



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0689

by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

See Index

Creates the Seizure and Forfeiture Reporting Act. Provides that the Illinois Criminal Justice Information Authority shall establish and maintain on its official website a searchable public database that includes specified information about property seized and forfeited under State law and under any agreement with the federal government. Provides that every law enforcement agency that seizes property subject to reporting under the Act shall report the specified information required under the Act on a monthly basis. Provides that the Illinois Criminal Justice Information Authority may recoup its costs under the Act by charging a fee to law enforcement agencies required to file a report. Provides that the Act applies to provisions of law that authorizes a law enforcement agency to seize property alleged to have been used in or derived from the commission of a criminal offense. Creates the Asset Forfeiture Proceeds Disbursement Law. Provides that the Illinois Criminal Justice Information Authority shall award grants under the procedures of the Act for the disbursement of monies collected in the Asset Forfeiture Proceeds Fund. Amends various Acts concerning criminal forfeiture to make conforming changes. Changes most forfeiture distributions from law enforcement agencies to the Asset Forfeiture Proceeds Fund. Makes changes to the procedures and distribution of contraband proceeds to various governmental units and agencies.

LRB100 05337 SLF 15348 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

6 Section 3. Definitions. For the purposes of this Act,
7 "Authority" means the Illinois Criminal Justice Information
8 Authority.

9 Section 5. Applicability. This Act is applicable to
10 property seized or forfeited under the following provisions of
11 law:

12 (1) Section 3.23 of the Illinois Food, Drug and Cosmetic
13 Act;

14 (2) Section 44.1 of the Environmental Protection Act;

15 (3) Section 105-55 of the Herptiles-Herps Act;

16 (4) Section 1-215 of the Fish and Aquatic Life Code;

17 (5) Section 1.25 of the Wildlife Code;

18 (6) Section 17-10.6 of the Criminal Code of 2012 (financial
19 institution fraud);

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

21 (8) Article 29B of the Criminal Code of 2012 (money
22 laundering);

1 (9) Article 33G of the Criminal Code of 2012 (Illinois
2 Street Gang and Racketeer Influenced and Corrupt Organizations
3 Law);

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

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

8 (12) Article 124B of the Code Of Criminal Procedure of 1963
9 (forfeiture);

10 (13) Drug Asset Forfeiture Procedure Act;

11 (14) Narcotics Profit Forfeiture Act;

12 (15) Illinois Streetgang Terrorism Omnibus Prevention Act;

13 (16) Illinois Securities Law of 1953; and

14 (17) any other provision of law that authorizes a law
15 enforcement agency to seize for the purpose of forfeiture
16 property alleged to have been used in or derived from the
17 commission of a criminal offense.

18 Section 10. Reporting by law enforcement agency.

19 (a) Each law enforcement agency that seizes property
20 subject to reporting under this Act shall report information
21 about property seized or forfeited under State law and under
22 any agreement with the federal government to the Illinois
23 Criminal Justice Information Authority each month which shall
24 include the following:

25 (1) the name of the law enforcement agency that seized

1 the property;

2 (2) the date of the seizure;

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

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

12 (5) the location where the seizure occurred;

13 (6) whether the seizure was adopted by the federal
14 government, part of a joint task force with the federal
15 government, or other arrangement with the federal
16 government;

17 (7) the alleged violation of law giving rise to the
18 seizure;

19 (8) whether any person has been convicted of a
20 violation described in paragraph (7) of this Section;

21 (9) whether an action for forfeiture of the property
22 has been instituted;

23 (10) if applicable, the disposition of the property
24 through the forfeiture process, such as returned to owner,
25 returned to third-party owner, sold, destroyed, or
26 retained by law enforcement;

1 (11) if applicable, the date upon which the property
2 was disposed as described in paragraph (10) of this
3 Section; and

4 (12) if applicable, the value of the property
5 forfeited.

6 (b) Each law enforcement agency that expends proceeds from
7 the forfeiture of property subject to reporting under this Act
8 shall transmit to the Authority on or before January 31 of each
9 year for the prior calendar year the following information:

10 (1) the total amount of funds expended, in each of the
11 following categories, which resulted from property seized,
12 forfeited, or reported under Section 10 of this Act:

13 (A) abuse, crime, or gang prevention programs;

14 (B) compensation or services for crime victims;

15 (C) witness protection, informant fees, or
16 controlled purchases of contraband;

17 (D) salaries, overtime, or benefits, as permitted
18 by law;

19 (E) professional outside services, including
20 auditing, court reporting, expert witnesses,
21 attorney's fees, or membership fees paid to trade
22 associations;

23 (F) travel, meals, entertainment, conferences,
24 training, or continuing education seminars;

25 (G) other operating expenses including office
26 supplies, postage, or printing;

1 (H) capital expenditures including vehicles,
2 firearms, equipment, computers, or furniture; and

3 (I) other expenditures of forfeiture proceeds.

4 (2) the total value of forfeited property held by the
5 agency at the end of the reporting period.

6 (c) The commander of a multijurisdictional task force may
7 appoint one agency to report its seizures.

8 Section 15. Illinois Criminal Justice Information
9 Authority seized and forfeited property database. The
10 Authority shall establish and maintain on its official website
11 a searchable public database that includes all of the
12 information reported under subsections (a) and (b) of Section
13 10 of this Act.

14 Section 20. Rules. The Authority shall adopt any rules
15 necessary to implement this Act.

16 Section 25. Procedures to compel compliance. The Authority
17 may adopt procedures to compel a law enforcement agency's
18 compliance with the reporting requirements under this Act.

19 Section 30. Recoupment of costs. The Authority may recoup
20 its costs under this Act by charging a fee to a law enforcement
21 agency required to file a report under this Act. A law
22 enforcement agency may use forfeiture proceeds to pay the costs

1 of compiling and reporting data under this Act, and to pay any
2 fees imposed by the Authority under this Section.

3 Section 50. Short title. Sections 50 through 85 may be
4 cited as the Asset Forfeiture Proceeds Disbursement Law.

5 Section 55. Fund. The Asset Forfeiture Proceeds Fund is
6 created as a special fund in the State treasury to provide
7 monies for the grants to be awarded under this Law. The
8 Illinois Criminal Justice Information Authority shall
9 administer the disbursement of monies collected in the Asset
10 Forfeiture Proceeds Fund through the awarding of grants in
11 accordance with the procedures in this Law.

12 Section 60. Funding eligibility. The following entities
13 shall be eligible to apply to the Authority for selection and
14 funding under this Law:

15 (1) A public or private nonprofit agency, school district,
16 park district, or other unit of local government may apply for
17 funding for any of the following purposes:

18 (A) to provide residential or outpatient mental
19 health, substance abuse treatment, or aftercare services;

20 (B) to provide supportive services to victims of
21 domestic violence, sexual assault, or other violent
22 crimes;

23 (C) to provide education in the community or schools to

1 promote prevention of the abuse of drugs or alcohol;

2 (D) to purchase opioid antagonists as defined in
3 Section 5-23 of the Alcoholism and Other Drug Abuse and
4 Dependency Act; or

5 (E) to provide job training or employment services to
6 persons who are unemployed, employed in low-skill jobs,
7 low-wage jobs, or who have criminal records.

8 (2) Any State or local law enforcement agency may apply for
9 funding for any of the following purposes:

10 (A) to enforce the criminal and traffic laws of this
11 State;

12 (B) to administer gang intervention and prevention
13 programs;

14 (C) to purchase opioid antagonists as defined in
15 Section 5-23 of the Alcoholism and Other Drug Abuse and
16 Dependency Act;

17 (D) to provide education in the community or schools to
18 promote prevention of the abuse of drugs or alcohol; or

19 (E) for security cameras used for the prevention or
20 detection of violence.

21 (3) A State's Attorney, the Office of the State's Attorneys
22 Appellate Prosecutor, or the Attorney General may apply for
23 funding to defray expenses incurred in the investigation,
24 prosecution, or appeal of cases arising under the criminal laws
25 of this State.

1 Section 65. Funding consideration. The Authority shall
2 consider the following factors in selecting applicants to
3 receive funds under this Law:

4 (1) the stated goals of the applicants;

5 (2) the commitment and ability of the applicants to
6 provide the services described in this Law;

7 (3) the number of persons to be served and the needs of
8 the community;

9 (4) evidence of community support;

10 (5) the organizational structure of the applicant
11 agency; and

12 (6) evidence that the applicant's proposed use of grant
13 funds is likely to produce public safety benefits for the
14 people of this State.

15 Section 70. Selection of applicants. After evaluation of
16 all applicants, the Authority shall select a number of
17 applicants which the Authority deems qualified under this Law
18 for designation to receive funding under this Law. In making
19 these grants, the Authority shall take into account the State's
20 law enforcement priorities and needs identified by the
21 Department of State Police.

22 Section 75. Funding contracts. Funding contracts shall be
23 entered into by the Illinois Criminal Justice Information
24 Authority with each designated applicant on an annual basis.

1 The Authority may require that a grant recipient provide
2 matching funds equal to the grant amount.

3 Section 80. Funding cancellation. The Authority may
4 evaluate each recipient prior to each fund dispersal and cancel
5 the remaining term of any contract in which the recipient has
6 failed to meet the contract requirements, or for any good
7 cause.

8 Section 85. Rules. The Illinois Criminal Justice
9 Information Authority may adopt rules to implement the
10 provisions of this Law.

11 Section 150. The State Finance Act is amended by adding
12 Section 5.878 as follows:

13 (30 ILCS 105/5.878 new)

14 Sec. 5.878. The Asset Forfeiture Proceeds Fund.

15 Section 155. The Illinois Food, Drug and Cosmetic Act is
16 amended by changing Section 3.23 as follows:

17 (410 ILCS 620/3.23)

18 Sec. 3.23. Legend drug prohibition.

19 (a) In this Section:

20 "Legend drug" means a drug limited by the Federal Food,

1 Drug and Cosmetic Act to being dispensed by or upon a medical
2 practitioner's prescription because the drug is:

- 3 (1) habit forming;
- 4 (2) toxic or having potential for harm; or
- 5 (3) limited in use by the new drug application for the
6 drug to use only under a medical practitioner's
7 supervision.

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

10 "Deliver" or "delivery" means the actual, constructive, or
11 attempted transfer of possession of a legend drug, with or
12 without consideration, whether or not there is an agency
13 relationship.

14 "Manufacture" means the production, preparation,
15 propagation, compounding, conversion, or processing of a
16 legend drug, either directly or indirectly, by extraction from
17 substances of natural origin, or independently by means of
18 chemical synthesis, or by a combination of extraction and
19 chemical synthesis, and includes any packaging or repackaging
20 of the substance or labeling of its container. "Manufacture"
21 does not include:

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

24 (2) by a medical practitioner, or his authorized agent
25 under his supervision, the preparation, compounding,
26 packaging, or labeling of a legend drug:

1 (A) as an incident to his administering or
2 dispensing of a legend drug in the course of his
3 professional practice; or

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

6 "Prescription" has the same meaning ascribed to it in
7 Section 3 of the Pharmacy Practice Act.

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

20 (c) The following are subject to forfeiture:

21 (1) (blank); ~~all substances that have been~~
22 ~~manufactured, distributed, dispensed, or possessed in~~
23 ~~violation of this Act;~~

24 (2) all raw materials, products, and equipment of any
25 kind which are used, or intended for use in manufacturing,
26 distributing, dispensing, administering, or possessing any

1 substance in violation of subsection (b) of this Section
2 Act;

3 (3) all conveyances, including aircraft, vehicles, or
4 vessels, which are used, or intended for use, to transport,
5 or in any manner to facilitate the transportation, sale,
6 receipt, possession, or concealment of any substance
7 manufactured, delivered, or possessed in violation of
8 subsection (b) of this Section or property described in
9 paragraph ~~items (1) and~~ (2) of this subsection (c), but:

10 (A) no conveyance used by any person as a common
11 carrier in the transaction of business as a common
12 carrier is subject to forfeiture under this Section
13 unless it appears that the owner or other person in
14 charge of the conveyance is a consenting party or privy
15 to the ~~a violation of this Act~~;

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

20 (C) a forfeiture of a conveyance encumbered by a
21 bona fide security interest is subject to the interest
22 of the secured party if he neither had knowledge of nor
23 consented to the act or omission;

24 (4) all money, things of value, books, records, and
25 research products and materials including formulas,
26 microfilm, tapes, and data that are used, or intended to be

1 used in violation of subsection (b) of this Section Act;

2 (5) everything of value furnished, or intended to be
3 furnished, in exchange for a substance in violation of
4 subsection (b) of this Section Act, all proceeds traceable
5 to such an exchange, and all moneys, negotiable
6 instruments, and securities used, or intended to be used,
7 to commit or in any manner to facilitate any violation of
8 subsection (b) of this Section Act; and

9 (6) all real property, including any right, title, and
10 interest, including, but not limited to, any leasehold
11 interest or the beneficial interest in a land trust, in the
12 whole of any lot or tract of land and any appurtenances or
13 improvements, which is used or intended to be used, in any
14 manner or part, to commit, or in any manner to facilitate
15 the commission of, any violation or act that constitutes a
16 violation of subsection (b) of this Section 33.1 of this
17 ~~Act~~ or that is the proceeds of any violation or act that
18 constitutes a violation of subsection (b) of this Section
19 ~~33.1 of this Act~~.

20 (d) Property subject to forfeiture under this Act may be
21 seized under the Drug Asset Forfeiture Procedure Act. ~~by the~~
22 ~~Director of the Department of State Police or any peace officer~~
23 ~~upon process or seizure warrant issued by any court having~~
24 ~~jurisdiction over the property. Seizure by the Director of the~~
25 ~~Department of State Police or any peace officer without process~~
26 ~~may be made:~~

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

3 ~~(2) if the property subject to seizure has been the~~
4 ~~subject of a prior judgment in favor of the State in a~~
5 ~~criminal proceeding, or in an injunction or forfeiture~~
6 ~~proceeding based upon this Act or the Drug Asset Forfeiture~~
7 ~~Procedure Act;~~

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

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

15 ~~(5) in accordance with the Code of Criminal Procedure~~
16 ~~of 1963.~~

17 (e) (Blank). ~~In the event of seizure pursuant to subsection~~
18 ~~(c) of this Section, forfeiture proceedings shall be instituted~~
19 ~~in accordance with the Drug Asset Forfeiture Procedure Act.~~

20 (f) (Blank). ~~Property taken or detained under this Section~~
21 ~~shall not be subject to replevin, but is deemed to be in the~~
22 ~~eustody of the Director of the Department of State Police~~
23 ~~subject only to the order and judgments of the circuit court~~
24 ~~having jurisdiction over the forfeiture proceedings and the~~
25 ~~decisions of the State's Attorney under the Drug Asset~~
26 ~~Forfeiture Procedure Act. If property is seized under this Act,~~

1 ~~then the seizing agency shall promptly conduct an inventory of~~
2 ~~the seized property and estimate the property's value, and~~
3 ~~shall forward a copy of the inventory of seized property and~~
4 ~~the estimate of the property's value to the Director of the~~
5 ~~Department of State Police. Upon receiving notice of seizure,~~
6 ~~the Secretary may:~~

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

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

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

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

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

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

25 (g) If the Department suspends or revokes a registration,
26 all legend drugs owned or possessed by the registrant at the

1 time of suspension or the effective date of the revocation
2 order may be placed under seal. No disposition may be made of
3 substances under seal until the time for taking an appeal has
4 elapsed or until all appeals have been concluded unless a
5 court, upon application therefor, orders the sale of perishable
6 substances and the deposit of the proceeds of the sale with the
7 court. Upon a revocation rule becoming final, all substances
8 may be subject to seizure and forfeiture under the Drug Asset
9 Forfeiture Procedure Act ~~forfeited to the Department.~~

10 (h) (Blank). ~~If property is forfeited under this Act, then~~
11 ~~the Director of the Department of State Police must sell all~~
12 ~~such property unless such property is required by law to be~~
13 ~~destroyed or is harmful to the public, and shall distribute the~~
14 ~~proceeds of the sale, together with any moneys forfeited or~~
15 ~~seized, in accordance with subsection (i) of this Section. Upon~~
16 ~~the application of the seizing agency or prosecutor who was~~
17 ~~responsible for the investigation, arrest or arrests, and~~
18 ~~prosecution that led to the forfeiture, the Director of the~~
19 ~~Department of State Police may return any item of forfeited~~
20 ~~property to the seizing agency or prosecutor for official use~~
21 ~~in the enforcement of laws if the agency or prosecutor can~~
22 ~~demonstrate that the item requested would be useful to the~~
23 ~~agency or prosecutor in their enforcement efforts. If any~~
24 ~~forfeited conveyance, including an aircraft, vehicle, or~~
25 ~~vessel, is returned to the seizing agency or prosecutor, then~~
26 ~~the conveyance may be used immediately in the enforcement of~~

1 ~~the criminal laws of the State. Upon disposal, all proceeds~~
2 ~~from the sale of the conveyance must be used for drug~~
3 ~~enforcement purposes. If any real property returned to the~~
4 ~~seizing agency is sold by the agency or its unit of government,~~
5 ~~then the proceeds of the sale shall be delivered to the~~
6 ~~Director of the Department of State Police and distributed in~~
7 ~~accordance with subsection (i) of this Section.~~

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

11 ~~(1) 65% shall be distributed to the metropolitan~~
12 ~~enforcement group, local, municipal, county, or State law~~
13 ~~enforcement agency or agencies which conducted or~~
14 ~~participated in the investigation resulting in the~~
15 ~~forfeiture. The distribution shall bear a reasonable~~
16 ~~relationship to the degree of direct participation of the~~
17 ~~law enforcement agency in the effort resulting in the~~
18 ~~forfeiture, taking into account the total value of the~~
19 ~~property forfeited and the total law enforcement effort~~
20 ~~with respect to the violation of the law upon which the~~
21 ~~forfeiture is based. Amounts distributed to the agency or~~
22 ~~agencies shall be used for the enforcement of laws.~~

23 ~~(2) 12.5% shall be distributed to the Office of the~~
24 ~~State's Attorney of the county in which the prosecution~~
25 ~~resulting in the forfeiture was instituted, deposited in a~~
26 ~~special fund in the county treasury and appropriated to the~~

1 ~~State's Attorney for use in the enforcement of laws. In~~
2 ~~counties over 3,000,000 population, 25% will be~~
3 ~~distributed to the Office of the State's Attorney for use~~
4 ~~in the enforcement of laws governing cannabis and~~
5 ~~controlled substances. If the prosecution is undertaken~~
6 ~~solely by the Attorney General, the portion provided~~
7 ~~hereunder shall be distributed to the Attorney General for~~
8 ~~use in the enforcement of laws.~~

9 ~~(3) 12.5% shall be distributed to the Office of the~~
10 ~~State's Attorneys Appellate Prosecutor and deposited in a~~
11 ~~separate fund of that office to be used for additional~~
12 ~~expenses incurred in the investigation, prosecution and~~
13 ~~appeal of cases. The Office of the State's Attorneys~~
14 ~~Appellate Prosecutor shall not receive distribution from~~
15 ~~cases brought in counties with over 3,000,000 population.~~

16 ~~(4) 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 (j) Contraband, including controlled substances possessed
20 without a prescription or other authorization under State or
21 federal law, is not subject to forfeiture. No property right
22 exists in contraband. Contraband is subject to seizure and
23 shall be disposed of according to State law.

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

25 Section 160. The Environmental Protection Act is amended by

1 changing Section 44.1 as follows:

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

3 Sec. 44.1. (a) In addition to all other civil and criminal
4 penalties provided by law, any person convicted of a criminal
5 violation of this Act or the regulations adopted thereunder
6 shall forfeit to the State (1) an amount equal to the value of
7 all profits earned, savings realized, and benefits incurred as
8 a direct or indirect result of such violation, and (2) any
9 vehicle or conveyance used in the perpetration of such
10 violation, except as provided in subsection (b).

11 (b) Forfeiture of conveyances shall be subject to the
12 following exceptions:

13 (1) No conveyance used by any person as a common carrier in
14 the transaction of business as a common carrier is subject to
15 forfeiture under this Section unless it is proven that the
16 owner or other person in charge of the conveyance consented to
17 or was privy to the covered violation.

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

21 (3) A forfeiture of a conveyance encumbered by a bona fide
22 security interest is subject to the interest of the secured
23 party if he neither had knowledge of nor consented to the
24 covered violation.

25 (c) Except as provided in subsection (d), all property

1 subject to forfeiture under this Section shall be seized
2 pursuant to the order of a circuit court.

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

5 (1) if the seizure is incident to an inspection under an
6 administrative inspection warrant, or incident to the
7 execution of a criminal search or arrest warrant;

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

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

14 (e) Property taken or detained under this Section shall not
15 be subject to forcible entry and detainer or replevin, but is
16 deemed to be in the custody of the Director subject only to the
17 order and judgments of the circuit court having jurisdiction
18 over the forfeiture proceedings. When property is seized under
19 this Act, the Director may:

20 (1) place the property under seal;

21 (2) secure the property or remove the property to a place
22 designated by him; or

23 (3) require the sheriff of the county in which the seizure
24 occurs to take custody of the property and secure or remove it
25 to an appropriate location for disposition in accordance with
26 law.

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

3 (1) 40% shall be deposited in the Hazardous Waste Fund
4 created in Section 22.2;

5 (2) 60% ~~30%~~ shall be deposited into the Asset Forfeiture
6 Proceeds Fund ~~paid to the office of the Attorney General or the~~
7 ~~State's Attorney of the county in which the violation occurred,~~
8 ~~whichever brought and prosecuted the action; and~~

9 (3) (blank). ~~30%~~ shall be ~~paid to the law enforcement~~
10 ~~agency which investigated the violation.~~

11 ~~Any funds received under this subsection (f) shall be used~~
12 ~~solely for the enforcement of the environmental protection laws~~
13 ~~of this State.~~

14 (g) When property is forfeited under this Section the court
15 may order:

16 (1) (blank); ~~that the property shall be made available for~~
17 ~~the official use of the Agency, the Office of the Attorney~~
18 ~~General, the State's Attorney of the county in which the~~
19 ~~violation occurred, or the law enforcement agency which~~
20 ~~investigated the violation, to be used solely for the~~
21 ~~enforcement of the environmental protection laws of this State;~~

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

25 (3) the sheriff of the county in which the forfeiture
26 occurs to sell that which is not required to be destroyed by

1 law and which is not harmful to the public. The proceeds of
2 such sale shall be used for payment of all proper expenses of
3 the proceedings for forfeiture and sale, including expenses of
4 seizure, maintenance of custody, advertising and court costs,
5 and the balance, if any, shall be apportioned pursuant to
6 subsection (f).

7 (h) Property seized or forfeited under this Section is
8 subject to reporting under the Seizure and Forfeiture Reporting
9 Act.

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

11 Section 165. The Herptiles-Herps Act is amended by changing
12 Section 105-55 as follows:

13 (510 ILCS 68/105-55)

14 Sec. 105-55. Illegal collecting devices; public nuisance.
15 Every collecting device, including seines, nets, traps,
16 pillowcases, bags, snake hooks or tongs, or any electrical
17 device or any other devices including vehicles or conveyance,
18 watercraft, or aircraft used or operated illegally or attempted
19 to be used or operated illegally by any person in taking,
20 transporting, holding, or conveying any reptile or amphibian
21 life or any part of reptile or amphibian life, contrary to this
22 Act, including administrative rules, shall be deemed a public
23 nuisance and therefore illegal and subject to seizure and
24 confiscation by any authorized employee of the Department. Upon

1 the seizure of this item, the Department shall take and hold
2 the item until disposed of as provided in this Act.

3 Upon the seizure of any device because of its illegal use,
4 the officer or authorized employee of the Department making the
5 seizure shall, as soon as reasonably possible, cause a
6 complaint to be filed before the circuit court and a summons to
7 be issued requiring the owner or person in possession of the
8 property to appear in court and show cause why the device
9 seized should not be forfeited to the State. Upon the return of
10 the summons duly served or upon posting or publication of
11 notice as provided in this Act, the court shall proceed to
12 determine the question of the illegality of the use of the
13 seized property. Upon judgment being entered that the property
14 was illegally used, an order shall be entered providing for the
15 forfeiture of the seized property to the State. The owner of
16 the property may have a jury determine the illegality of its
17 use and shall have the right of an appeal as in other civil
18 cases. Confiscation or forfeiture shall not preclude or
19 mitigate against prosecution and assessment of penalties
20 provided in Article 90 of this Act.

21 Upon seizure of any property under circumstances
22 supporting a reasonable belief that the property was abandoned,
23 lost, stolen, or otherwise illegally possessed or used contrary
24 to this Act, except property seized during a search or arrest,
25 and ultimately returned, destroyed, or otherwise disposed of
26 under order of a court in accordance with this Act, the

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

18 Any property forfeited to the State by court order under
19 this Section may be disposed of by public auction, except that
20 any property that is the subject of a court order shall not be
21 disposed of pending appeal of the order. The proceeds of the
22 sales at auction shall be deposited in the Wildlife and Fish
23 Fund.

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

26 Property seized or forfeited under this Section is subject

1 to reporting under the Seizure and Forfeiture Reporting Act.

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

3 Section 170. The Fish and Aquatic Life Code is amended by
4 changing Section 1-215 as follows:

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

6 Sec. 1-215. Illegal fishing devices; public nuisance.
7 Every fishing device, including seines, nets, or traps, or any
8 electrical device or any other devices, including vehicles,
9 watercraft, or aircraft, used or operated illegally or
10 attempted to be used or operated illegally by any person in
11 taking, transporting, holding, or conveying any aquatic life
12 contrary to this Code, including administrative rules, shall be
13 deemed a public nuisance and therefore illegal and subject to
14 seizure and confiscation by any authorized employee of the
15 Department. Upon the seizure of such an item the Department
16 shall take and hold the item until disposed of as provided in
17 this Code.

18 Upon the seizure of any device because of its illegal use,
19 the officer or authorized employee of the Department making the
20 seizure shall, as soon as reasonably possible, cause a
21 complaint to be filed before the Circuit Court and a summons to
22 be issued requiring the owner or person in possession of the
23 property to appear in court and show cause why the device
24 seized should not be forfeited to the State. Upon the return of

1 the summons duly served or upon posting or publication of
2 notice as provided in this Code, the court shall proceed to
3 determine the question of the illegality of the use of the
4 seized property. Upon judgment being entered to the effect that
5 the property was illegally used, an order shall be entered
6 providing for the forfeiture of the seized property to the
7 State. The owner of the property, however, may have a jury
8 determine the illegality of its use, and shall have the right
9 of an appeal as in other civil cases. Confiscation or
10 forfeiture shall not preclude or mitigate against prosecution
11 and assessment of penalties provided in Section 20-35 of this
12 Code.

13 Upon seizure of any property under circumstances
14 supporting a reasonable belief that the property was abandoned,
15 lost, stolen, or otherwise illegally possessed or used contrary
16 to this Code, except property seized during a search or arrest,
17 and ultimately returned, destroyed, or otherwise disposed of
18 under order of a court in accordance with this Code, the
19 authorized employee of the Department shall make reasonable
20 inquiry and efforts to identify and notify the owner or other
21 person entitled to possession of the property and shall return
22 the property after the person provides reasonable and
23 satisfactory proof of his or her ownership or right to
24 possession and reimburses the Department for all reasonable
25 expenses of custody. If the identity or location of the owner
26 or other person entitled to possession of the property has not

1 been ascertained within 6 months after the Department obtains
2 possession, the Department shall effectuate the sale of the
3 property for cash to the highest bidder at a public auction.
4 The owner or other person entitled to possession of the
5 property may claim and recover possession of the property at
6 any time before its sale at public auction upon providing
7 reasonable and satisfactory proof of ownership or right of
8 possession and reimbursing the Department for all reasonable
9 expenses of custody.

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

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

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

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

21 Section 175. The Wildlife Code is amended by changing
22 Section 1.25 as follows:

23 (520 ILCS 5/1.25) (from Ch. 61, par. 1.25)

24 Sec. 1.25. Every hunting or trapping device, vehicle or

1 conveyance, when used or operated illegally, or attempted to be
2 used or operated illegally by any person in taking,
3 transporting, holding, or conveying any wild bird or wild
4 mammal, contrary to the provisions of this Act, including
5 administrative rules, is a public nuisance and subject to
6 seizure and confiscation by any authorized employee of the
7 Department; upon the seizure of such item the Department shall
8 take and hold the same until disposed of as hereinafter
9 provided.

10 Upon the seizure of any property as herein provided, the
11 authorized employee of the Department making such seizure shall
12 forthwith cause a complaint to be filed before the Circuit
13 Court and a summons to be issued requiring the person who
14 illegally used or operated or attempted to use or operate such
15 property and the owner and person in possession of such
16 property to appear in court and show cause why the property
17 seized should not be forfeited to the State. Upon the return of
18 the summons duly served or other notice as herein provided, the
19 court shall proceed to determine the question of the illegality
20 of the use of the seized property and upon judgment being
21 entered to the effect that such property was illegally used, an
22 order may be entered providing for the forfeiture of such
23 seized property to the Department and shall thereupon become
24 the property of the Department; but the owner of such property
25 may have a jury determine the illegality of its use, and shall
26 have the right of an appeal, as in other cases. Such

1 confiscation or forfeiture shall not preclude or mitigate
2 against prosecution and assessment of penalties otherwise
3 provided in this Act.

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

1 Any property, including guns, forfeited to the State by
2 court order pursuant to this Section, may be disposed of by
3 public auction, except that any property which is the subject
4 of such a court order shall not be disposed of pending appeal
5 of the order. The proceeds of the sales at auction shall be
6 deposited in the Wildlife and Fish Fund.

7 The Department shall pay all costs of notices required by
8 this Section.

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

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

12 Section 180. The Criminal Code of 2012 is amended by
13 changing Sections 17-10.6, 28-5, 29B-1, 33G-6, 36-1, 36-1.5,
14 36-2, 36-3, and 47-15 and by adding Sections 29B-1.1, 29B-1.5,
15 29B-2, 29B-3, 29B-4, 29B-5, 29B-6, 29B-7, 29B-8, 29B-9, 29B-10,
16 29B-11, 29B-12, 29B-13, 29B-14, 29B-15, 29B-16, 29B-17,
17 29B-18, 29B-19, 29B-20, 29B-21, 29B-22, 36-1.1, 36-1.2,
18 36-1.3, 36-1.4, 36-1.6, 36-2.1, 36-3.1, 36-3.2, 36-6, 36-7,
19 36-8, and 36-9 as follows:

20 (720 ILCS 5/17-10.6)

21 Sec. 17-10.6. Financial institution fraud.

22 (a) Misappropriation of financial institution property. A
23 person commits misappropriation of a financial institution's
24 property whenever he or she knowingly obtains or exerts

1 unauthorized control over any of the moneys, funds, credits,
2 assets, securities, or other property owned by or under the
3 custody or control of a financial institution, or under the
4 custody or care of any agent, officer, director, or employee of
5 such financial institution.

6 (b) Commercial bribery of a financial institution.

7 (1) A person commits commercial bribery of a financial
8 institution when he or she knowingly confers or offers or
9 agrees to confer any benefit upon any employee, agent, or
10 fiduciary without the consent of the latter's employer or
11 principal, with the intent to influence his or her conduct
12 in relation to his or her employer's or principal's
13 affairs.

14 (2) An employee, agent, or fiduciary of a financial
15 institution commits commercial bribery of a financial
16 institution when, without the consent of his or her
17 employer or principal, he or she knowingly solicits,
18 accepts, or agrees to accept any benefit from another
19 person upon an agreement or understanding that such benefit
20 will influence his or her conduct in relation to his or her
21 employer's or principal's affairs.

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

25 (1) to defraud a financial institution; or

26 (2) to obtain any of the moneys, funds, credits,

1 assets, securities, or other property owned by or under the
2 custody or control of a financial institution, by means of
3 pretenses, representations, or promises he or she knows to
4 be false.

5 (d) Loan fraud. A person commits loan fraud when he or she
6 knowingly, with intent to defraud, makes any false statement or
7 report, or overvalues any land, property, or security, with the
8 intent to influence in any way the action of a financial
9 institution to act upon any application, advance, discount,
10 purchase, purchase agreement, repurchase agreement,
11 commitment, or loan, or any change or extension of any of the
12 same, by renewal, deferment of action, or otherwise, or the
13 acceptance, release, or substitution of security.

14 (e) Concealment of collateral. A person commits
15 concealment of collateral when he or she, with intent to
16 defraud, knowingly conceals, removes, disposes of, or converts
17 to the person's own use or to that of another any property
18 mortgaged or pledged to or held by a financial institution.

19 (f) Financial institution robbery. A person commits
20 robbery when he or she knowingly, by force or threat of force,
21 or by intimidation, takes, or attempts to take, from the person
22 or presence of another, or obtains or attempts to obtain by
23 extortion, any property or money or any other thing of value
24 belonging to, or in the care, custody, control, management, or
25 possession of, a financial institution.

26 (g) Conspiracy to commit a financial crime.

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

5 (2) No person may be convicted of conspiracy to commit
6 a financial crime unless an overt act or acts in
7 furtherance of the agreement is alleged and proved to have
8 been committed by that person or by a co-conspirator and
9 the accused is a part of a common scheme or plan to engage
10 in the unlawful activity.

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

- 14 (A) has not been prosecuted or convicted;
15 (B) has been convicted of a different offense;
16 (C) is not amenable to justice;
17 (D) has been acquitted; or
18 (E) lacked the capacity to commit the offense.

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

- 24 (1) an offense under this Section;
25 (2) a felony offense in violation of Section 16A-3 or
26 subsection (a) of Section 16-25 or paragraph (4) or (5) of

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

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

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

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

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

14 (i) an offense under this Section;

15 (ii) a felony offense in violation of Section
16 16A-3 or subsection (a) of Section 16-25 or
17 paragraph (4) or (5) of subsection (a) of Section
18 16-1 of this Code for the purpose of reselling or
19 otherwise re-entering the merchandise in commerce,
20 including conveying the merchandise to a merchant
21 in exchange for anything of value; or

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

24 (B) with respect to the other persons within the
25 conspiracy, occupies a position of organizer,
26 supervisor, or financier or other position of

1 management.

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

9 (j) Sentence.

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

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

13 (B) does not exceed \$500, and the person has been
14 previously convicted of a financial crime or any type
15 of theft, robbery, armed robbery, burglary,
16 residential burglary, possession of burglary tools, or
17 home invasion, is guilty of a Class 4 felony;

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

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

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

24 (F) exceeds \$500,000 but does not exceed
25 \$1,000,000, is a Class 1 non-probationable felony;
26 when a charge of financial crime, the full value of

1 which exceeds \$500,000 but does not exceed \$1,000,000,
2 is brought, the value of the financial crime involved
3 is an element of the offense to be resolved by the
4 trier of fact as either exceeding or not exceeding
5 \$500,000;

6 (G) exceeds \$1,000,000, is a Class X felony; when a
7 charge of financial crime, the full value of which
8 exceeds \$1,000,000, is brought, the value of the
9 financial crime involved is an element of the offense
10 to be resolved by the trier of fact as either exceeding
11 or not exceeding \$1,000,000.

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

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

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

15 (k) A "financial crime" means an offense described in this
16 Section.

17 (l) Period of limitations. The period of limitations for
18 prosecution of any offense defined in this Section begins at
19 the time when the last act in furtherance of the offense is
20 committed.

21 (m) Forfeiture. Any violation of subdivision (2) of
22 subsection (h) or subdivision (i) (1) (A) (ii) shall be subject to
23 the remedies, procedures, and forfeiture as set forth in
24 Sections 1.1 through 21 of Article 29B ~~subsections (f) through~~
25 ~~(s) of Section 29B-1~~ of this Code. Property seized or forfeited
26 under this Section is subject to reporting under the Seizure

1 and Forfeiture Reporting Act.

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

4 (720 ILCS 5/28-5) (from Ch. 38, par. 28-5)

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

6 (a) Every device designed for gambling which is incapable
7 of lawful use or every device used unlawfully for gambling
8 shall be considered a "gambling device", and shall be subject
9 to seizure, confiscation and destruction by the Department of
10 State Police or by any municipal, or other local authority,
11 within whose jurisdiction the same may be found. As used in
12 this Section, a "gambling device" includes any slot machine,
13 and includes any machine or device constructed for the
14 reception of money or other thing of value and so constructed
15 as to return, or to cause someone to return, on chance to the
16 player thereof money, property or a right to receive money or
17 property. With the exception of any device designed for
18 gambling which is incapable of lawful use, no gambling device
19 shall be forfeited or destroyed unless an individual with a
20 property interest in said device knows of the unlawful use of
21 the device.

22 (b) Every gambling device shall be seized and forfeited to
23 the State ~~county wherein such seizure occurs~~. Any money or
24 other thing of value integrally related to acts of gambling
25 shall be seized and forfeited to the State ~~county wherein such~~

1 ~~seizure occurs.~~

2 (c) If, within 60 days after any seizure pursuant to
3 subparagraph (b) of this Section, a person having any property
4 interest in the seized property is charged with an offense, the
5 court which renders judgment upon such charge shall, within 30
6 days after such judgment, conduct a forfeiture hearing to
7 determine whether such property was a gambling device at the
8 time of seizure. Such hearing shall be commenced by a written
9 petition by the State, including material allegations of fact,
10 the name and address of every person determined by the State to
11 have any property interest in the seized property, a
12 representation that written notice of the date, time and place
13 of such hearing has been mailed to every such person by
14 certified mail at least 10 days before such date, and a request
15 for forfeiture. Every such person may appear as a party and
16 present evidence at such hearing. The quantum of proof required
17 shall be a preponderance of the evidence, and the burden of
18 proof shall be on the State. If the court determines that the
19 seized property was a gambling device at the time of seizure,
20 an order of forfeiture and disposition of the seized property
21 shall be entered: a gambling device shall be received by the
22 State's Attorney, who shall effect its destruction, except that
23 valuable parts thereof may be liquidated and the resultant
24 money shall be deposited into the Asset Forfeiture Proceeds
25 Fund ~~in the general fund of the county wherein such seizure~~
26 ~~occurred~~; money and other things of value shall be received by

1 the State's Attorney and, upon liquidation, shall be deposited
2 into the Asset Forfeiture Proceeds Fund ~~in the general fund of~~
3 ~~the county wherein such seizure occurred.~~ However, in the event
4 that a defendant raises the defense that the seized slot
5 machine is an antique slot machine described in subparagraph
6 (b) (7) of Section 28-1 of this Code and therefore he is exempt
7 from the charge of a gambling activity participant, the seized
8 antique slot machine shall not be destroyed or otherwise
9 altered until a final determination is made by the Court as to
10 whether it is such an antique slot machine. Upon a final
11 determination by the Court of this question in favor of the
12 defendant, such slot machine shall be immediately returned to
13 the defendant. Such order of forfeiture and disposition shall,
14 for the purposes of appeal, be a final order and judgment in a
15 civil proceeding.

16 (d) If a seizure pursuant to subparagraph (b) of this
17 Section is not followed by a charge pursuant to subparagraph
18 (c) of this Section, or if the prosecution of such charge is
19 permanently terminated or indefinitely discontinued without
20 any judgment of conviction or acquittal (1) the State's
21 Attorney shall commence an in rem proceeding for the forfeiture
22 and destruction of a gambling device, or for the forfeiture and
23 deposit into the Asset Forfeiture Proceeds Fund ~~in the general~~
24 ~~fund of the county~~ of any seized money or other things of
25 value, or both, in the circuit court and (2) any person having
26 any property interest in such seized gambling device, money or

1 other thing of value may commence separate civil proceedings in
2 the manner provided by law.

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

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

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

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

15 (2) Video gaming terminals used to train licensed
16 technicians or licensed terminal handlers.

17 (3) Video gaming terminals that are removed from a
18 licensed establishment, licensed truck stop establishment,
19 licensed fraternal establishment, or licensed veterans
20 establishment for repair.

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

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

25 (720 ILCS 5/29B-1) (from Ch. 38, par. 29B-1)

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

3 (1) when, knowing that the property involved in a
4 financial transaction represents the proceeds of some form
5 of unlawful activity, he or she conducts or attempts to
6 conduct such a financial transaction which in fact involves
7 criminally derived property:

8 (A) with the intent to promote the carrying on of
9 the unlawful activity from which the criminally
10 derived property was obtained; or

11 (B) where he or she knows or reasonably should know
12 that the financial transaction is designed in whole or
13 in part:

14 (i) to conceal or disguise the nature, the
15 location, the source, the ownership or the control
16 of the criminally derived property; or

17 (ii) to avoid a transaction reporting
18 requirement under State law; or

19 (1.5) when he or she transports, transmits, or
20 transfers, or attempts to transport, transmit, or transfer
21 a monetary instrument:

22 (A) with the intent to promote the carrying on of
23 the unlawful activity from which the criminally
24 derived property was obtained; or

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

1 (i) to conceal or disguise the nature, the
2 location, the source, the ownership or the control
3 of the criminally derived property; or

4 (ii) to avoid a transaction reporting
5 requirement under State law; or

6 (2) when, with the intent to:

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

9 (B) conceal or disguise the nature, location,
10 source, ownership, or control of property believed to
11 be the proceeds of a specified criminal activity as
12 defined by subdivision (b) (6); or

13 (C) avoid a transaction reporting requirement
14 under State law,

15 he or she conducts or attempts to conduct a financial
16 transaction involving property he or she believes to be the
17 proceeds of specified criminal activity as defined by
18 subdivision (b) (6) or property used to conduct or
19 facilitate specified criminal activity as defined by
20 subdivision (b) (6).

21 (b) As used in this Section:

22 (0.5) "Knowing that the property involved in a
23 financial transaction represents the proceeds of some form
24 of unlawful activity" means that the person knew the
25 property involved in the transaction represented proceeds
26 from some form, though not necessarily which form, of

1 activity that constitutes a felony under State, federal, or
2 foreign law.

3 (1) "Financial transaction" means a purchase, sale,
4 loan, pledge, gift, transfer, delivery or other
5 disposition utilizing criminally derived property, and
6 with respect to financial institutions, includes a
7 deposit, withdrawal, transfer between accounts, exchange
8 of currency, loan, extension of credit, purchase or sale of
9 any stock, bond, certificate of deposit or other monetary
10 instrument, use of safe deposit box, or any other payment,
11 transfer or delivery by, through, or to a financial
12 institution. For purposes of clause (a) (2) of this Section,
13 the term "financial transaction" also means a transaction
14 which without regard to whether the funds, monetary
15 instruments, or real or personal property involved in the
16 transaction are criminally derived, any transaction which
17 in any way or degree: (1) involves the movement of funds by
18 wire or any other means; (2) involves one or more monetary
19 instruments; or (3) the transfer of title to any real or
20 personal property. The receipt by an attorney of bona fide
21 fees for the purpose of legal representation is not a
22 financial transaction for purposes of this Section.

23 (2) "Financial institution" means any bank; saving and
24 loan association; trust company; agency or branch of a
25 foreign bank in the United States; currency exchange;
26 credit union, mortgage banking institution; pawnbroker;

1 loan or finance company; operator of a credit card system;
2 issuer, redeemer or cashier of travelers checks, checks or
3 money orders; dealer in precious metals, stones or jewels;
4 broker or dealer in securities or commodities; investment
5 banker; or investment company.

6 (3) "Monetary instrument" means United States coins
7 and currency; coins and currency of a foreign country;
8 travelers checks; personal checks, bank checks, and money
9 orders; investment securities; bearer negotiable
10 instruments; bearer investment securities; or bearer
11 securities and certificates of stock in such form that
12 title thereto passes upon delivery.

13 (4) "Criminally derived property" means: (A) any
14 property, real or personal, constituting or derived from
15 proceeds obtained, directly or indirectly, from activity
16 that constitutes a felony under State, federal, or foreign
17 law; or (B) any property represented to be property
18 constituting or derived from proceeds obtained, directly
19 or indirectly, from activity that constitutes a felony
20 under State, federal, or foreign law.

21 (5) "Conduct" or "conducts" includes, in addition to
22 its ordinary meaning, initiating, concluding, or
23 participating in initiating or concluding a transaction.

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

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

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

5 (9) "Transaction reporting requirement under State
6 law" means any violation as defined under the Currency
7 Reporting Act.

8 (c) Sentence.

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

11 (2) Laundering of criminally derived property of a
12 value exceeding \$10,000 but not exceeding \$100,000 is a
13 Class 2 felony;

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

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

19 (5) Laundering of criminally derived property of a
20 value exceeding \$500,000 is a Class 1 non-probationable
21 felony;

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

24 (A) Laundering of property of a value not exceeding
25 \$10,000 is a Class 3 felony;

26 (B) Laundering of property of a value exceeding

1 \$10,000 but not exceeding \$100,000 is a Class 2 felony;

2 (C) Laundering of property of a value exceeding
3 \$100,000 but not exceeding \$500,000 is a Class 1
4 felony;

5 (D) Laundering of property of a value exceeding
6 \$500,000 is a Class 1 non-probationable felony.

7 (d) Evidence. In a prosecution under this Article, either
8 party may introduce the following evidence pertaining to the
9 issue of whether the property or proceeds were known to be some
10 form of criminally derived property or from some form of
11 unlawful activity:

12 (1) A financial transaction was conducted or
13 structured or attempted in violation of the reporting
14 requirements of any State or federal law; or

15 (2) A financial transaction was conducted or attempted
16 with the use of a false or fictitious name or a forged
17 instrument; or

18 (3) A falsely altered or completed written instrument
19 or a written instrument that contains any materially false
20 personal identifying information was made, used, offered
21 or presented, whether accepted or not, in connection with a
22 financial transaction; or

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

26 (5) A money transmitter, a person engaged in a trade or

1 business or any employee of a money transmitter or a person
2 engaged in a trade or business, knows or reasonably should
3 know that false personal identifying information has been
4 presented and incorporates the false personal identifying
5 information into any report or record; or

6 (6) The criminally derived property is transported or
7 possessed in a fashion inconsistent with the ordinary or
8 usual means of transportation or possession of such
9 property and where the property is discovered in the
10 absence of any documentation or other indicia of legitimate
11 origin or right to such property; or

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

14 (8) A person engages in a transaction involving one or
15 more monetary instruments, where the physical condition or
16 form of the monetary instrument or instruments makes it
17 apparent that they are not the product of bona fide
18 business or financial transactions.

19 (e) Duty to enforce this Article.

20 (1) It is the duty of the Department of State Police,
21 and its agents, officers, and investigators, to enforce all
22 provisions of this Article, except those specifically
23 delegated, and to cooperate with all agencies charged with
24 the enforcement of the laws of the United States, or of any
25 state, relating to money laundering. Only an agent,
26 officer, or investigator designated by the Director may be

1 authorized in accordance with this Section to serve seizure
2 notices, warrants, subpoenas, and summonses under the
3 authority of this State.

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

12 (f) (Blank). ~~Protective orders.~~

13 ~~(1) Upon application of the State, the court may enter~~
14 ~~a restraining order or injunction, require the execution of~~
15 ~~a satisfactory performance bond, or take any other action~~
16 ~~to preserve the availability of property described in~~
17 ~~subsection (h) for forfeiture under this Article.~~

18 ~~(A) upon the filing of an indictment, information,~~
19 ~~or complaint charging a violation of this Article for~~
20 ~~which forfeiture may be ordered under this Article and~~
21 ~~alleging that the property with respect to which the~~
22 ~~order is sought would be subject to forfeiture under~~
23 ~~this Article; or~~

24 ~~(B) prior to the filing of such an indictment,~~
25 ~~information, or complaint, if, after notice to persons~~
26 ~~appearing to have an interest in the property and~~

1 ~~opportunity for a hearing, the court determines that:~~

2 ~~(i) there is probable cause to believe that the~~
3 ~~State will prevail on the issue of forfeiture and~~
4 ~~that failure to enter the order will result in the~~
5 ~~property being destroyed, removed from the~~
6 ~~jurisdiction of the court, or otherwise made~~
7 ~~unavailable for forfeiture; and~~

8 ~~(ii) the need to preserve the availability of~~
9 ~~the property through the entry of the requested~~
10 ~~order outweighs the hardship on any party against~~
11 ~~whom the order is to be entered.~~

12 ~~Provided, however, that an order entered pursuant~~
13 ~~to subparagraph (B) shall be effective for not more~~
14 ~~than 90 days, unless extended by the court for good~~
15 ~~cause shown or unless an indictment, information,~~
16 ~~complaint, or administrative notice has been filed.~~

17 ~~(2) A temporary restraining order under this~~
18 ~~subsection may be entered upon application of the State~~
19 ~~without notice or opportunity for a hearing when an~~
20 ~~indictment, information, complaint, or administrative~~
21 ~~notice has not yet been filed with respect to the property,~~
22 ~~if the State demonstrates that there is probable cause to~~
23 ~~believe that the property with respect to which the order~~
24 ~~is sought would be subject to forfeiture under this Section~~
25 ~~and that provision of notice will jeopardize the~~
26 ~~availability of the property for forfeiture. Such a~~

1 ~~temporary order shall expire not more than 30 days after~~
2 ~~the date on which it is entered, unless extended for good~~
3 ~~cause shown or unless the party against whom it is entered~~
4 ~~consents to an extension for a longer period. A hearing~~
5 ~~requested concerning an order entered under this paragraph~~
6 ~~shall be held at the earliest possible time and prior to~~
7 ~~the expiration of the temporary order.~~

8 ~~(3) The court may receive and consider, at a hearing~~
9 ~~held pursuant to this subsection (f), evidence and~~
10 ~~information that would be inadmissible under the Illinois~~
11 ~~rules of evidence.~~

12 ~~(4) Order to repatriate and deposit.~~

13 ~~(A) In general. Pursuant to its authority to enter~~
14 ~~a pretrial restraining order under this Section, the~~
15 ~~court may order a defendant to repatriate any property~~
16 ~~that may be seized and forfeited and to deposit that~~
17 ~~property pending trial with the Illinois State Police~~
18 ~~or another law enforcement agency designated by the~~
19 ~~Illinois State Police.~~

20 ~~(B) Failure to comply. Failure to comply with an~~
21 ~~order under this subsection (f) is punishable as a~~
22 ~~civil or criminal contempt of court.~~

23 (g) (Blank). ~~Warrant of seizure. The State may request the~~
24 ~~issuance of a warrant authorizing the seizure of property~~
25 ~~described in subsection (h) in the same manner as provided for~~
26 ~~a search warrant. If the court determines that there is~~

1 ~~probable cause to believe that the property to be seized would~~
2 ~~be subject to forfeiture, the court shall issue a warrant~~
3 ~~authorizing the seizure of such property.~~

4 (h) (Blank). ~~Forfeiture.~~

5 ~~(1) The following are subject to forfeiture:~~

6 ~~(A) any property, real or personal, constituting,~~
7 ~~derived from, or traceable to any proceeds the person~~
8 ~~obtained directly or indirectly, as a result of a~~
9 ~~violation of this Article;~~

10 ~~(B) any of the person's property used, or intended~~
11 ~~to be used, in any manner or part, to commit, or to~~
12 ~~facilitate the commission of, a violation of this~~
13 ~~Article;~~

14 ~~(C) all conveyances, including aircraft, vehicles~~
15 ~~or vessels, which are used, or intended for use, to~~
16 ~~transport, or in any manner to facilitate the~~
17 ~~transportation, sale, receipt, possession, or~~
18 ~~concealment of property described in subparagraphs (A)~~
19 ~~and (B), but:~~

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

26 ~~(ii) no conveyance is subject to forfeiture~~

1 ~~under this Section by reason of any act or omission~~
2 ~~which the owner proves to have been committed or~~
3 ~~omitted without his or her knowledge or consent;~~

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

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

19 ~~(2) Property subject to forfeiture under this Article~~
20 ~~may be seized by the Director or any peace officer upon~~
21 ~~process or seizure warrant issued by any court having~~
22 ~~jurisdiction over the property. Seizure by the Director or~~
23 ~~any peace officer without process may be made:~~

24 ~~(A) if the seizure is incident to a seizure~~
25 ~~warrant;~~

26 ~~(B) if the property subject to seizure has been the~~

1 ~~subject of a prior judgment in favor of the State in a~~
2 ~~criminal proceeding, or in an injunction or forfeiture~~
3 ~~proceeding based upon this Article;~~

4 ~~(C) if there is probable cause to believe that the~~
5 ~~property is directly or indirectly dangerous to health~~
6 ~~or safety;~~

7 ~~(D) if there is probable cause to believe that the~~
8 ~~property is subject to forfeiture under this Article~~
9 ~~and the property is seized under circumstances in which~~
10 ~~a warrantless seizure or arrest would be reasonable; or~~

11 ~~(E) in accordance with the Code of Criminal~~
12 ~~Procedure of 1963.~~

13 ~~(3) In the event of seizure pursuant to paragraph (2),~~
14 ~~forfeiture proceedings shall be instituted in accordance~~
15 ~~with subsections (i) through (r).~~

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

1 ~~Director may:~~

2 ~~(A) place the property under seal;~~

3 ~~(B) remove the property to a place designated by~~
4 ~~the Director;~~

5 ~~(C) keep the property in the possession of the~~
6 ~~seizing agency;~~

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

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

17 ~~(F) provide for another agency or custodian,~~
18 ~~including an owner, secured party, or lienholder, to~~
19 ~~take custody of the property upon the terms and~~
20 ~~conditions set by the Director.~~

21 ~~(5) When property is forfeited under this Article, the~~
22 ~~Director shall sell all such property unless such property~~
23 ~~is required by law to be destroyed or is harmful to the~~
24 ~~public, and shall distribute the proceeds of the sale,~~
25 ~~together with any moneys forfeited or seized, in accordance~~
26 ~~with paragraph (6). However, upon the application of the~~

1 ~~seizing agency or prosecutor who was responsible for the~~
2 ~~investigation, arrest or arrests and prosecution which~~
3 ~~lead to the forfeiture, the Director may return any item of~~
4 ~~forfeited property to the seizing agency or prosecutor for~~
5 ~~official use in the enforcement of laws, if the agency or~~
6 ~~prosecutor can demonstrate that the item requested would be~~
7 ~~useful to the agency or prosecutor in its enforcement~~
8 ~~efforts. When any real property returned to the seizing~~
9 ~~agency is sold by the agency or its unit of government, the~~
10 ~~proceeds of the sale shall be delivered to the Director and~~
11 ~~distributed in accordance with paragraph (6).~~

12 ~~(6) All monies and the sale proceeds of all other~~
13 ~~property forfeited and seized under this Article shall be~~
14 ~~distributed as follows:~~

15 ~~(A) 65% shall be distributed to the metropolitan~~
16 ~~enforcement group, local, municipal, county, or State~~
17 ~~law 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~~
21 ~~the law enforcement agency in the effort resulting in~~
22 ~~the forfeiture, taking into account the total value of~~
23 ~~the property forfeited and the total law enforcement~~
24 ~~effort with respect to the violation of the law upon~~
25 ~~which the forfeiture is based. Amounts distributed to~~
26 ~~the agency or agencies shall be used for the~~

1 ~~enforcement of laws.~~

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

14 ~~(ii) 12.5% shall be distributed to the Office of~~
15 ~~the State's Attorneys Appellate Prosecutor and~~
16 ~~deposited in the Narcotics Profit Forfeiture Fund of~~
17 ~~that office to be used for additional expenses incurred~~
18 ~~in the investigation, prosecution and appeal of cases~~
19 ~~arising under laws. The Office of the State's Attorneys~~
20 ~~Appellate Prosecutor shall not receive distribution~~
21 ~~from cases brought in counties with over 3,000,000~~
22 ~~population.~~

23 ~~(C) 10% shall be retained by the Department of~~
24 ~~State Police for expenses related to the~~
25 ~~administration and sale of seized and forfeited~~
26 ~~property.~~

1 ~~Moneys and the sale proceeds distributed to the~~
2 ~~Department of State Police under this Article shall be~~
3 ~~deposited in the Money Laundering Asset Recovery Fund~~
4 ~~created in the State treasury and shall be used by the~~
5 ~~Department of State Police for State law enforcement~~
6 ~~purposes.~~

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

12 ~~(i) (Blank). Notice to owner or interest holder.~~

13 ~~(1) Whenever notice of pending forfeiture or service of~~
14 ~~an in rem complaint is required under the provisions of~~
15 ~~this Article, such notice or service shall be given as~~
16 ~~follows:~~

17 ~~(A) If the owner's or interest holder's name and~~
18 ~~current address are known, then by either personal~~
19 ~~service or mailing a copy of the notice by certified~~
20 ~~mail, return receipt requested, to that address. For~~
21 ~~purposes of notice under this Section, if a person has~~
22 ~~been arrested for the conduct giving rise to the~~
23 ~~forfeiture, then the address provided to the arresting~~
24 ~~agency at the time of arrest shall be deemed to be that~~
25 ~~person's known address. Provided, however, if an owner~~
26 ~~or interest holder's address changes prior to the~~

1 ~~effective date of the notice of pending forfeiture, the~~
2 ~~owner or interest holder shall promptly notify the~~
3 ~~seizing agency of the change in address or, if the~~
4 ~~owner or interest holder's address changes subsequent~~
5 ~~to the effective date of the notice of pending~~
6 ~~forfeiture, the owner or interest holder shall~~
7 ~~promptly notify the State's Attorney of the change in~~
8 ~~address; or~~

9 ~~(B) If the property seized is a conveyance, to the~~
10 ~~address reflected in the office of the agency or~~
11 ~~official in which title or interest to the conveyance~~
12 ~~is required by law to be recorded, then by mailing a~~
13 ~~copy of the notice by certified mail, return receipt~~
14 ~~requested, to that address; or~~

15 ~~(C) If the owner's or interest holder's address is~~
16 ~~not known, and is not on record as provided in~~
17 ~~paragraph (B), then by publication for 3 successive~~
18 ~~weeks in a newspaper of general circulation in the~~
19 ~~county in which the seizure occurred.~~

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

23 (j) (Blank). ~~Notice to State's Attorney. The law~~
24 ~~enforcement agency seizing property for forfeiture under this~~
25 ~~Article shall, within 90 days after seizure, notify the State's~~
26 ~~Attorney for the county, either where an act or omission giving~~

~~rise to the forfeiture occurred or where the property was seized, of the seizure of the property and the facts and circumstances giving rise to the seizure and shall provide the State's Attorney with the inventory of the property and its estimated value. When the property seized for forfeiture is a vehicle, the law enforcement agency seizing the property shall immediately notify the Secretary of State that forfeiture proceedings are pending regarding such vehicle.~~

9 (k) (Blank). ~~Non judicial forfeiture. If non real property that exceeds \$20,000 in value excluding the value of any conveyance, or if real property is seized under the provisions of this Article, the State's Attorney shall institute judicial in rem forfeiture proceedings as described in subsection (l) of this Section within 45 days from receipt of notice of seizure from the seizing agency under subsection (j) of this Section. However, if non real property that does not exceed \$20,000 in value excluding the value of any conveyance is seized, the following procedure shall be used:~~

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

1 ~~(2) The notice of pending forfeiture must include a~~
2 ~~description of the property, the estimated value of the~~
3 ~~property, the date and place of seizure, the conduct giving~~
4 ~~rise to forfeiture or the violation of law alleged, and a~~
5 ~~summary of procedures and procedural rights applicable to~~
6 ~~the forfeiture action.~~

7 ~~(3) (A) Any person claiming an interest in property~~
8 ~~which is the subject of notice under paragraph (1) of this~~
9 ~~subsection (k), must, in order to preserve any rights or~~
10 ~~claims to the property, within 45 days after the effective~~
11 ~~date of notice as described in subsection (i) of this~~
12 ~~Section, file a verified claim with the State's Attorney~~
13 ~~expressing his or her interest in the property. The claim~~
14 ~~must set forth:~~

15 ~~(i) the caption of the proceedings as set forth on~~
16 ~~the notice of pending forfeiture and the name of the~~
17 ~~claimant;~~

18 ~~(ii) the address at which the claimant will accept~~
19 ~~mail;~~

20 ~~(iii) the nature and extent of the claimant's~~
21 ~~interest in the property;~~

22 ~~(iv) the date, identity of the transferor, and~~
23 ~~circumstances of the claimant's acquisition of the~~
24 ~~interest in the property;~~

25 ~~(v) the name and address of all other persons known~~
26 ~~to have an interest in the property;~~

1 ~~(vi) the specific provision of law relied on in~~
2 ~~asserting the property is not subject to forfeiture;~~

3 ~~(vii) all essential facts supporting each~~
4 ~~assertion; and~~

5 ~~(viii) the relief sought.~~

6 ~~(B) If a claimant files the claim and deposits with the~~
7 ~~State's Attorney a cost bond, in the form of a cashier's~~
8 ~~check payable to the clerk of the court, in the sum of 10%~~
9 ~~of the reasonable value of the property as alleged by the~~
10 ~~State's Attorney or the sum of \$100, whichever is greater,~~
11 ~~upon condition that, in the case of forfeiture, the~~
12 ~~claimant must pay all costs and expenses of forfeiture~~
13 ~~proceedings, then the State's Attorney shall institute~~
14 ~~judicial in rem forfeiture proceedings and deposit the cost~~
15 ~~bond with the clerk of the court as described in subsection~~
16 ~~(1) of this Section within 45 days after receipt of the~~
17 ~~claim and cost bond. In lieu of a cost bond, a person~~
18 ~~claiming interest in the seized property may file, under~~
19 ~~penalty of perjury, an indigency affidavit which has been~~
20 ~~approved by a circuit court judge.~~

21 ~~(C) If none of the seized property is forfeited in the~~
22 ~~judicial in rem proceeding, the clerk of the court shall~~
23 ~~return to the claimant, unless the court orders otherwise,~~
24 ~~90% of the sum which has been deposited and shall retain as~~
25 ~~costs 10% of the money deposited. If any of the seized~~
26 ~~property is forfeited under the judicial forfeiture~~

1 ~~proceeding, the clerk of the court shall transfer 90% of~~
2 ~~the sum which has been deposited to the State's Attorney~~
3 ~~prosecuting the civil forfeiture to be applied to the costs~~
4 ~~of prosecution and the clerk shall retain as costs 10% of~~
5 ~~the sum deposited.~~

6 ~~(4) If no claim is filed or bond given within the 45~~
7 ~~day period as described in paragraph (3) of this subsection~~
8 ~~(k), the State's Attorney shall declare the property~~
9 ~~forfeited and shall promptly notify the owner and all known~~
10 ~~interest holders of the property and the Director of State~~
11 ~~Police of the declaration of forfeiture and the Director~~
12 ~~shall dispose of the property in accordance with law.~~

13 (1) (Blank). ~~Judicial in rem procedures. If property seized~~
14 ~~under the provisions of this Article is non-real property that~~
15 ~~exceeds \$20,000 in value excluding the value of any conveyance,~~
16 ~~or is real property, or a claimant has filed a claim and a cost~~
17 ~~bond under paragraph (3) of subsection (k) of this Section, the~~
18 ~~following judicial in rem procedures shall apply:~~

19 ~~(1) If, after a review of the facts surrounding the~~
20 ~~seizure, the State's Attorney is of the opinion that the~~
21 ~~seized property is subject to forfeiture, then within 45~~
22 ~~days of the receipt of notice of seizure by the seizing~~
23 ~~agency or the filing of the claim and cost bond, whichever~~
24 ~~is later, the State's Attorney shall institute judicial~~
25 ~~forfeiture proceedings by filing a verified complaint for~~
26 ~~forfeiture and, if the claimant has filed a claim and cost~~

1 ~~bond, by depositing the cost bond with the clerk of the~~
2 ~~court. When authorized by law, a forfeiture must be ordered~~
3 ~~by a court on an action in rem brought by a State's~~
4 ~~Attorney under a verified complaint for forfeiture.~~

5 ~~(2) During the probable cause portion of the judicial~~
6 ~~in rem proceeding wherein the State presents its~~
7 ~~case in chief, the court must receive and consider, among~~
8 ~~other things, all relevant hearsay evidence and~~
9 ~~information. The laws of evidence relating to civil actions~~
10 ~~apply to all other portions of the judicial in rem~~
11 ~~proceeding.~~

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

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

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

26 ~~(B) the address at which the claimant will accept~~

1 ~~mail;~~

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

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

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

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

11 ~~(G) the precise relief sought.~~

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

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

16 ~~(7) The State shall show the existence of probable~~
17 ~~cause for forfeiture of the property. If the State shows~~
18 ~~probable cause, the claimant has the burden of showing by a~~
19 ~~preponderance of the evidence that the claimant's interest~~
20 ~~in the property is not subject to forfeiture.~~

21 ~~(8) If the State does not show existence of probable~~
22 ~~cause, the court shall order the interest in the property~~
23 ~~returned or conveyed to the claimant and shall order all~~
24 ~~other property forfeited to the State. If the State does~~
25 ~~show existence of probable cause, the court shall order all~~
26 ~~property forfeited to the State.~~

1 ~~(9) A defendant convicted in any criminal proceeding is~~
2 ~~precluded from later denying the essential allegations of~~
3 ~~the criminal offense of which the defendant was convicted~~
4 ~~in any proceeding under this Article regardless of the~~
5 ~~pendency of an appeal from that conviction. However,~~
6 ~~evidence of the pendency of an appeal is admissible.~~

7 ~~(10) An acquittal or dismissal in a criminal proceeding~~
8 ~~does not preclude civil proceedings under this Article;~~
9 ~~however, for good cause shown, on a motion by the State's~~
10 ~~Attorney, the court may stay civil forfeiture proceedings~~
11 ~~during the criminal trial for a related criminal indictment~~
12 ~~or information alleging a money laundering violation. Such~~
13 ~~a stay shall not be available pending an appeal. Property~~
14 ~~subject to forfeiture under this Article shall not be~~
15 ~~subject to return or release by a court exercising~~
16 ~~jurisdiction over a criminal case involving the seizure of~~
17 ~~such property unless such return or release is consented to~~
18 ~~by the State's Attorney.~~

19 ~~(11) All property declared forfeited under this~~
20 ~~Article vests in this State on the commission of the~~
21 ~~conduct giving rise to forfeiture together with the~~
22 ~~proceeds of the property after that time. Any such property~~
23 ~~or proceeds subsequently transferred to any person remain~~
24 ~~subject to forfeiture and thereafter shall be ordered~~
25 ~~forfeited.~~

26 ~~(12) A civil action under this Article must be~~

1 ~~commenced within 5 years after the last conduct giving rise~~
2 ~~to forfeiture became known or should have become known or 5~~
3 ~~years after the forfeitable property is discovered,~~
4 ~~whichever is later, excluding any time during which either~~
5 ~~the property or claimant is out of the State or in~~
6 ~~confinement or during which criminal proceedings relating~~
7 ~~to the same conduct are in progress.~~

8 (m) (Blank). ~~Stay of time periods. If property is seized~~
9 ~~for evidence and for forfeiture, the time periods for~~
10 ~~instituting judicial and non judicial forfeiture proceedings~~
11 ~~shall not begin until the property is no longer necessary for~~
12 ~~evidence.~~

13 (n) (Blank). ~~Settlement of claims. Notwithstanding other~~
14 ~~provisions of this Article, the State's Attorney and a claimant~~
15 ~~of seized property may enter into an agreed upon settlement~~
16 ~~concerning the seized property in such an amount and upon such~~
17 ~~terms as are set out in writing in a settlement agreement.~~

18 (o) (Blank). ~~Property constituting attorney fees. Nothing~~
19 ~~in this Article applies to property which constitutes~~
20 ~~reasonable bona fide attorney's fees paid to an attorney for~~
21 ~~services rendered or to be rendered in the forfeiture~~
22 ~~proceeding or criminal proceeding relating directly thereto~~
23 ~~where such property was paid before its seizure, before the~~
24 ~~issuance of any seizure warrant or court order prohibiting~~
25 ~~transfer of the property and where the attorney, at the time he~~
26 ~~or she received the property did not know that it was property~~

1 ~~subject to forfeiture under this Article.~~

2 (p) (Blank). ~~Construction. It is the intent of the General~~
3 ~~Assembly that the forfeiture provisions of this Article be~~
4 ~~liberally construed so as to effect their remedial purpose. The~~
5 ~~forfeiture of property and other remedies hereunder shall be~~
6 ~~considered to be in addition to, and not exclusive of, any~~
7 ~~sentence or other remedy provided by law.~~

8 (q) (Blank). ~~Judicial review. If property has been declared~~
9 ~~forfeited under subsection (k) of this Section, any person who~~
10 ~~has an interest in the property declared forfeited may, within~~
11 ~~30 days after the effective date of the notice of the~~
12 ~~declaration of forfeiture, file a claim and cost bond as~~
13 ~~described in paragraph (3) of subsection (k) of this Section.~~
14 ~~If a claim and cost bond is filed under this Section, then the~~
15 ~~procedures described in subsection (l) of this Section apply.~~

16 (r) (Blank). ~~Burden of proof of exemption or exception. It~~
17 ~~is not necessary for the State to negate any exemption or~~
18 ~~exception in this Article in any complaint, information,~~
19 ~~indictment or other pleading or in any trial, hearing, or other~~
20 ~~proceeding under this Article. The burden of proof of any~~
21 ~~exemption or exception is upon the person claiming it.~~

22 (s) (Blank). ~~Review of administrative decisions. All~~
23 ~~administrative findings, rulings, final determinations,~~
24 ~~findings, and conclusions of the State's Attorney's Office~~
25 ~~under this Article are final and conclusive decisions of the~~
26 ~~matters involved. Any person aggrieved by the decision may~~

~~obtain review of the decision pursuant to the provisions of the Administrative Review Law and the rules adopted pursuant to that Law. Pending final decision on such review, the administrative acts, orders, and rulings of the State's Attorney's Office remain in full force and effect unless modified or suspended by order of court pending final judicial decision. Pending final decision on such review, the acts, orders, and rulings of the State's Attorney's Office remain in full force and effect, unless stayed by order of court. However, no stay of any decision of the administrative agency shall issue unless the person aggrieved by the decision establishes by a preponderance of the evidence that good cause exists for the stay. In determining good cause, the court shall find that the aggrieved party has established a substantial likelihood of prevailing on the merits and that granting the stay will not have an injurious effect on the general public.~~

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

(720 ILCS 5/29B-1.1 new)

Sec. 29B-1.1. Protective orders.

(a) Upon application of the State, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take other action to preserve the availability of property described in Section 29B-2 of this Article subject to forfeiture under this Article:

(1) upon the filing of an indictment, information, or

1 complaint charging a violation of this Article for which
2 forfeiture may be ordered and alleging that the property
3 with respect to which the order is sought would be subject
4 to forfeiture under this Article; or

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

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

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

19 An order entered under paragraph (2) of this subsection
20 shall be effective for not more than 90 days, unless extended
21 by the court for good cause shown or if an indictment,
22 information, complaint, or administrative notice has been
23 filed.

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

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

13 (c) The court may receive and consider at a hearing held
14 under this Section evidence and information that would be
15 inadmissible under the rules of evidence of this State.

16 (d) Order to repatriate and deposit.

17 (1) Under its authority to enter a pretrial restraining
18 order under this Section, the court may order a defendant
19 to repatriate any property that may be seized or forfeited
20 and deposit that property pending trial with the Department
21 of State Police or another law enforcement agency
22 designated by the Department.

23 (2) Failure to comply with an order under this Section
24 is punishable as civil or criminal contempt of court.

1 Sec. 29B-1.5. Warrant of seizure. The State may request the
2 issuance of a warrant authorizing the seizure of property
3 described in Section 29B-2 of this Article in the same manner
4 as provided for a search warrant. If the court determines that
5 there is probable cause to believe that the property to be
6 seized would be subject to forfeiture, the court shall issue a
7 warrant authorizing the seizure of the property.

8 (720 ILCS 5/29B-2 new)

9 Sec. 29B-2. Property subject to forfeiture.

10 The following property is subject of forfeiture under this
11 Article:

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

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

18 (3) all conveyances, including aircraft, vehicles, or
19 vessels, which are used or intended for use to transport or in
20 any manner to facilitate the transportation, sale, receipt,
21 possession, or concealment of property described in paragraphs
22 (1) and (2) of this Section, but the following are not subject
23 to forfeiture:

24 (A) a conveyance used by any person as a common carrier
25 in the transaction of business as a common carrier unless

1 it appears that the owner or person in charge of the
2 conveyance is a consenting party or privy to a violation of
3 this Article;

4 (B) a conveyance by reason of any act or omission which
5 the owner proves to have been committed or omitted without
6 his or her knowledge or consent; or

7 (C) a conveyance encumbered by a bona fide security
8 interest is subject to the interest of the secured party if
9 he or she did not have knowledge or consented to the act or
10 omission; and

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

19 (720 ILCS 5/29B-3 new)

20 Sec. 29B-3. Seizure.

21 (a) Seizure of real property subject to forfeiture under
22 this Article requires a court order. A court may issue an order
23 to seize or secure real property for which forfeiture is sought
24 only after proper notice to property owners and an opportunity
25 for a contested hearing to determine the sufficiency of

1 probable cause for the seizure. Nothing in this subsection
2 prohibits the prosecuting authority from seeking a lis pendens
3 or restraining order to hinder the sale or destruction of the
4 real property.

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

9 (c) Personal property subject to forfeiture under this
10 Article may be seized by the Director of State Police or any
11 peace officer without process:

12 (1) if the seizure is incident to a seizure warrant;

13 (2) if the property subject to seizure has been the
14 subject of a prior judgment in favor of the State in a
15 criminal proceeding or in an injunction or forfeiture
16 proceeding based upon this Article;

17 (3) if there is probable cause to believe that the
18 property is directly or indirectly dangerous to health or
19 safety;

20 (4) if there is probable cause to believe that the
21 property is subject to forfeiture under this Article and
22 the property is seized under circumstances in which a
23 warrantless seizure or arrest would be reasonable; or

24 (5) in accordance with the Code of Criminal Procedure
25 of 1963.

26 (d) When a conveyance is seized under this Article, an

1 investigation shall be made by the law enforcement agency as to
2 any person whose right, title, interest, or lien is of record
3 in the office of the agency or official in which title or
4 interest to the conveyance is required by law to be recorded.

5 (e) After seizure of property under this Section, notice
6 shall be given to all known interest holders that forfeiture
7 proceedings, including a preliminary review, may be instituted
8 under this Article.

9 (720 ILCS 5/29B-4 new)

10 Sec. 29B-4. Receipt for seized property. When a law
11 enforcement officer seizes property that is subject to
12 forfeiture, the officer shall provide an itemized receipt to
13 the person possessing the property or, in the absence of a
14 person to whom the receipt could be given, shall leave the
15 receipt in the place where the property was found if possible.

16 (720 ILCS 5/29B-5 new)

17 Sec. 29B-5. Safekeeping of seized property pending
18 disposition.

19 (a) Property seized under this Article is deemed to be in
20 the custody of the Director of State Police subject only to the
21 order and judgments of the circuit court having jurisdiction
22 over the forfeiture proceeding and the decisions of the State's
23 Attorney under this Article.

24 (b) If property is seized under this Article, the seizing

1 agency shall promptly conduct an inventory of the seized
2 property and estimate the property's value and forward a copy
3 of the inventory of seized property and an estimate of the
4 property's value to the Director of State Police. Upon
5 receiving notice of seizure, the Director of State Police
6 shall:

7 (1) place the property under seal;

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

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

12 (4) remove the property to a storage area for
13 safekeeping;

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

19 (6) allow another agency or custodian, including an
20 owner, secured party, or secured lienholder, to take
21 custody of the property upon terms and conditions set by
22 the Director.

23 (c) Property seized under this Article shall be kept by the
24 custodian in a manner to protect it from theft or damage and,
25 if ordered by the court, insured against those risks.

1 (720 ILCS 5/29B-6 new)

2 Sec. 29B-6. Preliminary Review.

3 (a) Within 14 days of the seizure, the State shall seek a
4 preliminary determination from the circuit court as to whether
5 there is probable cause that the property may be subject to
6 forfeiture.

7 (b) The rules of evidence of this State shall not apply to
8 any proceeding conducted under this Section.

9 (c) The court may conduct the review under subsection (a)
10 of this Section simultaneously with a proceeding under Section
11 109-1 of the Code of Criminal Procedure of 1963 for a related
12 criminal offense if a prosecution is commenced by information
13 or complaint.

14 (d) The court may accept a finding of probable cause at a
15 preliminary hearing following the filing of an information or
16 complaint charging a related criminal offense or following the
17 return of an indictment by a grand jury charging the related
18 offense as sufficient evidence of probable cause as required
19 under subsection (a) of this Section.

20 (e) Upon making a finding of probable cause as required
21 under this Section, the circuit court shall order the property
22 held until the conclusion of the forfeiture proceeding.

23 (f) For the seizure of a conveyance, at any time after a
24 finding of probable cause under subsection (a) of this Section,
25 but at least 60 days before the trial of the forfeiture case,
26 the registered owner or other claimant may file a motion in

1 writing supported by one or more sworn affidavits claiming that
2 the denial of the use of the conveyance during the pendency of
3 the forfeiture proceedings will create a substantial hardship
4 on the owner or claimant. The court shall consider the
5 following factors in determining whether a substantial
6 hardship has been proven:

7 (1) the nature of the claimed hardship;

8 (2) the availability of public transportation or other
9 available means of transportation; and

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

12 If the court determines that a substantial hardship has
13 been proven, the court shall balance the nature of the hardship
14 against the State's interest in safeguarding the conveyance.

15 If the court determines that the hardship outweighs the
16 State's interest in safeguarding the conveyance, the court may
17 temporarily release the conveyance to the registered owner or
18 claimant or the registered owner or claimant's authorized
19 designee, or both, until the conclusion of the forfeiture
20 proceedings or for a shorter period as ordered by the court,
21 provided the person to whom the conveyance is released provides
22 proof of insurance and a valid driver's license and all State
23 and local registrations for operation of the conveyance are
24 current. The court may place conditions on the conveyance
25 limiting its use to the stated hardship and restricting the
26 conveyance's use to only those persons authorized to use the

1 conveyance by the registered owner or claimant. The court may
2 revoke the order releasing the conveyance and order that the
3 conveyance be seized by law enforcement if the conditions of
4 release are violated or if the conveyance is used in the
5 commission of any offense identified in subsection (a) of
6 Section 6-205 of the Illinois Vehicle Code.

7 If the conveyance is released, the court shall order that
8 the registered owner or claimant, or his or her designee:
9 safeguard the conveyance; not remove the conveyance from the
10 jurisdiction; not conceal, destroy, or otherwise dispose of the
11 conveyance; not encumber the conveyance; and not diminish the
12 value of the conveyance in any way. The court shall determine
13 the full market value of the conveyance prior to release under
14 this subsection based on a source or sources defined in 50 Ill.
15 Adm. Code 919.80(c) (2) (A) or 919.80(c) (2) (B).

16 If the conveyance subject to forfeiture is released under
17 this Section and is subsequently forfeited, the person to whom
18 the conveyance was released shall return the conveyance to the
19 law enforcement agency that seized the conveyance within 7 days
20 from the date of the declaration of forfeiture or order of
21 forfeiture.

22 (720 ILCS 5/29B-7 new)

23 Sec. 29B-7. Notice to State's Attorney. The law enforcement
24 agency seizing property for forfeiture under this Article
25 shall, as soon as practicable but no later than 48 hours after

1 the seizure, notify the State's Attorney of the county in which
2 an act or omission giving rise to the seizure occurred or in
3 which the property was seized and the facts and circumstances
4 giving rise to the seizure and shall provide the State's
5 Attorney with the inventory of the property and its estimated
6 value. If the property seized for forfeiture is a vehicle, the
7 law enforcement agency seizing the property shall immediately
8 notify the Secretary of State that forfeiture proceedings are
9 pending against the vehicle.

10 (720 ILCS 5/29B-8 new)

11 Sec. 29B-8. Replevin hearing.

12 (a) At any time following the seizure of property, but at
13 least 60 days prior to trial of the forfeiture case, any person
14 who claims an ownership interest in property seized under this
15 Article may claim the right to possession of the property by
16 motion to the court to issue a writ of replevin. The movant
17 shall file a motion establishing the validity of his or her
18 alleged interest in the property.

19 (b) The court shall hear the motion no more than 30 days
20 after the motion is filed.

21 (c) If the motion for replevin is heard prior to the
22 preliminary review under Section 29B-6 of this Article, the
23 State shall file an answer showing probable cause for the
24 seizure at least 10 days before the hearing.

25 (d) Either party may, by agreement or for good cause, move

1 the court for one extension of no more than 10 days. The motion
2 may be supported by affidavits or other submissions.

3 (e) The court shall issue a writ of replevin if it finds
4 that:

5 (1) it is likely the final judgment will require the
6 State to return the property to the claimant; or

7 (2) the property is the only reasonable means for the
8 person claiming an ownership interest in the property to
9 pay for legal representation in the forfeiture proceeding.

10 At the court's discretion under subsection (b) of this
11 Section, the court may order the return of funds or property
12 sufficient to obtain legal counsel, but less than the total
13 amount seized and require an accounting.

14 (720 ILCS 5/29B-9 new)

15 Sec. 29B-9. Complaint of forfeiture.

16 (a) If the State's Attorney of the county in which the
17 seizure occurs finds that the alleged violation of law giving
18 rise to the seizure was incurred without willful negligence,
19 without any intention on the part of the owner of the property
20 to violate the law, or finds the existence of mitigating
21 circumstances as to justify remission of the forfeiture, he or
22 she shall cause the law enforcement agency having custody of
23 the property to return the property to the owner within a
24 reasonable time not to exceed 5 days. The State's Attorney
25 shall exercise his or her discretion prior to or promptly after

1 the preliminary review under Section 29B-6 of this Article.

2 (b) If, after review of the facts surrounding the seizure,
3 the State's Attorney is of the opinion that the seized property
4 is subject to forfeiture and the State's Attorney does not
5 cause the forfeiture to be remitted under subsection (a) of
6 this Section, he or she shall bring an action for forfeiture in
7 the circuit court within whose jurisdiction the seizure and
8 confiscation has taken place by filing a complaint of
9 forfeiture proceeding as soon as practicable, but no later than
10 30 days after a finding of probable cause at a preliminary
11 review under Section 29B-6 of this Article. A complaint of
12 forfeiture proceeding shall include:

13 (1) a description of the property seized;

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

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

17 (4) the specific statutory and factual grounds for the
18 seizure;

19 (5) whether the property was seized under an order of
20 seizure, and if the property was seized without an order of
21 seizure, an affidavit from a law enforcement officer
22 stating the factual and legal grounds for the seizure;

23 (6) in the complaint caption and in the complaint, the
24 names of persons known to the State who may claim an
25 interest in the property and the basis for each person's
26 alleged interest; and

1 (7) a summary of procedures and procedural rights
2 applicable to the forfeiture action.

3 (c) The complaint shall be served upon the person from whom
4 the property was seized and all persons known or reasonably
5 believed by the State to claim an interest in the property, in
6 accordance with the provisions of Article II, Part 2 of the
7 Code of Civil Procedure.

8 (720 ILCS 5/29B-10 new)

9 Sec. 29B-10. Exemptions from forfeiture.

10 (a) No vessel or watercraft, vehicle, or aircraft used by
11 any person as a common carrier in the transaction of business
12 as a common carrier may be forfeited unless the State proves by
13 clear and convincing evidence that (1) in the case of a railway
14 car or engine, the owner, or (2) in the case of any other
15 vessel or watercraft, vehicle or aircraft, the owner or the
16 master of the vessel or watercraft or the owner or conductor,
17 driver, pilot, or other person in charge of the vehicle or
18 aircraft was at the time of the alleged illegal act a
19 consenting party or privy to the illegal act.

20 (b) No vessel or watercraft, vehicle, or aircraft shall be
21 forfeited by reason of any act or omission by a person other
22 than the owner while the vessel, watercraft, vehicle, or
23 aircraft was unlawfully in the possession of a person who
24 acquired possession in violation of the criminal laws of the
25 United States or of any state.

1 (c) Notwithstanding any other provision of law to the
2 contrary, the property of an innocent owner shall not be
3 forfeited. No property interest shall be subject to forfeiture
4 unless the State proves by clear and convincing evidence that
5 the underlying violation of law was committed with the
6 knowledge and consent of the owner.

7 (d) Homesteaded real property, a motor vehicle of less than
8 \$10,000 in market value, or U.S. currency totaling \$200 or less
9 shall not be subject to forfeiture under this Article.

10 (720 ILCS 5/29B-11 new)

11 Sec. 29B-11. Judicial forfeiture procedures.

12 (a) A judgment of forfeiture requires as a condition
13 precedent that a defendant be convicted in an underlying or
14 related criminal action of an offense for which forfeiture is
15 authorized under this Article. The court may waive the
16 conviction requirement if the State shows by clear and
17 convincing evidence that the defendant:

18 (1) died;

19 (2) was deported by the U.S. government;

20 (3) is granted immunity in exchange for testifying or
21 otherwise assisting a law enforcement investigation or
22 prosecution; or

23 (4) fled the jurisdiction after being charged with an
24 offense for which forfeiture is authorized and released on
25 bail.

1 A defendant convicted in a criminal proceeding is precluded
2 from later denying the essential allegations of the criminal
3 offense of which the defendant was convicted in any proceeding
4 under this Article regardless of the pendency of an appeal from
5 that conviction. However, evidence of the pendency of an appeal
6 is admissible.

7 (b) The court shall stay civil forfeiture proceedings
8 during the criminal trial for a related criminal indictment
9 information, or complaint alleging a violation of this Article
10 giving rise to the forfeiture, or alleging a felony violation
11 of law underlying an alleged violation of this Article giving
12 rise to forfeiture. A stay shall not be available pending an
13 appeal. Property subject to forfeiture under this Article shall
14 not be subject to return or release by a court exercising
15 jurisdiction over a criminal case involving the seizure of the
16 property unless the return or release is consented to by the
17 State's Attorney. Upon dismissal of all related criminal
18 proceedings underlying the alleged violation of this Article
19 giving rise to forfeiture, the State's Attorney shall
20 immediately move for dismissal of the forfeiture action.

21 (c) Only an owner of or interest holder in the property may
22 file an answer. For purposes of this Article, the owner or
23 interest holder shall be referred to as claimant. A person not
24 named in the forfeiture complaint who claims to have an
25 interest in the property may petition to intervene as a
26 claimant in accordance with Section 2-408 of the Code of Civil

1 Procedure.

2 (d) The answer must be signed by the owner or interest
3 holder under penalty of perjury and must provide the following:

4 (1) the caption of the proceedings as set forth on the
5 notice of pending forfeiture and the name of the claimant;

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

7 (3) the nature and extent of the claimant's interest in
8 the property;

9 (4) the date, identity of transferor, and
10 circumstances of the claimant's acquisition of the
11 interest in the property;

12 (5) the name and address of all other persons known to
13 have an interest in the property;

14 (6) the specific provisions of Section 29B-10 of this
15 Article relied upon in asserting the property is exempt
16 from forfeiture, if applicable;

17 (7) the essential facts supporting each assertion; and

18 (8) the precise relief sought.

19 (e) The answer must be filed with the court within 45 days
20 after service of the complaint of forfeiture. The trial must be
21 held within 60 days after filing of the answer unless continued
22 for good cause.

23 (f) The State shall have the burden of proving by clear and
24 convincing evidence that the property is subject to forfeiture.
25 If the State does not meet its burden of proof, the court shall
26 order the interest in the property returned or conveyed to the

1 claimant.

2 (g) Provisional title to all property declared forfeited
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 of the property or proceeds subsequently transferred to any
7 person remain subject to forfeiture under this Article shall be
8 ordered forfeited. A claimant who acquired, as a transferee, an
9 ownership interest in property that is the subject of
10 forfeiture proceedings under this Article after the commission
11 of the underlying violation of law giving rise to forfeiture
12 under this Article, shall be barred from asserting that his or
13 her interest in the property is exempt from forfeiture under
14 subsection (c) of Section 29B-10 of this Article, unless the
15 claimant shows by a preponderance of the evidence that he or
16 she acquired the interest as a mortgagee, secured creditor,
17 lienholder, or bona fide purchaser, without knowledge of the
18 seizure of the property and without notice of any defect in
19 title.

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

1 are in progress.

2 (i) A claimant is not jointly and severally liable for
3 forfeiture awards owed by other claimants. If ownership is
4 unclear, a court may order each claimant to forfeit property on
5 a pro rata basis or by another means the court finds equitable.

6 (720 ILCS 5/29B-12 new)

7 Sec. 29B-12. Proportionality hearing.

8 (a) If property has been declared forfeited under Section
9 29B-11 of this Article as an instrumentality of a criminal
10 offense, a claimant may, within 30 days of the effective date
11 of the notice of the declaration of forfeiture, petition the
12 court that the forfeiture is grossly disproportional to the
13 seriousness of the offense. The claimant shall bear the burden
14 of persuasion by a preponderance of the evidence at a hearing
15 conducted by the court without a jury. In determining whether
16 the forfeiture of an instrumentality is excessive, the court
17 may consider all relevant factors, including, but not limited
18 to:

19 (1) the seriousness of the offense and its impact on
20 the community, including the duration of the activity and
21 the harm caused by the claimant;

22 (2) the extent to which the claimant participated in
23 the offense;

24 (3) the extent to which the property was used in
25 committing the offense;

1 (4) the sentence imposed for committing the crime
2 subject to forfeiture; and

3 (5) whether the offense was completed or attempted.

4 (b) In determining the value of the instrumentality subject
5 to forfeiture, the court may consider all relevant factors,
6 including, but not limited to:

7 (1) the fair market value of the property;

8 (2) the value of the property to the claimant,
9 including the hardship to the claimant if the forfeiture is
10 realized; and

11 (3) the hardship from the loss of a primary residence,
12 motor vehicle, or other property to the claimant's family
13 members or others if the property is forfeited.

14 (c) The court may not consider the monetary value of the
15 instrumentality to the State in determining whether the
16 forfeiture of an instrumentality is disproportional to the
17 seriousness of the offense.

18 (d) If the claimant prevails in a proportionality hearing
19 under this Section, the court may order the property, or a
20 portion of the property, returned or conveyed to the claimant
21 as the court deems just.

22 (720 ILCS 5/29B-13 new)

23 Sec. 29B-13. Stay of time periods. If property is seized
24 for evidence and is subject to forfeiture, the time periods for
25 instituting judicial forfeiture proceedings shall not begin

1 until the property is no longer necessary for evidence.

2 (720 ILCS 5/29B-14 new)

3 Sec. 29B-14. Settlement of claims. Notwithstanding any
4 other provision of this Article, the State's Attorney and a
5 claimant of seized property may enter into an agreed settlement
6 concerning the seized property in an amount and upon the terms
7 as set out in writing in the settlement agreement.

8 (720 ILCS 5/29B-15 new)

9 Sec. 29B-15. Attorney's fees. Nothing in this Article shall
10 apply to property which constitutes reasonable bona fide
11 attorney's fees paid to an attorney for services rendered or to
12 be rendered in the forfeiture proceeding or criminal proceeding
13 if the property was paid before its seizure, before the
14 issuance of any seizure warrant, or court order prohibiting
15 transfer of the property and if the attorney, at the time he or
16 she received the property did not know that it was property
17 subject to forfeiture.

18 (720 ILCS 5/29B-16 new)

19 Sec. 29B-16. Construction. The General Assembly intends
20 the forfeiture provisions of this Article to be liberally
21 construed so as to effect their remedial purpose. The
22 forfeiture of property and other remedies shall be considered
23 to be in addition, and not exclusive of any sentence or other

1 remedy provided by law.

2 (720 ILCS 5/29B-17 new)

3 Sec. 29B-17. Judicial review. If property has been declared
4 forfeited under Section 29B-11 of this Article, any person who
5 has an interest in the property declared forfeited and whose
6 claimed interest in the forfeited property was not adjudicated
7 in the forfeiture proceeding may, within 30 days of the
8 effective date of the notice of the declaration of forfeiture,
9 file a petition to stay enforcement of the order of forfeiture
10 and to intervene as a claimant under Section 2-408 of the Code
11 of Civil Procedure.

12 (720 ILCS 5/29B-18 new)

13 Sec. 29B-18. Return of property, damages, and costs.

14 (a) The law enforcement agency that holds custody of
15 property seized for forfeiture shall return it to the claimant,
16 within a reasonable period of time not to exceed 5 days after
17 the court orders the property to be returned or conveyed to the
18 claimant:

19 (1) property ordered by the court to be conveyed or
20 returned to the claimant in accordance with subsection (f)
21 of Section 29B-11 of this Article; and

22 (2) property ordered by the court to be conveyed or
23 returned to the claimant in accordance with subsection (d)
24 of Section 29B-12 of this Article.

1 (b) The law enforcement agency that holds custody of
2 property described in subsection (a) of this Section is
3 responsible for any damages, storage fees, and related costs
4 applicable to the property returned. The claimant shall not be
5 subject to any charges by the State for storage of the property
6 or expenses incurred in the preservation of the property.

7 (720 ILCS 5/29B-19 new)

8 Sec. 29B-19. Distribution of proceeds; selling or
9 retaining seized property prohibited.

10 (a) Abandoned property shall be delivered to the Department
11 of State Police within 30 days. For purposes of this Section,
12 "abandoned property" means personal property left by an owner
13 who intentionally relinquishes all rights to its control. Real
14 property may not be abandoned.

15 (b) Except as otherwise provided in this Section, the court
16 shall order that property under this Article to be delivered to
17 the Department of State Police within 30 days.

18 (c) Upon motion, the court may order that a portion of the
19 currency seized or proceeds from public auction be used to pay
20 reasonable non-personnel expenses of the seizure, storage, and
21 maintenance of custody of any forfeited items.

22 (d) The Department of State Police shall dispose of all
23 non-currency forfeited or abandoned property at public
24 auction. The auction proceeds and forfeited currency shall
25 first be used to pay all outstanding recorded liens on the

1 forfeited property and then to comply with an order of the
2 court to pay reasonable non-personnel expenses under
3 subsection (c) of this Section, with all remaining funds to be
4 deposited into the Asset Forfeiture Proceeds Fund.

5 (e) A law enforcement agency shall not retain forfeited or
6 abandoned property for its own use or transfer that property to
7 any employee of the agency, to a person related to an employee
8 by blood or marriage, or to another law enforcement agency.

9 (720 ILCS 5/29B-20 new)

10 Sec. 29B-20. Transfer of forfeitable property to the
11 federal government.

12 (a) No State, county, municipal law enforcement agency, or
13 prosecuting authority may enter into an agreement to transfer
14 or refer seized property to a federal agency directly,
15 indirectly, by adoption, through an intergovernmental joint
16 taskforce, or by any other means for the purposes of forfeiture
17 litigation, and instead shall refer the seized property to
18 appropriate local or State prosecuting authorities for
19 forfeiture litigation under this Article, unless the seized
20 property includes U.S. currency in excess of \$100,000.

21 (b) If the seized property includes U.S. currency in excess
22 of \$100,000, a State, county, or municipal law enforcement
23 agency may refer or transfer the seized property to a federal
24 agency for forfeiture litigation under federal law, but nothing
25 in this Section shall be construed to require the referral or

1 transfer.

2 (c) Nothing in subsections (a) or (b) of this Section shall
3 be construed to restrict a State, county, or municipal law
4 enforcement agency from collaborating with a federal agency to
5 seize contraband or property that the law enforcement agency
6 has probable cause to believe is the proceeds or instruments of
7 a crime by adoption, through an intergovernmental joint
8 taskforce, or by other means.

9 (720 ILCS 5/29B-21 new)

10 Sec. 29B-21. Disposition of property and proceeds from
11 another jurisdiction.

12 (a) Forfeited property received from another jurisdiction,
13 including from the federal government, shall be transferred to
14 the Department of State Police, sold at public auction by the
15 Department of State Police or its designee, and deposited into
16 the Asset Forfeiture Proceeds Fund.

17 (b) Proceeds from the sale of forfeited property received
18 from another jurisdiction, including the federal government,
19 must be transferred to the Department of State Police and
20 deposited into the Asset Forfeiture Proceeds Fund.

21 (c) If federal law prohibits compliance with subsections
22 (a) and (b) of this Section, State and local law enforcement
23 agencies are prohibited from seeking or accepting forfeited
24 property or proceeds from the federal government.

1 (720 ILCS 5/29B-22 new)

2 Sec. 29B-22. Reporting. Property seized or forfeited under
3 this Article is subject to reporting under the Seizure and
4 Forfeiture Reporting Act.

5 (720 ILCS 5/33G-6)

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

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

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

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

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

23 (3) ordering dissolution or reorganization of any
24 enterprise, making due provision for the rights of innocent
25 persons.

1 (b) Any violation of this Article is subject to the
2 remedies, procedures, and forfeiture as set forth in Sections
3 1.1 through 21 of Article 29B ~~subsections (f) through (s) of~~
4 ~~Section 29B-1~~ of this Code. Property seized or forfeited under
5 this Article is subject to reporting under the Seizure and
6 Forfeiture Reporting Act.

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

8 (720 ILCS 5/36-1) (from Ch. 38, par. 36-1)

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

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

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

1 except for keeping a place of juvenile prostitution),
2 Section 11-20.1 (child pornography), paragraph (a)(1),
3 (a)(2), (a)(4), (b)(1), (b)(2), (e)(1), (e)(2), (e)(3),
4 (e)(4), (e)(5), (e)(6), or (e)(7) of Section 12-3.05
5 (aggravated battery), Section 12-7.3 (stalking), Section
6 12-7.4 (aggravated stalking), Section 16-1 (theft if the
7 theft is of precious metal or of scrap metal), subdivision
8 (f)(2) or (f)(3) of Section 16-25 (retail theft), Section
9 18-2 (armed robbery), Section 19-1 (burglary), Section
10 19-2 (possession of burglary tools), Section 19-3
11 (residential burglary), Section 20-1 (arson; residential
12 arson; place of worship arson), Section 20-2 (possession of
13 explosives or explosive or incendiary devices),
14 subdivision (a)(6) or (a)(7) of Section 24-1 (unlawful use
15 of weapons), Section 24-1.2 (aggravated discharge of a
16 firearm), Section 24-1.2-5 (aggravated discharge of a
17 machine gun or a firearm equipped with a device designed or
18 used for silencing the report of a firearm), Section 24-1.5
19 (reckless discharge of a firearm), Section 28-1
20 (gambling), or Section 29D-15.2 (possession of a deadly
21 substance) of this Code;

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

26 (3) an offense prohibited by Section 28, 29, or 30 of

1 the Cigarette Use Tax Act if the vessel or watercraft,
2 vehicle, or aircraft contains more than 10 cartons of such
3 cigarettes;

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

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

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

14 (A) during a period in which his or her driving
15 privileges are revoked or suspended if the revocation
16 or suspension was for:

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

21 (ii) Section 11-501.1 (statutory summary
22 suspension or revocation),

23 (iii) paragraph (b) of Section 11-401 (motor
24 vehicle accidents involving death or personal
25 injuries), or

26 (iv) reckless homicide as defined in Section

1 9-3 of this Code;

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

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

22 (D) he or she did not possess a valid driver's
23 license or permit or a valid restricted driving permit
24 or a valid judicial driving permit or a valid
25 monitoring device driving permit; or

26 (E) he or she knew or should have known that the

1 vehicle he or she was driving was not covered by a
2 liability insurance policy;

3 (7) an offense described in subsection (g) of Section
4 6-303 of the Illinois Vehicle Code;

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

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

1 thereof and was involved in an accident that resulted in
2 death, great bodily harm, or permanent disability or
3 disfigurement to another, when the violation was a
4 proximate cause of the death or injuries; or (C) the person
5 committed a violation of operating a watercraft under the
6 influence of alcohol, other drug or drugs, intoxicating
7 compound or compounds, or combination thereof under
8 Section 5-16 of the Boat Registration and Safety Act or a
9 similar provision for the third or subsequent time.

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

18 (c) In addition, when a person discharges a firearm at
19 another individual from a vehicle with the knowledge and
20 consent of the owner of the vehicle and with the intent to
21 cause death or great bodily harm to that individual and as a
22 result causes death or great bodily harm to that individual,
23 the vehicle shall be subject to seizure and forfeiture under
24 the same procedures provided in this Article for the seizure
25 and forfeiture of vehicles used in violations of clauses (1),
26 (2), (3), or (4) of subsection (a) of this Section.

1 (d) (Blank). ~~If the spouse of the owner of a vehicle seized~~
2 ~~for an offense described in subsection (g) of Section 6-303 of~~
3 ~~the Illinois Vehicle Code, a violation of subdivision~~
4 ~~(d) (1) (A), (d) (1) (D), (d) (1) (G), (d) (1) (H), or (d) (1) (I) of~~
5 ~~Section 11-501 of the Illinois Vehicle Code, or Section 9-3 of~~
6 ~~this Code makes a showing that the seized vehicle is the only~~
7 ~~source of transportation and it is determined that the~~
8 ~~financial hardship to the family as a result of the seizure~~
9 ~~outweighs the benefit to the State from the seizure, the~~
10 ~~vehicle may be forfeited to the spouse or family member and the~~
11 ~~title to the vehicle shall be transferred to the spouse or~~
12 ~~family member who is properly licensed and who requires the use~~
13 ~~of the vehicle for employment or family transportation~~
14 ~~purposes. A written declaration of forfeiture of a vehicle~~
15 ~~under this Section shall be sufficient cause for the title to~~
16 ~~be transferred to the spouse or family member. The provisions~~
17 ~~of this paragraph shall apply only to one forfeiture per~~
18 ~~vehicle. If the vehicle is the subject of a subsequent~~
19 ~~forfeiture proceeding by virtue of a subsequent conviction of~~
20 ~~either spouse or the family member, the spouse or family member~~
21 ~~to whom the vehicle was forfeited under the first forfeiture~~
22 ~~proceeding may not utilize the provisions of this paragraph in~~
23 ~~another forfeiture proceeding. If the owner of the vehicle~~
24 ~~seized owns more than one vehicle, the procedure set out in~~
25 ~~this paragraph may be used for only one vehicle.~~

26 (e) In addition, property subject to forfeiture declared

1 ~~contraband~~ under Section 40 of the Illinois Streetgang
2 Terrorism Omnibus Prevention Act may be seized and forfeited
3 under the procedures under this Article.

4 (Source: P.A. 98-699, eff. 1-1-15; 98-1020, eff. 8-22-14;
5 99-78, eff. 7-20-15.)

6 (720 ILCS 5/36-1.1 new)

7 Sec. 36-1.1. Seizure.

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

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

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

24 (d) After seizure under this Section, notice shall be given
25 to all known interest holders that forfeiture proceedings,

1 including a preliminary review, may be instituted under this
2 Article.

3 (720 ILCS 5/36-1.2 new)

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

10 (720 ILCS 5/36-1.3 new)

11 Sec. 36-1.3. Safekeeping of seized property pending
12 disposition.

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

18 (b) When property is seized, the seizing agency shall
19 promptly conduct an inventory of the seized property and
20 estimate the property's value, and shall:

21 (1) place the property under seal;

22 (2) remove the property to a place designated by the
23 seizing agency;

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

1 agency;

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

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) Property seized under this Article shall be kept by the
14 custodian in a manner to protect it from theft or damage and,
15 if ordered by the court, insured against those risks.

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

18 (720 ILCS 5/36-1.4 new)

19 Sec. 36-1.4. Notice to State's Attorney. The law
20 enforcement agency seizing property for forfeiture under this
21 Article shall, as soon as practicable but not later than 48
22 hours after the seizure, notify the State's Attorney for the
23 county in which an act or omission giving rise to the seizure
24 occurred or in which the property was seized and the facts and
25 circumstances giving rise to the seizure occurred, and shall

1 provide the State's Attorney with the inventory of the property
2 and its estimated value. If the property seized for forfeiture
3 is a vehicle, the law enforcement agency seizing the property
4 shall immediately notify the Secretary of State that forfeiture
5 proceedings are pending.

6 (720 ILCS 5/36-1.5)

7 Sec. 36-1.5. Preliminary review.

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

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

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

20 (d) The court may accept a finding of probable cause at a
21 preliminary hearing following the filing of an information or
22 complaint charging a related criminal offense or following the
23 return of indictment by a grand jury charging the related
24 offense as sufficient evidence of probable cause as required
25 under subsection (a).

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

5 For seizures of conveyances, at any time after ~~within 7~~
6 ~~days of~~ a finding of probable cause under subsection (a), but
7 at least 60 days before the trial of the forfeiture case, the
8 registered owner or other claimant may file a motion in writing
9 supported by sworn affidavits claiming that denial of the use
10 of the conveyance during the pendency of the forfeiture
11 proceedings creates a substantial hardship. The court shall
12 consider the following factors in determining whether a
13 substantial hardship has been proven:

- 14 (1) the nature of the claimed hardship;
15 (2) the availability of public transportation or other
16 available means of transportation; and
17 (3) any available alternatives to alleviate the
18 hardship other than the return of the seized conveyance.

19 If the court determines that a substantial hardship has
20 been proven, the court shall then balance the nature of the
21 hardship against the State's interest in safeguarding the
22 conveyance. If the court determines that the hardship outweighs
23 the State's interest in safeguarding the conveyance, the court
24 may temporarily release the conveyance to the registered owner
25 or the registered owner's authorized designee, or both, until
26 the conclusion of the forfeiture proceedings or for such

1 shorter period as ordered by the court provided that the person
2 to whom the conveyance is released provides proof of insurance
3 and a valid driver's license and all State and local
4 registrations for operation of the conveyance are current. The
5 court may ~~shall~~ place conditions on the conveyance limiting its
6 use to the stated hardship and restricting the conveyance's use
7 to only those individuals authorized to use the conveyance by
8 the registered owner. The court may ~~shall~~ revoke the order
9 releasing the conveyance and order that the conveyance be
10 resealed by law enforcement if the conditions of release are
11 violated or if the conveyance is used in the commission of any
12 offense identified in subsection (a) of Section 6-205 of the
13 Illinois Vehicle Code.

14 ~~If the court orders the release of the conveyance during~~
15 ~~the pendency of the forfeiture proceedings, the registered~~
16 ~~owner or his or her authorized designee shall post a cash~~
17 ~~security with the Clerk of the Court as ordered by the court.~~
18 ~~The court shall consider the following factors in determining~~
19 ~~the amount of the cash security:~~

20 ~~(A) the full market value of the conveyance;~~

21 ~~(B) the nature of the hardship;~~

22 ~~(C) the extent and length of the usage of the~~
23 ~~conveyance; and~~

24 ~~(D) such other conditions as the court deems necessary~~
25 ~~to 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 98-1020, eff. 8-22-14.)

7 (720 ILCS 5/36-1.6 new)

8 Sec. 36-1.6. Replevin hearing.

9 (a) At any time following the seizure of property under
10 this Article, but at least 60 days prior to trial of the
11 forfeiture case, any person who claims an ownership interest in
12 the property may claim the right to possession of the property
13 by motion to the court to issue a writ of replevin. The movant
14 shall file a motion establishing the validity of his or her
15 alleged interest in the property.

16 (b) The court shall hear the motion no more than 30 days
17 after the motion is filed.

18 (c) If the motion for replevin is heard prior to the
19 preliminary review under Section 36-1.5 of this Code, the State
20 shall file a response showing probable cause for the seizure at
21 least 10 days before the hearing.

22 (d) Either party may, by agreement or for good cause, move
23 the court for one extension of no more than 10 days. The motion
24 may be supported by affidavits or other submissions.

25 (e) The court shall issue a writ of replevin if it finds

1 that:

2 (1) it is likely the final judgment will require the
3 State to return the property to the claimant; or

4 (2) the property is the only reasonable means for a
5 defendant to pay for legal representation in the forfeiture
6 proceeding. At the court's discretion, it may order the
7 return of property sufficient to obtain legal counsel but
8 less than the total amount seized, and require an
9 accounting.

10 (720 ILCS 5/36-2) (from Ch. 38, par. 36-2)

11 Sec. 36-2. Complaint of ~~Action for~~ forfeiture.

12 (a) If the ~~The~~ State's Attorney in the county in which the
13 ~~such~~ seizure occurs ~~if he or she~~ finds that the alleged
14 violation of law giving rise to the seizure ~~forfeiture~~ was
15 incurred without willful negligence or without any intention on
16 the part of the owner of the vessel or watercraft, vehicle or
17 aircraft or any person whose right, title or interest is of
18 record as described in Section 36-1 of this Article, to violate
19 the law, or finds the existence of ~~such~~ mitigating
20 circumstances as to justify remission of the forfeiture, he or
21 she shall ~~may~~ cause the law enforcement agency having custody
22 of the property to return the property to the owner within a
23 reasonable time not to exceed 5 days ~~to remit the same upon~~
24 ~~such terms and conditions as the State's Attorney deems~~
25 ~~reasonable and just.~~ The State's Attorney shall exercise his or

1 her discretion under this subsection ~~the foregoing provision of~~
2 ~~this Section 36-2(a)~~ prior to or promptly after the preliminary
3 review under Section 36-1.5 of this Article.

4 (b) If, after review of the facts surrounding the seizure,
5 the State's Attorney is of the opinion that seized property is
6 subject to forfeiture and the State's Attorney does not cause
7 the forfeiture to be remitted under subsection (a) of this
8 Section, he or she shall forthwith bring an action for
9 forfeiture in the Circuit Court within whose jurisdiction the
10 seizure and confiscation has taken place by filing a complaint
11 of forfeiture proceeding as soon as practicable but not later
12 than 30 days after a finding of probable cause at a preliminary
13 review under Section 36-1.5 of this Article. A complaint of
14 forfeiture proceeding shall include:

15 (1) a description of the property seized;

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

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

19 (4) the specific statutory and factual grounds for the
20 seizure;

21 (5) whether the property was seized under an order of
22 seizure, and if the property was seized without an order of
23 seizure, an affidavit from a law enforcement officer
24 stating the factual and legal grounds for the seizure;

25 (6) in the complaint caption and in the complaint, the
26 names of persons known to the State who may claim an

1 interest in the property and the basis for each person's
2 alleged interest; and

3 (7) a summary of procedures and procedural rights
4 applicable to the forfeiture action.

5 (b-1) The complaint shall be served upon the person from
6 whom the property was seized, upon each person whose right,
7 title, or interest is of record in the office of the Secretary
8 of State, the Secretary of Transportation, the Administrator of
9 the Federal Aviation Agency, or any other department of this
10 State, or any other state of the United States if the vessel or
11 watercraft, vehicle, or aircraft is required to be so
12 registered, as the case may be, and upon all persons known or
13 reasonably believed by the State to claim an interest in the
14 property, under Article II, Part 2, of the Code of Civil
15 Procedure. The State's Attorney shall give notice of seizure
16 and the forfeiture proceeding to each person according to the
17 following method: upon each person whose right, title, or
18 interest is of record in the office of the Secretary of State,
19 the Secretary of Transportation, the Administrator of the
20 Federal Aviation Agency, or any other department of this State,
21 or any other state of the United States if the vessel or
22 watercraft, vehicle, or aircraft is required to be so
23 registered, as the case may be, by delivering the notice and
24 complaint in open court or by certified mail to the address as
25 given upon the records of the Secretary of State, the Division
26 of Aeronautics of the Department of Transportation, the Capital

1 ~~Development Board, or any other department of this State or the~~
2 ~~United States if the vessel or watercraft, vehicle, or aircraft~~
3 ~~is required to be so registered.~~

4 (c) (Blank). ~~The owner of the seized vessel or watercraft,~~
5 ~~vehicle, or aircraft or any person whose right, title, or~~
6 ~~interest is of record as described in Section 36-1, may within~~
7 ~~20 days after delivery in open court or the mailing of such~~
8 ~~notice file a verified answer to the Complaint and may appear~~
9 ~~at the hearing on the action for forfeiture.~~

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

14 (e) (Blank). ~~The owner of such vessel or watercraft,~~
15 ~~vehicle, or aircraft or any person whose right, title, or~~
16 ~~interest is of record as described in Section 36-1, may show by~~
17 ~~a preponderance of the evidence that he did not know, and did~~
18 ~~not have reason to know, that the vessel or watercraft,~~
19 ~~vehicle, or aircraft was to be used in the commission of such~~
20 ~~an offense or that any of the exceptions set forth in Section~~
21 ~~36-3 are applicable.~~

22 (f) (Blank). ~~Unless the State shall make such showing, the~~
23 ~~Court shall order such vessel or watercraft, vehicle, or~~
24 ~~aircraft released to the owner. Where the State has made such~~
25 ~~showing, the Court may order the vessel or watercraft, vehicle,~~
26 ~~or aircraft destroyed or may order it forfeited to any local,~~

1 ~~municipal or county law enforcement agency, or the Department~~
2 ~~of State Police or the Department of Revenue of the State of~~
3 ~~Illinois.~~

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

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

20 (Source: P.A. 98-699, eff. 1-1-15; 98-1020, eff. 8-22-14;
21 99-78, eff. 7-20-15.)

22 (720 ILCS 5/36-2.1 new)

23 Sec. 36-2.1. Judicial procedures. The following judicial
24 procedures shall apply to property seized under this Article:

25 (a) A judgment of forfeiture requires as a condition

1 precedent that a defendant be convicted in an underlying or
2 related criminal action of an offense for which forfeiture is
3 authorized under Section 36-1 of this Article. The court may
4 waive the conviction requirement if the State shows by clear
5 and convincing evidence that the defendant:

6 (1) died;

7 (2) was deported by the United States government;

8 (3) is granted immunity in exchange for testifying or
9 otherwise assisting a law enforcement investigation or
10 prosecution; or

11 (4) fled the jurisdiction after being charged with an
12 offense for which forfeiture is authorized and released on
13 bail.

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

20 (b) The court shall stay civil forfeiture proceedings
21 during the criminal trial for a related criminal indictment,
22 complaint, or information alleging a violation of law giving
23 rise to forfeiture under Section 36-1 of this Article. A stay
24 shall not be available pending an appeal. Property subject to
25 forfeiture under Section 36-1 of this Article is not subject to
26 return or release by a court exercising jurisdiction over a

1 criminal case involving the seizure of the property unless the
2 return or release is consented to by the State's Attorney. Upon
3 dismissal of all related criminal proceedings underlying the
4 alleged violation of this Article giving rise to forfeiture,
5 the State's Attorney shall immediately move for dismissal of
6 the forfeiture action.

7 (c) Only an owner of or interest holder in the property may
8 file an answer. For purposes of this Article, the owner or
9 interest holder shall be referred to as claimant. A person not
10 named in the forfeiture complaint who claims to have an
11 interest in the property may petition to intervene as a
12 claimant under Section 2-408 of the Code of Civil Procedure.

13 (d) The answer must be signed by the owner or interest
14 holder under penalty of perjury and must set forth:

15 (1) the caption of the proceedings as set forth on the
16 notice of pending forfeiture and the name of the claimant;

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

18 (3) the nature and extent of the claimant's interest in
19 the property;

20 (4) the date, identity of transferor, and
21 circumstances of the claimant's acquisition of the
22 interest in the property;

23 (5) the name and address of all other persons known to
24 have an interest in the property;

25 (6) if applicable, the specific provisions of Section
26 36-3 of this Article relied upon in asserting that the

1 property is exempt from forfeiture;

2 (7) all essential facts supporting each assertion; and

3 (8) the precise relief sought.

4 (e) The answer must be filed with the court within 45 days
5 after service of the complaint of forfeiture.

6 (f) The trial must be held within 60 days after filing of
7 the answer unless continued for good cause.

8 (g) The State shall have the burden of proving by clear and
9 convincing evidence that the property is subject to forfeiture
10 under Section 36-1 of this Article.

11 (h) If the State does not meet its burden of proof, the
12 court shall order the interest in the property returned or
13 conveyed to the claimant.

14 (i) If the State meets its burden of proof, then the court
15 shall order the property forfeited to the State. A copy of the
16 order shall be filed with the law enforcement agency, and with
17 each federal or State office or agency with which the vessel or
18 watercraft, vehicle, or aircraft is required to be registered.
19 The order, when filed, constitutes authority for the issuance
20 of clear title to the vessel or watercraft, vehicle, or
21 aircraft, to the department or agency to whom it is delivered
22 or any purchaser. The law enforcement agency shall comply with
23 instructions to remit received from the State's Attorney or
24 Attorney General under subsection (a) of Section 36-2 or 36-4
25 of this Article within a reasonable time not to exceed 5 days.

26 (j) Property subject to forfeiture under this Article is

1 not subject to return or release by a court exercising
2 jurisdiction over a criminal case involving the seizure of the
3 property unless the return or release is consented to by the
4 State's Attorney.

5 (k) Provisional title to all property declared forfeited
6 under this Article vests in the State on the commission of the
7 conduct giving rise to forfeiture together with the proceeds of
8 the property after that time. Except as otherwise provided in
9 this Article, any property or proceeds subsequently
10 transferred to any person remain subject to forfeiture and
11 thereafter shall be ordered forfeited. A claimant who acquired,
12 as a transferee, an ownership interest in property that is the
13 subject of forfeiture proceedings under this Article after the
14 commission of the underlying violation of law giving rise to
15 forfeiture under this Article, shall be barred from asserting
16 that his or her interest in the property is exempt from
17 forfeiture under subsection (c) of Section 36-3 of this
18 Article, unless the claimant shows by a preponderance of the
19 evidence that he or she acquired the interest as a mortgagee,
20 secured creditor, lienholder, or bona fide purchaser, without
21 knowledge of the seizure of the property and without notice of
22 any defect in title.

23 (l) A civil action under this Article must be commenced
24 within 5 years after the last conduct giving rise to forfeiture
25 became known or should have become known or 5 years after the
26 forfeitable property is discovered, whichever is later,

1 excluding any time during which either the property or claimant
2 is out of the State or in confinement or during which criminal
3 proceedings relating to the same conduct are in progress.

4 (m) A claimant is not jointly and severally liable for
5 forfeiture awards owed by other claimants. If ownership is
6 unclear, a court may order each claimant to forfeit property on
7 a pro rata basis or by another means the court finds equitable.

8 (720 ILCS 5/36-3) (from Ch. 38, par. 36-3)

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

10 (a) No vessel or watercraft, vehicle, or aircraft used by
11 any person as a common carrier in the transaction of business
12 as such common carrier may be forfeited under the provisions of
13 Section 36-2 of this Article unless the State proves by clear
14 and convincing evidence ~~it appears~~ that (1) in the case of a
15 railway car or engine, the owner, or (2) in the case of any
16 other such vessel or watercraft, vehicle or aircraft, the owner
17 or the master of such vessel or watercraft or the owner or
18 conductor, driver, pilot, or other person in charge of such
19 vehicle or aircraft was at the time of the alleged illegal act
20 a consenting party or privy thereto.

21 (b) No vessel or watercraft, vehicle, or aircraft shall be
22 forfeited under the provisions of Section 36-2 of this Article
23 by reason of any act or omission ~~established by the owner~~
24 ~~thereof to have been~~ committed or omitted by any person other
25 than such owner while such vessel or watercraft, vehicle, or

1 aircraft was unlawfully in the possession of a person who
2 acquired possession thereof in violation of the criminal laws
3 of the United States, or of any state.

4 (c) Notwithstanding any provision of law to the contrary,
5 the property of an innocent owner shall not be forfeited under
6 this Article. Except as otherwise provided in subsection (k) of
7 Section 36-2.1 of this Article, no property interest shall be
8 subject to forfeiture under this Article unless the State
9 proves by clear and convincing evidence that the violation of
10 law giving rise to forfeiture under Section 36-1 of this
11 Article was committed with the knowledge and consent of the
12 owner.

13 (d) Homesteaded real property, a motor vehicle of less than
14 \$10,000 in market value, or United States currency totaling
15 \$200 or less is not subject to forfeiture under this Article.

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

17 (720 ILCS 5/36-3.1 new)

18 Sec. 36-3.1. Proportionality hearing.

19 (a) If property has been declared forfeited under Section
20 36-2.1 of this Article, a claimant may, within 30 days of the
21 effective date of the judgment of forfeiture, petition the
22 court that the forfeiture is grossly disproportional to the
23 seriousness of the offense. The claimant shall bear the burden
24 of persuasion by a preponderance of the evidence at a hearing
25 conducted by the court without a jury. In determining whether

1 the forfeiture is excessive, the court may consider all
2 relevant factors, including, but not limited to:

3 (1) the seriousness of the offense and its impact on
4 the community, including the duration of the activity and
5 the harm caused by the claimant;

6 (2) the extent to which the claimant participated in
7 the offense;

8 (3) the extent to which the property was used in
9 committing the offense;

10 (4) the sentence imposed for committing the crime
11 subject to forfeiture; and

12 (5) whether the offense was completed or attempted.

13 (b) In determining the value of the property subject to
14 forfeiture, the court may consider all relevant factors,
15 including, but not limited to:

16 (1) the fair market value of the property;

17 (2) the value of the property to the claimant,
18 including hardship to the claimant if the forfeiture is
19 realized; and

20 (3) the hardship from the loss of the property to the
21 claimant's family members or others if the property is
22 forfeited.

23 (c) The court may not consider the monetary value of the
24 property to the State in determining whether the forfeiture of
25 property is disproportional to the seriousness of the offense.

26 (d) If the claimant prevails in a proportionality hearing

1 under this Section, the court may:

2 (1) order the property returned or conveyed to the
3 claimant; or

4 (2) order that the property be sold and the proceeds
5 divided between the claimant and the State in a manner as
6 the court deems just and equitable.

7 (720 ILCS 5/36-3.2 new)

8 Sec. 36-3.2. Forfeiture to spouse or family member. If the
9 spouse of the owner of a vehicle seized for an offense
10 described in subsection (g) of Section 6-303 of the Illinois
11 Vehicle Code, a violation of subparagraph (A), (D), (G), (H),
12 or (I) of paragraph (1) of subsection (d) of Section 11-501 of
13 the Illinois Vehicle Code, or Section 9-3 of this Code makes a
14 showing that the seized vehicle is the only source of
15 transportation and it is determined that the financial hardship
16 to the family as a result of the seizure outweighs the benefit
17 to the State from the seizure, the vehicle may be forfeited to
18 the spouse or family member and the title to the vehicle shall
19 be transferred to the spouse or family member who is properly
20 licensed and who requires the use of the vehicle for employment
21 or family transportation purposes. A written declaration of
22 forfeiture of a vehicle under this Section shall be sufficient
23 cause for the title to be transferred to the spouse or family
24 member. This Section applies only to one forfeiture per
25 vehicle. If the vehicle is the subject of a subsequent

1 forfeiture proceeding by virtue of a subsequent conviction of
2 either spouse or the family member, the spouse or family member
3 to whom the vehicle was forfeited under the first forfeiture
4 proceeding may not utilize this Section in another forfeiture
5 proceeding. If the owner of the vehicle seized owns more than
6 one vehicle, the procedure set out in this Section may be used
7 for only one vehicle.

8 (720 ILCS 5/36-6 new)

9 Sec. 36-6. Return of property; damages and costs.

10 (a) The law enforcement agency that holds custody of
11 property seized for forfeiture shall return to the claimant,
12 within a reasonable period of time not to exceed 5 days after
13 the court orders the property to be returned or conveyed to the
14 claimant:

15 (1) property ordered by the court to be conveyed or
16 returned to the claimant under subsection (h) of Section
17 36-2.1 of this Article; and

18 (2) property ordered by the court to be conveyed or
19 returned to the claimant under subsection (d) of Section
20 36-3.1 of this Article.

21 (b) The law enforcement agency that holds custody of
22 property seized under this Article is responsible for any
23 damages, storage fees, and related costs applicable to property
24 returned to a claimant under this Article. The claimant shall
25 not be subject to any charges by the State for storage of the

1 property or expenses incurred in the preservation of the
2 property.

3 (720 ILCS 5/36-7 new)

4 Sec. 36-7. Abandoned property. Abandoned property shall be
5 delivered to the Department of State Police within 30 days. For
6 purposes of this Section, "abandoned property" means personal
7 property left by an owner who intentionally relinquishes all
8 rights to its control. Real property may not be abandoned.

9 (720 ILCS 5/36-8 new)

10 Sec. 36-8. Distribution of proceeds; selling or retaining
11 seized property prohibited.

12 (a) Except as otherwise provided in this Section, the court
13 shall order that property forfeited under this Article be
14 delivered to the Department of State Police within 30 days.

15 (b) Upon motion, the court may order that a portion of the
16 currency seized or proceeds from public auction be used to pay
17 reasonable non-personnel expenses of the seizure, storage, and
18 maintenance of custody of any forfeited items.

19 (c) The Department of State Police or its designee shall
20 dispose of all forfeited and abandoned conveyances at public
21 auction. The auction proceeds shall first be used to pay all
22 outstanding recorded liens on the conveyance, then to comply
23 with an order of the court to pay reasonable non-personnel
24 expenses, with all remaining funds to be deposited into the

1 Asset Forfeiture Proceeds Fund.

2 (d) A law enforcement agency shall not retain a forfeited
3 or abandoned conveyance for its own use or transfer the
4 conveyance to any employee of the agency, to a person related
5 to an employee by blood or marriage, or to another law
6 enforcement agency.

7 (720 ILCS 5/36-9 new)

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

11 (720 ILCS 5/47-15)

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

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

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

24 (c) A person violating this Section is guilty of a Class B

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

24 (d) The statutory minimum fine required by subsection (c)
25 is not subject to reduction or suspension unless the defendant
26 is indigent. If the defendant files a motion with the court

1 asserting his or her inability to pay the mandatory fine
2 required by this Section, the court must set a hearing on the
3 motion before sentencing. The court must require an affidavit
4 signed by the defendant containing sufficient information to
5 ascertain the assets and liabilities of the defendant. If the
6 court determines that the defendant is indigent, the court must
7 require that the defendant choose either to pay the minimum
8 fine of \$500 or to perform 100 hours of community service.

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

10 (720 ILCS 5/36-1a rep.)

11 (720 ILCS 5/36-5 rep.)

12 Section 185. The Criminal Code of 2012 is amended by
13 repealing Sections 36-1a and 36-5.

14 Section 190. The Cannabis Control Act is amended by
15 changing Section 12 as follows:

16 (720 ILCS 550/12) (from Ch. 56 1/2, par. 712)

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

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

21 (2) all raw materials, products and equipment of any
22 kind which are produced, delivered, or possessed in
23 connection with any substance containing cannabis in a

1 felony violation of Section 5, 5.1, 8, or 9 of this Act;

2 (3) all conveyances, including aircraft, vehicles or
3 vessels, which are used, or intended for use, to transport,
4 or in any manner to facilitate the transportation, sale,
5 receipt, possession, or concealment of any substance
6 containing cannabis or property described in paragraph ~~(1)~~
7 ~~or~~ (2) of this subsection (a) that constitutes a felony
8 violation of Section 5, 5.1, 8, or 9 of this ~~the~~ Act, but:

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

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

19 (iii) a forfeiture of a conveyance encumbered by a
20 bona fide security interest is subject to the interest
21 of the secured party if he neither had knowledge of nor
22 consented to the act or omission;

23 (4) all money, things of value, books, records, and
24 research products and materials including formulas,
25 microfilm, tapes, and data which are used, or intended for
26 use in a felony violation of Section 5, 5.1, 8, or 9 of

1 this Act;

2 (5) everything of value furnished or intended to be
3 furnished by any person in exchange for a substance in a
4 felony violation of Section 5, 5.1, 8, or 9 of this Act,
5 all proceeds traceable to such an exchange, and all moneys,
6 negotiable instruments, and securities used, or intended
7 to be used, to commit or in any manner to facilitate any
8 felony violation of Section 5, 5.1, 8, or 9 of this Act;

9 (6) all real property, including any right, title, and
10 interest including, but not limited to, any leasehold
11 interest or the beneficial interest to a land trust, in the
12 whole of any lot or tract of land and any appurtenances or
13 improvements, that is used or intended to be used to
14 facilitate the manufacture, distribution, sale, receipt,
15 or concealment of any substance containing cannabis or
16 property described in paragraph ~~(1) or~~ (2) of this
17 subsection (a) that constitutes a felony violation of
18 Section 5, 5.1, 8, or 9 of this Act which involves more
19 than 2,000 grams of a substance containing cannabis or that
20 is the proceeds of any felony violation of Section 5, 5.1,
21 8, or 9 of this Act.

22 (b) Property subject to forfeiture under this Act may be
23 seized under the Drug Asset Forfeiture Procedure Act. ~~by the~~
24 ~~Director or any peace officer upon process or seizure warrant~~
25 ~~issued by any court having jurisdiction over the property.~~
26 ~~Seizure by the Director or any peace officer without process~~

1 ~~may be made:~~

2 ~~(1) if the property subject to seizure has been the~~
3 ~~subject of a prior judgment in favor of the State in a~~
4 ~~criminal proceeding or in an injunction or forfeiture~~
5 ~~proceeding based upon this Act or the Drug Asset Forfeiture~~
6 ~~Procedure Act;~~

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

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

14 ~~(4) in accordance with the Code of Criminal Procedure~~
15 ~~of 1963.~~

16 (Blank). ~~(c) In the event of seizure pursuant to subsection~~
17 ~~(b), notice shall be given forthwith to all known interest~~
18 ~~holders that forfeiture proceedings, including a preliminary~~
19 ~~review, shall be instituted in accordance with the Drug Asset~~
20 ~~Forfeiture Procedure Act and such proceedings shall thereafter~~
21 ~~be instituted in accordance with that Act. Upon a showing of~~
22 ~~good cause, the notice required for a preliminary review under~~
23 ~~this Section may be postponed.~~

24 (c-1) In the event the State's Attorney is of the opinion
25 that real property is subject to forfeiture under this Act,
26 forfeiture proceedings shall be instituted in accordance with

1 the Drug Asset Forfeiture Procedure Act. The exemptions from
2 forfeiture provisions of Section 8 of the Drug Asset Forfeiture
3 Procedure Act are applicable.

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

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

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

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

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

23 ~~(5) place the property under constructive seizure by~~
24 ~~posting notice of pending forfeiture on it, by giving~~
25 ~~notice of pending forfeiture to its owners and interest~~
26 ~~holders, or by filing notice of pending forfeiture in any~~

1 ~~appropriate public record relating to the property; or~~

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

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

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

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

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

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

1 ~~except that amounts distributed to the Secretary of State~~
2 ~~shall be deposited into the Secretary of State Evidence~~
3 ~~Fund to be used as provided in Section 2-115 of the~~
4 ~~Illinois Vehicle Code.~~

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

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

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

17 ~~(III) the seizure took place within the~~
18 ~~geographical limits of the municipality; and~~

19 ~~(IV) the funds are used only for the enforcement of~~
20 ~~laws governing cannabis and controlled substances; for~~
21 ~~public education in the community or schools in the~~
22 ~~prevention or detection of the abuse of drugs or~~
23 ~~alcohol; or for security cameras used for the~~
24 ~~prevention or detection of violence or the~~
25 ~~establishment of a municipal police force, including~~
26 ~~the training of officers, construction of a police~~

1 ~~station, the purchase of law enforcement equipment, or~~
2 ~~vehicles.~~

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

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

12 ~~(3) 10% shall be retained by the Department of State~~
13 ~~Police for expenses related to the administration and sale~~
14 ~~of seized and forfeited property.~~

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

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

21 Section 195. The Illinois Controlled Substances Act is
22 amended by changing Section 505 as follows:

23 (720 ILCS 570/505) (from Ch. 56 1/2, par. 1505)

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

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

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

8 (3) all conveyances, including aircraft, vehicles or
9 vessels, which are used, or intended for use, to transport,
10 or in any manner to facilitate the transportation, sale,
11 receipt, possession, or concealment of substances
12 manufactured, distributed, dispensed, administered, or
13 possessed in violation of Section 401, 401.1, 405, 405.1,
14 or 405.2 of this Act, or property described in paragraph
15 paragraphs (1) and (2) of this subsection (a), but:

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

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

26 (iii) a forfeiture of a conveyance encumbered by a

1 bona fide security interest is subject to the interest
2 of the secured party if he or she neither had knowledge
3 of nor consented to the act or omission;

4 (4) all money, things of value, books, records, and
5 research products and materials including formulas,
6 microfilm, tapes, and data which are used, or intended to
7 be used in violation of Section 401, 401.1, 405, 405.1, or
8 405.2 of this Act;

9 (5) everything of value furnished, or intended to be
10 furnished, in exchange for a substance in violation of
11 Section 401, 401.1, 405, 405.1, or 405.2 of this Act, all
12 proceeds traceable to such an exchange, and all moneys,
13 negotiable instruments, and securities used, or intended
14 to be used, to commit or in any manner to facilitate any
15 violation of Section 401, 401.1, 405, 405.1, or 405.2 of
16 this Act;

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

1 (b) Property subject to forfeiture under this Act may be
2 seized under the Drug Asset Forfeiture Procedure Act. ~~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) (Blank). ~~In the event of seizure pursuant to subsection~~
24 ~~(b), notice shall be given forthwith to all known interest~~
25 ~~holders that forfeiture proceedings, including a preliminary~~
26 ~~review, shall be instituted in accordance with the Drug Asset~~

1 ~~Forfeiture Procedure Act and such proceedings shall thereafter~~
2 ~~be instituted in accordance with that Act. Upon a showing of~~
3 ~~good cause, the notice required for a preliminary review under~~
4 ~~this Section may be postponed.~~

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

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

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

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

21 (f) (Blank). ~~When property is forfeited under this Act the~~
22 ~~Director shall sell all such property unless such property is~~
23 ~~required by law to be destroyed or is harmful to the public,~~
24 ~~and shall distribute the proceeds of the sale, together with~~
25 ~~any moneys forfeited or seized, in accordance with subsection~~
26 ~~(g). However, upon the application of the seizing agency or~~

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

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

21 ~~(1) (i) 65% shall be distributed to the metropolitan~~
22 ~~enforcement group, local, municipal, county, or state law~~
23 ~~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 the~~

1 ~~law enforcement agency in the effort resulting in the~~
2 ~~forfeiture, taking into account the total value of the~~
3 ~~property forfeited and the total law enforcement effort~~
4 ~~with respect to the violation of the law upon which the~~
5 ~~forfeiture is based. Amounts distributed to the agency or~~
6 ~~agencies shall be used for the enforcement of laws~~
7 ~~governing cannabis and controlled substances; for public~~
8 ~~education in the community or schools in the prevention or~~
9 ~~detection of the abuse of drugs or alcohol; or for security~~
10 ~~cameras used for the prevention or detection of violence,~~
11 ~~except that amounts distributed to the Secretary of State~~
12 ~~shall be deposited into the Secretary of State Evidence~~
13 ~~Fund to be used as provided in Section 2-115 of the~~
14 ~~Illinois Vehicle Code.~~

15 ~~(ii) Any local, municipal, or county law enforcement~~
16 ~~agency entitled to receive a monetary distribution of~~
17 ~~forfeiture proceeds may share those forfeiture proceeds~~
18 ~~pursuant to the terms of an intergovernmental agreement~~
19 ~~with a municipality that has a population in excess of~~
20 ~~20,000 if:~~

21 ~~(I) the receiving agency has entered into an~~
22 ~~intergovernmental agreement with the municipality to~~
23 ~~provide police services;~~

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

1 ~~(III) the seizure took place within the~~
2 ~~geographical limits of the municipality; and~~

3 ~~(IV) the funds are used only for the enforcement of~~
4 ~~laws governing cannabis and controlled substances; for~~
5 ~~public education in the community or schools in the~~
6 ~~prevention or detection of the abuse of drugs or~~
7 ~~alcohol; or for security cameras used for the~~
8 ~~prevention or detection of violence or the~~
9 ~~establishment of a municipal police force, including~~
10 ~~the training of officers, construction of a police~~
11 ~~station, the purchase of law enforcement equipment, or~~
12 ~~vehicles.~~

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

1 ~~controlled substances; for public education in the~~
2 ~~community or schools in the prevention or detection of the~~
3 ~~abuse of drugs or alcohol; or at the discretion of the~~
4 ~~State's Attorney, in addition to other authorized~~
5 ~~purposes, to make grants to local substance abuse treatment~~
6 ~~facilities and half way houses. If the prosecution is~~
7 ~~undertaken solely by the Attorney General, the portion~~
8 ~~provided hereunder shall be distributed to the Attorney~~
9 ~~General for use in the enforcement of laws governing~~
10 ~~cannabis and controlled substances or for public education~~
11 ~~in the community or schools in the prevention or detection~~
12 ~~of the abuse of drugs or alcohol.~~

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

24 ~~(3) 10% shall be retained by the Department of State~~
25 ~~Police for expenses related to the administration and sale~~
26 ~~of seized and forfeited property.~~

1 (h) (Blank). ~~Species of plants from which controlled~~
2 ~~substances in Schedules I and II may be derived which have been~~
3 ~~planted or cultivated in violation of this Act, or of which the~~
4 ~~owners or cultivators are unknown, or which are wild growths,~~
5 ~~may be seized and summarily forfeited to the State. The~~
6 ~~failure, upon demand by the Director or any peace officer, of~~
7 ~~the person in occupancy or in control of land or premises upon~~
8 ~~which the species of plants are growing or being stored, to~~
9 ~~produce registration, or proof that he or she is the holder~~
10 ~~thereof, constitutes authority for the seizure and forfeiture~~
11 ~~of the plants.~~

12 (i) Contraband, including controlled substances possessed
13 without authorization under State or federal law, is not
14 subject to forfeiture. No property right exists in contraband.
15 Contraband is subject to seizure and shall be disposed of
16 according to State law.

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

18 Section 200. The Methamphetamine Control and Community
19 Protection Act is amended by changing Section 85 as follows:

20 (720 ILCS 646/85)

21 Sec. 85. Forfeiture.

22 (a) The following are subject to forfeiture:

23 (1) (blank); ~~all substances containing methamphetamine~~
24 ~~which have been produced, manufactured, delivered, or~~

1 ~~possessed in violation of this Act;~~

2 (2) all methamphetamine manufacturing materials which
3 have been produced, delivered, or possessed in connection
4 with any substance containing methamphetamine in violation
5 of Section 15, 20, 25, 30, 35, 40, 45, 50, 55, 56, or 65 of
6 this Act;

7 (3) all conveyances, including aircraft, vehicles or
8 vessels, which are used, or intended for use, to transport,
9 or in any manner to facilitate the transportation, sale,
10 receipt, possession, or concealment of any substance
11 containing methamphetamine or property described in
12 paragraph ~~(1) or~~ (2) of this subsection (a) that
13 constitutes a felony violation of Section 15, 20, 25, 30,
14 35, 40, 45, 50, 55, 56, or 65 of this ~~the~~ Act, but:

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

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

25 (iii) a forfeiture of a conveyance encumbered by a
26 bona fide security interest is subject to the interest

1 of the secured party if he or she neither had knowledge
2 of nor consented to the act or omission;

3 (4) all money, things of value, books, records, and
4 research products and materials including formulas,
5 microfilm, tapes, and data which are used, or intended for
6 use in a felony violation of Section 15, 20, 25, 30, 35,
7 40, 45, 50, 55, 56, or 65 of this Act;

8 (5) everything of value furnished or intended to be
9 furnished by any person in exchange for a substance in
10 violation of Section 15, 20, 25, 30, 35, 40, 45, 50, 55,
11 56, or 65 of this Act, all proceeds traceable to such an
12 exchange, and all moneys, negotiable instruments, and
13 securities used, or intended to be used, to commit or in
14 any manner to facilitate any felony violation of Section
15 15, 20, 25, 30, 35, 40, 45, 50, 55, 56, or 65 of this Act.

16 (6) all real property, including any right, title, and
17 interest (including, but not limited to, any leasehold
18 interest or the beneficial interest in a land trust) in the
19 whole of any lot or tract of land and any appurtenances or
20 improvements, which is used, or intended to be used, in any
21 manner or part, to commit, or in any manner to facilitate
22 the commission of, any violation or act that constitutes a
23 violation of Section 15, 20, 25, 30, 35, 40, 45, 50, 55,
24 56, or 65 of this Act or that is the proceeds of any
25 violation or act that constitutes a violation of Section
26 15, 20, 25, 30, 35, 40, 45, 50, 55, 56, or 65 of this Act.

1 (b) Property subject to forfeiture under this Act may be
2 seized under the Drug Asset Forfeiture Procedure Act. ~~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 property subject to seizure has been the~~
8 ~~subject of a prior judgment in favor of the State in a~~
9 ~~criminal proceeding or in an injunction or forfeiture~~
10 ~~proceeding based upon this Act or the Drug Asset Forfeiture~~
11 ~~Procedure Act;~~

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

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

19 ~~(4) in accordance with the Code of Criminal Procedure~~
20 ~~of 1963.~~

21 (c) (Blank). ~~In the event of seizure pursuant to subsection~~
22 ~~(b), notice shall be given forthwith to all known interest~~
23 ~~holders that forfeiture proceedings, including a preliminary~~
24 ~~review, shall be instituted in accordance with the Drug Asset~~
25 ~~Forfeiture Procedure Act and such proceedings shall thereafter~~
26 ~~be instituted in accordance with that Act. Upon a showing of~~

1 ~~good cause, the notice required for a preliminary review under~~
2 ~~this Section may be postponed.~~

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

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

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

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

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

23 ~~(5) place the property under constructive seizure by~~
24 ~~posting notice of pending forfeiture on it, by giving~~
25 ~~notice of pending forfeiture to its owners and interest~~
26 ~~holders, or by filing notice of pending forfeiture in any~~

1 ~~appropriate public record relating to the property; or~~

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

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

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

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

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

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

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

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

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

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

17 ~~(III) the seizure took place within the~~
18 ~~geographical limits of the municipality; and~~

19 ~~(IV) the funds are used only for the enforcement of~~
20 ~~laws governing cannabis and controlled substances; for~~
21 ~~public education in the community or schools in the~~
22 ~~prevention or detection of the abuse of drugs or~~
23 ~~alcohol; or for security cameras used for the~~
24 ~~prevention or detection of violence or the~~
25 ~~establishment of a municipal police force, including~~
26 ~~the training of officers, construction of a police~~

1 ~~station, the purchase of law enforcement equipment, or~~
2 ~~vehicles.~~

3 ~~(2) (i) 12.5% shall be distributed to the Office of the~~
4 ~~State's Attorney of the county in which the prosecution~~
5 ~~resulting in the forfeiture was instituted, deposited in a~~
6 ~~special fund in the county treasury and appropriated to the~~
7 ~~State's Attorney for use in the enforcement of laws~~
8 ~~governing methamphetamine, cannabis, and controlled~~
9 ~~substances; for public education in the community or~~
10 ~~schools in the prevention or detection of the abuse of~~
11 ~~drugs or alcohol; or at the discretion of the State's~~
12 ~~Attorney, in addition to other authorized purposes, to make~~
13 ~~grants to local substance abuse treatment facilities and~~
14 ~~half-way houses. In counties with a population over~~
15 ~~3,000,000, 25% shall be distributed to the Office of the~~
16 ~~State's Attorney for use in the enforcement of laws~~
17 ~~governing methamphetamine, cannabis, and controlled~~
18 ~~substances; for public education in the community or~~
19 ~~schools in the prevention or detection of the abuse of~~
20 ~~drugs or alcohol; or at the discretion of the State's~~
21 ~~Attorney, in addition to other authorized purposes, to make~~
22 ~~grants to local substance abuse treatment facilities and~~
23 ~~half-way houses. If the prosecution is undertaken solely by~~
24 ~~the Attorney General, the portion provided hereunder shall~~
25 ~~be distributed to the Attorney General for use in the~~
26 ~~enforcement of laws governing methamphetamine, 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 ~~(ii) 12.5% shall be distributed to the Office of the~~
5 ~~State's Attorneys Appellate Prosecutor and deposited in~~
6 ~~the Narcotics Profit Forfeiture Fund of that Office to be~~
7 ~~used for additional expenses incurred in the~~
8 ~~investigation, prosecution and appeal of cases arising~~
9 ~~under laws governing methamphetamine, cannabis, and~~
10 ~~controlled substances or for public education in the~~
11 ~~community or schools in the prevention or detection of the~~
12 ~~abuse of drugs or alcohol. The Office of the State's~~
13 ~~Attorneys Appellate Prosecutor shall not receive~~
14 ~~distribution from cases brought in counties with a~~
15 ~~population over 3,000,000.~~

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) Contraband, including methamphetamine or any
20 controlled substance possessed without authorization under
21 State or federal law, is not subject to forfeiture. No property
22 right exists in contraband. Contraband is subject to seizure
23 and shall be disposed of according to State law.

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

25 Section 205. The Code of Criminal Procedure of 1963 is

1 amended by changing Sections 124B-305, 124B-420, 124B-505,
2 124B-605, 124B-710, 124B-715, 124B-825, 124B-935, and
3 124B-1040 and by adding Section 124B-195 as follows:

4 (725 ILCS 5/124B-195 new)

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

8 (725 ILCS 5/124B-305)

9 Sec. 124B-305. Distribution of property and sale proceeds.
10 All moneys and the sale proceeds of all other property
11 forfeited and seized under this Part 300 shall be distributed
12 as follows:

13 (1) (Blank). ~~45% shall be divided equally between all~~
14 ~~State agencies and units of local government whose officers~~
15 ~~or employees conducted the investigation or initiated the~~
16 ~~hearing that resulted in the forfeiture.~~

17 (2) 50% shall be deposited into the Specialized
18 Services for Survivors of Human Trafficking Fund and
19 disbursed in accordance with subsections (d), (e), and (f)
20 of Section 5-9-1.21 of the Unified Code of Corrections.

21 (3) 50% ~~5%~~ shall be deposited into the Asset Forfeiture
22 Proceeds Fund ~~paid to the Office of the State's Attorneys~~
23 ~~Appellate Prosecutor to train State's Attorneys on~~
24 ~~forfeiture proceedings and topics related to human~~

1 ~~trafficking.~~

2 (Source: P.A. 97-897, eff. 1-1-13; 98-1013, eff. 1-1-15.)

3 (725 ILCS 5/124B-420)

4 Sec. 124B-420. Distribution of property and sale proceeds.

5 (a) All moneys and the sale proceeds of all other property
6 forfeited and seized under this Part 400 shall be deposited
7 into the Asset Forfeiture Proceeds Fund. ~~distributed as~~
8 ~~follows:~~

9 ~~(1) 50% shall be distributed to the unit of local~~
10 ~~government whose officers or employees conducted the~~
11 ~~investigation into the offense and caused the arrest or~~
12 ~~arrests and prosecution leading to the forfeiture, except~~
13 ~~that if the investigation, arrest or arrests, and~~
14 ~~prosecution leading to the forfeiture were undertaken by~~
15 ~~the sheriff, this portion shall be distributed to the~~
16 ~~county for deposit into a special fund in the county~~
17 ~~treasury appropriated to the sheriff. Amounts distributed~~
18 ~~to the county for the sheriff or to units of local~~
19 ~~government under this paragraph shall be used for~~
20 ~~enforcement of laws or ordinances governing obscenity and~~
21 ~~child pornography. If the investigation, arrest or~~
22 ~~arrests, and prosecution leading to the forfeiture were~~
23 ~~undertaken solely by a State agency, however, the portion~~
24 ~~designated in this paragraph shall be paid into the State~~
25 ~~treasury to be used for enforcement of laws governing~~

1 ~~obscenity and child pornography.~~

2 ~~(2) 25% shall be distributed to the county in which the~~
3 ~~prosecution resulting in the forfeiture was instituted,~~
4 ~~deposited into a special fund in the county treasury, and~~
5 ~~appropriated to the State's Attorney for use in the~~
6 ~~enforcement of laws governing obscenity and child~~
7 ~~pornography.~~

8 ~~(3) 25% shall be distributed to the Office of the~~
9 ~~State's Attorneys Appellate Prosecutor and deposited into~~
10 ~~the Obscenity Profits Forfeiture Fund, which is hereby~~
11 ~~created in the State treasury, to be used by the Office of~~
12 ~~the State's Attorneys Appellate Prosecutor for additional~~
13 ~~expenses incurred in prosecuting appeals arising under~~
14 ~~Sections 11-20, 11-20.1, 11-20.1B, and 11-20.3 of the~~
15 ~~Criminal Code of 1961 or the Criminal Code of 2012. Any~~
16 ~~amounts remaining in the Fund after all additional expenses~~
17 ~~have been paid shall be used by the Office to reduce the~~
18 ~~participating county contributions to the Office on a~~
19 ~~pro-rated basis as determined by the board of governors of~~
20 ~~the Office of the State's Attorneys Appellate Prosecutor~~
21 ~~based on the populations of the participating counties.~~

22 (b) Before any deposit ~~distribution~~ under subsection (a),
23 the Attorney General or State's Attorney shall retain from the
24 forfeited moneys or sale proceeds, or both, sufficient moneys
25 to cover expenses related to the administration and sale of the
26 forfeited property.

1 (Source: P.A. 96-712, eff. 1-1-10; 96-1551, eff. 7-1-11;
2 97-1150, eff. 1-25-13.)

3 (725 ILCS 5/124B-505)

4 Sec. 124B-505. Distribution of property and sale proceeds.

5 (a) All moneys and the sale proceeds of all other property
6 forfeited and seized under this Part 500 shall be distributed
7 as follows:

8 (1) One-half shall be deposited into the Asset
9 Forfeiture Proceeds Fund ~~divided equally between all State~~
10 ~~agencies and units of local government whose officers or~~
11 ~~employees conducted the investigation that resulted in the~~
12 ~~forfeiture.~~

13 (2) One-half shall be deposited into the Violent Crime
14 Victims Assistance Fund.

15 (b) Before any deposit ~~distribution~~ under subsection (a),
16 the Attorney General or State's Attorney shall retain from the
17 forfeited moneys or sale proceeds, or both, sufficient moneys
18 to cover expenses related to the administration and sale of the
19 forfeited property.

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

21 (725 ILCS 5/124B-605)

22 Sec. 124B-605. Distribution of property and sale proceeds.

23 (a) All moneys and the sale proceeds of all other property
24 forfeited and seized under this Part 600 shall be deposited

1 into the Asset Forfeiture Proceeds Fund. ~~distributed as~~
2 ~~follows:~~

3 ~~(1) 50% shall be distributed to the unit of local~~
4 ~~government whose officers or employees conducted the~~
5 ~~investigation into computer fraud and caused the arrest or~~
6 ~~arrests and prosecution leading to the forfeiture. Amounts~~
7 ~~distributed to units of local government shall be used for~~
8 ~~training or enforcement purposes relating to detection,~~
9 ~~investigation, or prosecution of financial crimes,~~
10 ~~including computer fraud. If, however, the investigation,~~
11 ~~arrest or arrests, and prosecution leading to the~~
12 ~~forfeiture were undertaken solely by a State agency, the~~
13 ~~portion provided under this paragraph (1) shall be paid~~
14 ~~into the State Police Services Fund of the Illinois~~
15 ~~Department of State Police to be used for training or~~
16 ~~enforcement purposes relating to detection, investigation,~~
17 ~~or prosecution of financial crimes, including computer~~
18 ~~fraud.~~

19 ~~(2) 50% shall be distributed to the county in which the~~
20 ~~prosecution and petition for forfeiture resulting in the~~
21 ~~forfeiture was instituted by the State's Attorney and shall~~
22 ~~be deposited into a special fund in the county treasury and~~
23 ~~appropriated to the State's Attorney for use in training or~~
24 ~~enforcement purposes relating to detection, investigation,~~
25 ~~or prosecution of financial crimes, including computer~~
26 ~~fraud. If a prosecution and petition for forfeiture~~

1 ~~resulting in the forfeiture has been maintained by the~~
2 ~~Attorney General, 50% of the proceeds shall be paid into~~
3 ~~the Attorney General's Financial Crime Prevention Fund. If~~
4 ~~the Attorney General and the State's Attorney have~~
5 ~~participated jointly in any part of the proceedings, 25% of~~
6 ~~the proceeds forfeited shall be paid to the county in which~~
7 ~~the prosecution and petition for forfeiture resulting in~~
8 ~~the forfeiture occurred, and 25% shall be paid into the~~
9 ~~Attorney General's Financial Crime Prevention Fund to be~~
10 ~~used for the purposes stated in this paragraph (2).~~

11 (b) Before any deposit ~~distribution~~ under subsection (a),
12 the Attorney General or State's Attorney shall retain from the
13 forfeited moneys or sale proceeds, or both, sufficient moneys
14 to cover expenses related to the administration and sale of the
15 forfeited property.

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

17 (725 ILCS 5/124B-710)

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

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

23 (b) When property is forfeited under this Part 700, the
24 Director of State Police shall sell the property unless the
25 property is required by law to be destroyed or is harmful to

1 the public. The Director shall distribute the proceeds of the
2 sale, together with any moneys forfeited or seized, in
3 accordance with Section 124B-715.

4 (c) (Blank). ~~On the application of the seizing agency or~~
5 ~~prosecutor who was responsible for the investigation, arrest,~~
6 ~~and prosecution that lead to the forfeiture, however, the~~
7 ~~Director may return any item of forfeited property to the~~
8 ~~seizing agency or prosecutor for official use in the~~
9 ~~enforcement of laws relating to Article 17B or Section 17-6.3~~
10 ~~of the Criminal Code of 1961 or the Criminal Code of 2012 if~~
11 ~~the agency or prosecutor can demonstrate that the item~~
12 ~~requested would be useful to the agency or prosecutor in their~~
13 ~~enforcement efforts. When any real property returned to the~~
14 ~~seizing agency is sold by the agency or its unit of government,~~
15 ~~the proceeds of the sale shall be delivered to the Director and~~
16 ~~distributed in accordance with Section 124B-715.~~

17 (Source: P.A. 96-712, eff. 1-1-10; 97-1108, eff. 1-1-13;
18 97-1150, eff. 1-25-13.)

19 (725 ILCS 5/124B-715)

20 Sec. 124B-715. Distribution of all other property and sale
21 proceeds. All moneys and the sale proceeds of all property
22 forfeited and seized under this Part 700 ~~and not returned to a~~
23 ~~seizing agency or prosecutor under subsection (c) of Section~~
24 ~~124B-705~~ shall be distributed to the Special Supplemental Food
25 Program for Women, Infants and Children (WIC) program

1 administered by the Illinois Department of Human Services.

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

3 (725 ILCS 5/124B-825)

4 Sec. 124B-825. Distribution of property and sale proceeds.
5 After the deduction of all requisite expenses of administration
6 and sale, all moneys and the sale proceeds of all other
7 property forfeited and seized under this Part 800 shall be
8 deposited into the Asset Forfeiture Proceeds Fund ~~the Attorney~~
9 ~~General or State's Attorney shall distribute the proceeds of~~
10 ~~the sale of forfeited property, along with any property~~
11 ~~forfeited or seized, between participating law enforcement~~
12 ~~agencies in equitable portions as determined by the court~~
13 ~~entering the forfeiture order.~~

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

15 (725 ILCS 5/124B-935)

16 Sec. 124B-935. Distribution of property and sale proceeds.
17 All moneys and the sale proceeds of all other property
18 forfeited and seized under this Part 900 shall be deposited
19 into the Asset Forfeiture Proceeds Fund. ~~distributed as~~
20 ~~follows:~~

21 ~~(1) 65% shall be distributed to the local, municipal,~~
22 ~~county, or State law enforcement agency or agencies that~~
23 ~~conducted or participated in the investigation resulting~~
24 ~~in the forfeiture. The distribution shall bear a reasonable~~

1 ~~relationship to the degree of direct participation of the~~
2 ~~law enforcement agency in the effort resulting in the~~
3 ~~forfeiture, taking into account the total value of the~~
4 ~~property forfeited and the total law enforcement effort~~
5 ~~with respect to the violation of the law upon which the~~
6 ~~forfeiture is based.~~

7 ~~(2) 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 for use in the~~
10 ~~enforcement of laws, including laws governing animal~~
11 ~~fighting.~~

12 ~~(3) 12.5% shall be distributed to the Illinois~~
13 ~~Department of Agriculture for reimbursement of expenses~~
14 ~~incurred in the investigation, prosecution, and appeal of~~
15 ~~cases arising under laws governing animal fighting.~~

16 ~~(4) 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 (Source: P.A. 96-712, eff. 1-1-10.)

20 (725 ILCS 5/124B-1040)

21 Sec. 124B-1040. Distribution of property from sale of
22 proceeds. The proceeds of any sale of property, after payment
23 of all liens and deduction of the reasonable charges and
24 expenses incurred by the investigating law enforcement agency
25 in storing and selling the property, shall be deposited into

1 ~~the Asset Forfeiture Proceeds Fund paid into the general fund~~
2 ~~of the level of government responsible for the operation of the~~
3 ~~investigating law enforcement agency.~~

4 (Source: P.A. 97-1109, eff. 1-1-13.)

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

6 Section 210. The Code of Criminal Procedure of 1963 is
7 amended by repealing Section 124B-1030.

8 Section 215. The Drug Asset Forfeiture Procedure Act is
9 amended by changing Sections 2, 3.5, 5, 8, 9, and 10 and by
10 adding Sections 3.1, 3.2, 3.3, 5.1, 5.2, 9.5, 15, 16, 17, 18,
11 19, and 20 as follows:

12 (725 ILCS 150/2) (from Ch. 56 1/2, par. 1672)

13 Sec. 2. Legislative Declaration. The General Assembly
14 finds that the civil forfeiture of property which is used or
15 intended to be used in, is attributable to or facilitates the
16 manufacture, sale, transportation, distribution, possession or
17 use of substances in certain violations of the Illinois
18 Controlled Substances Act, the Cannabis Control Act, or the
19 Methamphetamine Control and Community Protection Act will have
20 a significant beneficial effect in deterring the rising
21 incidence of the abuse and trafficking of such substances
22 within this State. While forfeiture may secure for State and
23 local units of government some resources for deterring drug

1 abuse and drug trafficking, forfeiture is not intended to be an
2 alternative means of funding the administration of criminal
3 justice. ~~The General Assembly further finds that the federal~~
4 ~~narcotics civil forfeiture statute upon which this Act is based~~
5 ~~has been very successful in deterring the use and distribution~~
6 ~~of controlled substances within this State and throughout the~~
7 ~~country.~~ It is ~~therefore~~ the intent of the General Assembly
8 that the forfeiture provisions of this Act be construed in
9 light of the federal forfeiture provisions contained in 21
10 U.S.C. 881 as interpreted by the federal courts, except to the
11 extent that the provisions of this Act expressly differ
12 therefrom.

13 (Source: P.A. 94-556, eff. 9-11-05.)

14 (725 ILCS 150/3.1 new)

15 Sec. 3.1. Seizure.

16 (a) Seizure of real property subject to forfeiture under
17 this Act requires a court order. A court may issue an order to
18 seize or secure real property for which forfeiture is sought
19 only after proper notice to property owners and an opportunity
20 for a contested hearing to determine the sufficiency of
21 probable cause for the seizure. Nothing in this subsection (a)
22 prohibits the prosecuting authority from seeking a lis pendens
23 or restraining order to hinder the sale or destruction of the
24 real property.

25 (b) Personal property subject to forfeiture under the

1 Illinois Controlled Substances Act, the Cannabis Control Act,
2 the Illinois Food, Drug and Cosmetic Act, or the
3 Methamphetamine Control and Community Protection Act may be
4 seized by the Director of State Police or any peace officer
5 upon process or seizure warrant issued by any court having
6 jurisdiction over the property.

7 (c) Personal property subject to forfeiture under the
8 Illinois Controlled Substances Act, the Cannabis Control Act,
9 the Illinois Food, Drug and Cosmetic Act, or the
10 Methamphetamine Control and Community Protection Act may be
11 seized by the Director of State Police or any peace officer
12 without process:

13 (1) if the seizure is incident to inspection under an
14 administrative inspection warrant;

15 (2) if the property subject to seizure has been the
16 subject of a prior judgment in favor of the State in a
17 criminal proceeding or in an injunction or forfeiture
18 proceeding based upon this Act;

19 (3) if there is probable cause to believe that the
20 property is directly or indirectly dangerous to health or
21 safety;

22 (4) if there is probable cause to believe that the
23 property is subject to forfeiture under the Illinois
24 Controlled Substances Act, the Cannabis Control Act, the
25 Illinois Food, Drug and Cosmetic Act, or the
26 Methamphetamine Control and Community Protection Act, and

1 the property is seized under circumstances in which a
2 warrantless seizure or arrest would be reasonable; or

3 (5) under the Code of Criminal Procedure of 1963.

4 (d) When a conveyance is seized under this Act, an
5 investigation shall be made by the law enforcement agency as to
6 any person whose right, title, interest, or lien is of record
7 in the office of the agency or official in which title or
8 interest to the conveyance is required by law to be recorded.

9 (e) After seizure under this Section, notice shall be given
10 to all known interest holders that forfeiture proceedings,
11 including a preliminary review, may be instituted under this
12 Act.

13 (725 ILCS 150/3.2 new)

14 Sec. 3.2. Receipt for seized property. If a law enforcement
15 officer seizes property that is subject to forfeiture, the
16 officer shall provide an itemized receipt to the person
17 possessing the property or, in the absence of a person to whom
18 the receipt could be given, shall leave the receipt in the
19 place where the property was found, if possible.

20 (725 ILCS 150/3.3 new)

21 Sec. 3.3. Safekeeping of seized property pending
22 disposition.

23 (a) Property seized under this Act is deemed to be in the
24 custody of the seizing agency subject only to the order and

1 judgments of the circuit court having jurisdiction over the
2 forfeiture proceedings and the decisions of the State's
3 Attorney under this Act.

4 (b) When property is seized under this Act, the seizing
5 agency shall promptly conduct an inventory of the seized
6 property and estimate the property's value, and shall:

7 (1) place the property under seal;

8 (2) remove the property to a place designated by the
9 seizing agency;

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

12 (4) remove the property to a storage area for
13 safekeeping;

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

19 (6) provide for another agency or custodian, including
20 an owner, secured party, or lienholder, to take custody of
21 the property upon the terms and conditions set by the
22 seizing agency.

23 (c) Property seized under this Act shall be kept by the
24 custodian in a manner to protect it from theft or damage and,
25 if ordered by the court, insured against those risks.

1 (725 ILCS 150/3.5)

2 Sec. 3.5. Preliminary Review.

3 (a) Within 14 days of the seizure, the State shall seek a
4 preliminary determination from the circuit court as to whether
5 there is probable cause that the property may be subject to
6 forfeiture.

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

9 (c) The court may conduct the review under subsection (a)
10 simultaneously with a proceeding pursuant to Section 109-1 of
11 the Code of Criminal Procedure of 1963 for a related criminal
12 offense if a prosecution is commenced by information or
13 complaint.

14 (d) The court may accept a finding of probable cause at a
15 preliminary hearing following the filing of an information or
16 complaint charging a related criminal offense or following the
17 return of indictment by a grand jury charging the related
18 offense as sufficient evidence of probable cause as required
19 under subsection (a).

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

24 For seizures of conveyances, at any time after ~~within 7~~
25 ~~days of~~ a finding of probable cause under subsection (a) but at
26 least 60 days before the trial of the forfeiture case, the

1 registered owner or other claimant may file a motion in writing
2 supported by sworn affidavits claiming that denial of the use
3 of the conveyance during the pendency of the forfeiture
4 proceedings creates a substantial hardship. The court shall
5 consider the following factors in determining whether a
6 substantial hardship has been proven:

7 (1) the nature of the claimed hardship;

8 (2) the availability of public transportation or other
9 available means of transportation; and

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

12 If the court determines that a substantial hardship has
13 been proven, the court shall then balance the nature of the
14 hardship against the State's interest in safeguarding the
15 conveyance. If the court determines that the hardship outweighs
16 the State's interest in safeguarding the conveyance, the court
17 may temporarily release the conveyance to the registered owner
18 or the registered owner's authorized designee, or both, until
19 the conclusion of the forfeiture proceedings or for such
20 shorter period as ordered by the court provided that the person
21 to whom the conveyance is released provides proof of insurance
22 and a valid driver's license and all State and local
23 registrations for operation of the conveyance are current. The
24 court ~~may shall~~ place conditions on the conveyance limiting its
25 use to the stated hardship and restricting the conveyance's use
26 to only those individuals authorized to use the conveyance by

1 the registered owner. The court may ~~shall~~ revoke the order
2 releasing the conveyance and order that the conveyance be
3 reseized by law enforcement if the conditions of release are
4 violated or if the conveyance is used in the commission of any
5 offense identified in subsection (a) of Section 6-205 of the
6 Illinois Vehicle Code.

7 ~~If the court orders the release of the conveyance during~~
8 ~~the pendency of the forfeiture proceedings, the registered~~
9 ~~owner or his or her authorized designee shall post a cash~~
10 ~~security with the Clerk of the Court as ordered by the court.~~
11 ~~The court shall consider the following factors in determining~~
12 ~~the amount of the cash security:~~

13 ~~(A) the full market value of the conveyance;~~

14 ~~(B) the nature of the hardship;~~

15 ~~(C) the extent and length of the usage of the~~
16 ~~conveyance; and~~

17 ~~(D) such other conditions as the court deems necessary~~
18 ~~to safeguard the conveyance.~~

19 If the conveyance is released, the court shall order that
20 the registered owner or his or her designee safeguard the
21 conveyance, not remove the conveyance from the jurisdiction,
22 not conceal, destroy, or otherwise dispose of the conveyance,
23 not encumber the conveyance, and not diminish the value of the
24 conveyance in any way. The court shall also make a
25 determination of the full market value of the conveyance prior
26 to it being released based on a source or sources defined in 50

1 Ill. Adm. Code 919.80(c)(2)(A) or 919.80(c)(2)(B).

2 If the conveyance subject to forfeiture is released under
3 this Section and is subsequently forfeited, the person to whom
4 the conveyance was released shall return the conveyance to the
5 law enforcement agency that seized the conveyance within 7 days
6 from the date of the declaration of forfeiture or order of
7 forfeiture. ~~If the conveyance is not returned within 7 days,~~
8 ~~the cash security shall be forfeited in the same manner as the~~
9 ~~conveyance subject to forfeiture. If the cash security was less~~
10 ~~than the full market value, a judgment shall be entered against~~
11 ~~the parties to whom the conveyance was released and the~~
12 ~~registered owner, jointly and severally, for the difference~~
13 ~~between the full market value and the amount of the cash~~
14 ~~security. If the conveyance is returned in a condition other~~
15 ~~than the condition in which it was released, the cash security~~
16 ~~shall be returned to the surety who posted the security minus~~
17 ~~the amount of the diminished value, and that amount shall be~~
18 ~~forfeited in the same manner as the conveyance subject to~~
19 ~~forfeiture. Additionally, the court may enter an order allowing~~
20 ~~any law enforcement agency in the State of Illinois to seize~~
21 ~~the conveyance wherever it may be found in the State to satisfy~~
22 ~~the judgment if the cash security was less than the full market~~
23 ~~value of the conveyance.~~

24 (Source: P.A. 97-544, eff. 1-1-12; 97-680, eff. 3-16-12.)

25 (725 ILCS 150/5) (from Ch. 56 1/2, par. 1675)

1 Sec. 5. Notice to State's Attorney. The law enforcement
2 agency seizing property for forfeiture under the Illinois
3 Controlled Substances Act, the Cannabis Control Act, or the
4 Methamphetamine Control and Community Protection Act shall, as
5 soon as practicable but not later than 48 hours after the
6 ~~within 52 days of seizure~~, notify the State's Attorney for the
7 county in which an act or omission giving rise to the seizure
8 ~~forfeiture~~ occurred or in which the property was seized ~~of the~~
9 ~~seizure of the property~~ and the facts and circumstances giving
10 rise to the seizure and shall provide the State's Attorney with
11 the inventory of the property and its estimated value. When the
12 property seized for forfeiture is a vehicle, the law
13 enforcement agency seizing the property shall immediately
14 notify the Secretary of State that forfeiture proceedings are
15 pending regarding such vehicle.

16 (Source: P.A. 94-556, eff. 9-11-05.)

17 (725 ILCS 150/5.1 new)

18 Sec. 5.1. Replevin hearing.

19 (a) At any time following the seizure of property under
20 this Act, but at least 60 days prior to trial of the forfeiture
21 case, any person who claims an ownership interest in property
22 seized under this Act may claim the right to possession of the
23 property by motion to the court to issue a writ of replevin.
24 The movant shall file a motion establishing the validity of his
25 or her alleged interest in the property.

1 (b) The court shall hear the motion no more than 30 days
2 after the motion is filed.

3 (c) If the motion for replevin is heard prior to the
4 preliminary review under Section 3.5 of this Act, the State
5 shall file an answer showing probable cause for the seizure at
6 least 10 days before the hearing.

7 (d) Either party may, by agreement or for good cause, move
8 the court for one extension of no more than 10 days. The motion
9 may be supported by affidavits or other submissions.

10 (e) The court shall issue a writ of replevin if it finds
11 that:

12 (1) it is likely the final judgment will require the
13 State to return the property to the claimant; or

14 (2) the property is the only reasonable means for the
15 person claiming an ownership interest in the property to
16 pay for legal representation in the forfeiture proceeding.

17 At the court's discretion under subsection (b) of this
18 Section, it may order the return of funds or property
19 sufficient to obtain legal counsel but less than the total
20 amount seized, and require an accounting.

21 (725 ILCS 150/5.2 new)

22 Sec. 5.2. Complaint of forfeiture.

23 (a) If the State's Attorney in the county in which the
24 seizure occurs finds that the alleged violation of law giving
25 rise to the seizure was incurred without willful negligence or

1 without any intention on the part of the owner of the property
2 to violate the law, or finds the existence of mitigating
3 circumstances as to justify remission of the forfeiture, he or
4 she shall cause the law enforcement agency having custody of
5 the property to return the property to the owner within a
6 reasonable time not to exceed 5 days. The State's Attorney
7 shall exercise his or her discretion prior to or promptly after
8 the preliminary review under Section 3.5 of this Act.

9 (b) If, after review of the facts surrounding the seizure,
10 the State's Attorney is of the opinion that the seized property
11 is subject to forfeiture and the State's Attorney does not
12 cause the forfeiture to be remitted under subsection (a) of
13 this Section, he or she shall bring an action for forfeiture in
14 the circuit court within whose jurisdiction the seizure and
15 confiscation has taken place by filing a complaint of
16 forfeiture proceedings as soon as practicable but not later
17 than 30 days after a finding of probable cause at a preliminary
18 review under Section 3.5 of this Act. A complaint of forfeiture
19 proceeding 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;

24 (4) the specific statutory and factual grounds for the
25 seizure;

26 (5) whether the property was seized under an order of

1 seizure, and if the property was seized without an order of
2 seizure, an affidavit from a law enforcement officer
3 stating the factual and legal grounds for the seizure;

4 (6) in the complaint caption and in the complaint, the
5 names of persons known to the State who may claim an
6 interest in the property and the basis for each person's
7 alleged interest; and

8 (7) a summary of procedures and procedural rights
9 applicable to the forfeiture action.

10 (c) The complaint shall be served upon the person from whom
11 the property was seized and all persons known or reasonably
12 believed by the State to claim an interest in the property,
13 under Article II, Part 2 of the Code of Civil Procedure.

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 that common carrier may be forfeited under this Act unless
19 the State proves by clear and convincing 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 vessel or watercraft,
23 vehicle, or aircraft, the owner or the master of the vessel
24 or watercraft or the owner or conductor, driver, pilot, or
25 other person in charge of the vehicle or aircraft was at

1 the time of the alleged illegal act a consenting party or
2 privy to the alleged illegal act.

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 the owner while
6 the vessel or watercraft, vehicle, or aircraft was unlawfully
7 in the possession of a person who acquired possession of the
8 vessel or watercraft, vehicle, or aircraft in violation of the
9 criminal laws of the United States, or of any state.

10 (c) Notwithstanding any other provision of law to the
11 contrary, the property of an innocent owner shall not be
12 forfeited under this Act. No property interest shall be subject
13 to forfeiture under this Act unless the State proves by clear
14 and convincing evidence that the underlying violation of the
15 Illinois Controlled Substances Act, the Cannabis Control Act,
16 the Methamphetamine Control and Community Protection Act, or
17 the Illinois Food, Drug and Cosmetic Act was committed with the
18 knowledge and consent of the owner.

19 (d) Homesteaded real property, a motor vehicle of less than
20 \$10,000 in market value, or United States currency totaling
21 \$200 or less is not subject to forfeiture under this Act.

22 ~~A property interest is exempt from forfeiture under this~~
23 ~~Section if its owner or interest holder establishes by a~~
24 ~~preponderance of evidence that the owner or interest holder:~~

25 ~~(A) (i) in the case of personal property, is not legally~~
26 ~~accountable for the conduct giving rise to the forfeiture, did~~

1 ~~not acquiesce in it, and did not know and could not reasonably~~
2 ~~have known of the conduct or that the conduct was likely to~~
3 ~~occur, or~~

4 ~~(ii) in the case of real property, is not legally~~
5 ~~accountable for the conduct giving rise to the forfeiture, or~~
6 ~~did not solicit, conspire, or attempt to commit the conduct~~
7 ~~giving rise to the forfeiture; and~~

8 ~~(B) had not acquired and did not stand to acquire~~
9 ~~substantial proceeds from the conduct giving rise to its~~
10 ~~forfeiture other than as an interest holder in an arms length~~
11 ~~commercial transaction; and~~

12 ~~(C) with respect to conveyances, did not hold the property~~
13 ~~jointly or in common with a person whose conduct gave rise to~~
14 ~~the forfeiture; and~~

15 ~~(D) does not hold the property for the benefit of or as~~
16 ~~nominee for any person whose conduct gave rise to its~~
17 ~~forfeiture, and, if the owner or interest holder acquired the~~
18 ~~interest through any such person, the owner or interest holder~~
19 ~~acquired it as a bona fide purchaser for value without~~
20 ~~knowingly taking part in the conduct giving rise to the~~
21 ~~forfeiture; and~~

22 ~~(E) that the owner or interest holder acquired the~~
23 ~~interest;~~

24 ~~(i) before the commencement of the conduct giving rise to~~
25 ~~its forfeiture and the person whose conduct gave rise to its~~
26 ~~forfeiture did not have the authority to convey the interest to~~

1 ~~a bona fide purchaser for value at the time of the conduct; or~~
2 ~~(ii) after the commencement of the conduct giving rise to~~
3 ~~its forfeiture, and the owner or interest holder acquired the~~
4 ~~interest as a mortgagee, secured creditor, lienholder, or bona~~
5 ~~fide purchaser for value without knowledge of the conduct which~~
6 ~~gave rise to the forfeiture; and~~

7 ~~(a) in the case of personal property, without knowledge of~~
8 ~~the seizure of the property for forfeiture; or~~

9 ~~(b) in the case of real estate, before the filing in the~~
10 ~~office of the Recorder of Deeds of the county in which the real~~
11 ~~estate is located of a notice of seizure for forfeiture or a~~
12 ~~lis pendens notice.~~

13 (Source: P.A. 86-1382.)

14 (725 ILCS 150/9) (from Ch. 56 1/2, par. 1679)

15 Sec. 9. Judicial ~~in rem~~ procedures. The If property seized
16 under the provisions of the Illinois Controlled Substances Act,
17 the Cannabis Control Act, or the Methamphetamine Control and
18 Community Protection Act is non real property that exceeds
19 \$20,000 in value excluding the value of any conveyance, or is
20 real property, or a claimant has filed a claim and a cost bond
21 under subsection (C) of Section 6 of this Act, the following
22 judicial ~~in rem~~ procedures shall apply to property seized under
23 the Illinois Controlled Substances Act, the Cannabis Control
24 Act, the Illinois Food, Drug and Cosmetic Act, or the
25 Methamphetamine Control and Community Protection Act:

1 (A) A judgment of forfeiture requires as a condition
2 precedent that a defendant be convicted in an underlying or
3 related criminal action of an offense under the Illinois
4 Controlled Substances Act, the Cannabis Control Act, the
5 Illinois Food, Drug and Cosmetic Act, or the Methamphetamine
6 Control and Community Protection Act for which forfeiture is
7 authorized. The court may waive the conviction requirement if
8 the State shows by clear and convincing evidence that the
9 defendant:

10 (i) died;

11 (ii) was deported by the United States government;

12 (iii) is granted immunity in exchange for testifying or
13 otherwise assisting a law enforcement investigation or
14 prosecution; or

15 (iv) fled the jurisdiction after being charged with an
16 offense for which forfeiture is authorized and released on
17 bail. A defendant convicted in any criminal proceeding is
18 precluded from later denying the essential allegations of
19 the criminal offense of which the defendant was convicted
20 in any proceeding under this Act regardless of the pendency
21 of an appeal from that conviction. However, evidence of the
22 pendency of an appeal is admissible.

23 (B) The court shall stay civil forfeiture proceedings
24 during the criminal trial for a related criminal indictment or
25 information alleging a violation of the Illinois Controlled
26 Substances Act, the Cannabis Control Act, the Illinois Food,

1 Drug and Cosmetic Act, or the Methamphetamine Control and
2 Community Protection Act. The stay is not available pending an
3 appeal. Property subject to forfeiture under the Illinois
4 Controlled Substances Act, the Cannabis Control Act, the
5 Illinois Food, Drug and Cosmetic Act, or the Methamphetamine
6 Control and Community Protection Act is not subject to return
7 or release by a court exercising jurisdiction over a criminal
8 case involving the seizure of the property unless the return or
9 release is consented to by the State's Attorney. Upon dismissal
10 of all related criminal proceedings underlying the alleged
11 violation of this Article giving rise to forfeiture, the
12 State's Attorney shall immediately move for dismissal of the
13 forfeiture action. †

14 ~~(A) If, after a review of the facts surrounding the~~
15 ~~seizure, the State's Attorney is of the opinion that the seized~~
16 ~~property is subject to forfeiture, then within 45 days of the~~
17 ~~receipt of notice of seizure by the seizing agency or the~~
18 ~~filing of the claim and cost bond, whichever is later, the~~
19 ~~State's Attorney shall institute judicial forfeiture~~
20 ~~proceedings by filing a verified complaint for forfeiture and,~~
21 ~~if the claimant has filed a claim and cost bond, by depositing~~
22 ~~the cost bond with the clerk of the court. When authorized by~~
23 ~~law, a forfeiture must be ordered by a court on an action in~~
24 ~~rem brought by a State's Attorney under a verified complaint~~
25 ~~for forfeiture.~~

26 ~~(B) During the probable cause portion of the judicial in~~

1 ~~rem proceeding wherein the State presents its case in chief,~~
2 ~~the court must receive and consider, among other things, all~~
3 ~~relevant hearsay evidence and information. The laws of evidence~~
4 ~~relating to civil actions shall apply to all other portions of~~
5 ~~the judicial in rem proceeding.~~

6 (C) Only an owner of or interest holder in the property may
7 file an answer ~~asserting a claim against the property in the~~
8 ~~action in rem.~~ For purposes of this Section, the owner or
9 interest holder shall be referred to as claimant. A person not
10 named in the forfeiture complaint who claims to have an
11 interest in the property may petition to intervene as a
12 claimant under Section 2-408 of the Code of Civil Procedure. If
13 a claimant is financially unable to obtain representation by
14 counsel, the court may appoint counsel to represent that person
15 in the forfeiture proceeding.

16 (D) The answer must be signed by the owner or interest
17 holder under penalty of perjury and must set forth:

18 (i) the caption of the proceedings as set forth on the
19 notice of pending forfeiture and the name of the claimant;

20 (ii) the address at which the claimant will accept
21 mail;

22 (iii) the nature and extent of the claimant's interest
23 in the property;

24 (iv) the date, identity of transferor, and
25 circumstances of the claimant's acquisition of the
26 interest in the property;

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

3 (vi) the specific provisions of Section 8 of this Act
4 relied on in asserting it is exempt from ~~not subject to~~
5 forfeiture, if applicable;

6 (vii) all essential facts supporting each assertion;
7 and

8 (viii) the precise relief sought.

9 (E) The answer must be filed with the court within 45 days
10 after service of the civil in rem complaint.

11 (F) The trial hearing must be held within 60 days after
12 filing of the answer unless continued for good cause.

13 (G) The State shall have the burden of proving by clear and
14 convincing evidence that the property is subject to forfeiture
15 ~~show the existence of probable cause for forfeiture of the~~
16 ~~property. If the State shows probable cause, the claimant has~~
17 ~~the burden of showing by a preponderance of the evidence that~~
18 ~~the claimant's interest in the property is not subject to~~
19 ~~forfeiture.~~

20 (H) If the State does not meet its burden of proof ~~show~~
21 ~~existence of probable cause or a claimant has established by a~~
22 ~~preponderance of evidence that the claimant has an interest~~
23 ~~that is exempt under Section 8 of this Act,~~ the court shall
24 order the interest in the property returned or conveyed to the
25 claimant ~~and shall order all other property forfeited to the~~
26 ~~State. If the State does show existence of probable cause and~~

1 ~~the claimant does not establish by a preponderance of evidence~~
2 ~~that the claimant has an interest that is exempt under Section~~
3 ~~8 of this Act, the court shall order all property forfeited to~~
4 ~~the State.~~

5 (I) If the State meets its burden of proof, the court shall
6 order the property forfeited to the State. ~~A defendant~~
7 ~~convicted in any criminal proceeding is precluded from later~~
8 ~~denying the essential allegations of the criminal offense of~~
9 ~~which the defendant was convicted in any proceeding under this~~
10 ~~Act regardless of the pendency of an appeal from that~~
11 ~~conviction. However, evidence of the pendency of an appeal is~~
12 ~~admissible.~~

13 (J) (Blank). ~~An acquittal or dismissal in a criminal~~
14 ~~proceeding shall not preclude civil proceedings under this Act;~~
15 ~~however, for good cause shown, on a motion by the State's~~
16 ~~Attorney, the court may stay civil forfeiture proceedings~~
17 ~~during the criminal trial for a related criminal indictment or~~
18 ~~information alleging a violation of the Illinois Controlled~~
19 ~~Substances Act, the Cannabis Control Act, or the~~
20 ~~Methamphetamine Control and Community Protection Act. Such a~~
21 ~~stay shall not be available pending an appeal. Property subject~~
22 ~~to forfeiture under the Illinois Controlled Substances Act, the~~
23 ~~Cannabis Control Act, or the Methamphetamine Control and~~
24 ~~Community Protection Act shall not be subject to return or~~
25 ~~release by a court exercising jurisdiction over a criminal case~~
26 ~~involving the seizure of such property unless such return or~~

1 ~~release is consented to by the State's Attorney.~~

2 (K) Provisional title to all ~~All~~ property declared
3 forfeited under this Act vests in this State on the commission
4 of the conduct giving rise to forfeiture together with the
5 proceeds of the property after that time. Except as otherwise
6 provided in this Act, any ~~Any such~~ property or proceeds
7 subsequently transferred to any person remain subject to
8 forfeiture and thereafter shall be ordered forfeited ~~unless the~~
9 ~~transferee claims and establishes in a hearing under the~~
10 ~~provisions of this Act that the transferee's interest is exempt~~
11 ~~under Section 8 of this Act.~~ A claimant who acquired, as a
12 transferee, an ownership interest in property that is the
13 subject of forfeiture proceedings under this Act after the
14 commission of the underlying violation of the Illinois
15 Controlled Substances Act, the Cannabis Control Act, the
16 Methamphetamine Control and Community Protection Act, or the
17 Illinois Food, Drug and Cosmetic Act, shall be barred from
18 asserting that his or her interest in the property is exempt
19 from forfeiture under subsection (c) of Section 8 of this Act,
20 unless the claimant shows by a preponderance of the evidence
21 that he or she acquired the interest as a mortgagee, secured
22 creditor, lienholder, or bona fide purchaser, without
23 knowledge of the seizure of the property and without notice of
24 any defect in title.

25 (L) A civil action under this Act must be commenced within
26 5 years after the last conduct giving rise to forfeiture became

1 known or should have become known or 5 years after the
2 forfeitable property is discovered, whichever is later,
3 excluding any time during which either the property or claimant
4 is out of the State or in confinement or during which criminal
5 proceedings relating to the same conduct are in progress.

6 (M) A claimant is not jointly and severally liable for
7 forfeiture awards owed by other claimants. If ownership is
8 unclear, a court may order each claimant to forfeit property on
9 a pro rata basis or by another means the court finds equitable.

10 (Source: P.A. 94-556, eff. 9-11-05.)

11 (725 ILCS 150/9.5 new)

12 Sec. 9.5. Proportionality hearing.

13 (a) If property has been declared forfeited under Section 9
14 of this Act as an instrumentality of a drug offense, a
15 defendant may, within 30 days of the effective date of the
16 notice of the declaration of forfeiture, petition the court
17 that the forfeiture is grossly disproportional to the
18 seriousness of the offense. The claimant shall bear the burden
19 of persuasion by a preponderance of the evidence at a hearing
20 conducted by the court without a jury. In determining whether
21 the forfeiture of an instrumentality is excessive, the court
22 may consider all relevant factors, including, but not limited
23 to:

24 (1) the seriousness of the offense and its impact on
25 the community, including the duration of the activity and

1 the harm caused by the claimant;

2 (2) the extent to which the claimant participated in
3 the offense;

4 (3) the extent to which the property was used in
5 committing the offense;

6 (4) the sentence imposed for committing the crime
7 subject to forfeiture; and

8 (5) whether the offense was completed or attempted.

9 (b) In determining the value of the instrumentality subject
10 to forfeiture, the court may consider all relevant factors,
11 including, but not limited to:

12 (1) the fair market value of the property;

13 (2) the value of the property to the claimant,
14 including hardship to the claimant if the forfeiture is
15 realized; and

16 (3) the hardship from the loss of a primary residence,
17 motor vehicle, or other property to the claimant's family
18 members or others if the property is forfeited.

19 (c) The court may not consider the monetary value of the
20 instrumentality to the State in determining whether the
21 forfeiture of an instrumentality is disproportional to the
22 seriousness of the offense.

23 (d) If the claimant prevails in a proportionality hearing
24 under this Section, the court may order the property, or a
25 portion of the property, returned or conveyed to the claimant
26 as the court deems just.

1 (725 ILCS 150/10) (from Ch. 56 1/2, par. 1680)

2 Sec. 10. Stay of time periods. If property is seized for
3 evidence and for forfeiture, the time periods for instituting
4 judicial ~~and non judicial~~ forfeiture proceedings shall not
5 begin until the property is no longer necessary for evidence.

6 (Source: P.A. 86-1382.)

7 (725 ILCS 150/15 new)

8 Sec. 15. Return of property; damages and costs.

9 (a) The law enforcement agency that holds custody of
10 property seized for forfeiture shall return to the claimant,
11 within a reasonable period of time not to exceed 5 days after
12 the court orders the property to be returned or conveyed to the
13 claimant:

14 (1) property ordered by the court to be conveyed or
15 returned to the claimant under paragraph (H) of Section 9
16 of this Act; and

17 (2) property ordered by the court to be conveyed or
18 returned to the claimant under subsection (d) of Section
19 9.5 of this Act.

20 (b) The law enforcement agency that holds custody of
21 property described in subsection (a) of this Section is
22 responsible for any damages, storage fees, and related costs
23 applicable to property returned. The claimant is not subject to
24 any charges by the State for storage of the property or

1 expenses incurred in the preservation of the property.

2 (725 ILCS 150/16 new)

3 Sec. 16. Abandoned property. Abandoned property shall be
4 delivered to the Department of State Police within 30 days. For
5 purposes of this Section, "abandoned property" means personal
6 property left by an owner who intentionally relinquishes all
7 rights to its control. Real property may not be abandoned.

8 (725 ILCS 150/17 new)

9 Sec. 17. Distribution of proceeds; selling or retaining
10 seized property prohibited.

11 (a) Except as otherwise provided in this Section, the court
12 shall order that property forfeited under this Act be delivered
13 to the Department of State Police within 30 days.

14 (b) Upon motion, the court may order that a portion of the
15 currency seized or proceeds from public auction be used to pay
16 reasonable non-personnel expenses of the seizure, storage, and
17 maintenance of custody of any forfeited items.

18 (c) The Department of State Police or its designee shall
19 dispose of all non-currency forfeited and abandoned property at
20 public auction. The auction proceeds and forfeited currency
21 shall first be used to pay all outstanding recorded liens on
22 the forfeited property, then to comply with an order of the
23 court to pay reasonable non-personnel expenses under
24 subsection (b) of this Section, with all remaining funds to be

1 deposited into the Asset Forfeiture Proceeds Fund.

2 (d) A law enforcement agency shall not retain forfeited or
3 abandoned property for its own use or transfer the property to
4 any employee of the agency, to a person related to an employee
5 by blood or marriage, or to another law enforcement agency.

6 (725 ILCS 150/18 new)

7 Sec. 18. Transfer of forfeitable property to federal
8 government.

9 (a) No State, county, or municipal law enforcement agency,
10 or prosecuting authority may enter into an agreement to
11 transfer or refer seized property to a federal agency directly,
12 indirectly, by adoption, through an intergovernmental joint
13 taskforce, or by other means for the purposes of forfeiture
14 litigation, and instead shall refer the seized property to
15 appropriate local or State prosecuting authorities for
16 forfeiture litigation under this Act, unless the seized
17 property includes U.S. currency in excess of \$100,000.

18 (b) If the seized property includes U.S. currency in excess
19 of \$100,000, a State, county, or municipal law enforcement
20 agency may refer or transfer the seized property to a federal
21 agency for forfeiture litigation under federal law, but nothing
22 in this Section shall be construed to require a referral or
23 transfer.

24 (c) Nothing in subsections (a) or (b) of this Section shall
25 be construed to restrict a State, county, or municipal law

1 enforcement agency from collaborating with a federal agency to
2 seize contraband or property that the law enforcement agency
3 has probable cause to believe is the proceeds or instruments of
4 a crime by adoption, through an intergovernmental joint
5 taskforce, or by other means.

6 (725 ILCS 150/19 new)

7 Sec. 19. Disposition of property and proceeds from another
8 jurisdiction.

9 (a) Forfeited property received from another jurisdiction,
10 including the federal government, must be transferred to the
11 Department of State Police, sold at public auction by the
12 Department of State Police or its designee and deposited into
13 the Asset Forfeiture Proceeds Fund.

14 (b) Proceeds from the sale of forfeited property received
15 from another jurisdiction, including the federal government,
16 must be transferred to the Department of State Police and
17 deposited into the Asset Forfeiture Proceeds Fund.

18 (c) If federal law prohibits compliance with subsections
19 (a) and (b) of this Section, State and local law enforcement
20 agencies are prohibited from seeking or accepting forfeited
21 property or proceeds from the federal government.

22 (725 ILCS 150/20 new)

23 Sec. 20. Reporting. Property seized or forfeited under this
24 Act is subject to reporting under the Seizure and Forfeiture

1 Reporting Act.

2 (725 ILCS 150/4 rep.)

3 (725 ILCS 150/6 rep.)

4 (725 ILCS 150/7 rep.)

5 (725 ILCS 150/14 rep.)

6 Section 220. The Drug Asset Forfeiture Procedure Act is
7 amended by repealing Sections 4, 6, 7, and 14.

8 Section 225. The Narcotics Profit Forfeiture Act is amended
9 by changing Section 5 and by adding Section 6.5 as follows:

10 (725 ILCS 175/5) (from Ch. 56 1/2, par. 1655)

11 Sec. 5. (a) A person who commits the offense of narcotics
12 racketeering shall:

13 (1) be guilty of a Class 1 felony; and

14 (2) be subject to a fine of up to \$250,000.

15 A person who commits the offense of narcotics racketeering
16 or who violates Section 3 of the Drug Paraphernalia Control Act
17 shall forfeit to the State of Illinois: (A) any profits or
18 proceeds and any property or property interest he has acquired
19 or maintained in violation of this Act or Section 3 of the Drug
20 Paraphernalia Control Act or has used to facilitate a violation
21 of this Act that the court determines, after a forfeiture
22 hearing, under subsection (b) of this Section to have been
23 acquired or maintained as a result of narcotics racketeering or

1 violating Section 3 of the Drug Paraphernalia Control Act, or
2 used to facilitate narcotics racketeering; and (B) any interest
3 in, security of, claim against, or property or contractual
4 right of any kind affording a source of influence over, any
5 enterprise which he has established, operated, controlled,
6 conducted, or participated in the conduct of, in violation of
7 this Act or Section 3 of the Drug Paraphernalia Control Act,
8 that the court determines, after a forfeiture hearing, under
9 subsection (b) of this Section to have been acquired or
10 maintained as a result of narcotics racketeering or violating
11 Section 3 of the Drug Paraphernalia Control Act or used to
12 facilitate narcotics racketeering.

13 (b) The court shall, upon petition by the Attorney General
14 or State's Attorney, at any time subsequent to the filing of an
15 information or return of an indictment, conduct a hearing to
16 determine whether any property or property interest is subject
17 to forfeiture under this Act. At the forfeiture hearing the
18 people shall have the burden of establishing, by clear and
19 convincing ~~a preponderance of the~~ evidence, that property or
20 property interests are subject to forfeiture under this Act.
21 There is a rebuttable presumption at such hearing that any
22 property or property interest of a person charged by
23 information or indictment with narcotics racketeering or who is
24 convicted of a violation of Section 3 of the Drug Paraphernalia
25 Control Act is subject to forfeiture under this Section if the
26 State establishes by clear and convincing ~~a preponderance of~~

1 ~~the~~ evidence that:

2 (1) such property or property interest was acquired by
3 such person during the period of the violation of this Act
4 or Section 3 of the Drug Paraphernalia Control Act or
5 within a reasonable time after such period; and

6 (2) there was no likely source for such property or
7 property interest other than the violation of this Act or
8 Section 3 of the Drug Paraphernalia Control Act.

9 (c) In an action brought by the People of the State of
10 Illinois under this Act, wherein any restraining order,
11 injunction or prohibition or any other action in connection
12 with any property or property interest subject to forfeiture
13 under this Act is sought, the circuit court which shall preside
14 over the trial of the person or persons charged with narcotics
15 racketeering as defined in Section 4 of this Act or violating
16 Section 3 of the Drug Paraphernalia Control Act shall first
17 determine whether there is probable cause to believe that the
18 person or persons so charged has committed the offense of
19 narcotics racketeering as defined in Section 4 of this Act or a
20 violation of Section 3 of the Drug Paraphernalia Control Act
21 and whether the property or property interest is subject to
22 forfeiture pursuant to this Act.

23 In order to make such a determination, prior to entering
24 any such order, the court shall conduct a hearing without a
25 jury, wherein the People shall establish that there is: (i)
26 probable cause that the person or persons so charged have

1 committed the offense of narcotics racketeering or violating
2 Section 3 of the Drug Paraphernalia Control Act and (ii)
3 probable cause that any property or property interest may be
4 subject to forfeiture pursuant to this Act. Such hearing may be
5 conducted simultaneously with a preliminary hearing, if the
6 prosecution is commenced by information or complaint, or by
7 motion of the People, at any stage in the proceedings. The
8 court may accept a finding of probable cause at a preliminary
9 hearing following the filing of an information charging the
10 offense of narcotics racketeering as defined in Section 4 of
11 this Act or the return of an indictment by a grand jury
12 charging the offense of narcotics racketeering as defined in
13 Section 4 of this Act or after a charge is filed for violating
14 Section 3 of the Drug Paraphernalia Control Act as sufficient
15 evidence of probable cause as provided in item (i) above.

16 Upon such a finding, the circuit court shall enter such
17 restraining order, injunction or prohibition, or shall take
18 such other action in connection with any such property or
19 property interest subject to forfeiture under this Act, as is
20 necessary to insure that such property is not removed from the
21 jurisdiction of the court, concealed, destroyed or otherwise
22 disposed of by the owner of that property or property interest
23 prior to a forfeiture hearing under subsection (b) of this
24 Section. The Attorney General or State's Attorney shall file a
25 certified copy of such restraining order, injunction or other
26 prohibition with the recorder of deeds or registrar of titles

1 of each county where any such property of the defendant may be
2 located. No such injunction, restraining order or other
3 prohibition shall affect the rights of any bona fide purchaser,
4 mortgagee, judgment creditor or other lien holder arising prior
5 to the date of such filing.

6 The court may, at any time, upon verified petition by the
7 defendant, conduct a hearing to release all or portions of any
8 such property or interest which the court previously determined
9 to be subject to forfeiture or subject to any restraining
10 order, injunction, or prohibition or other action. The court
11 may release such property to the defendant for good cause shown
12 and within the sound discretion of the court.

13 (d) Prosecution under this Act may be commenced by the
14 Attorney General or a State's Attorney.

15 (e) Upon an order of forfeiture being entered pursuant to
16 subsection (b) of this Section, the court shall authorize the
17 Attorney General to seize any property or property interest
18 declared forfeited under this Act and under such terms and
19 conditions as the court shall deem proper. Any property or
20 property interest that has been the subject of an entered
21 restraining order, injunction or prohibition or any other
22 action filed under subsection (c) shall be forfeited unless the
23 claimant can show by a preponderance of the evidence that the
24 property or property interest has not been acquired or
25 maintained as a result of narcotics racketeering or has not
26 been used to facilitate narcotics racketeering.

1 (f) The Attorney General or his designee is authorized to
2 sell all property forfeited and seized pursuant to this Act,
3 unless such property is required by law to be destroyed or is
4 harmful to the public, and, after the deduction of all
5 requisite expenses of administration and sale, shall
6 distribute the proceeds of such sale, along with any moneys
7 forfeited or seized, in accordance with subsection (g) or (h),
8 whichever is applicable.

9 (g) All monies and the sale proceeds of all other property
10 forfeited and seized pursuant to this Act shall be deposited
11 into the Asset Forfeiture Proceeds Fund. ~~distributed as~~
12 ~~follows:~~

13 ~~(1) An amount equal to 50% shall be distributed to the~~
14 ~~unit of local government whose officers or employees~~
15 ~~conducted the investigation into narcotics racketeering~~
16 ~~and caused the arrest or arrests and prosecution leading to~~
17 ~~the forfeiture. Amounts distributed to units of local~~
18 ~~government shall be used for enforcement of laws governing~~
19 ~~narcotics activity or for public education in the community~~
20 ~~or schools in the prevention or detection of the abuse of~~
21 ~~drugs or alcohol. In the event, however, that the~~
22 ~~investigation, arrest or arrests and prosecution leading~~
23 ~~to the forfeiture were undertaken solely by a State agency,~~
24 ~~the portion provided hereunder shall be paid into the Drug~~
25 ~~Traffic Prevention Fund in the State treasury to be used~~
26 ~~for enforcement of laws governing narcotics activity.~~

1 ~~(2) An amount equal to 12.5% shall be distributed to~~
2 ~~the county in which the prosecution resulting in the~~
3 ~~forfeiture was instituted, deposited in a special fund in~~
4 ~~the county treasury and appropriated to the State's~~
5 ~~Attorney for use in the enforcement of laws governing~~
6 ~~narcotics activity or for public education in the community~~
7 ~~or schools in the prevention or detection of the abuse of~~
8 ~~drugs or alcohol.~~

9 ~~An amount equal to 12.5% shall be distributed to the~~
10 ~~Office of the State's Attorneys Appellate Prosecutor and~~
11 ~~deposited in the Narcotics Profit Forfeiture Fund, which is~~
12 ~~hereby created in the State treasury, to be used by the~~
13 ~~Office of the State's Attorneys Appellate Prosecutor for~~
14 ~~additional expenses incurred in prosecuting appeals~~
15 ~~arising under this Act. Any amounts remaining in the Fund~~
16 ~~after all additional expenses have been paid shall be used~~
17 ~~by the Office to reduce the participating county~~
18 ~~contributions to the Office on a pro rated basis as~~
19 ~~determined by the board of governors of the Office of the~~
20 ~~State's Attorneys Appellate Prosecutor based on the~~
21 ~~populations of the participating counties.~~

22 ~~(3) An amount equal to 25% shall be paid into the Drug~~
23 ~~Traffic Prevention Fund in the State treasury to be used by~~
24 ~~the Department of State Police for funding Metropolitan~~
25 ~~Enforcement Groups created pursuant to the~~
26 ~~Intergovernmental Drug Laws Enforcement Act. Any amounts~~

1 ~~remaining in the Fund after full funding of Metropolitan~~
2 ~~Enforcement Groups shall be used for enforcement, by the~~
3 ~~State or any unit of local government, of laws governing~~
4 ~~narcotics activity or for public education in the community~~
5 ~~or schools in the prevention or detection of the abuse of~~
6 ~~drugs or alcohol.~~

7 (h) Where the investigation or indictment for the offense
8 of narcotics racketeering or a violation of Section 3 of the
9 Drug Paraphernalia Control Act has occurred under the
10 provisions of the Statewide Grand Jury Act, all monies and the
11 sale proceeds of all other property shall be distributed as
12 follows:

13 (1) (Blank). ~~60% shall be distributed to the~~
14 ~~metropolitan enforcement group, local, municipal, county,~~
15 ~~or State law enforcement agency or agencies which conducted~~
16 ~~or 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 on 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 or for public~~
26 ~~education in the community or schools in the prevention or~~

1 ~~detection of the abuse of drugs or alcohol.~~

2 (2) 25% shall be distributed by the Attorney General as
3 grants to drug education, treatment and prevention
4 programs licensed or approved by the Department of Human
5 Services. In making these grants, the Attorney General
6 shall take into account the plans and service priorities
7 of, and the needs identified by, the Department of Human
8 Services.

9 (3) 75% shall be deposited into the Asset Forfeiture
10 Proceeds Fund. ~~15% shall be distributed to the Attorney~~
11 ~~General and the State's Attorney, if any, participating in~~
12 ~~the prosecution resulting in the forfeiture. The~~
13 ~~distribution shall bear a reasonable relationship to the~~
14 ~~degree of direct participation in the prosecution of the~~
15 ~~offense, taking into account the total value of the~~
16 ~~property forfeited and the total amount of time spent in~~
17 ~~preparing and presenting the case, the complexity of the~~
18 ~~case and other similar factors. Amounts distributed to the~~
19 ~~Attorney General under this paragraph shall be retained in~~
20 ~~a fund held by the State Treasurer as ex officio custodian~~
21 ~~to be designated as the Statewide Grand Jury Prosecution~~
22 ~~Fund and paid out upon the direction of the Attorney~~
23 ~~General for expenses incurred in criminal prosecutions~~
24 ~~arising under the Statewide Grand Jury Act. Amounts~~
25 ~~distributed to a State's Attorney shall be deposited in a~~
26 ~~special fund in the county treasury and appropriated to the~~

1 ~~State's Attorney for use in the enforcement of laws~~
2 ~~governing narcotics activity or for public education in the~~
3 ~~community or schools in the prevention or detection of the~~
4 ~~abuse of drugs or alcohol.~~

5 (i) (Blank). ~~All monies deposited pursuant to this Act in~~
6 ~~the Drug Traffic Prevention Fund established under Section~~
7 ~~5-9 1.2 of the Unified Code of Corrections are appropriated, on~~
8 ~~a continuing basis, to the Department of State Police to be~~
9 ~~used for funding Metropolitan Enforcement Groups created~~
10 ~~pursuant to the Intergovernmental Drug Laws Enforcement Act or~~
11 ~~otherwise for the enforcement of laws governing narcotics~~
12 ~~activity or for public education in the community or schools in~~
13 ~~the prevention or detection of the abuse of drugs or alcohol.~~

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

15 (725 ILCS 175/6.5 new)

16 Sec. 6.5. Reporting. Property seized or forfeited under
17 this Article is subject to reporting under the Seizure and
18 Forfeiture Reporting Act.

19 Section 230. The Illinois Streetgang Terrorism Omnibus
20 Prevention Act is amended by changing Section 40 as follows:

21 (740 ILCS 147/40)

22 Sec. 40. Forfeiture Contraband.

23 (a) The following are subject to seizure or forfeiture

1 ~~declared to be contraband and no person shall have a property~~
2 ~~interest in them:~~

3 (1) any property that is directly or indirectly used or
4 intended for use in any manner to facilitate streetgang
5 related activity; and

6 (2) any property constituting or derived from gross
7 profits or other proceeds obtained from streetgang related
8 activity.

9 (b) Property subject to forfeiture under this Section may
10 be seized under the procedures under Section 36-2.1 of the
11 Criminal Code of 2012, except that seizure of real property may
12 occur only under a court order issued after proper notice to
13 property owners and an opportunity for a contested hearing to
14 determine the sufficiency of probable cause for the seizure.
15 Nothing in this subsection (b) prohibits the prosecuting
16 attorney from seeking a lis pendens or restraining order to
17 hinder the sale or destruction of real property.

18 (c) The State's Attorney may initiate forfeiture
19 proceedings under the procedures in Article 36 of the Criminal
20 Code of 2012. The State shall bear the burden of proving by
21 clear and convincing evidence that the property was acquired
22 through a pattern of streetgang related activity with the
23 knowledge and consent of the owner.

24 (d) Property forfeited under this Section shall be disposed
25 of under Section 36-7 of the Criminal Code of 2012 for the
26 forfeiture of vehicles, vessels, and aircraft.

1 (e) Property seized or forfeited under this Section is
2 subject to reporting under the Seizure and Forfeiture Reporting
3 Act. ~~Within 60 days of the date of the seizure of contraband~~
4 ~~under this Section, the State's Attorney shall initiate~~
5 ~~forfeiture proceedings as provided in Article 36 of the~~
6 ~~Criminal Code of 2012. An owner or person who has a lien on the~~
7 ~~property may establish as a defense to the forfeiture of~~
8 ~~property that is subject to forfeiture under this Section that~~
9 ~~the owner or lienholder had no knowledge that the property was~~
10 ~~acquired through a pattern of streetgang related activity.~~
11 ~~Property that is forfeited under this Section shall be disposed~~
12 ~~of as provided in Article 36 of the Criminal Code of 2012 for~~
13 ~~the forfeiture of vehicles, vessels, and aircraft. The proceeds~~
14 ~~of the disposition shall be paid to the Gang Violence Victims~~
15 ~~and Witnesses Fund to be used to assist in the prosecution of~~
16 ~~gang crimes.~~

17 (Source: P.A. 97-1150, eff. 1-25-13.)

18 Section 235. The Illinois Securities Law of 1953 is amended
19 by changing Section 11 as follows:

20 (815 ILCS 5/11) (from Ch. 121 1/2, par. 137.11)

21 Sec. 11. Duties and powers of the Secretary of State.

22 A. (1) The administration of this Act is vested in the
23 Secretary of State, who may from time to time make, amend and
24 rescind such rules and regulations as may be necessary to carry

1 out this Act, including rules and regulations governing
2 procedures of registration, statements, applications and
3 reports for various classes of securities, persons and matters
4 within his or her jurisdiction and defining any terms, whether
5 or not used in this Act, insofar as the definitions are not
6 inconsistent with this Act. The rules and regulations adopted
7 by the Secretary of State under this Act shall be effective in
8 the manner provided for in the Illinois Administrative
9 Procedure Act.

10 (2) Among other things, the Secretary of State shall have
11 authority, for the purposes of this Act, to prescribe the form
12 or forms in which required information shall be set forth,
13 accounting practices, the items or details to be shown in
14 balance sheets and earning statements, and the methods to be
15 followed in the preparation of accounts, in the appraisal or
16 valuation of assets and liabilities, in the determination of
17 depreciation and depletion, in the differentiation of
18 recurring and non-recurring income, in the differentiation of
19 investment and operating income, and in the preparation of
20 consolidated balance sheets or income accounts of any person,
21 directly or indirectly, controlling or controlled by the
22 issuer, or any person under direct or indirect common control
23 with the issuer.

24 (3) No provision of this Act imposing any liability shall
25 apply to any act done or omitted in good faith in conformity
26 with any rule or regulation of the Secretary of State under

1 this Act, notwithstanding that the rule or regulation may,
2 after the act or omission, be amended or rescinded or be
3 determined by judicial or other authority to be invalid for any
4 reason.

5 (4) The Securities Department of the Office of the
6 Secretary of State shall be deemed a criminal justice agency
7 for purposes of all federal and state laws and regulations and,
8 in that capacity, shall be entitled to access to any
9 information available to criminal justice agencies and has the
10 power to appoint special agents to conduct all investigations,
11 searches, seizures, arrests, and other duties imposed under the
12 provisions of any law administered by the Department. The
13 special agents have and may exercise all the powers of peace
14 officers solely for the purpose of enforcing provisions of this
15 Act.

16 The Director must authorize to each special agent employed
17 under this Section a distinct badge that, on its face, (i)
18 clearly states that the badge is authorized by the Department
19 and (ii) contains a unique and identifying number.

20 Special agents shall comply with all training requirements
21 established for law enforcement officers by provisions of the
22 Illinois Police Training Act.

23 (5) The Secretary of State, by rule, may conditionally or
24 unconditionally exempt any person, security, or transaction,
25 or any class or classes of persons, securities, or transactions
26 from any provision of Section 5, 6, 7, 8, 8a, or 9 of this Act

1 or of any rule promulgated under these Sections, to the extent
2 that such exemption is necessary or appropriate in the public
3 interest, and is consistent with the protection of investors.

4 B. The Secretary of State may, anything in this Act to the
5 contrary notwithstanding, require financial statements and
6 reports of the issuer, dealer, Internet portal, salesperson,
7 investment adviser, or investment adviser representative as
8 often as circumstances may warrant. In addition, the Secretary
9 of State may secure information or books and records from or
10 through others and may make or cause to be made investigations
11 respecting the business, affairs, and property of the issuer of
12 securities, any person involved in the sale or offer for sale,
13 purchase or offer to purchase of any mineral investment
14 contract, mineral deferred delivery contract, or security and
15 of dealers, Internet portals, salespersons, investment
16 advisers, and investment adviser representatives that are
17 registered or are the subject of an application for
18 registration under this Act. The costs of an investigation
19 shall be borne by the registrant or the applicant, provided
20 that the registrant or applicant shall not be obligated to pay
21 the costs without his, her or its consent in advance.

22 C. Whenever it shall appear to the Secretary of State,
23 either upon complaint or otherwise, that this Act, or any rule
24 or regulation prescribed under authority thereof, has been or
25 is about to be violated, he or she may, in his or her
26 discretion, do one or more of the following:

1 (1) require or permit the person to file with the
2 Secretary of State a statement in writing under oath, or
3 otherwise, as to all the facts and circumstances concerning
4 the subject matter which the Secretary of State believes to
5 be in the public interest to investigate, audit, examine,
6 or inspect;

7 (2) conduct an investigation, audit, examination, or
8 inspection as necessary or advisable for the protection of
9 the interests of the public; and

10 (3) appoint investigators to conduct all
11 investigations, searches, seizures, arrests, and other
12 duties imposed under the provisions of any law administered
13 by the Department. The Director must authorize to each
14 investigator employed under this Section a distinct badge
15 that, on its face, (i) clearly states that the badge is
16 authorized by the Department and (ii) contains a unique and
17 identifying number.

18 D. (1) For the purpose of all investigations, audits,
19 examinations, or inspections which in the opinion of the
20 Secretary of State are necessary and proper for the enforcement
21 of this Act, the Secretary of State or a person designated by
22 him or her is empowered to administer oaths and affirmations,
23 subpoena witnesses, take evidence, and require, by subpoena or
24 other lawful means provided by this Act or the rules adopted by
25 the Secretary of State, the production of any books and
26 records, papers, or other documents which the Secretary of

1 State or a person designated by him or her deems relevant or
2 material to the inquiry.

3 (2) The Secretary of State or a person designated by him or
4 her is further empowered to administer oaths and affirmations,
5 subpoena witnesses, take evidence, and require the production
6 of any books and records, papers, or other documents in this
7 State at the request of a securities agency of another state,
8 if the activities constituting the alleged violation for which
9 the information is sought would be in violation of Section 12
10 of this Act if the activities had occurred in this State.

11 (3) The Circuit Court of any County of this State, upon
12 application of the Secretary of State or a person designated by
13 him or her may order the attendance of witnesses, the
14 production of books and records, papers, accounts and documents
15 and the giving of testimony before the Secretary of State or a
16 person designated by him or her; and any failure to obey the
17 order may be punished by the Circuit Court as a contempt
18 thereof.

19 (4) The fees of subpoenaed witnesses under this Act for
20 attendance and travel shall be the same as fees of witnesses
21 before the Circuit Courts of this State, to be paid when the
22 witness is excused from further attendance, provided, the
23 witness is subpoenaed at the instance of the Secretary of
24 State; and payment of the fees shall be made and audited in the
25 same manner as other expenses of the Secretary of State.

26 (5) Whenever a subpoena is issued at the request of a

1 complainant or respondent as the case may be, the Secretary of
2 State may require that the cost of service and the fee of the
3 witness shall be borne by the party at whose instance the
4 witness is summoned.

5 (6) The Secretary of State shall have power at his or her
6 discretion, to require a deposit to cover the cost of the
7 service and witness fees and the payment of the legal witness
8 fee and mileage to the witness served with subpoena.

9 (7) A subpoena issued under this Act shall be served in the
10 same manner as a subpoena issued out of a circuit court.

11 (8) The Secretary of State may in any investigation,
12 audits, examinations, or inspections cause the taking of
13 depositions of persons residing within or without this State in
14 the manner provided in civil actions under the laws of this
15 State.

16 E. Anything in this Act to the contrary notwithstanding:

17 (1) If the Secretary of State shall find that the offer
18 or sale or proposed offer or sale or method of offer or
19 sale of any securities by any person, whether exempt or
20 not, in this State, is fraudulent, or would work or tend to
21 work a fraud or deceit, or is being offered or sold in
22 violation of Section 12, or there has been a failure or
23 refusal to submit any notification filing or fee required
24 under this Act, the Secretary of State may by written order
25 prohibit or suspend the offer or sale of securities by that
26 person or deny or revoke the registration of the securities

1 or the exemption from registration for the securities.

2 (2) If the Secretary of State shall find that any
3 person has violated subsection C, D, E, F, G, H, I, J, or K
4 of Section 12 of this Act, the Secretary of State may by
5 written order temporarily or permanently prohibit or
6 suspend the person from offering or selling any securities,
7 any mineral investment contract, or any mineral deferred
8 delivery contract in this State, provided that any person
9 who is the subject of an order of permanent prohibition may
10 petition the Secretary of State for a hearing to present
11 evidence of rehabilitation or change in circumstances
12 justifying the amendment or termination of the order of
13 permanent prohibition.

14 (3) If the Secretary of State shall find that any
15 person is engaging or has engaged in the business of
16 selling or offering for sale securities as a dealer,
17 Internet portal, or salesperson or is acting or has acted
18 as an investment adviser, investment adviser
19 representative, or federal covered investment adviser,
20 without prior thereto and at the time thereof having
21 complied with the registration or notice filing
22 requirements of this Act, the Secretary of State may by
23 written order prohibit or suspend the person from engaging
24 in the business of selling or offering for sale securities,
25 or acting as an investment adviser, investment adviser
26 representative, or federal covered investment adviser, in

1 this State.

2 (4) In addition to any other sanction or remedy
3 contained in this subsection E, the Secretary of State,
4 after finding that any provision of this Act has been
5 violated, may impose a fine as provided by rule, regulation
6 or order not to exceed \$10,000 for each violation of this
7 Act, may issue an order of public censure against the
8 violator, and may charge as costs of investigation all
9 reasonable expenses, including attorney's fees and witness
10 fees.

11 F. (1) The Secretary of State shall not deny, suspend or
12 revoke the registration of securities, suspend or revoke the
13 registration of a dealer, Internet portal, salesperson,
14 investment adviser, or investment adviser representative,
15 prohibit or suspend the offer or sale of any securities,
16 prohibit or suspend any person from offering or selling any
17 securities in this State, prohibit or suspend a dealer or
18 salesperson from engaging in the business of selling or
19 offering for sale securities, prohibit or suspend a person from
20 acting as an investment adviser or federal covered investment
21 adviser, or investment adviser representative, impose any fine
22 for violation of this Act, issue an order of public censure, or
23 enter into an agreed settlement except after an opportunity for
24 hearing upon not less than 10 days notice given by personal
25 service or registered mail or certified mail, return receipt
26 requested, to the person or persons concerned. Such notice

1 shall state the date and time and place of the hearing and
2 shall contain a brief statement of the proposed action of the
3 Secretary of State and the grounds for the proposed action. A
4 failure to appear at the hearing or otherwise respond to the
5 allegations set forth in the notice of hearing shall constitute
6 an admission of any facts alleged therein and shall constitute
7 sufficient basis to enter an order.

8 (2) Anything herein contained to the contrary
9 notwithstanding, the Secretary of State may temporarily
10 prohibit or suspend, for a maximum period of 90 days, by an
11 order effective immediately, the offer or sale or registration
12 of securities, the registration of a dealer, Internet portal,
13 salesperson, investment adviser, or investment adviser
14 representative, or the offer or sale of securities by any
15 person, or the business of rendering investment advice, without
16 the notice and prior hearing in this subsection prescribed, if
17 the Secretary of State shall in his or her opinion, based on
18 credible evidence, deem it necessary to prevent an imminent
19 violation of this Act or to prevent losses to investors which
20 the Secretary of State reasonably believes will occur as a
21 result of a prior violation of this Act. Immediately after
22 taking action without such notice and hearing, the Secretary of
23 State shall deliver a copy of the temporary order to the
24 respondent named therein by personal service or registered mail
25 or certified mail, return receipt requested. The temporary
26 order shall set forth the grounds for the action and shall

1 advise that the respondent may request a hearing, that the
2 request for a hearing will not stop the effectiveness of the
3 temporary order and that respondent's failure to request a
4 hearing within 30 days after the date of the entry of the
5 temporary order shall constitute an admission of any facts
6 alleged therein and shall constitute sufficient basis to make
7 the temporary order final. Any provision of this paragraph (2)
8 to the contrary notwithstanding, the Secretary of State may not
9 pursuant to the provisions of this paragraph (2) suspend the
10 registration of a dealer, limited Canadian dealer,
11 salesperson, investment adviser, or investment adviser
12 representative based upon sub-paragraph (n) of paragraph (1) of
13 subsection E of Section 8 of this Act or revoke the
14 registration of securities or revoke the registration of any
15 dealer, salesperson, investment adviser representative, or
16 investment adviser.

17 (3) The Secretary of State may issue a temporary order
18 suspending or delaying the effectiveness of any registration of
19 securities under subsection A or B of Section 5, 6 or 7 of this
20 Act subsequent to and upon the basis of the issuance of any
21 stop, suspension or similar order by the Securities and
22 Exchange Commission with respect to the securities which are
23 the subject of the registration under subsection A or B of
24 Section 5, 6 or 7 of this Act, and the order shall become
25 effective as of the date and time of effectiveness of the
26 Securities and Exchange Commission order and shall be vacated

1 automatically at such time as the order of the Securities and
2 Exchange Commission is no longer in effect.

3 (4) When the Secretary of State finds that an application
4 for registration as a dealer, Internet portal, salesperson,
5 investment adviser, or investment adviser representative
6 should be denied, the Secretary of State may enter an order
7 denying the registration. Immediately after taking such
8 action, the Secretary of State shall deliver a copy of the
9 order to the respondent named therein by personal service or
10 registered mail or certified mail, return receipt requested.
11 The order shall state the grounds for the action and that the
12 matter will be set for hearing upon written request filed with
13 the Secretary of State within 30 days after the receipt of the
14 request by the respondent. The respondent's failure to request
15 a hearing within 30 days after receipt of the order shall
16 constitute an admission of any facts alleged therein and shall
17 make the order final. If a hearing is held, the Secretary of
18 State shall affirm, vacate, or modify the order.

19 (5) The findings and decision of the Secretary of State
20 upon the conclusion of each final hearing held pursuant to this
21 subsection shall be set forth in a written order signed on
22 behalf of the Secretary of State by his or her designee and
23 shall be filed as a public record. All hearings shall be held
24 before a person designated by the Secretary of State, and
25 appropriate records thereof shall be kept.

26 (6) Notwithstanding the foregoing, the Secretary of State,

1 after notice and opportunity for hearing, may at his or her
2 discretion enter into an agreed settlement, stipulation or
3 consent order with a respondent in accordance with the
4 provisions of the Illinois Administrative Procedure Act. The
5 provisions of the agreed settlement, stipulation or consent
6 order shall have the full force and effect of an order issued
7 by the Secretary of State.

8 (7) Anything in this Act to the contrary notwithstanding,
9 whenever the Secretary of State finds that a person is
10 currently expelled from, refused membership in or association
11 with, or limited in any material capacity by a self-regulatory
12 organization registered under the Federal 1934 Act or the
13 Federal 1974 Act because of a fraudulent or deceptive act or a
14 practice in violation of a rule, regulation, or standard duly
15 promulgated by the self-regulatory organization, the Secretary
16 of State may, at his or her discretion, enter a Summary Order
17 of Prohibition, which shall prohibit the offer or sale of any
18 securities, mineral investment contract, or mineral deferred
19 delivery contract by the person in this State. The order shall
20 take effect immediately upon its entry. Immediately after
21 taking the action the Secretary of State shall deliver a copy
22 of the order to the named Respondent by personal service or
23 registered mail or certified mail, return receipt requested. A
24 person who is the subject of an Order of Prohibition may
25 petition the Secretary of State for a hearing to present
26 evidence of rehabilitation or change in circumstances

1 justifying the amendment or termination of the Order of
2 Prohibition.

3 G. No administrative action shall be brought by the
4 Secretary of State for relief under this Act or upon or because
5 of any of the matters for which relief is granted by this Act
6 after the earlier to occur of (i) 3 years from the date upon
7 which the Secretary of State had notice of facts which in the
8 exercise of reasonable diligence would lead to actual knowledge
9 of the alleged violation of the Act, or (ii) 5 years from the
10 date on which the alleged violation occurred.

11 H. The action of the Secretary of State in denying,
12 suspending, or revoking the registration of a dealer, Internet
13 portal, limited Canadian dealer, salesperson, investment
14 adviser, or investment adviser representative, in prohibiting
15 any person from engaging in the business of offering or selling
16 securities as a dealer, limited Canadian dealer, or
17 salesperson, in prohibiting or suspending the offer or sale of
18 securities by any person, in prohibiting a person from acting
19 as an investment adviser, federal covered investment adviser,
20 or investment adviser representative, in denying, suspending,
21 or revoking the registration of securities, in prohibiting or
22 suspending the offer or sale or proposed offer or sale of
23 securities, in imposing any fine for violation of this Act, or
24 in issuing any order shall be subject to judicial review in the
25 Circuit Courts of Cook or Sangamon Counties in this State. The
26 Administrative Review Law shall apply to and govern every

1 action for the judicial review of final actions or decisions of
2 the Secretary of State under this Act.

3 I. Notwithstanding any other provisions of this Act to the
4 contrary, whenever it shall appear to the Secretary of State
5 that any person is engaged or about to engage in any acts or
6 practices which constitute or will constitute a violation of
7 this Act or of any rule or regulation prescribed under
8 authority of this Act, the Secretary of State may at his or her
9 discretion, through the Attorney General take any of the
10 following actions:

11 (1) File a complaint and apply for a temporary
12 restraining order without notice, and upon a proper showing
13 the court may enter a temporary restraining order without
14 bond, to enforce this Act.

15 (2) File a complaint and apply for a preliminary or
16 permanent injunction, and, after notice and a hearing and
17 upon a proper showing, the court may grant a preliminary or
18 permanent injunction and may order the defendant to make an
19 offer of rescission with respect to any sales or purchases
20 of securities, mineral investment contracts, or mineral
21 deferred delivery contracts determined by the court to be
22 unlawful under this Act.

23 (3) Seek the seizure of assets when probable cause
24 exists that the assets were obtained by a defendant through
25 conduct in violation of Section 12, paragraph F, G, I, J,
26 K, or L of this Act, and thereby subject to a judicial

1 forfeiture hearing as required under this Act.

2 (a) In the event that such probable cause exists
3 that the subject of an investigation who is alleged to
4 have committed one of the relevant violations of this
5 Act has in his possession assets obtained as a result
6 of the conduct giving rise to the violation, the
7 Secretary of State may seek a seizure warrant in any
8 circuit court in Illinois.

9 (b) In seeking a seizure warrant, the Secretary of
10 State, or his or her designee, shall submit to the
11 court a sworn affidavit detailing the probable cause
12 evidence for the seizure, the location of the assets to
13 be seized, the relevant violation under Section 12 of
14 this Act, and a statement detailing any known owners or
15 interest holders in the assets.

16 (c) Seizure of the assets shall be made by any
17 peace officer upon process of the seizure warrant
18 issued by the court. Following the seizure of assets
19 under this Act and pursuant to a seizure warrant,
20 notice of seizure, including a description of the
21 seized assets, shall immediately be returned to the
22 issuing court. Seized assets shall be maintained
23 pending a judicial forfeiture hearing in accordance
24 with the instructions of the court. Assets seized under
25 this Section are subject to reporting under the Seizure
26 and Forfeiture Reporting Act.

1 (d) In the event that management of seized assets
2 becomes necessary to prevent the devaluation,
3 dissipation, or otherwise to preserve the property,
4 the court shall have jurisdiction to appoint a
5 receiver, conservator, ancillary receiver, or
6 ancillary conservator for that purpose, as provided in
7 item (2) of this subsection.

8 (4) Seek the forfeiture of assets obtained through
9 conduct in violation of Section 12, paragraph F, G, H, I,
10 J, K, or L when authorized by law. A forfeiture must be
11 ordered by a circuit court or an action brought by the
12 Secretary of State as provided for in this Act, under a
13 verified complaint for forfeiture.

14 (a) In the event assets have been seized pursuant
15 to this Act, forfeiture proceedings shall be
16 instituted by the Attorney General within 45 days of
17 seizure.

18 (b) Service of the complaint filed under the
19 provisions of this Act shall be made in the manner as
20 provided in civil actions in this State.

21 (c) Only an owner of or interest holder in the
22 property may file an answer asserting a claim against
23 the property. For purposes of this Section, the owner
24 or interest holder shall be referred to as claimant.

25 (d) The answer must be signed by the owner or
26 interest holder under penalty of perjury and must set

1 forth:

2 (i) the caption of the proceedings as set forth
3 on the notice of pending forfeiture and the name of
4 the claimant;

5 (ii) the address at which the claimant will
6 accept mail;

7 (iii) the nature and extent of the claimant's
8 interest in the property;

9 (iv) the date, identity of the transferor, and
10 circumstances of the claimant's acquisition of the
11 interest in the property;

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

14 (vi) the specific provisions of this Act
15 relied on in asserting that the property is not
16 subject to forfeiture;

17 (vii) all essential facts supporting each
18 assertion; and

19 (viii) the precise relief sought.

20 (e) The answer must be filed with the court within
21 45 days after service of the complaint.

22 (f) A property interest is exempt from forfeiture
23 under this Act if its owner or interest holder
24 establishes by a preponderance of evidence that the
25 owner or interest holder:

26 (i) is not legally accountable for the conduct

1 giving rise to the forfeiture, did not acquiesce in
2 it, and did not know and could not reasonably have
3 known of the conduct or that the conduct was likely
4 to occur;

5 (ii) with respect to conveyances, did not hold
6 the property jointly or in common with a person
7 whose conduct gave rise to the forfeiture;

8 (iii) does not hold the property for the
9 benefit of or as a nominee for any person whose
10 conduct gave rise to its forfeiture and the owner
11 or interest holder acquires it as a bona fide
12 purchaser for value without knowingly taking part
13 in the conduct giving rise to the forfeiture; or

14 (iv) acquired the interest after the
15 commencement of the conduct giving rise to its
16 forfeiture and the owner or interest holder
17 acquired the interest as a mortgagee, secured
18 creditor, lienholder, or bona fide purchaser for
19 value without knowledge of the conduct that gave
20 rise to the forfeiture.

21 (g) The hearing must be held within 60 days after
22 the answer is filed unless continued for good cause.

23 (h) During the probable cause portion of the
24 judicial in rem proceeding wherein the Secretary of
25 State presents its case-in-chief, the court must
26 receive and consider, among other things, any relevant

1 hearsay evidence and information. The laws of evidence
2 relating to civil actions shall apply to all other
3 portions of the judicial in rem proceeding.

4 (i) The Secretary of State shall show the existence
5 of probable cause for forfeiture of the property. If
6 the Secretary of State shows probable cause, the
7 claimant has the burden of showing by a preponderance
8 of the evidence that the claimant's interest in the
9 property is not subject to forfeiture.

10 (j) If the Secretary of State does not show the
11 existence of probable cause or a claimant has an
12 interest that is exempt under subdivision I (4) (d) of
13 this Section, 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 Secretary of
16 State pursuant to all provisions of this Act. If the
17 Secretary of State does show the existence of probable
18 cause and the claimant does not establish by a
19 preponderance of the evidence that the claimant has an
20 interest that is exempt under subsection D herein, the
21 court shall order all the property forfeited to the
22 Secretary of State pursuant to the provisions of the
23 Section.

24 (k) A defendant convicted in any criminal
25 proceeding is precluded from later denying the
26 essential allegations of the criminal offense of which

1 the defendant was convicted in any proceeding for
2 violations of the Act giving rise to forfeiture of
3 property herein regardless of the pendency of an appeal
4 from that conviction. However, evidence of the
5 pendency of an appeal is admissible.

6 (l) An acquittal or dismissal in a criminal
7 proceeding for violations of the Act giving rise to the
8 forfeiture of property herein shall not preclude civil
9 proceedings under this provision; however, for good
10 cause shown, on a motion by the Secretary of State, the
11 court may stay civil forfeiture proceedings during the
12 criminal trial for a related criminal indictment or
13 information alleging violation of the provisions of
14 Section 12 of the Illinois Securities Law of 1953.
15 Property subject to forfeiture under this Section
16 shall not be subject to return or release by a court
17 exercising jurisdiction over a criminal case involving
18 the seizure of the property unless the return or
19 release is consented to by the Secretary of State.

20 (m) All property declared forfeited under this Act
21 vests in the State on the commission of the conduct
22 giving rise to forfeiture together with the proceeds of
23 the property after that time. Any such property or
24 proceeds subsequently transferred to any person remain
25 subject to forfeiture and thereafter shall be ordered
26 forfeited unless the transferee claims and establishes

1 in a hearing under the provisions of this Act that the
2 transferee's interest is exempt under the Act. Any
3 assets forfeited to the State shall be disposed of in
4 following manner:

5 (i) all forfeited property and assets shall be
6 liquidated by the Secretary of State in accordance
7 with all laws and rules governing the disposition
8 of such property;

9 (ii) the Secretary of State shall provide the
10 court at the time the property and assets are
11 declared forfeited a verified statement of
12 investors subject to the conduct giving rise to the
13 forfeiture;

14 (iii) after payment of any costs of sale,
15 receivership, storage, or expenses for
16 preservation of the property seized, other costs
17 to the State, and payment to claimants for any
18 amount deemed exempt from forfeiture, the proceeds
19 from liquidation shall be distributed pro rata to
20 investors subject to the conduct giving rise to the
21 forfeiture; and

22 (iv) any proceeds remaining after all verified
23 investors have been made whole shall be
24 distributed 50% ~~25%~~ to the Securities Investors
25 Education Fund and 50% ~~, 25%~~ to the Securities
26 Audit and Enforcement Fund, ~~25% to the Attorney~~

1 ~~General or any State's Attorney bringing criminal~~
2 ~~charges for the conduct giving rise to the~~
3 ~~forfeiture, and 25% to other law enforcement~~
4 ~~agencies participating in the investigation of the~~
5 ~~criminal charges for the conduct giving rise to the~~
6 ~~forfeiture. In the event that no other law~~
7 ~~enforcement agencies are involved in the~~
8 ~~investigation of the conduct giving rise to the~~
9 ~~forfeiture, then the portion to other law~~
10 ~~enforcement agencies shall be distributed to the~~
11 ~~Securities Investors Education Fund.~~

12 (n) The Secretary of State shall notify by
13 certified mail, return receipt requested, all known
14 investors in the matter giving rise to the forfeiture
15 of the forfeiture proceeding and sale of assets
16 forfeited arising from the violations of this Act, and
17 shall further publish notice in a paper of general
18 circulation in the district in which the violations
19 were prosecuted. The notice to investors shall
20 identify the name, address, and other identifying
21 information about any defendant prosecuted for
22 violations of this Act that resulted in forfeiture and
23 sale of property, the offense for which the defendant
24 was convicted, and that the court has ordered
25 forfeiture and sale of property for claims of investors
26 who incurred losses or damages as a result of the

1 violations. Investors may then file a claim in a form
2 prescribed by the Secretary of State in order to share
3 in disbursement of the proceeds from sale of the
4 forfeited property. Investor claims must be filed with
5 the Secretary of State within 30 days after receipt of
6 the certified mail return receipt, or within 30 days
7 after the last date of publication of the general
8 notice in a paper of general circulation in the
9 district in which the violations were prosecuted,
10 whichever occurs last.

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

20 (p) If property is seized for evidence and for
21 forfeiture, the time periods for instituting judicial
22 forfeiture proceedings shall not begin until the
23 property is no longer necessary for evidence.

24 (q) Notwithstanding other provisions of this Act,
25 the Secretary of State and a claimant of forfeitable
26 property may enter into an agreed-upon settlement

1 concerning the forfeitable property in such an amount
2 and upon such terms as are set out in writing in a
3 settlement agreement.

4 (r) Nothing in this Act shall apply to property
5 that constitutes reasonable bona fide attorney's fees
6 paid to an attorney for services rendered or to be
7 rendered in the forfeiture proceeding or criminal
8 proceeding relating directly thereto when the property
9 was paid before its seizure and before the issuance of
10 any seizure warrant or court order prohibiting
11 transfer of the property and when the attorney, at the
12 time he or she received the property, did not know that
13 it was property subject to forfeiture under this Act.

14 The court shall further have jurisdiction and authority, in
15 addition to the penalties and other remedies in this Act
16 provided, to enter an order for the appointment of the court or
17 a person as a receiver, conservator, ancillary receiver or
18 ancillary conservator for the defendant or the defendant's
19 assets located in this State, or to require restitution,
20 damages or disgorgement of profits on behalf of the person or
21 persons injured by the act or practice constituting the subject
22 matter of the action, and may assess costs against the
23 defendant for the use of the State; provided, however, that the
24 civil remedies of rescission and appointment of a receiver,
25 conservator, ancillary receiver or ancillary conservator shall
26 not be available against any person by reason of the failure to

1 file with the Secretary of State, or on account of the contents
2 of, any report of sale provided for in subsection G or P of
3 Section 4, paragraph (2) of subsection D of Sections 5 and 6,
4 or paragraph (2) of subsection F of Section 7 of this Act.
5 Appeals may be taken as in other civil cases.

6 I-5. Property forfeited under this Section is subject to
7 reporting under the Seizure and Forfeiture Reporting Act.

8 J. In no case shall the Secretary of State, or any of his
9 or her employees or agents, in the administration of this Act,
10 incur any official or personal liability by instituting an
11 injunction or other proceeding or by denying, suspending or
12 revoking the registration of a dealer or salesperson, or by
13 denying, suspending or revoking the registration of securities
14 or prohibiting the offer or sale of securities, or by
15 suspending or prohibiting any person from acting as a dealer,
16 limited Canadian dealer, salesperson, investment adviser, or
17 investment adviser representative or from offering or selling
18 securities.

19 K. No provision of this Act shall be construed to require
20 or to authorize the Secretary of State to require any
21 investment adviser or federal covered investment adviser
22 engaged in rendering investment supervisory services to
23 disclose the identity, investments, or affairs of any client of
24 the investment adviser or federal covered investment adviser,
25 except insofar as the disclosure may be necessary or
26 appropriate in a particular proceeding or investigation having

1 as its object the enforcement of this Act.

2 L. Whenever, after an examination, investigation or
3 hearing, the Secretary of State deems it of public interest or
4 advantage, he or she may certify a record to the State's
5 Attorney of the county in which the act complained of, examined
6 or investigated occurred. The State's Attorney of that county
7 within 90 days after receipt of the record shall file a written
8 statement at the Office of the Secretary of State, which
9 statement shall set forth the action taken upon the record, or
10 if no action has been taken upon the record that fact, together
11 with the reasons therefor, shall be stated.

12 M. The Secretary of State may initiate, take, pursue, or
13 prosecute any action authorized or permitted under Section 6d
14 of the Federal 1974 Act.

15 N. (1) Notwithstanding any provision of this Act to the
16 contrary, to encourage uniform interpretation, administration,
17 and enforcement of the provisions of this Act, the Secretary of
18 State may cooperate with the securities agencies or
19 administrators of one or more states, Canadian provinces or
20 territories, or another country, the Securities and Exchange
21 Commission, the Commodity Futures Trading Commission, the
22 Securities Investor Protection Corporation, any
23 self-regulatory organization, and any governmental law
24 enforcement or regulatory agency.

25 (2) The cooperation authorized by paragraph (1) of this
26 subsection includes, but is not limited to, the following:

1 (a) establishing or participating in a central
2 depository or depositories for registration under this Act
3 and for documents or records required under this Act;

4 (b) making a joint audit, inspection, examination, or
5 investigation;

6 (c) holding a joint administrative hearing;

7 (d) filing and prosecuting a joint civil or criminal
8 proceeding;

9 (e) sharing and exchanging personnel;

10 (f) sharing and exchanging information and documents;

11 or

12 (g) issuing any joint statement or policy.

13 (Source: P.A. 99-182, eff. 1-1-16.)

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4 30 ILCS 105/5.878 new

5 410 ILCS 620/3.23

6 415 ILCS 5/44.1 from Ch. 111 1/2, par. 1044.1

7 510 ILCS 68/105-55

8 515 ILCS 5/1-215 from Ch. 56, par. 1-215

9 520 ILCS 5/1.25 from Ch. 61, par. 1.25

10 720 ILCS 5/17-10.6

11 720 ILCS 5/28-5 from Ch. 38, par. 28-5

12 720 ILCS 5/29B-1 from Ch. 38, par. 29B-1

13 720 ILCS 5/29B-1.1 new

14 720 ILCS 5/29B-1.5 new

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