non-real property that
18 exceeds \$150,000 in value excluding the value of any
19 conveyance, or if real property is seized under the provisions
20 of the Illinois Controlled Substances Act, the Cannabis Control
21 Act, or the Methamphetamine Control and Community Protection
22 Act, the State's Attorney shall institute judicial in rem
23 forfeiture proceedings as described in Section 9 of this Act
24 within 45 days from receipt of notice of seizure from the
25 seizing agency under Section 5 of this Act. However, if

1 non-real property that does not exceed \$150,000 in value
2 excluding the value of any conveyance is seized, the following
3 procedure shall be used:

4 (A) If, after review of the facts surrounding the seizure,
5 the State's Attorney is of the opinion that the seized property
6 is subject to forfeiture, then within 45 days of the receipt of
7 notice of seizure from the seizing agency, the State's Attorney
8 shall cause notice of pending forfeiture to be given to the
9 owner of the property and all known interest holders of the
10 property in accordance with Section 4 of this Act.

11 (B) The notice of pending forfeiture must include a
12 description of the property, the estimated value of the
13 property, the date and place of seizure, the conduct giving
14 rise to forfeiture or the violation of law alleged, and a
15 summary of procedures and procedural rights applicable to the
16 forfeiture action.

17 (C) (1) Any person claiming an interest in property which
18 is the subject of notice under subsection (A) of Section 6
19 of this Act, may, within 45 days after the effective date
20 of notice as described in Section 4 of this Act, file a
21 verified claim with the State's Attorney expressing his or
22 her interest in the property. The claim must set forth:

23 (i) the caption of the proceedings as set forth on
24 the notice of pending forfeiture and the name of the
25 claimant;

26 (ii) the address at which the claimant will accept

1 mail;

2 (iii) the nature and extent of the claimant's
3 interest in the property;

4 (iv) the date, identity of the transferor, and
5 circumstances of the claimant's acquisition of the
6 interest in the property;

7 (v) the name and address of all other persons known
8 to have an interest in the property;

9 (vi) the specific provision of law relied on in
10 asserting the property is not subject to forfeiture;

11 (vii) all essential facts supporting each
12 assertion; and

13 (viii) the relief sought.

14 (2) If a claimant files the claim ~~and deposits with the~~
15 ~~State's Attorney a cost bond, in the form of a cashier's~~
16 ~~check payable to the clerk of the court, in the sum of 10~~
17 ~~percent of the reasonable value of the property as alleged~~
18 ~~by the State's Attorney or the sum of \$100, whichever is~~
19 ~~greater, upon condition that, in the case of forfeiture,~~
20 ~~the claimant must pay all costs and expenses of forfeiture~~
21 ~~proceedings,~~ then the State's Attorney shall institute
22 judicial in rem forfeiture proceedings ~~and deposit the cost~~
23 ~~bond with the clerk of the court as described in Section 9~~
24 ~~of this Act~~ within 30 ~~45~~ days after receipt of the claim
25 and cost bond. ~~In lieu of a cost bond, a person claiming~~
26 ~~interest in the seized property may file, under penalty of~~

1 ~~perjury, an indigency affidavit.~~

2 ~~(3) If none of the seized property is forfeited in the~~
3 ~~judicial in rem proceeding, the clerk of the court shall~~
4 ~~return to the claimant, unless the court orders otherwise,~~
5 ~~90% of the sum which has been deposited and shall retain as~~
6 ~~costs 10% of the money deposited. If any of the seized~~
7 ~~property is forfeited under the judicial forfeiture~~
8 ~~proceeding, the clerk of the court shall transfer 90% of~~
9 ~~the sum which has been deposited to the State's Attorney~~
10 ~~prosecuting the civil forfeiture to be applied to the costs~~
11 ~~of prosecution and the clerk shall retain as costs 10% of~~
12 ~~the sum deposited.~~

13 (D) If no claim is filed ~~or bond given~~ within the 45 day
14 period as described in subsection (C) of Section 6 of this Act,
15 the State's Attorney shall declare the property forfeited and
16 shall promptly notify the owner and all known interest holders
17 of the property and the Director of the Illinois Department of
18 State Police of the declaration of forfeiture and the Director
19 shall dispose of the property in accordance with law.

20 (Source: P.A. 97-544, eff. 1-1-12.)

21 (725 ILCS 150/7) (from Ch. 56 1/2, par. 1677)

22 Sec. 7. Presumptions and inferences.

23 (1) The following situation ~~situations~~ shall give rise to a
24 presumption that the property described therein was furnished
25 or intended to be furnished in exchange for a substance in

1 violation of the Illinois Controlled Substances Act, the
2 Cannabis Control Act, or the Methamphetamine Control and
3 Community Protection Act, or is the proceeds of such an
4 exchange, and therefore forfeitable under this Act, such
5 presumptions being rebuttable by a preponderance of the
6 evidence:

7 ~~(1)~~ All moneys, coin, or currency found in close proximity
8 to forfeitable substances, to forfeitable drug manufacturing
9 or distributing paraphernalia, or to forfeitable records of the
10 importation, manufacture or distribution of substances. ~~†~~

11 (2) In the following situation, the trier of fact may infer
12 that the property described therein was furnished or intended
13 to be furnished in exchange for a substance in violation of the
14 Illinois Controlled Substances Act, the Cannabis Control Act,
15 or the Methamphetamine Control and Community Protection Act, or
16 is the proceeds of such an exchange, and therefore forfeitable
17 under this Act:

18 ~~(2)~~ All property acquired or caused to be acquired by a
19 person either between the dates of occurrence of two or more
20 acts in felony violation of the Illinois Controlled Substances
21 Act, the Cannabis Control Act, or the Methamphetamine Control
22 and Community Protection Act, or an act committed in another
23 state, territory or country which would be punishable as a
24 felony under the Illinois Controlled Substances Act, the
25 Cannabis Control Act, or the Methamphetamine Control and
26 Community Protection Act, committed by that person within 5

1 years of each other, or all property acquired by such person
2 within a reasonable amount of time after the commission of such
3 acts if:

4 (a) At least one of the above acts was committed after
5 the effective date of this Act; and

6 (b) Both ~~At least one~~ of the acts are or were ~~is or was~~
7 punishable as a Class X, Class 1, or Class 2 felony; and

8 (c) There was no likely source for such property other
9 than a violation of the above Acts.

10 (3) Presumptions and permissive inferences set forth in
11 this Section shall apply to all portions of all phases of the
12 judicial in rem forfeiture proceedings under this Act.

13 (Source: P.A. 94-556, eff. 9-11-05.)

14 (725 ILCS 150/8) (from Ch. 56 1/2, par. 1678)

15 Sec. 8. Exemptions from forfeiture.

16 (a) No vessel or watercraft, vehicle, or aircraft used by
17 any person as a common carrier in the transaction of business
18 as a common carrier may be forfeited under this Act unless the
19 State proves by a preponderance of the evidence that:

20 (1) in the case of a railway car or engine, the owner,

21 or

22 (2) in the case of any other such vessel or watercraft,
23 vehicle or aircraft, the owner or the master of such vessel
24 or watercraft or the owner or conductor, driver, pilot, or
25 other person in charge of that vehicle or aircraft was at

1 the time of the alleged illegal act a consenting party or
2 privy to that knowledge.

3 (b) No vessel or watercraft, vehicle, or aircraft shall be
4 forfeited under this Act by reason of any act or omission
5 committed or omitted by any person other than such owner while
6 a vessel or watercraft, vehicle, or aircraft was unlawfully in
7 the possession of a person who acquired possession in violation
8 of the criminal laws of the United States, or of any state. A
9 ~~property interest is exempt from forfeiture under this Section~~
10 ~~if its owner or interest holder establishes by a preponderance~~
11 ~~of evidence that the owner or interest holder:~~

12 (A) (blank); and ~~(i) in the case of personal property, is~~
13 ~~not legally accountable for the conduct giving rise to the~~
14 ~~forfeiture, did not acquiesce in it, and did not know and could~~
15 ~~not reasonably have known of the conduct or that the conduct~~
16 ~~was likely to occur, or~~

17 ~~(ii) in the case of real property, is not legally~~
18 ~~accountable for the conduct giving rise to the forfeiture, or~~
19 ~~did not solicit, conspire, or attempt to commit the conduct~~
20 ~~giving rise to the forfeiture; and~~

21 (B) (blank); and ~~had not acquired and did not stand to~~
22 ~~acquire substantial proceeds from the conduct giving rise to~~
23 ~~its forfeiture other than as an interest holder in an arms~~
24 ~~length commercial transaction; and~~

25 (C) (blank); and ~~with respect to conveyances, did not hold~~
26 ~~the property jointly or in common with a person whose conduct~~

1 ~~gave rise to the forfeiture; and~~

2 (D) (blank); and ~~does not hold the property for the benefit~~
3 ~~of or as nominee for any person whose conduct gave rise to its~~
4 ~~forfeiture, and, if the owner or interest holder acquired the~~
5 ~~interest through any such person, the owner or interest holder~~
6 ~~acquired it as a bona fide purchaser for value without~~
7 ~~knowingly taking part in the conduct giving rise to the~~
8 ~~forfeiture; and~~

9 (E) (blank); and ~~that the owner or interest holder acquired~~
10 ~~the interest:~~

11 ~~(i) before the commencement of the conduct giving rise to~~
12 ~~its forfeiture and the person whose conduct gave rise to its~~
13 ~~forfeiture did not have the authority to convey the interest to~~
14 ~~a bona fide purchaser for value at the time of the conduct; or~~

15 ~~(ii) after the commencement of the conduct giving rise to~~
16 ~~its forfeiture, and the owner or interest holder acquired the~~
17 ~~interest as a mortgagee, secured creditor, lienholder, or bona~~
18 ~~fide purchaser for value without knowledge of the conduct which~~
19 ~~gave rise to the forfeiture; and~~

20 ~~(a) in the case of personal property, without knowledge of~~
21 ~~the seizure of the property for forfeiture; or~~

22 ~~(b) in the case of real estate, before the filing in the~~
23 ~~office of the Recorder of Deeds of the county in which the real~~
24 ~~estate is located of a notice of seizure for forfeiture or a~~
25 ~~lis pendens notice.~~

26 (Source: P.A. 86-1382.)

1 (725 ILCS 150/9) (from Ch. 56 1/2, par. 1679)

2 Sec. 9. Judicial in rem procedures. If property seized
3 under the provisions of the Illinois Controlled Substances Act,
4 the Cannabis Control Act, or the Methamphetamine Control and
5 Community Protection Act is non-real property that exceeds
6 \$150,000 ~~\$20,000~~ in value excluding the value of any
7 conveyance, or is real property, or a claimant has filed a
8 claim and a cost bond under subsection (C) of Section 6 of this
9 Act, the following judicial in rem procedures shall apply:

10 (A) If, after a review of the facts surrounding the
11 seizure, the State's Attorney is of the opinion that the seized
12 property is subject to forfeiture, ~~then within 45 days of the~~
13 ~~receipt of notice of seizure by the seizing agency or the~~
14 ~~filing of the claim and cost bond, whichever is later,~~ the
15 State's Attorney shall institute judicial forfeiture
16 proceedings by filing a verified complaint for forfeiture in
17 the circuit court within whose jurisdiction the seizure
18 occurred, or within whose jurisdiction an act or omission
19 giving rise to the seizure occurred, subject to Supreme Court
20 Rule 187 and, if the claimant has filed a claim and cost bond,
21 by depositing the cost bond with the clerk of the court. The
22 complaint of forfeiture shall be filed as soon as practicable,
23 but not later than 28 days after the filing of a verified claim
24 by a claimant if the property was acted upon under a
25 non-judicial forfeiture action, or 28 days after the State's

1 Attorney receives notice from the seizing agency as provided
2 under Section 5 of this Act, whichever occurs later. When
3 authorized by law, a forfeiture must be ordered by a court on
4 an action in rem brought by a State's Attorney under a verified
5 complaint for forfeiture.

6 (A-5) If the State's Attorney finds that the alleged
7 violation of law giving rise to the seizure was incurred
8 without willful negligence or without any intention on the part
9 of the owner of the property to violate the law or finds the
10 existence of those mitigating circumstances to justify
11 remission of the forfeiture, may cause the law enforcement
12 agency having custody of the property to return the property to
13 the owner within a reasonable time not to exceed 7 days. The
14 State's Attorney shall exercise his or her discretion prior to
15 or promptly after the preliminary review under Section 3.5 of
16 this Act. Judicial in rem forfeiture proceedings under this Act
17 shall be subject to the Code of Civil Procedure and the rules
18 of evidence relating to civil actions.

19 (A-10) A complaint of forfeiture shall include:

20 (1) a description of the property seized;

21 (2) the date and place of seizure of the property;

22 (3) the name and address of the law enforcement agency
23 making the seizure; and

24 (4) the specific statutory and factual grounds for the
25 seizure.

26 The complaint shall be served upon the person from whom the

1 property was seized and all persons known or reasonably
2 believed by the State to claim an interest in the property, as
3 provided in Section 4 of this Act. The complaint shall be
4 accompanied by the following written notice:

5 "This is a civil court proceeding subject to the Code of
6 Civil Procedure. You received this Complaint of Forfeiture
7 because the State's Attorney's office has brought a legal
8 action seeking forfeiture of your seized property. This
9 complaint starts the court process where the state seeks to
10 prove that your property should be forfeited and not
11 returned to you. This process is also your opportunity to
12 try to prove to a judge that you should get your property
13 back. The complaint lists the date, time, and location of
14 your first court date. You must appear in court on that
15 day, or you may lose the case automatically. You must also
16 file an appearance and answer. If you are unable to pay the
17 appearance fee, you may qualify to have the fee waived. If
18 there is a criminal case related to the seizure of your
19 property, your case may be set for trial after the criminal
20 case has been resolved. Before trial, the judge may allow
21 discovery, where the State can ask you to respond in
22 writing to questions and give them certain documents, and
23 you can make similar requests of the State. The trial is
24 your opportunity to explain what happened when your
25 property was seized and why you should get the property
26 back."

1 (B) ~~During the probable cause portion of the judicial in~~
2 ~~rem proceeding wherein the State presents its case in chief,~~
3 ~~the court must receive and consider, among other things, all~~
4 ~~relevant hearsay evidence and information.~~ The laws of evidence
5 relating to civil actions shall apply to all other proceedings
6 under this Act except that the parties shall be allowed to use,
7 and the court must receive and consider, all relevant hearsay
8 evidence which relates to evidentiary foundation, chain of
9 custody, business records, recordings, laboratory analysis,
10 laboratory reports, and the use of technology in the
11 investigation that resulted in the seizure of the property
12 which is subject to this forfeiture action ~~portions of the~~
13 ~~judicial in rem proceeding.~~

14 (C) Only an owner of or interest holder in the property may
15 file an answer asserting a claim against the property in the
16 action in rem. For purposes of this Section, the owner or
17 interest holder shall be referred to as claimant. A person not
18 named in the forfeiture complaint who claims to have an
19 interest in the property may petition to intervene as a
20 claimant under Section 2-408 of the Code of Civil Procedure.

21 (D) The answer must be signed by the owner or interest
22 holder under penalty of perjury and must set forth:

23 (i) the caption of the proceedings as set forth on the
24 notice of pending forfeiture and the name of the claimant;

25 (ii) the address at which the claimant will accept
26 mail;

1 (iii) the nature and extent of the claimant's interest
2 in the property;

3 (iv) the date, identity of transferor, and
4 circumstances of the claimant's acquisition of the
5 interest in the property;

6 (v) the name and address of all other persons known to
7 have an interest in the property;

8 (vi) the specific provisions of Section 8 of this Act
9 relied on in asserting it is exempt from ~~not subject to~~
10 forfeiture, if applicable;

11 (vii) all essential facts supporting each assertion;
12 ~~and~~

13 (viii) the precise relief sought; ~~and~~

14 (ix) in a forfeiture action involving currency or its
15 equivalent, a claimant shall provide the State with notice
16 of their intent to allege that the currency or its
17 equivalent is not related to the alleged factual basis for
18 the forfeiture, and why.

19 (E) The answer must be filed with the court within 45 days
20 after service of the civil in rem complaint.

21 (F) The trial shall ~~hearing must~~ be held within 60 days
22 after filing of the answer unless continued for good cause.

23 (G) The State, in its case in chief shall show ~~the~~
24 ~~existence of probable cause for forfeiture of the property. If~~
25 ~~the State shows probable cause, the claimant has the burden of~~
26 ~~showing~~ by a preponderance of the evidence the property is

1 subject to forfeiture; and at least one of the following: ~~that~~
2 ~~the claimant's interest in the property is not subject to~~
3 ~~forfeiture.~~

4 (i) In the case of personal property, including
5 conveyances:

6 (a) that the claimant was legally accountable for
7 the conduct giving rise to the forfeiture;

8 (b) that the claimant knew or reasonably should
9 have known of the conduct giving rise to the
10 forfeiture;

11 (c) that the claimant knew or reasonably should
12 have known that the conduct giving rise to the
13 forfeiture was likely to occur;

14 (d) that the claimant held the property for the
15 benefit of, or as nominee for, any person whose conduct
16 gave rise to its forfeiture;

17 (e) that if the claimant acquired their interest
18 through any person engaging in any of the conduct
19 described above or conduct giving rise to the
20 forfeiture:

21 (1) the claimant did not acquire it as a bona
22 fide purchaser for value, or

23 (2) the claimant acquired the interest under
24 such circumstances that they reasonably should
25 have known the property was derived from, or used
26 in, the conduct giving rise to the forfeiture; or

1 (f) that the claimant is not the true owner of the
2 property;

3 (g) that the claimant acquired the interest:

4 (1) before the commencement of the conduct
5 giving rise to the forfeiture and the person whose
6 conduct gave rise to the forfeiture did not have
7 authority to convey the interest to a bona fide
8 purchaser for value at the time of the conduct; or

9 (2) after the commencement of the conduct
10 giving rise to the forfeiture and the owner or
11 interest holder acquired the interest as a
12 mortgagee, secured creditor, lienholder, or bona
13 fide purchaser for value without knowledge of the
14 conduct which gave rise to the forfeiture, and
15 without the knowledge of the seizure of the
16 property for forfeiture.

17 (ii) In the case of real property:

18 (a) that the claimant was legally accountable for
19 the conduct giving rise to the forfeiture;

20 (b) that the claimant solicited, conspired, or
21 attempted to commit the conduct giving rise to the
22 forfeiture; or

23 (c) that the claimant had acquired or stood to
24 acquire substantial proceeds from the conduct giving
25 rise to its forfeiture other than as an interest holder
26 in an arm's length transaction;

1 (d) that the claimant is not the true owner of the
2 property;

3 (e) that the claimant acquired the interest:

4 (1) before the commencement of the conduct
5 giving rise to the forfeiture and the person whose
6 conduct gave rise to the forfeiture did not have
7 authority to convey the interest to a bona fide
8 purchaser for value at the time of the conduct; or

9 (2) after the commencement of the conduct
10 giving rise to the forfeiture and the owner or
11 interest holder acquired the interest as a
12 mortgagee, secured creditor, lienholder, or bona
13 fide purchaser for value without knowledge of the
14 conduct which gave rise to the forfeiture, and
15 before the filing in the office of the recorder of
16 deeds of the county in which the real estate is
17 located a notice of seizure for forfeiture or a lis
18 pendens notice.

19 (G-5) If the property that is the subject of the forfeiture
20 proceeding is currency or its equivalent, the State, in its
21 case in chief, shall show by a preponderance of the evidence
22 that the property is subject to forfeiture. If the State makes
23 that showing, the claimant shall have the burden of production
24 to set forth evidence that the currency or its equivalent is
25 not related to the alleged factual basis of the forfeiture.
26 After the production of evidence, the State shall maintain the

1 burden of proof to overcome this assertion.

2 (G-10) Notwithstanding any other provision of this
3 Section, the State's burden of proof at the trial of the
4 forfeiture action shall be by clear and convincing evidence if:

5 (1) a finding of not guilty is entered as to all counts
6 and all defendants in a criminal proceeding relating to the
7 conduct giving rise to the forfeiture action; or

8 (2) the State receives an adverse finding at a
9 preliminary hearing and fails to secure an indictment in a
10 criminal proceeding related to the factual allegations of
11 the forfeiture action.

12 (H) If the State does not meet its burden of proof ~~show~~
13 ~~existence of probable cause or a claimant has established by a~~
14 ~~preponderance of evidence that the claimant has an interest~~
15 ~~that is exempt under Section 8 of this Act,~~ the court shall
16 order the interest in the property returned or conveyed to the
17 claimant and shall order all other property as to which the
18 State does meet its burden of proof forfeited to the State. If
19 the State does meet its burden of proof ~~show existence of~~
20 ~~probable cause and the claimant does not establish by a~~
21 ~~preponderance of evidence that the claimant has an interest~~
22 ~~that is exempt under Section 8 of this Act,~~ the court shall
23 order all property forfeited to the State.

24 (I) A defendant convicted in any criminal proceeding is
25 precluded from later denying the essential allegations of the
26 criminal offense of which the defendant was convicted in any

1 proceeding under this Act regardless of the pendency of an
2 appeal from that conviction. However, evidence of the pendency
3 of an appeal is admissible.

4 (J) An acquittal or dismissal in a criminal proceeding
5 shall not preclude civil proceedings under this Act; however,
6 for good cause shown, on a motion by the State's Attorney, the
7 court may stay civil forfeiture proceedings during the criminal
8 trial for a related criminal indictment or information alleging
9 a violation of the Illinois Controlled Substances Act, the
10 Cannabis Control Act, or the Methamphetamine Control and
11 Community Protection Act. Such a stay shall not be available
12 pending an appeal. Property subject to forfeiture under the
13 Illinois Controlled Substances Act, the Cannabis Control Act,
14 or the Methamphetamine Control and Community Protection Act
15 shall not be subject to return or release by a court exercising
16 jurisdiction over a criminal case involving the seizure of such
17 property unless such return or release is consented to by the
18 State's Attorney.

19 (K) Title to all ~~All~~ property declared forfeited under this
20 Act vests in this State on the commission of the conduct giving
21 rise to forfeiture together with the proceeds of the property
22 after that time. Except as otherwise provided in this Act, any
23 ~~Any~~ such property or proceeds subsequently transferred to any
24 person remain subject to forfeiture unless a person to whom the
25 property was transferred makes an appropriate claim under this
26 Act and has their claim adjudicated in the judicial in rem

1 ~~proceeding and thereafter shall be ordered forfeited unless the~~
2 ~~transferee claims and establishes in a hearing under the~~
3 ~~provisions of this Act that the transferee's interest is exempt~~
4 ~~under Section 8 of this Act.~~

5 (L) A civil action under this Act must be commenced within
6 5 years after the last conduct giving rise to forfeiture became
7 known or should have become known or 5 years after the
8 forfeitable property is discovered, whichever is later,
9 excluding any time during which either the property or claimant
10 is out of the State or in confinement or during which criminal
11 proceedings relating to the same conduct are in progress.

12 (M) No property shall be forfeited under this Act from a
13 person who, without actual or constructive notice that the
14 property was the subject of forfeiture proceedings, obtained
15 possession of the property as a bona fide purchaser for value.
16 A person who purports to transfer property after receiving
17 actual or constructive notice that the property is subject to
18 seizure or forfeiture is guilty of contempt of court and shall
19 be liable to the State for a penalty in the amount of the fair
20 market value of the property.

21 (N) If property is ordered forfeited under this Act from a
22 claimant who held title to the property in joint tenancy or
23 tenancy in common with another claimant, the court shall
24 determine the amount of each owner's interest in the property
25 according to principles of property law.

26 (Source: P.A. 94-556, eff. 9-11-05.)

1 (725 ILCS 150/9.1 new)

2 Sec. 9.1. Innocent owner hearing.

3 (a) After a complaint for forfeiture is filed and all
4 claimants have appeared and answered, a claimant may file a
5 motion with the court for an innocent owner hearing prior to
6 trial. This motion shall be made and supported by sworn
7 affidavit and shall assert the following along with specific
8 facts which support each assertion:

9 (1) that the claimant filing the motion is the true
10 owner of the conveyance as interpreted by case law;

11 (2) that the claimant was not legally accountable for
12 the conduct giving rise to the forfeiture or acquiesced in
13 the conduct;

14 (3) that the claimant did not solicit, conspire, or
15 attempt to commit the conduct giving rise to the
16 forfeiture;

17 (4) that the claimant did not know or did they have
18 reason to know that the conduct giving rise to the
19 forfeiture was likely to occur; and

20 (5) that the claimant did not hold the property for the
21 benefit of, or as nominee for any person whose conduct gave
22 rise to its forfeiture, or if the owner or interest holder
23 acquired the interest through any such person, the owner or
24 interest holder did not acquire it as a bona fide purchaser
25 for value, or acquired the interest without knowledge of

1 the seizure of the property for forfeiture.

2 (b) The claimant's motion shall include specific facts
3 supporting these assertions.

4 (c) Upon this filing, a hearing may only be held after the
5 parties have been given the opportunity to conduct limited
6 discovery as to the ownership and control of the property, the
7 claimant's knowledge, or any matter relevant to the issues
8 raised or facts alleged in the claimant's motion. Discovery
9 shall be limited to the People's requests in these areas but
10 may proceed by any means allowed in the Code of Civil
11 Procedure.

12 (d) After discovery is complete and the court has allowed
13 for sufficient time to review and investigate the discovery
14 responses, the court shall conduct a hearing. At the hearing,
15 the fact that the property is subject to forfeiture shall not
16 be at issue. The court shall only hear evidence relating to the
17 issue of innocent ownership.

18 (e) At the hearing on the motion, the claimant shall bear
19 the burden of proving by a preponderance of the evidence each
20 of the assertions set forth in subsection (a) of this Section.

21 (f) If a claimant meets their burden of proof, the court
22 shall grant the motion and order the property returned to the
23 claimant. If the claimant fails to meet their burden of proof,
24 then the court shall deny the motion and the forfeiture case
25 shall proceed according to the Rules of Civil Procedure.

1 (725 ILCS 150/9.5 new)

2 Sec. 9.5. Proportionality. Property forfeited under this
3 Act shall be subject to an 8th Amendment to the United States
4 Constitution disproportionate penalties analysis and the
5 property forfeiture may be denied in whole or in part if the
6 court finds that the forfeiture would constitute an excessive
7 fine in violation of the 8th Amendment to the United States
8 Constitution, as interpreted by case law.

9 (725 ILCS 150/11) (from Ch. 56 1/2, par. 1681)

10 Sec. 11. Settlement of Claims. Notwithstanding other
11 provisions of this Act, the State's Attorney and a claimant of
12 seized property may enter into an agreed-upon settlement
13 concerning the seized property in such an amount and upon such
14 terms as are set out in writing in a settlement agreement. All
15 proceeds from a settlement agreement shall be tendered to the
16 Department of State Police and distributed in accordance with
17 the provisions of Section 17 of this Act.

18 (Source: P.A. 86-1382.)

19 (725 ILCS 150/14) (from Ch. 56 1/2, par. 1684)

20 Sec. 14. Judicial Review. If property has been declared
21 forfeited under Section 6 of this Act, any person who has an
22 interest in the property declared forfeited may, within 30 days
23 of the effective date of the notice of the declaration of
24 forfeiture, file a claim ~~and cost bond~~ as described in

1 subsection (C) of Section 6 of this Act. If a claim ~~and cost~~
2 ~~bond~~ is filed under this Section, then the procedures described
3 in Section 9 of this Act shall apply.

4 (Source: P.A. 87-614.)

5 (725 ILCS 150/15 new)

6 Sec. 15. Return of property, damages, and costs.

7 (a) The law enforcement agency that holds custody of
8 property seized for forfeiture shall deliver property ordered
9 by the court to be returned or conveyed to the claimant within
10 a reasonable time not to exceed 7 days, unless the order is
11 stayed by the trial court or a reviewing court pending an
12 appeal, motion to reconsider, or other reason.

13 (b) The law enforcement agency that holds custody of
14 property described in subsection (a) of this Section is
15 responsible for any damages, storage fees, and related costs
16 applicable to property returned. The claimant shall not be
17 subject to any charges by the State for storage of the property
18 or expenses incurred in the preservation of the property.
19 Charges for the towing of a conveyance shall be borne by the
20 claimant unless the conveyance was towed for the sole reason of
21 seizure for forfeiture. This Section does not prohibit the
22 imposition of any fees or costs by a home rule unit of local
23 government related to the impoundment of a conveyance pursuant
24 to an ordinance enacted by the unit of government.

25 (c) A law enforcement agency shall not retain forfeited

1 property for its own use or transfer the property to any person
2 or entity, except as provided under this Section. A law
3 enforcement agency may apply in writing to the Director of
4 State Police to request that a forfeited property be awarded to
5 the agency for a specifically articulated official law
6 enforcement use in an investigation. The Director of State
7 Police shall provide a written justification in each instance
8 detailing the reasons why the forfeited property was placed
9 into official use and the justification shall be retained for a
10 period of not less than 3 years.

11 (725 ILCS 150/17 new)

12 Sec. 17. Distribution of proceeds; selling or retaining
13 seized property prohibited.

14 (a) Except as otherwise provided in this Section, the court
15 shall order that property forfeited under this Act be delivered
16 to the Department of State Police within 60 days.

17 (b) All monies and the sale proceeds of all other property
18 forfeited and seized under this Act shall be distributed as
19 follows:

20 (1)(i) 65% shall be distributed to the metropolitan
21 enforcement group, local, municipal, county, or state law
22 enforcement agency or agencies which conducted or participated
23 in the investigation resulting in the forfeiture. The
24 distribution shall bear a reasonable relationship to the degree
25 of direct participation of the law enforcement agency in the

1 effort resulting in the forfeiture, taking into account the
2 total value of the property forfeited and the total law
3 enforcement effort with respect to the violation of the law
4 upon which the forfeiture is based. Amounts distributed to the
5 agency or agencies shall be used for the enforcement of laws
6 governing cannabis and controlled substances; for public
7 education in the community or schools in the prevention or
8 detection of the abuse of drugs or alcohol; or for security
9 cameras used for the prevention or detection of violence,
10 except that amounts distributed to the Secretary of State shall
11 be deposited into the Secretary of State Evidence Fund to be
12 used as provided in Section 2-115 of the Illinois Vehicle Code.

13 (ii) Any local, municipal, or county law enforcement agency
14 entitled to receive a monetary distribution of forfeiture
15 proceeds may share those forfeiture proceeds pursuant to the
16 terms of an intergovernmental agreement with a municipality
17 that has a population in excess of 20,000 if:

18 (A) the receiving agency has entered into an
19 intergovernmental agreement with the municipality to
20 provide police services;

21 (B) the intergovernmental agreement for police
22 services provides for consideration in an amount of not
23 less than \$1,000,000 per year;

24 (C) the seizure took place within the geographical
25 limits of the municipality; and

26 (D) the funds are used only for the enforcement of laws

1 governing cannabis and controlled substances; for public
2 education in the community or schools in the prevention or
3 detection of the abuse of drugs or alcohol; or for security
4 cameras used for the prevention or detection of violence or
5 the establishment of a municipal police force, including
6 the training of officers, construction of a police station,
7 or the purchase of law enforcement equipment or vehicles.

8 (2) (i) 12.5% shall be distributed to the Office of the
9 State's Attorney of the county in which the prosecution
10 resulting in the forfeiture was instituted, deposited in a
11 special fund in the county treasury and appropriated to the
12 State's Attorney for use in the enforcement of laws governing
13 cannabis and controlled substances; for public education in the
14 community or schools in the prevention or detection of the
15 abuse of drugs or alcohol; or at the discretion of the State's
16 Attorney, in addition to other authorized purposes, to make
17 grants to local substance abuse treatment facilities and
18 half-way houses. In counties over 3,000,000 population, 25%
19 shall be distributed to the Office of the State's Attorney for
20 use in the enforcement of laws governing cannabis and
21 controlled substances; for public education in the community or
22 schools in the prevention or detection of the abuse of drugs or
23 alcohol; or at the discretion of the State's Attorney, in
24 addition to other authorized purposes, to make grants to local
25 substance abuse treatment facilities and half-way houses. If
26 the prosecution is undertaken solely by the Attorney General,

1 the portion provided shall be distributed to the Attorney
2 General for use in the enforcement of laws governing cannabis
3 and controlled substances or for public education in the
4 community or schools in the prevention or detection of the
5 abuse of drugs or alcohol.

6 (ii) 12.5% shall be distributed to the Office of the
7 State's Attorneys Appellate Prosecutor and deposited in the
8 Narcotics Profit Forfeiture Fund of that office to be used for
9 additional expenses incurred in the investigation, prosecution
10 and appeal of cases arising under laws governing cannabis and
11 controlled substances or for public education in the community
12 or schools in the prevention or detection of the abuse of drugs
13 or alcohol. The Office of the State's Attorneys Appellate
14 Prosecutor shall not receive distribution from cases brought in
15 counties with over 3,000,000 population.

16 (3) 10% shall be retained by the Department of State Police
17 for expenses related to the administration and sale of seized
18 and forfeited property.

19 (725 ILCS 150/20 new)

20 Sec. 20. Reporting. Property seized or forfeited under this
21 Act is subject to reporting under the Seizure and Forfeiture
22 Reporting Act.

23 Section 175. The Narcotics Profit Forfeiture Act is amended
24 by adding Section 6.5 as follows:

1 (725 ILCS 175/6.5 new)

2 Sec. 6.5. Reporting. Property seized or forfeited under
3 this Act is subject to reporting under the Seizure and
4 Forfeiture Reporting Act.

5 Section 180. The Illinois Streetgang Terrorism Omnibus
6 Prevention Act is amended by changing Section 40 as follows:

7 (740 ILCS 147/40)

8 Sec. 40. Forfeiture Contraband.

9 (a) The following are subject to seizure and forfeiture
10 ~~declared to be contraband and no person shall have a property~~
11 ~~interest in them:~~

12 (1) any property that is directly or indirectly used or
13 intended for use in any manner to facilitate streetgang
14 related activity; and

15 (2) any property constituting or derived from gross
16 profits or other proceeds obtained from streetgang related
17 activity.

18 (b) Property subject to forfeiture under this Section may
19 be seized under the procedures set forth under Section 36-2.1
20 of the Criminal Code of 2012, except that actual physical
21 seizure of real property subject to forfeiture under this Act
22 requires the issuance of a seizure warrant. Nothing in this
23 Section prohibits the constructive seizure of real property

1 through the filing of a complaint for forfeiture in circuit
2 court and the recording of a lis pendens against the real
3 property without a hearing, warrant application, or judicial
4 approval.

5 (c) The State's Attorney may initiate forfeiture
6 proceedings under the procedures in Article 36 of the Criminal
7 Code of 2012. The State shall bear the burden of proving by a
8 preponderance of the evidence that the property was acquired
9 through a pattern of streetgang related activity.

10 (d) Property forfeited under this Section shall be disposed
11 of in accordance with Section 36-7 of Article 36 of the
12 Criminal Code of 2012 for the forfeiture of vehicles, vessels,
13 and aircraft.

14 (e) Within 60 days of the date of the seizure of contraband
15 under this Section, the State's Attorney shall initiate
16 forfeiture proceedings as provided in Article 36 of the
17 Criminal Code of 2012. An owner or person who has a lien on the
18 property may establish as a defense to the forfeiture of
19 property that is subject to forfeiture under this Section that
20 the owner or lienholder had no knowledge that the property was
21 acquired through a pattern of streetgang related activity.
22 Property that is forfeited under this Section shall be disposed
23 of as provided in Article 36 of the Criminal Code of 2012 for
24 the forfeiture of vehicles, vessels, and aircraft. The proceeds
25 of the disposition shall be paid to the Gang Violence Victims
26 and Witnesses Fund to be used to assist in the prosecution of

1 gang crimes.

2 (f) Property seized or forfeited under this Section is
3 subject to reporting under the Seizure and Forfeiture Reporting
4 Act.

5 (Source: P.A. 97-1150, eff. 1-25-13.)

6 Section 185. The Illinois Securities Law of 1953 is amended
7 by changing Section 11 as follows:

8 (815 ILCS 5/11) (from Ch. 121 1/2, par. 137.11)

9 Sec. 11. Duties and powers of the Secretary of State.

10 A. (1) The administration of this Act is vested in the
11 Secretary of State, who may from time to time make, amend and
12 rescind such rules and regulations as may be necessary to carry
13 out this Act, including rules and regulations governing
14 procedures of registration, statements, applications and
15 reports for various classes of securities, persons and matters
16 within his or her jurisdiction and defining any terms, whether
17 or not used in this Act, insofar as the definitions are not
18 inconsistent with this Act. The rules and regulations adopted
19 by the Secretary of State under this Act shall be effective in
20 the manner provided for in the Illinois Administrative
21 Procedure Act.

22 (2) Among other things, the Secretary of State shall have
23 authority, for the purposes of this Act, to prescribe the form
24 or forms in which required information shall be set forth,

1 accounting practices, the items or details to be shown in
2 balance sheets and earning statements, and the methods to be
3 followed in the preparation of accounts, in the appraisal or
4 valuation of assets and liabilities, in the determination of
5 depreciation and depletion, in the differentiation of
6 recurring and non-recurring income, in the differentiation of
7 investment and operating income, and in the preparation of
8 consolidated balance sheets or income accounts of any person,
9 directly or indirectly, controlling or controlled by the
10 issuer, or any person under direct or indirect common control
11 with the issuer.

12 (3) No provision of this Act imposing any liability shall
13 apply to any act done or omitted in good faith in conformity
14 with any rule or regulation of the Secretary of State under
15 this Act, notwithstanding that the rule or regulation may,
16 after the act or omission, be amended or rescinded or be
17 determined by judicial or other authority to be invalid for any
18 reason.

19 (4) The Securities Department of the Office of the
20 Secretary of State shall be deemed a criminal justice agency
21 for purposes of all federal and state laws and regulations and,
22 in that capacity, shall be entitled to access to any
23 information available to criminal justice agencies and has the
24 power to appoint special agents to conduct all investigations,
25 searches, seizures, arrests, and other duties imposed under the
26 provisions of any law administered by the Department. The

1 special agents have and may exercise all the powers of peace
2 officers solely for the purpose of enforcing provisions of this
3 Act.

4 The Director must authorize to each special agent employed
5 under this Section a distinct badge that, on its face, (i)
6 clearly states that the badge is authorized by the Department
7 and (ii) contains a unique and identifying number.

8 Special agents shall comply with all training requirements
9 established for law enforcement officers by provisions of the
10 Illinois Police Training Act.

11 (5) The Secretary of State, by rule, may conditionally or
12 unconditionally exempt any person, security, or transaction,
13 or any class or classes of persons, securities, or transactions
14 from any provision of Section 5, 6, 7, 8, 8a, or 9 of this Act
15 or of any rule promulgated under these Sections, to the extent
16 that such exemption is necessary or appropriate in the public
17 interest, and is consistent with the protection of investors.

18 B. The Secretary of State may, anything in this Act to the
19 contrary notwithstanding, require financial statements and
20 reports of the issuer, dealer, Internet portal, salesperson,
21 investment adviser, or investment adviser representative as
22 often as circumstances may warrant. In addition, the Secretary
23 of State may secure information or books and records from or
24 through others and may make or cause to be made investigations
25 respecting the business, affairs, and property of the issuer of
26 securities, any person involved in the sale or offer for sale,

1 purchase or offer to purchase of any mineral investment
2 contract, mineral deferred delivery contract, or security and
3 of dealers, Internet portals, salespersons, investment
4 advisers, and investment adviser representatives that are
5 registered or are the subject of an application for
6 registration under this Act. The costs of an investigation
7 shall be borne by the registrant or the applicant, provided
8 that the registrant or applicant shall not be obligated to pay
9 the costs without his, her or its consent in advance.

10 C. Whenever it shall appear to the Secretary of State,
11 either upon complaint or otherwise, that this Act, or any rule
12 or regulation prescribed under authority thereof, has been or
13 is about to be violated, he or she may, in his or her
14 discretion, do one or more of the following:

15 (1) require or permit the person to file with the
16 Secretary of State a statement in writing under oath, or
17 otherwise, as to all the facts and circumstances concerning
18 the subject matter which the Secretary of State believes to
19 be in the public interest to investigate, audit, examine,
20 or inspect;

21 (2) conduct an investigation, audit, examination, or
22 inspection as necessary or advisable for the protection of
23 the interests of the public; and

24 (3) appoint investigators to conduct all
25 investigations, searches, seizures, arrests, and other
26 duties imposed under the provisions of any law administered

1 by the Department. The Director must authorize to each
2 investigator employed under this Section a distinct badge
3 that, on its face, (i) clearly states that the badge is
4 authorized by the Department and (ii) contains a unique and
5 identifying number.

6 D. (1) For the purpose of all investigations, audits,
7 examinations, or inspections which in the opinion of the
8 Secretary of State are necessary and proper for the enforcement
9 of this Act, the Secretary of State or a person designated by
10 him or her is empowered to administer oaths and affirmations,
11 subpoena witnesses, take evidence, and require, by subpoena or
12 other lawful means provided by this Act or the rules adopted by
13 the Secretary of State, the production of any books and
14 records, papers, or other documents which the Secretary of
15 State or a person designated by him or her deems relevant or
16 material to the inquiry.

17 (2) The Secretary of State or a person designated by him or
18 her is further empowered to administer oaths and affirmations,
19 subpoena witnesses, take evidence, and require the production
20 of any books and records, papers, or other documents in this
21 State at the request of a securities agency of another state,
22 if the activities constituting the alleged violation for which
23 the information is sought would be in violation of Section 12
24 of this Act if the activities had occurred in this State.

25 (3) The Circuit Court of any County of this State, upon
26 application of the Secretary of State or a person designated by

1 him or her may order the attendance of witnesses, the
2 production of books and records, papers, accounts and documents
3 and the giving of testimony before the Secretary of State or a
4 person designated by him or her; and any failure to obey the
5 order may be punished by the Circuit Court as a contempt
6 thereof.

7 (4) The fees of subpoenaed witnesses under this Act for
8 attendance and travel shall be the same as fees of witnesses
9 before the Circuit Courts of this State, to be paid when the
10 witness is excused from further attendance, provided, the
11 witness is subpoenaed at the instance of the Secretary of
12 State; and payment of the fees shall be made and audited in the
13 same manner as other expenses of the Secretary of State.

14 (5) Whenever a subpoena is issued at the request of a
15 complainant or respondent as the case may be, the Secretary of
16 State may require that the cost of service and the fee of the
17 witness shall be borne by the party at whose instance the
18 witness is summoned.

19 (6) The Secretary of State shall have power at his or her
20 discretion, to require a deposit to cover the cost of the
21 service and witness fees and the payment of the legal witness
22 fee and mileage to the witness served with subpoena.

23 (7) A subpoena issued under this Act shall be served in the
24 same manner as a subpoena issued out of a circuit court.

25 (8) The Secretary of State may in any investigation,
26 audits, examinations, or inspections cause the taking of

1 depositions of persons residing within or without this State in
2 the manner provided in civil actions under the laws of this
3 State.

4 E. Anything in this Act to the contrary notwithstanding:

5 (1) If the Secretary of State shall find that the offer
6 or sale or proposed offer or sale or method of offer or
7 sale of any securities by any person, whether exempt or
8 not, in this State, is fraudulent, or would work or tend to
9 work a fraud or deceit, or is being offered or sold in
10 violation of Section 12, or there has been a failure or
11 refusal to submit any notification filing or fee required
12 under this Act, the Secretary of State may by written order
13 prohibit or suspend the offer or sale of securities by that
14 person or deny or revoke the registration of the securities
15 or the exemption from registration for the securities.

16 (2) If the Secretary of State shall find that any
17 person has violated subsection C, D, E, F, G, H, I, J, or K
18 of Section 12 of this Act, the Secretary of State may by
19 written order temporarily or permanently prohibit or
20 suspend the person from offering or selling any securities,
21 any mineral investment contract, or any mineral deferred
22 delivery contract in this State, provided that any person
23 who is the subject of an order of permanent prohibition may
24 petition the Secretary of State for a hearing to present
25 evidence of rehabilitation or change in circumstances
26 justifying the amendment or termination of the order of

1 permanent prohibition.

2 (3) If the Secretary of State shall find that any
3 person is engaging or has engaged in the business of
4 selling or offering for sale securities as a dealer,
5 Internet portal, or salesperson or is acting or has acted
6 as an investment adviser, investment adviser
7 representative, or federal covered investment adviser,
8 without prior thereto and at the time thereof having
9 complied with the registration or notice filing
10 requirements of this Act, the Secretary of State may by
11 written order prohibit or suspend the person from engaging
12 in the business of selling or offering for sale securities,
13 or acting as an investment adviser, investment adviser
14 representative, or federal covered investment adviser, in
15 this State.

16 (4) In addition to any other sanction or remedy
17 contained in this subsection E, the Secretary of State,
18 after finding that any provision of this Act has been
19 violated, may impose a fine as provided by rule, regulation
20 or order not to exceed \$10,000 for each violation of this
21 Act, may issue an order of public censure against the
22 violator, and may charge as costs of investigation all
23 reasonable expenses, including attorney's fees and witness
24 fees.

25 F. (1) The Secretary of State shall not deny, suspend or
26 revoke the registration of securities, suspend or revoke the

1 registration of a dealer, Internet portal, salesperson,
2 investment adviser, or investment adviser representative,
3 prohibit or suspend the offer or sale of any securities,
4 prohibit or suspend any person from offering or selling any
5 securities in this State, prohibit or suspend a dealer or
6 salesperson from engaging in the business of selling or
7 offering for sale securities, prohibit or suspend a person from
8 acting as an investment adviser or federal covered investment
9 adviser, or investment adviser representative, impose any fine
10 for violation of this Act, issue an order of public censure, or
11 enter into an agreed settlement except after an opportunity for
12 hearing upon not less than 10 days notice given by personal
13 service or registered mail or certified mail, return receipt
14 requested, to the person or persons concerned. Such notice
15 shall state the date and time and place of the hearing and
16 shall contain a brief statement of the proposed action of the
17 Secretary of State and the grounds for the proposed action. A
18 failure to appear at the hearing or otherwise respond to the
19 allegations set forth in the notice of hearing shall constitute
20 an admission of any facts alleged therein and shall constitute
21 sufficient basis to enter an order.

22 (2) Anything herein contained to the contrary
23 notwithstanding, the Secretary of State may temporarily
24 prohibit or suspend, for a maximum period of 90 days, by an
25 order effective immediately, the offer or sale or registration
26 of securities, the registration of a dealer, Internet portal,

1 salesperson, investment adviser, or investment adviser
2 representative, or the offer or sale of securities by any
3 person, or the business of rendering investment advice, without
4 the notice and prior hearing in this subsection prescribed, if
5 the Secretary of State shall in his or her opinion, based on
6 credible evidence, deem it necessary to prevent an imminent
7 violation of this Act or to prevent losses to investors which
8 the Secretary of State reasonably believes will occur as a
9 result of a prior violation of this Act. Immediately after
10 taking action without such notice and hearing, the Secretary of
11 State shall deliver a copy of the temporary order to the
12 respondent named therein by personal service or registered mail
13 or certified mail, return receipt requested. The temporary
14 order shall set forth the grounds for the action and shall
15 advise that the respondent may request a hearing, that the
16 request for a hearing will not stop the effectiveness of the
17 temporary order and that respondent's failure to request a
18 hearing within 30 days after the date of the entry of the
19 temporary order shall constitute an admission of any facts
20 alleged therein and shall constitute sufficient basis to make
21 the temporary order final. Any provision of this paragraph (2)
22 to the contrary notwithstanding, the Secretary of State may not
23 pursuant to the provisions of this paragraph (2) suspend the
24 registration of a dealer, limited Canadian dealer,
25 salesperson, investment adviser, or investment adviser
26 representative based upon sub-paragraph (n) of paragraph (1) of

1 subsection E of Section 8 of this Act or revoke the
2 registration of securities or revoke the registration of any
3 dealer, salesperson, investment adviser representative, or
4 investment adviser.

5 (3) The Secretary of State may issue a temporary order
6 suspending or delaying the effectiveness of any registration of
7 securities under subsection A or B of Section 5, 6 or 7 of this
8 Act subsequent to and upon the basis of the issuance of any
9 stop, suspension or similar order by the Securities and
10 Exchange Commission with respect to the securities which are
11 the subject of the registration under subsection A or B of
12 Section 5, 6 or 7 of this Act, and the order shall become
13 effective as of the date and time of effectiveness of the
14 Securities and Exchange Commission order and shall be vacated
15 automatically at such time as the order of the Securities and
16 Exchange Commission is no longer in effect.

17 (4) When the Secretary of State finds that an application
18 for registration as a dealer, Internet portal, salesperson,
19 investment adviser, or investment adviser representative
20 should be denied, the Secretary of State may enter an order
21 denying the registration. Immediately after taking such
22 action, the Secretary of State shall deliver a copy of the
23 order to the respondent named therein by personal service or
24 registered mail or certified mail, return receipt requested.
25 The order shall state the grounds for the action and that the
26 matter will be set for hearing upon written request filed with

1 the Secretary of State within 30 days after the receipt of the
2 request by the respondent. The respondent's failure to request
3 a hearing within 30 days after receipt of the order shall
4 constitute an admission of any facts alleged therein and shall
5 make the order final. If a hearing is held, the Secretary of
6 State shall affirm, vacate, or modify the order.

7 (5) The findings and decision of the Secretary of State
8 upon the conclusion of each final hearing held pursuant to this
9 subsection shall be set forth in a written order signed on
10 behalf of the Secretary of State by his or her designee and
11 shall be filed as a public record. All hearings shall be held
12 before a person designated by the Secretary of State, and
13 appropriate records thereof shall be kept.

14 (6) Notwithstanding the foregoing, the Secretary of State,
15 after notice and opportunity for hearing, may at his or her
16 discretion enter into an agreed settlement, stipulation or
17 consent order with a respondent in accordance with the
18 provisions of the Illinois Administrative Procedure Act. The
19 provisions of the agreed settlement, stipulation or consent
20 order shall have the full force and effect of an order issued
21 by the Secretary of State.

22 (7) Anything in this Act to the contrary notwithstanding,
23 whenever the Secretary of State finds that a person is
24 currently expelled from, refused membership in or association
25 with, or limited in any material capacity by a self-regulatory
26 organization registered under the Federal 1934 Act or the

1 Federal 1974 Act because of a fraudulent or deceptive act or a
2 practice in violation of a rule, regulation, or standard duly
3 promulgated by the self-regulatory organization, the Secretary
4 of State may, at his or her discretion, enter a Summary Order
5 of Prohibition, which shall prohibit the offer or sale of any
6 securities, mineral investment contract, or mineral deferred
7 delivery contract by the person in this State. The order shall
8 take effect immediately upon its entry. Immediately after
9 taking the action the Secretary of State shall deliver a copy
10 of the order to the named Respondent by personal service or
11 registered mail or certified mail, return receipt requested. A
12 person who is the subject of an Order of Prohibition may
13 petition the Secretary of State for a hearing to present
14 evidence of rehabilitation or change in circumstances
15 justifying the amendment or termination of the Order of
16 Prohibition.

17 G. No administrative action shall be brought by the
18 Secretary of State for relief under this Act or upon or because
19 of any of the matters for which relief is granted by this Act
20 after the earlier to occur of (i) 3 years from the date upon
21 which the Secretary of State had notice of facts which in the
22 exercise of reasonable diligence would lead to actual knowledge
23 of the alleged violation of the Act, or (ii) 5 years from the
24 date on which the alleged violation occurred.

25 H. The action of the Secretary of State in denying,
26 suspending, or revoking the registration of a dealer, Internet

1 portal, limited Canadian dealer, salesperson, investment
2 adviser, or investment adviser representative, in prohibiting
3 any person from engaging in the business of offering or selling
4 securities as a dealer, limited Canadian dealer, or
5 salesperson, in prohibiting or suspending the offer or sale of
6 securities by any person, in prohibiting a person from acting
7 as an investment adviser, federal covered investment adviser,
8 or investment adviser representative, in denying, suspending,
9 or revoking the registration of securities, in prohibiting or
10 suspending the offer or sale or proposed offer or sale of
11 securities, in imposing any fine for violation of this Act, or
12 in issuing any order shall be subject to judicial review in the
13 Circuit Courts of Cook or Sangamon Counties in this State. The
14 Administrative Review Law shall apply to and govern every
15 action for the judicial review of final actions or decisions of
16 the Secretary of State under this Act.

17 I. Notwithstanding any other provisions of this Act to the
18 contrary, whenever it shall appear to the Secretary of State
19 that any person is engaged or about to engage in any acts or
20 practices which constitute or will constitute a violation of
21 this Act or of any rule or regulation prescribed under
22 authority of this Act, the Secretary of State may at his or her
23 discretion, through the Attorney General take any of the
24 following actions:

25 (1) File a complaint and apply for a temporary
26 restraining order without notice, and upon a proper showing

1 the court may enter a temporary restraining order without
2 bond, to enforce this Act.

3 (2) File a complaint and apply for a preliminary or
4 permanent injunction, and, after notice and a hearing and
5 upon a proper showing, the court may grant a preliminary or
6 permanent injunction and may order the defendant to make an
7 offer of rescission with respect to any sales or purchases
8 of securities, mineral investment contracts, or mineral
9 deferred delivery contracts determined by the court to be
10 unlawful under this Act.

11 (3) Seek the seizure of assets when probable cause
12 exists that the assets were obtained by a defendant through
13 conduct in violation of Section 12, paragraph F, G, I, J,
14 K, or L of this Act, and thereby subject to a judicial
15 forfeiture hearing as required under this Act.

16 (a) In the event that such probable cause exists
17 that the subject of an investigation who is alleged to
18 have committed one of the relevant violations of this
19 Act has in his possession assets obtained as a result
20 of the conduct giving rise to the violation, the
21 Secretary of State may seek a seizure warrant in any
22 circuit court in Illinois.

23 (b) In seeking a seizure warrant, the Secretary of
24 State, or his or her designee, shall submit to the
25 court a sworn affidavit detailing the probable cause
26 evidence for the seizure, the location of the assets to

1 be seized, the relevant violation under Section 12 of
2 this Act, and a statement detailing any known owners or
3 interest holders in the assets.

4 (c) Seizure of the assets shall be made by any
5 peace officer upon process of the seizure warrant
6 issued by the court. Following the seizure of assets
7 under this Act and pursuant to a seizure warrant,
8 notice of seizure, including a description of the
9 seized assets, shall immediately be returned to the
10 issuing court. Seized assets shall be maintained
11 pending a judicial forfeiture hearing in accordance
12 with the instructions of the court.

13 (d) In the event that management of seized assets
14 becomes necessary to prevent the devaluation,
15 dissipation, or otherwise to preserve the property,
16 the court shall have jurisdiction to appoint a
17 receiver, conservator, ancillary receiver, or
18 ancillary conservator for that purpose, as provided in
19 item (2) of this subsection.

20 (4) Seek the forfeiture of assets obtained through
21 conduct in violation of Section 12, paragraph F, G, H, I,
22 J, K, or L when authorized by law. A forfeiture must be
23 ordered by a circuit court or an action brought by the
24 Secretary of State as provided for in this Act, under a
25 verified complaint for forfeiture.

26 (a) In the event assets have been seized pursuant

1 to this Act, forfeiture proceedings shall be
2 instituted by the Attorney General within 45 days of
3 seizure.

4 (b) Service of the complaint filed under the
5 provisions of this Act shall be made in the manner as
6 provided in civil actions in this State.

7 (c) Only an owner of or interest holder in the
8 property may file an answer asserting a claim against
9 the property. For purposes of this Section, the owner
10 or interest holder shall be referred to as claimant.

11 (d) The answer must be signed by the owner or
12 interest holder under penalty of perjury and must set
13 forth:

14 (i) the caption of the proceedings as set forth
15 on the notice of pending forfeiture and the name of
16 the claimant;

17 (ii) the address at which the claimant will
18 accept mail;

19 (iii) the nature and extent of the claimant's
20 interest in the property;

21 (iv) the date, identity of the transferor, and
22 circumstances of the claimant's acquisition of the
23 interest in the property;

24 (v) the name and address of all other persons
25 known to have an interest in the property;

26 (vi) the specific provisions of this Act

1 relied on in asserting that the property is not
2 subject to forfeiture;

3 (vii) all essential facts supporting each
4 assertion; and

5 (viii) the precise relief sought.

6 (e) The answer must be filed with the court within
7 45 days after service of the complaint.

8 (f) A property interest is exempt from forfeiture
9 under this Act if its owner or interest holder
10 establishes by a preponderance of evidence that the
11 owner or interest holder:

12 (i) is not legally accountable for the conduct
13 giving rise to the forfeiture, did not acquiesce in
14 it, and did not know and could not reasonably have
15 known of the conduct or that the conduct was likely
16 to occur;

17 (ii) with respect to conveyances, did not hold
18 the property jointly or in common with a person
19 whose conduct gave rise to the forfeiture;

20 (iii) does not hold the property for the
21 benefit of or as a nominee for any person whose
22 conduct gave rise to its forfeiture and the owner
23 or interest holder acquires it as a bona fide
24 purchaser for value without knowingly taking part
25 in the conduct giving rise to the forfeiture; or

26 (iv) acquired the interest after the

1 commencement of the conduct giving rise to its
2 forfeiture and the owner or interest holder
3 acquired the interest as a mortgagee, secured
4 creditor, lienholder, or bona fide purchaser for
5 value without knowledge of the conduct that gave
6 rise to the forfeiture.

7 (g) The hearing must be held within 60 days after
8 the answer is filed unless continued for good cause.

9 (h) During the probable cause portion of the
10 judicial in rem proceeding wherein the Secretary of
11 State presents its case-in-chief, the court must
12 receive and consider, among other things, any relevant
13 hearsay evidence and information. The laws of evidence
14 relating to civil actions shall apply to all other
15 portions of the judicial in rem proceeding.

16 (i) The Secretary of State shall show the existence
17 of probable cause for forfeiture of the property. If
18 the Secretary of State shows probable cause, the
19 claimant has the burden of showing by a preponderance
20 of the evidence that the claimant's interest in the
21 property is not subject to forfeiture.

22 (j) If the Secretary of State does not show the
23 existence of probable cause or a claimant has an
24 interest that is exempt under subdivision I (4) (d) of
25 this Section, the court shall order the interest in the
26 property returned or conveyed to the claimant and shall

1 order all other property forfeited to the Secretary of
2 State pursuant to all provisions of this Act. If the
3 Secretary of State does show the existence of probable
4 cause and the claimant does not establish by a
5 preponderance of the evidence that the claimant has an
6 interest that is exempt under subsection D herein, the
7 court shall order all the property forfeited to the
8 Secretary of State pursuant to the provisions of the
9 Section.

10 (k) A defendant convicted in any criminal
11 proceeding is precluded from later denying the
12 essential allegations of the criminal offense of which
13 the defendant was convicted in any proceeding for
14 violations of the Act giving rise to forfeiture of
15 property herein regardless of the pendency of an appeal
16 from that conviction. However, evidence of the
17 pendency of an appeal is admissible.

18 (l) An acquittal or dismissal in a criminal
19 proceeding for violations of the Act giving rise to the
20 forfeiture of property herein shall not preclude civil
21 proceedings under this provision; however, for good
22 cause shown, on a motion by the Secretary of State, the
23 court may stay civil forfeiture proceedings during the
24 criminal trial for a related criminal indictment or
25 information alleging violation of the provisions of
26 Section 12 of the Illinois Securities Law of 1953.

1 Property subject to forfeiture under this Section
2 shall not be subject to return or release by a court
3 exercising jurisdiction over a criminal case involving
4 the seizure of the property unless the return or
5 release is consented to by the Secretary of State.

6 (m) All property declared forfeited under this Act
7 vests in the State on the commission of the conduct
8 giving rise to forfeiture together with the proceeds of
9 the property after that time. Any such property or
10 proceeds subsequently transferred to any person remain
11 subject to forfeiture and thereafter shall be ordered
12 forfeited unless the transferee claims and establishes
13 in a hearing under the provisions of this Act that the
14 transferee's interest is exempt under the Act. Any
15 assets forfeited to the State shall be disposed of in
16 following manner:

17 (i) all forfeited property and assets shall be
18 liquidated by the Secretary of State in accordance
19 with all laws and rules governing the disposition
20 of such property;

21 (ii) the Secretary of State shall provide the
22 court at the time the property and assets are
23 declared forfeited a verified statement of
24 investors subject to the conduct giving rise to the
25 forfeiture;

26 (iii) after payment of any costs of sale,

1 receivership, storage, or expenses for
2 preservation of the property seized, other costs
3 to the State, and payment to claimants for any
4 amount deemed exempt from forfeiture, the proceeds
5 from liquidation shall be distributed pro rata to
6 investors subject to the conduct giving rise to the
7 forfeiture; and

8 (iv) any proceeds remaining after all verified
9 investors have been made whole shall be
10 distributed 25% to the Securities Investors
11 Education Fund, 25% to the Securities Audit and
12 Enforcement Fund, 25% to the Attorney General or
13 any State's Attorney bringing criminal charges for
14 the conduct giving rise to the forfeiture, and 25%
15 to other law enforcement agencies participating in
16 the investigation of the criminal charges for the
17 conduct giving rise to the forfeiture. In the event
18 that no other law enforcement agencies are
19 involved in the investigation of the conduct
20 giving rise to the forfeiture, then the portion to
21 other law enforcement agencies shall be
22 distributed to the Securities Investors Education
23 Fund.

24 (n) The Secretary of State shall notify by
25 certified mail, return receipt requested, all known
26 investors in the matter giving rise to the forfeiture

1 of the forfeiture proceeding and sale of assets
2 forfeited arising from the violations of this Act, and
3 shall further publish notice in a paper of general
4 circulation in the district in which the violations
5 were prosecuted. The notice to investors shall
6 identify the name, address, and other identifying
7 information about any defendant prosecuted for
8 violations of this Act that resulted in forfeiture and
9 sale of property, the offense for which the defendant
10 was convicted, and that the court has ordered
11 forfeiture and sale of property for claims of investors
12 who incurred losses or damages as a result of the
13 violations. Investors may then file a claim in a form
14 prescribed by the Secretary of State in order to share
15 in disbursement of the proceeds from sale of the
16 forfeited property. Investor claims must be filed with
17 the Secretary of State within 30 days after receipt of
18 the certified mail return receipt, or within 30 days
19 after the last date of publication of the general
20 notice in a paper of general circulation in the
21 district in which the violations were prosecuted,
22 whichever occurs last.

23 (o) A civil action under this subsection must be
24 commenced within 5 years after the last conduct giving
25 rise to the forfeiture became known or should have
26 become known or 5 years after the forfeitable property

1 is discovered, whichever is later, excluding time
2 during which either the property or claimant is out of
3 this State or in confinement or during which criminal
4 proceedings relating to the same conduct are in
5 progress.

6 (p) If property is seized for evidence and for
7 forfeiture, the time periods for instituting judicial
8 forfeiture proceedings shall not begin until the
9 property is no longer necessary for evidence.

10 (q) Notwithstanding other provisions of this Act,
11 the Secretary of State and a claimant of forfeitable
12 property may enter into an agreed-upon settlement
13 concerning the forfeitable property in such an amount
14 and upon such terms as are set out in writing in a
15 settlement agreement.

16 (r) Nothing in this Act shall apply to property
17 that constitutes reasonable bona fide attorney's fees
18 paid to an attorney for services rendered or to be
19 rendered in the forfeiture proceeding or criminal
20 proceeding relating directly thereto when the property
21 was paid before its seizure and before the issuance of
22 any seizure warrant or court order prohibiting
23 transfer of the property and when the attorney, at the
24 time he or she received the property, did not know that
25 it was property subject to forfeiture under this Act.

26 The court shall further have jurisdiction and authority, in

1 addition to the penalties and other remedies in this Act
2 provided, to enter an order for the appointment of the court or
3 a person as a receiver, conservator, ancillary receiver or
4 ancillary conservator for the defendant or the defendant's
5 assets located in this State, or to require restitution,
6 damages or disgorgement of profits on behalf of the person or
7 persons injured by the act or practice constituting the subject
8 matter of the action, and may assess costs against the
9 defendant for the use of the State; provided, however, that the
10 civil remedies of rescission and appointment of a receiver,
11 conservator, ancillary receiver or ancillary conservator shall
12 not be available against any person by reason of the failure to
13 file with the Secretary of State, or on account of the contents
14 of, any report of sale provided for in subsection G or P of
15 Section 4, paragraph (2) of subsection D of Sections 5 and 6,
16 or paragraph (2) of subsection F of Section 7 of this Act.
17 Appeals may be taken as in other civil cases.

18 I-5. Property forfeited under this Section is subject to
19 reporting under the Seizure and Forfeiture Reporting Act.

20 J. In no case shall the Secretary of State, or any of his
21 or her employees or agents, in the administration of this Act,
22 incur any official or personal liability by instituting an
23 injunction or other proceeding or by denying, suspending or
24 revoking the registration of a dealer or salesperson, or by
25 denying, suspending or revoking the registration of securities
26 or prohibiting the offer or sale of securities, or by

1 suspending or prohibiting any person from acting as a dealer,
2 limited Canadian dealer, salesperson, investment adviser, or
3 investment adviser representative or from offering or selling
4 securities.

5 K. No provision of this Act shall be construed to require
6 or to authorize the Secretary of State to require any
7 investment adviser or federal covered investment adviser
8 engaged in rendering investment supervisory services to
9 disclose the identity, investments, or affairs of any client of
10 the investment adviser or federal covered investment adviser,
11 except insofar as the disclosure may be necessary or
12 appropriate in a particular proceeding or investigation having
13 as its object the enforcement of this Act.

14 L. Whenever, after an examination, investigation or
15 hearing, the Secretary of State deems it of public interest or
16 advantage, he or she may certify a record to the State's
17 Attorney of the county in which the act complained of, examined
18 or investigated occurred. The State's Attorney of that county
19 within 90 days after receipt of the record shall file a written
20 statement at the Office of the Secretary of State, which
21 statement shall set forth the action taken upon the record, or
22 if no action has been taken upon the record that fact, together
23 with the reasons therefor, shall be stated.

24 M. The Secretary of State may initiate, take, pursue, or
25 prosecute any action authorized or permitted under Section 6d
26 of the Federal 1974 Act.

1 N. (1) Notwithstanding any provision of this Act to the
2 contrary, to encourage uniform interpretation, administration,
3 and enforcement of the provisions of this Act, the Secretary of
4 State may cooperate with the securities agencies or
5 administrators of one or more states, Canadian provinces or
6 territories, or another country, the Securities and Exchange
7 Commission, the Commodity Futures Trading Commission, the
8 Securities Investor Protection Corporation, any
9 self-regulatory organization, and any governmental law
10 enforcement or regulatory agency.

11 (2) The cooperation authorized by paragraph (1) of this
12 subsection includes, but is not limited to, the following:

13 (a) establishing or participating in a central
14 depository or depositories for registration under this Act
15 and for documents or records required under this Act;

16 (b) making a joint audit, inspection, examination, or
17 investigation;

18 (c) holding a joint administrative hearing;

19 (d) filing and prosecuting a joint civil or criminal
20 proceeding;

21 (e) sharing and exchanging personnel;

22 (f) sharing and exchanging information and documents;

23 or

24 (g) issuing any joint statement or policy.

25 (Source: P.A. 99-182, eff. 1-1-16.)

1 Section 190. The Consumer Fraud and Deceptive Business
2 Practices Act is amended by changing Section 2L as follows:

3 (815 ILCS 505/2L) (from Ch. 121 1/2, par. 262L)

4 (Text of Section before amendment by P.A. 99-768)

5 Sec. 2L. Any retail sale of a motor vehicle made after
6 January 1, 1968 to a consumer by a new motor vehicle dealer or
7 used motor vehicle dealer within the meaning of Chapter 5 of
8 the Illinois Vehicle Code is made subject to this Section.

9 (a) The dealer is liable to the purchasing consumer for the
10 following share of the cost of the repair of Power Train
11 components for a period of 30 days from date of delivery,
12 unless the repairs have become necessary by abuse, negligence,
13 or collision. The burden of establishing that a claim for
14 repairs is not within this Section shall be on the selling
15 dealer. The dealer's share of such repair costs is:

16 (1) in the case of a motor vehicle which is not more than 2
17 years old, 50%;

18 (2) in the case of a motor vehicle which is 2 or more, but
19 less than 3 years old, 25%;

20 (3) in the case of a motor vehicle which is 3 or more, but
21 less than 4 years old, 10%; and

22 (4) in the case of a motor vehicle which is 4 or more years
23 old, none.

24 (b) Notwithstanding the foregoing, such a dealer and a
25 purchasing consumer may negotiate a sale and purchase that is

1 not subject to this Section if there is stamped on any purchase
2 order, contract, agreement, or other instrument to be signed by
3 the consumer as a part of that transaction, in at least
4 10-point bold type immediately above the signature line, the
5 following:

6 "THIS VEHICLE IS SOLD AS IS WITH NO WARRANTY
7 AS TO MECHANICAL CONDITION"

8 (c) As used in this Section, "Power Train components" means
9 the engine block, head, all internal engine parts, oil pan and
10 gaskets, water pump, intake manifold, transmission, and all
11 internal transmission parts, torque converter, drive shaft,
12 universal joints, rear axle and all rear axle internal parts,
13 and rear wheel bearings.

14 (d) The repair liability means that the dealer will make
15 necessary Power Train component repairs in his shop, or in the
16 shop of his service affiliate, on the basis of his regular list
17 price charge for parts and labor, where the flat rate list
18 price does not exceed 50% of the selling price of the vehicle
19 at the time repairs are requested.

20 (e) The age of the vehicle shall be measured according to
21 the manufacturer's model year designation as shown on the
22 Certificate of Title or Registration Certificate. Vehicles
23 shall be designated as current year models, one year old, 2
24 year old, and so forth according to the time that has elapsed
25 since January 1 of the appropriate model year so designated.

26 (f) This Section does not preclude the issuance of a

1 warranty or guarantee by a motor vehicle dealer or motor car
2 manufacturer that meets or exceeds the basic provisions of
3 paragraph (a).

4 (g) After the effective date of this amendatory Act of
5 1989, executives' and officials' cars when so advertised shall
6 have been used exclusively by executives of the parent motor
7 car manufacturer's personnel or by an executive of an
8 authorized dealer in the same make of car. These cars, so
9 advertised, shall not have been sold to a member of the public
10 prior to the appearance of the advertisement.

11 Any person who violates this Section commits an unlawful
12 practice within the meaning of this Act.

13 (Source: P.A. 86-351; 87-1140.)

14 (Text of Section after amendment by P.A. 99-768)

15 Sec. 2L. Used motor vehicles; modification or disclaimer of
16 implied warranty of merchantability limited.

17 (a) Any retail sale of a used motor vehicle made after the
18 effective date of this amendatory Act of the 99th General
19 Assembly to a consumer by a licensed vehicle dealer within the
20 meaning of Chapter 5 of the Illinois Vehicle Code or by an
21 auction company at an auction that is open to the general
22 public is made subject to this Section.

23 (b) This Section does not apply to vehicles with more than
24 150,000 miles at the time of sale. In addition, this Section
25 does not apply to vehicles with titles that have been branded

1 "rebuilt" or "flood".

2 (b-5) This Section does not apply to forfeited vehicles
3 sold at auction by or on behalf of the Department of State
4 Police.

5 (c) Any sale of a used motor vehicle as described in
6 subsection (a) may not exclude, modify, or disclaim the implied
7 warranty of merchantability prescribed in Section 2-314 of the
8 Uniform Commercial Code or limit the remedies for a breach of
9 the warranty before midnight of the 15th calendar day after
10 delivery of a used motor vehicle or until a used motor vehicle
11 is driven 500 miles after delivery, whichever is earlier. In
12 calculating time under this Section, a day on which the
13 warranty is breached and all subsequent days in which the used
14 motor vehicle fails to conform with the implied warranty of
15 merchantability are excluded. In calculating distance under
16 this Section, the miles driven to obtain or in connection with
17 the repair, servicing, or testing of a used motor vehicle that
18 fails to conform with the implied warranty of merchantability
19 are excluded. An attempt to exclude, modify, or disclaim the
20 implied warranty of merchantability or to limit the remedies
21 for a breach of the warranty in violation of this Section
22 renders a purchase agreement voidable at the option of the
23 purchaser.

24 (d) An implied warranty of merchantability is met if a used
25 motor vehicle functions free of a defect in a power train
26 component. As used in this Section, "power train component"

1 means the engine block, head, all internal engine parts, oil
2 pan and gaskets, water pump, intake manifold, transmission, and
3 all internal transmission parts, torque converter, drive
4 shaft, universal joints, rear axle and all rear axle internal
5 parts, and rear wheel bearings.

6 (e) The implied warranty of merchantability expires at
7 midnight of the 15th calendar day after delivery of a used
8 motor vehicle or when a used motor vehicle is driven 500 miles
9 after delivery, whichever is earlier. In calculating time, a
10 day on which the implied warranty of merchantability is
11 breached is excluded and all subsequent days in which the used
12 motor vehicle fails to conform with the warranty are also
13 excluded. In calculating distance, the miles driven to or by
14 the seller to obtain or in connection with the repair,
15 servicing, or testing of a used motor vehicle that fails to
16 conform with the implied warranty of merchantability are
17 excluded. An implied warranty of merchantability does not
18 extend to damage that occurs after the sale of the used motor
19 vehicle that results from:

- 20 (1) off-road use;
- 21 (2) racing;
- 22 (3) towing;
- 23 (4) abuse;
- 24 (5) misuse;
- 25 (6) neglect;
- 26 (7) failure to perform regular maintenance; and

1 (8) failure to maintain adequate oil, coolant, and
2 other required fluids or lubricants.

3 (f) If the implied warranty of merchantability described in
4 this Section is breached, the consumer shall give reasonable
5 notice to the seller no later than 2 business days after the
6 end of the statutory warranty period. Before the consumer
7 exercises another remedy pursuant to Article 2 of the Uniform
8 Commercial Code, the seller shall have a reasonable opportunity
9 to repair the used motor vehicle. The consumer shall pay
10 one-half of the cost of the first 2 repairs necessary to bring
11 the used motor vehicle into compliance with the warranty. The
12 payments by the consumer are limited to a maximum payment of
13 \$100 for each repair; however, the consumer shall only be
14 responsible for a maximum payment of \$100 if the consumer
15 brings in the vehicle for a second repair for the same defect.
16 Reasonable notice as defined in this Section shall include, but
17 not be limited to:

18 (1) text, provided the seller has provided the consumer
19 with a cell phone number;

20 (2) phone call or message to the seller's business
21 phone number provided on the seller's bill of sale for the
22 purchase of the motor vehicle;

23 (3) in writing to the seller's address provided on the
24 seller's bill of sale for the purchase of the motor
25 vehicle;

26 (4) in person at the seller's address provided on the

1 seller's bill of sale for the purchase of the motor
2 vehicle.

3 (g) The maximum liability of a seller for repairs pursuant
4 to this Section is limited to the purchase price paid for the
5 used motor vehicle, to be refunded to the consumer or lender,
6 as applicable, in exchange for return of the vehicle.

7 (h) An agreement for the sale of a used motor vehicle
8 subject to this Section is voidable at the option of the
9 consumer, unless it contains on its face the following
10 conspicuous statement printed in boldface 10-point or larger
11 type set off from the body of the agreement:

12 "Illinois law requires that this vehicle will be free of a
13 defect in a power train component for 15 days or 500 miles
14 after delivery, whichever is earlier, except with regard to
15 particular defects disclosed on the first page of this
16 agreement. "Power train component" means the engine block,
17 head, all internal engine parts, oil pan and gaskets, water
18 pump, intake manifold, transmission, and all internal
19 transmission parts, torque converter, drive shaft, universal
20 joints, rear axle and all rear axle internal parts, and rear
21 wheel bearings. You (the consumer) will have to pay up to \$100
22 for each of the first 2 repairs if the warranty is violated."

23 (i) The inclusion in the agreement of the statement
24 prescribed in subsection (h) of this Section does not create an
25 express warranty.

26 (j) A consumer of a used motor vehicle may waive the

1 implied warranty of merchantability only for a particular
2 defect in the vehicle including, but not limited to, a rebuilt
3 or flood-branded title and only if all of the following
4 conditions are satisfied:

5 (1) the seller subject to this Section fully and
6 accurately discloses to the consumer that because of
7 circumstances unusual to the business, the used motor
8 vehicle has a particular defect;

9 (2) the consumer agrees to buy the used motor vehicle
10 after disclosure of the defect; and

11 (3) before the sale, the consumer indicates agreement
12 to the waiver by signing and dating the following
13 conspicuous statement that is printed on the first page of
14 the sales agreement or on a separate document in boldface
15 10-point or larger type and that is written in the language
16 in which the presentation was made:

17 "Attention consumer: sign here only if the seller has
18 told you that this vehicle has the following problem or
19 problems and you agree to buy the vehicle on those terms:

- 20 1.
- 21 2.
- 22 3. "

23 (k) It shall be an affirmative defense to any claim under
24 this Section that:

25 (1) an alleged nonconformity does not substantially
26 impair the use and market value of the motor vehicle;

1 (2) a nonconformity is the result of abuse, neglect, or
2 unauthorized modifications or alterations of the motor
3 vehicle;

4 (3) a claim by a consumer was not filed in good faith;
5 or

6 (4) any other affirmative defense allowed by law.

7 (1) Other than the 15-day, 500-mile implied warranty of
8 merchantability identified herein, a seller subject to this
9 Section is not required to provide any further express or
10 implied warranties to a purchasing consumer unless:

11 (1) the seller is required by federal or State law to
12 provide a further express or implied warranty; or

13 (2) the seller fails to fully inform and disclose to
14 the consumer that the vehicle is being sold without any
15 further express or implied warranties, other than the 15
16 day, 500 mile implied warranty of merchantability
17 identified in this Section.

18 (m) This Section does not apply to the sale of antique
19 vehicles, as defined in the Illinois Vehicle Code, or to
20 collector motor vehicles.

21 Any person who violates this Section commits an unlawful
22 practice within the meaning of this Act.

23 (Source: P.A. 99-768, eff. 7-1-17.)

24 Section 995. No acceleration or delay. Where this Act makes
25 changes in a statute that is represented in this Act by text

1 that is not yet or no longer in effect (for example, a Section
2 represented by multiple versions), the use of that text does
3 not accelerate or delay the taking effect of (i) the changes
4 made by this Act or (ii) provisions derived from any other
5 Public Act.

6 Section 996. No revival or extension. This Act does not
7 revive or extend any Section or Act otherwise repealed.

8 Section 999. Effective date. This Act takes effect July 1,
9 2018.".