



Sen. Don Harmon

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1 AMENDMENT TO SENATE BILL 564

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 564 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Seizure and Forfeiture Reporting Act is  
5 amended by changing Sections 10 and 15 and by adding Section 20  
6 as follows:

7 (5 ILCS 810/10)

8 (This Section may contain text from a Public Act with a  
9 delayed effective date)

10 Sec. 10. Reporting by law enforcement agency.

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

14 (1) the name of the law enforcement agency that seized  
15 the property;

16 (2) the date of the seizure;

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

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

11          (5) the location where the seizure occurred.

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

25          (b) Each law enforcement agency, including a drug task  
26          force or Metropolitan Enforcement Group (MEG) unit, that

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

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

13 (2) compensation or services for crime victims;

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

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

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

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

26 (7) other expenditures of forfeiture proceeds.

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

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

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

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

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

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

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

1 Section.

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

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

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

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

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

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

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

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

1 provisions of this paragraph (2), other than this sentence, are  
2 inoperative on and after July 1, 2019.

3 (Source: P.A. 100-512, eff. 7-1-18.)

4 (5 ILCS 810/15)

5 (This Section may contain text from a Public Act with a  
6 delayed effective date)

7 Sec. 15. Fund audits.

8 (a) The Auditor General shall conduct, as a part of its  
9 2-year ~~2-year~~ compliance audit, an audit of the State Asset  
10 Forfeiture Fund for compliance with the requirements of this  
11 Act. The audit shall include, but not be limited to, the  
12 following determinations:

13 (1) if detailed records of all receipts and  
14 disbursements from the State Asset Forfeiture Fund are  
15 being maintained;

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

18 (3) if the procedures for making disbursements under  
19 the Act are adequate.

20 (b) The Department of State Police, and any other entity or  
21 person that may have information relevant to the audit, shall  
22 cooperate fully and promptly with the Office of the Auditor  
23 General in conducting the audit. The Auditor General shall  
24 begin the audit during the next regular 2-year ~~two-year~~  
25 compliance audit of the Department of State Police and



1 distribute the report upon completion under Section 3-14 of the  
2 Illinois State Auditing Act.

3 (Source: P.A. 100-512, eff. 7-1-18.)

4 (5 ILCS 810/20 new)

5 Sec. 20. Applicability. This Act and the changes made to  
6 this Act by this amendatory Act of the 100th General Assembly  
7 only apply to property seized on and after July 1, 2018.

8 Section 10. The Department of State Police Law of the Civil  
9 Administrative Code of Illinois is amended by changing Section  
10 2605-585 as follows:

11 (20 ILCS 2605/2605-585)

12 Sec. 2605-585. Money Laundering Asset Recovery Fund.  
13 Moneys and the sale proceeds distributed to the Department of  
14 State Police under paragraph (3) of Section 29B-26 ~~pursuant to~~  
15 ~~clause (h) (6) (C) of Section 29B-1 of the Criminal Code of 1961~~  
16 ~~or the~~ Criminal Code of 2012 shall be deposited in a special  
17 fund in the State treasury to be known as the Money Laundering  
18 Asset Recovery Fund. The moneys deposited in the Money  
19 Laundering Asset Recovery Fund shall be appropriated to and  
20 administered by the Department of State Police for State law  
21 enforcement purposes.

22 (Source: P.A. 96-1234, eff. 7-23-10; 97-1150, eff. 1-25-13.)

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

3           (410 ILCS 620/3.23)

4           (Text of Section before amendment by P.A. 100-512)

5           Sec. 3.23. Legend drug prohibition.

6           (a) In this Section:

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

10           (1) habit forming;

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

12           (3) limited in use by the new drug application for the  
13 drug to use only under a medical practitioner's  
14 supervision.

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

17           "Deliver" or "delivery" means the actual, constructive, or  
18 attempted transfer of possession of a legend drug, with or  
19 without consideration, whether or not there is an agency  
20 relationship.

21           "Manufacture" means the production, preparation,  
22 propagation, compounding, conversion, or processing of a  
23 legend drug, either directly or indirectly, by extraction from  
24 substances of natural origin, or independently by means of  
25 chemical synthesis, or by a combination of extraction and

1 chemical synthesis, and includes any packaging or repackaging  
2 of the substance or labeling of its container. "Manufacture"  
3 does not include:

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

6 (2) by a medical practitioner, or his authorized agent  
7 under his supervision, the preparation, compounding,  
8 packaging, or labeling of a legend drug:

9 (A) as an incident to his administering or  
10 dispensing of a legend drug in the course of his  
11 professional practice; or

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

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

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

1 not exceed \$250,000.

2 (c) The following are subject to forfeiture:

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

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

10 (3) all conveyances, including aircraft, vehicles, or  
11 vessels, which are used, or intended for use, to transport,  
12 or in any manner to facilitate the transportation, sale,  
13 receipt, possession, or concealment of property described  
14 in items (1) and (2) of this subsection (c), but:

15 (A) 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 a violation of this Act;

21 (B) 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 knowledge or consent; and

25 (C) 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 neither had knowledge of nor  
2           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 that are used, or intended to be  
6           used in violation of this Act;

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

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

23          (d) Property subject to forfeiture under this Act may be  
24          seized by the Director of the Department of State Police or any  
25          peace officer upon process or seizure warrant issued by any  
26          court having jurisdiction over the property. Seizure by the

1 Director of the Department of State Police or any peace officer  
2 without process may be made:

3 (1) if the seizure is incident to inspection under an  
4 administrative inspection warrant;

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

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

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

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

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

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

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

9 (1) place the property under seal;

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

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

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

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

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

1 (g) If the Department suspends or revokes a registration,  
2 all legend drugs owned or possessed by the registrant at the  
3 time of suspension or the effective date of the revocation  
4 order may be placed under seal. No disposition may be made of  
5 substances under seal until the time for taking an appeal has  
6 elapsed or until all appeals have been concluded unless a  
7 court, upon application therefor, orders the sale of perishable  
8 substances and the deposit of the proceeds of the sale with the  
9 court. Upon a revocation rule becoming final, all substances  
10 may be forfeited to the Department.

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



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

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

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

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

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

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

17 (4) 10% shall be retained by the Department of State  
18 Police for expenses related to the administration and sale  
19 of seized and forfeited property.

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

21 (Text of Section after amendment by P.A. 100-512)

22 Sec. 3.23. Legend drug prohibition.

23 (a) In this Section:

24 "Legend drug" means a drug limited by the Federal Food,  
25 Drug and Cosmetic Act to being dispensed by or upon a medical

1 practitioner's prescription because the drug is:

2 (1) habit forming;

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

4 (3) limited in use by the new drug application for the  
5 drug to use only under a medical practitioner's  
6 supervision.

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

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

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

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

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

26 (A) as an incident to his administering or

1 dispensing of a legend drug in the course of his  
2 professional practice; or

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

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

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

19 (c) The following are subject to forfeiture:

20 (1) (blank);

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

25 (3) all conveyances, including aircraft, vehicles, or  
26 vessels, which are used, or intended for use, to transport,

1 or in any manner to facilitate the transportation, sale,  
2 receipt, possession, or concealment of any substance  
3 manufactured, distributed, dispensed, or possessed in  
4 violation of this Section or property described in  
5 paragraph (2) of this subsection (c), but:

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

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

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

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

24 (5) everything of value furnished, or intended to be  
25 furnished, in exchange for a substance in violation of this  
26 Section, all proceeds traceable to such an exchange, and

1 all moneys, negotiable instruments, and securities used,  
2 or intended to be used, to commit or in any manner to  
3 facilitate any violation of this Section; and

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

14 (d) Property subject to forfeiture under this Act may be  
15 seized under the Drug Asset Forfeiture Procedure Act. In the  
16 event of seizure, forfeiture proceedings shall be instituted  
17 under the Drug Asset Forfeiture Procedure Act.

18 (e) Forfeiture under this Act is subject to an 8th  
19 Amendment ~~amendment~~ to the United States Constitution  
20 disproportionate penalties analysis as provided under Section  
21 9.5 of the Drug Asset Forfeiture Procedure Act.

22 (f) With regard to possession of legend drug offenses only,  
23 a sum of currency with a value of less than \$500 shall not be  
24 subject to forfeiture under this Act. For all other offenses  
25 under this Act, a sum of currency with a value of less than  
26 ~~currency with a value of under~~ \$100 shall not be subject to

1 forfeiture under this Act. In seizures of currency in excess of  
2 these amounts, this Section shall not create an exemption for  
3 these amounts.

4 (f-5) For felony offenses involving possession of legend  
5 drug only, no property shall be subject to forfeiture under  
6 this Act because of the possession of less than 2 single unit  
7 doses of a legend drug ~~controlled substance~~. This exemption  
8 shall not apply in instances when the possessor, or another  
9 person at the direction of the possessor, is engaged in the  
10 destruction of any amount of a legend drug. The amount of a  
11 single unit dose shall be the State's burden to prove in its  
12 ~~their~~ case in chief.

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

24 (h) (Blank).

25 (i) (Blank).

26 (j) Contraband, including legend drugs possessed without a

1 prescription or other authorization under State or federal law,  
2 is not subject to forfeiture. No property right exists in  
3 contraband. Contraband is subject to seizure and shall be  
4 disposed of according to State law.

5 (k) The changes made to this Section by Public Act 100-0512  
6 and this amendatory Act of the 100th General Assembly only  
7 apply to property seized on and after July 1, 2018.

8 (Source: P.A. 100-512, eff. 7-1-18.)

9 Section 20. The Criminal Code of 2012 is amended by  
10 changing Sections 17-10.6, 29B-1, 33G-6, 36-1.1, 36-1.3,  
11 36-1.4, 36-1.5, 36-2, 36-2.1, 36-2.2, 36-2.5, 36-2.7, and 36-7  
12 and by adding Sections 29B-0.5, 29B-2, 29B-3, 29B-4, 29B-5,  
13 29B-6, 29B-7, 29B-8, 29B-9, 29B-10, 29B-11, 29B-12, 29B-13,  
14 29B-14, 29B-15, 29B-16, 29B-17, 29B-18, 29B-19, 29B-20,  
15 29B-21, 29B-22, 29B-23, 29B-24, 29B-25, 29B-26, 29B-27, and  
16 36-10 as follows:

17 (720 ILCS 5/17-10.6)

18 (Text of Section before amendment by P.A. 100-512)

19 Sec. 17-10.6. Financial institution fraud.

20 (a) Misappropriation of financial institution property. A  
21 person commits misappropriation of a financial institution's  
22 property whenever he or she knowingly obtains or exerts  
23 unauthorized control over any of the moneys, funds, credits,  
24 assets, securities, or other property owned by or under the



1 custody or control of a financial institution, or under the  
2 custody or care of any agent, officer, director, or employee of  
3 such financial institution.

4 (b) Commercial bribery of a financial institution.

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

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

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

23 (1) to defraud a financial institution; or

24 (2) to obtain any of the moneys, funds, credits,  
25 assets, securities, or other property owned by or under the  
26 custody or control of a financial institution, by means of

1           pretenses, representations, or promises he or she knows to  
2           be false.

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

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

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

24          (g) Conspiracy to commit a financial crime.

25                 (1) A person commits conspiracy to commit a financial  
26          crime when, with the intent that any violation of this

1 Section be committed, he or she agrees with another person  
2 to the commission of that offense.

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

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

12 (A) has not been prosecuted or convicted;

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

14 (C) is not amenable to justice;

15 (D) has been acquitted; or

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

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

22 (1) an offense under this Section;

23 (2) a felony offense in violation of Section 16A-3 or  
24 subsection (a) of Section 16-25 or paragraph (4) or (5) of  
25 subsection (a) of Section 16-1 of this Code for the purpose  
26 of reselling or otherwise re-entering the merchandise in

1 commerce, including conveying the merchandise to a  
2 merchant in exchange for anything of value; or

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

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

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

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

12 (i) an offense under this Section;

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

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

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

26 (2) The person with whom the accused agreed to commit

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

7 (j) Sentence.

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

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

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

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

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

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

22 (F) exceeds \$500,000 but does not exceed  
23 \$1,000,000, is a Class 1 non-probationable felony;  
24 when a charge of financial crime, the full value of  
25 which exceeds \$500,000 but does not exceed \$1,000,000,  
26 is brought, the value of the financial crime involved

1 is an element of the offense to be resolved by the  
2 trier of fact as either exceeding or not exceeding  
3 \$500,000;

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

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

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

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

13 (k) A "financial crime" means an offense described in this  
14 Section.

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

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

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

25 (Text of Section after amendment by P.A. 100-512)

1           Sec. 17-10.6. Financial institution fraud.

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

10          (b) Commercial bribery of a financial institution.

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

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

26          (c) Financial institution fraud. A person commits

1 financial institution fraud when he or she knowingly executes  
2 or attempts to execute a scheme or artifice:

3 (1) to defraud a financial institution; or

4 (2) to obtain any of the moneys, funds, credits,  
5 assets, securities, or other property owned by or under the  
6 custody or control of a financial institution, by means of  
7 pretenses, representations, or promises he or she knows to  
8 be false.

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

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

23 (f) Financial institution robbery. A person commits  
24 robbery when he or she knowingly, by force or threat of force,  
25 or by intimidation, takes, or attempts to take, from the person  
26 or presence of another, or obtains or attempts to obtain by



1 extortion, any property or money or any other thing of value  
2 belonging to, or in the care, custody, control, management, or  
3 possession of, a financial institution.

4 (g) Conspiracy to commit a financial crime.

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

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

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

18 (A) has not been prosecuted or convicted;

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

20 (C) is not amenable to justice;

21 (D) has been acquitted; or

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

23 (h) Continuing financial crimes enterprise. A person  
24 commits a continuing financial crimes enterprise when he or she  
25 knowingly, within an 18-month period, commits 3 or more  
26 separate offenses constituting any combination of the

1 following:

2 (1) an offense under this Section;

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

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

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

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

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

18 (i) an offense under this Section;

19 (ii) a felony offense in violation of Section  
20 16A-3 or subsection (a) of Section 16-25 or  
21 paragraph (4) or (5) of subsection (a) of Section  
22 16-1 of this Code for the purpose of reselling or  
23 otherwise re-entering the merchandise in commerce,  
24 including conveying the merchandise to a merchant  
25 in exchange for anything of value; or

26 (iii) if involving a financial institution,

1 any other felony offense under this Code; and

2 (B) with respect to the other persons within the  
3 conspiracy, occupies a position of organizer,  
4 supervisor, or financier or other position of  
5 management.

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

13 (j) Sentence.

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

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

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

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

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

26 (E) exceeds \$100,000 but does not exceed \$500,000,

1 is a Class 1 felony;

2 (F) exceeds \$500,000 but does not exceed  
3 \$1,000,000, is a Class 1 non-probationable felony;  
4 when a charge of financial crime, the full value of  
5 which exceeds \$500,000 but does not exceed \$1,000,000,  
6 is brought, the value of the financial crime involved  
7 is an element of the offense to be resolved by the  
8 trier of fact as either exceeding or not exceeding  
9 \$500,000;

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

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

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

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

19 (k) A "financial crime" means an offense described in this  
20 Section.

21 (l) Period of limitations. The period of limitations for  
22 prosecution of any offense defined in this Section begins at  
23 the time when the last act in furtherance of the offense is  
24 committed.

25 (m) Forfeiture. Any violation of subdivision (2) of  
26 subsection (h) or subdivision (i) (1) (A) (ii) shall be subject to

1 the remedies, procedures, and forfeiture as set forth in  
2 Article 29B subsections (f) through (s) of Section 29B-1 of  
3 this Code.

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

6 (Source: P.A. 100-512, eff. 7-1-18.)

7 (720 ILCS 5/29B-0.5 new)

8 Sec. 29B-0.5. Definitions. In this Article:

9 "Conduct" or "conducts" includes, in addition to its  
10 ordinary meaning, initiating, concluding, or participating in  
11 initiating or concluding a transaction.

12 "Criminally derived property" means: (1) any property,  
13 real or personal, constituting or derived from proceeds  
14 obtained, directly or indirectly, from activity that  
15 constitutes a felony under State, federal, or foreign law; or  
16 (2) any property represented to be property constituting or  
17 derived from proceeds obtained, directly or indirectly, from  
18 activity that constitutes a felony under State, federal, or  
19 foreign law.

20 "Department" means the Department of State Police of this  
21 State or its successor agency.

22 "Director" means the Director of State Police or his or her  
23 designated agents.

24 "Financial institution" means any bank; saving and loan  
25 association; trust company; agency or branch of a foreign bank

1 in the United States; currency exchange; credit union; mortgage  
2 banking institution; pawnbroker; loan or finance company;  
3 operator of a credit card system; issuer, redeemer, or cashier  
4 of travelers checks, checks, or money orders; dealer in  
5 precious metals, stones, or jewels; broker or dealer in  
6 securities or commodities; investment banker; or investment  
7 company.

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

26 "Form 4-64" means the Illinois State Police

1 Notice/Inventory of Seized Property (Form 4-64).

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

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

14 "Specified criminal activity" means any violation of  
15 Section 29D-15.1 and any violation of Article 29D of this Code.

16 "Transaction reporting requirement under State law" means  
17 any violation as defined under the Currency Reporting Act.

18 (720 ILCS 5/29B-1) (from Ch. 38, par. 29B-1)

19 (Text of Section before amendment by P.A. 100-512)

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

22 (1) when, knowing that the property involved in a  
23 financial transaction represents the proceeds of some form  
24 of unlawful activity, he or she conducts or attempts to  
25 conduct such a financial transaction which in fact involves

1 criminally derived property:

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

5 (B) where he or she knows or reasonably should know  
6 that the financial transaction is designed in whole or  
7 in part:

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

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

13 (1.5) when he or she transports, transmits, or  
14 transfers, or attempts to transport, transmit, or transfer  
15 a monetary instrument:

16 (A) with the intent to promote the carrying on of  
17 the unlawful activity from which the criminally  
18 derived property was obtained; or

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

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

24 (ii) to avoid a transaction reporting  
25 requirement under State law; or

26 (2) when, with the intent to:



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

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

7 (C) avoid a transaction reporting requirement  
8 under State law,

9 he or she conducts or attempts to conduct a financial  
10 transaction involving property he or she believes to be the  
11 proceeds of specified criminal activity as defined by  
12 subdivision (b) (6) or property used to conduct or  
13 facilitate specified criminal activity as defined by  
14 subdivision (b) (6).

15 (b) As used in this Section:

16 (0.5) "Knowing that the property involved in a  
17 financial transaction represents the proceeds of some form  
18 of unlawful activity" means that the person knew the  
19 property involved in the transaction represented proceeds  
20 from some form, though not necessarily which form, of  
21 activity that constitutes a felony under State, federal, or  
22 foreign law.

23 (1) "Financial transaction" means a purchase, sale,  
24 loan, pledge, gift, transfer, delivery or other  
25 disposition utilizing criminally derived property, and  
26 with respect to financial institutions, includes a

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

17 (2) "Financial institution" means any bank; saving and  
18 loan association; trust company; agency or branch of a  
19 foreign bank in the United States; currency exchange;  
20 credit union, mortgage banking institution; pawnbroker;  
21 loan or finance company; operator of a credit card system;  
22 issuer, redeemer or cashier of travelers checks, checks or  
23 money orders; dealer in precious metals, stones or jewels;  
24 broker or dealer in securities or commodities; investment  
25 banker; or investment company.

26 (3) "Monetary instrument" means United States coins

1 and currency; coins and currency of a foreign country;  
2 travelers checks; personal checks, bank checks, and money  
3 orders; investment securities; bearer negotiable  
4 instruments; bearer investment securities; or bearer  
5 securities and certificates of stock in such form that  
6 title thereto passes upon delivery.

7 (4) "Criminally derived property" means: (A) any  
8 property, real or personal, constituting or derived from  
9 proceeds obtained, directly or indirectly, from activity  
10 that constitutes a felony under State, federal, or foreign  
11 law; or (B) any property represented to be property  
12 constituting or derived from proceeds obtained, directly  
13 or indirectly, from activity that constitutes a felony  
14 under State, federal, or foreign law.

15 (5) "Conduct" or "conducts" includes, in addition to  
16 its ordinary meaning, initiating, concluding, or  
17 participating in initiating or concluding a transaction.

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

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

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

25 (9) "Transaction reporting requirement under State  
26 law" means any violation as defined under the Currency

1 Reporting Act.

2 (c) Sentence.

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

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

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

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

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

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

18 (A) Laundering of property of a value not exceeding  
19 \$10,000 is a Class 3 felony;

20 (B) Laundering of property of a value exceeding  
21 \$10,000 but not exceeding \$100,000 is a Class 2 felony;

22 (C) Laundering of property of a value exceeding  
23 \$100,000 but not exceeding \$500,000 is a Class 1  
24 felony;

25 (D) Laundering of property of a value exceeding  
26 \$500,000 is a Class 1 non-probationable felony.

1 (d) Evidence. In a prosecution under this Article, either  
2 party may introduce the following evidence pertaining to the  
3 issue of whether the property or proceeds were known to be some  
4 form of criminally derived property or from some form of  
5 unlawful activity:

6 (1) A financial transaction was conducted or  
7 structured or attempted in violation of the reporting  
8 requirements of any State or federal law; or

9 (2) A financial transaction was conducted or attempted  
10 with the use of a false or fictitious name or a forged  
11 instrument; or

12 (3) A falsely altered or completed written instrument  
13 or a written instrument that contains any materially false  
14 personal identifying information was made, used, offered  
15 or presented, whether accepted or not, in connection with a  
16 financial transaction; or

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

20 (5) A money transmitter, a person engaged in a trade or  
21 business or any employee of a money transmitter or a person  
22 engaged in a trade or business, knows or reasonably should  
23 know that false personal identifying information has been  
24 presented and incorporates the false personal identifying  
25 information into any report or record; or

26 (6) The criminally derived property is transported or

1           possessed in a fashion inconsistent with the ordinary or  
2           usual means of transportation or possession of such  
3           property and where the property is discovered in the  
4           absence of any documentation or other indicia of legitimate  
5           origin or right to such property; or

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

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

13          (e) Duty to enforce this Article.

14          (1) It is the duty of the Department of State Police,  
15          and its agents, officers, and investigators, to enforce all  
16          provisions of this Article, except those specifically  
17          delegated, and to cooperate with all agencies charged with  
18          the enforcement of the laws of the United States, or of any  
19          state, relating to money laundering. Only an agent,  
20          officer, or investigator designated by the Director may be  
21          authorized in accordance with this Section to serve seizure  
22          notices, warrants, subpoenas, and summonses under the  
23          authority of this State.

24          (2) Any agent, officer, investigator, or peace officer  
25          designated by the Director may: (A) make seizure of  
26          property pursuant to the provisions of this Article; and

1 (B) perform such other law enforcement duties as the  
2 Director designates. It is the duty of all State's  
3 Attorneys to prosecute violations of this Article and  
4 institute legal proceedings as authorized under this  
5 Article.

6 (f) Protective orders.

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

12 (A) upon the filing of an indictment, information,  
13 or complaint charging a violation of this Article for  
14 which forfeiture may be ordered under this Article and  
15 alleging that the property with respect to which the  
16 order is sought would be subject to forfeiture under  
17 this Article; or

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

22 (i) there is probable cause to believe that the  
23 State will prevail on the issue of forfeiture and  
24 that failure to enter the order will result in the  
25 property being destroyed, removed from the  
26 jurisdiction of the court, or otherwise made

1           unavailable for forfeiture; and

2                   (ii) the need to preserve the availability of  
3           the property through the entry of the requested  
4           order outweighs the hardship on any party against  
5           whom the order is to be entered.

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

11          (2) A temporary restraining order under this  
12          subsection may be entered upon application of the State  
13          without notice or opportunity for a hearing when an  
14          indictment, information, complaint, or administrative  
15          notice has not yet been filed with respect to the property,  
16          if the State demonstrates that there is probable cause to  
17          believe that the property with respect to which the order  
18          is sought would be subject to forfeiture under this Section  
19          and that provision of notice will jeopardize the  
20          availability of the property for forfeiture. Such a  
21          temporary order shall expire not more than 30 days after  
22          the date on which it is entered, unless extended for good  
23          cause shown or unless the party against whom it is entered  
24          consents to an extension for a longer period. A hearing  
25          requested concerning an order entered under this paragraph  
26          shall be held at the earliest possible time and prior to



1 the expiration of the temporary order.

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

6 (4) Order to repatriate and deposit.

7 (A) In general. Pursuant to its authority to enter  
8 a pretrial restraining order under this Section, the  
9 court may order a defendant to repatriate any property  
10 that may be seized and forfeited and to deposit that  
11 property pending trial with the Illinois State Police  
12 or another law enforcement agency designated by the  
13 Illinois State Police.

14 (B) Failure to comply. Failure to comply with an  
15 order under this subsection (f) is punishable as a  
16 civil or criminal contempt of court.

17 (g) Warrant of seizure. The State may request the issuance  
18 of a warrant authorizing the seizure of property described in  
19 subsection (h) in the same manner as provided for a search  
20 warrant. If the court determines that there is probable cause  
21 to believe that the property to be seized would be subject to  
22 forfeiture, the court shall issue a warrant authorizing the  
23 seizure of such property.

24 (h) Forfeiture.

25 (1) The following are subject to forfeiture:

26 (A) any property, real or personal, constituting,

1 derived from, or traceable to any proceeds the person  
2 obtained directly or indirectly, as a result of a  
3 violation of this Article;

4 (B) any of the person's property used, or intended  
5 to be used, in any manner or part, to commit, or to  
6 facilitate the commission of, a violation of this  
7 Article;

8 (C) all conveyances, including aircraft, vehicles  
9 or vessels, which are used, or intended for use, to  
10 transport, or in any manner to facilitate the  
11 transportation, sale, receipt, possession, or  
12 concealment of property described in subparagraphs (A)  
13 and (B), but:

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

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

24 (iii) a forfeiture of a conveyance encumbered  
25 by a bona fide security interest is subject to the  
26 interest of the secured party if he or she neither

1           had knowledge of nor consented to the act or  
2           omission;

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

13          (2) Property subject to forfeiture under this Article  
14          may be seized by the Director or any peace officer upon  
15          process or seizure warrant issued by any court having  
16          jurisdiction over the property. Seizure by the Director or  
17          any peace officer without process may be made:

18                 (A) if the seizure is incident to a seizure  
19                 warrant;

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

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

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

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

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

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

22               (A) place the property under seal;

23               (B) remove the property to a place designated by  
24               the Director;

25               (C) keep the property in the possession of the  
26               seizing agency;

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

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

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

15           (5) When property is forfeited under this Article, the  
16 Director shall sell all such property unless such property  
17 is required by law to be destroyed or is harmful to the  
18 public, and shall distribute the proceeds of the sale,  
19 together with any moneys forfeited or seized, in accordance  
20 with paragraph (6). However, upon the application of the  
21 seizing agency or prosecutor who was responsible for the  
22 investigation, arrest or arrests and prosecution which  
23 lead to the forfeiture, the Director may return any item of  
24 forfeited property to the seizing agency or prosecutor for  
25 official use in the enforcement of laws, if the agency or  
26 prosecutor can demonstrate that the item requested would be

1           useful to the agency or prosecutor in its enforcement  
2           efforts. When any real property returned to the seizing  
3           agency is sold by the agency or its unit of government, the  
4           proceeds of the sale shall be delivered to the Director and  
5           distributed in accordance with paragraph (6).

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

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

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

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

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

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

21 Moneys and the sale proceeds distributed to the  
22 Department of State Police under this Article shall be  
23 deposited in the Money Laundering Asset Recovery Fund  
24 created in the State treasury and shall be used by the  
25 Department of State Police for State law enforcement  
26 purposes.

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

6           (i) Notice to owner or interest holder.

7           (1) Whenever notice of pending forfeiture or service of  
8           an in rem complaint is required under the provisions of  
9           this Article, such notice or service shall be given as  
10          follows:

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



1 promptly notify the State's Attorney of the change in  
2 address; or

3 (B) If the property seized is a conveyance, to the  
4 address reflected in the office of the agency or  
5 official in which title or interest to the conveyance  
6 is required by law to be recorded, then by mailing a  
7 copy of the notice by certified mail, return receipt  
8 requested, to that address; or

9 (C) If the owner's or interest holder's address is  
10 not known, and is not on record as provided in  
11 paragraph (B), then by publication for 3 successive  
12 weeks in a newspaper of general circulation in the  
13 county in which the seizure occurred.

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

17 (j) Notice to State's Attorney. The law enforcement agency  
18 seizing property for forfeiture under this Article shall,  
19 within 90 days after seizure, notify the State's Attorney for  
20 the county, either where an act or omission giving rise to the  
21 forfeiture occurred or where the property was seized, of the  
22 seizure of the property and the facts and circumstances giving  
23 rise to the seizure and shall provide the State's Attorney with  
24 the inventory of the property and its estimated value. When the  
25 property seized for forfeiture is a vehicle, the law  
26 enforcement agency seizing the property shall immediately

1 notify the Secretary of State that forfeiture proceedings are  
2 pending regarding such vehicle.

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

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

21 (2) The notice of pending forfeiture must include a  
22 description of the property, the estimated value of the  
23 property, the date and place of seizure, the conduct giving  
24 rise to forfeiture or the violation of law alleged, and a  
25 summary of procedures and procedural rights applicable to  
26 the forfeiture action.

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

9           (i) the caption of the proceedings as set forth on  
10 the notice of pending forfeiture and the name of the  
11 claimant;

12           (ii) the address at which the claimant will accept  
13 mail;

14           (iii) the nature and extent of the claimant's  
15 interest in the property;

16           (iv) the date, identity of the transferor, and  
17 circumstances of the claimant's acquisition of the  
18 interest in the property;

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

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

23           (vii) all essential facts supporting each  
24 assertion; and

25           (viii) the relief sought.

26           (B) If a claimant files the claim and deposits with the

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

15 (C) If none of the seized property is forfeited in the  
16 judicial in rem proceeding, the clerk of the court shall  
17 return to the claimant, unless the court orders otherwise,  
18 90% of the sum which has been deposited and shall retain as  
19 costs 10% of the money deposited. If any of the seized  
20 property is forfeited under the judicial forfeiture  
21 proceeding, the clerk of the court shall transfer 90% of  
22 the sum which has been deposited to the State's Attorney  
23 prosecuting the civil forfeiture to be applied to the costs  
24 of prosecution and the clerk shall retain as costs 10% of  
25 the sum deposited.

26 (4) If no claim is filed or bond given within the 45

1 day period as described in paragraph (3) of this subsection  
2 (k), the State's Attorney shall declare the property  
3 forfeited and shall promptly notify the owner and all known  
4 interest holders of the property and the Director of State  
5 Police of the declaration of forfeiture and the Director  
6 shall dispose of the property in accordance with law.

7 (1) Judicial in rem procedures. If property seized under  
8 the provisions of this Article is non-real property that  
9 exceeds \$20,000 in value excluding the value of any conveyance,  
10 or is real property, or a claimant has filed a claim and a cost  
11 bond under paragraph (3) of subsection (k) of this Section, the  
12 following judicial in rem procedures shall apply:

13 (1) If, after a review of the facts surrounding the  
14 seizure, the State's Attorney is of the opinion that the  
15 seized property is subject to forfeiture, then within 45  
16 days of the receipt of notice of seizure by the seizing  
17 agency or the filing of the claim and cost bond, whichever  
18 is later, the State's Attorney shall institute judicial  
19 forfeiture proceedings by filing a verified complaint for  
20 forfeiture and, if the claimant has filed a claim and cost  
21 bond, by depositing the cost bond with the clerk of the  
22 court. When authorized by law, a forfeiture must be ordered  
23 by a court on an action in rem brought by a State's  
24 Attorney under a verified complaint for forfeiture.

25 (2) During the probable cause portion of the judicial  
26 in rem proceeding wherein the State presents its

1 case-in-chief, the court must receive and consider, among  
2 other things, all relevant hearsay evidence and  
3 information. The laws of evidence relating to civil actions  
4 apply to all other portions of the judicial in rem  
5 proceeding.

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

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

17 (A) the caption of the proceedings as set forth on  
18 the notice of pending forfeiture and the name of the  
19 claimant;

20 (B) the address at which the claimant will accept  
21 mail;

22 (C) the nature and extent of the claimant's  
23 interest in the property;

24 (D) the date, identity of transferor, and  
25 circumstances of the claimant's acquisition of the  
26 interest in the property;

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

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

5           (G) the precise relief sought.

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

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

10          (7) The State shall show the existence of probable  
11          cause for forfeiture of the property. If the State shows  
12          probable cause, the claimant has the burden of showing by a  
13          preponderance of the evidence that the claimant's interest  
14          in the property is not subject to forfeiture.

15          (8) If the State does not show existence of probable  
16          cause, the court shall order the interest in the property  
17          returned or conveyed to the claimant and shall order all  
18          other property forfeited to the State. If the State does  
19          show existence of probable cause, the court shall order all  
20          property forfeited to the State.

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

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

13           (11) All property declared forfeited under this  
14 Article vests in this State on the commission of the  
15 conduct giving rise to forfeiture together with the  
16 proceeds of the property after that time. Any such property  
17 or proceeds subsequently transferred to any person remain  
18 subject to forfeiture and thereafter shall be ordered  
19 forfeited.

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



1 to the same conduct are in progress.

2 (m) 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 (n) Settlement of claims. Notwithstanding other provisions  
7 of this Article, the State's Attorney and a claimant of seized  
8 property may enter into an agreed-upon settlement concerning  
9 the seized property in such an amount and upon such terms as  
10 are set out in writing in a settlement agreement.

11 (o) Property constituting attorney fees. Nothing in this  
12 Article applies to property which constitutes reasonable bona  
13 fide attorney's fees paid to an attorney for services rendered  
14 or to be rendered in the forfeiture proceeding or criminal  
15 proceeding relating directly thereto where such property was  
16 paid before its seizure, before the issuance of any seizure  
17 warrant or court order prohibiting transfer of the property and  
18 where the attorney, at the time he or she received the property  
19 did not know that it was property subject to forfeiture under  
20 this Article.

21 (p) Construction. It is the intent of the General Assembly  
22 that the forfeiture provisions of this Article be liberally  
23 construed so as to effect their remedial purpose. The  
24 forfeiture of property and other remedies hereunder shall be  
25 considered to be in addition to, and not exclusive of, any  
26 sentence or other remedy provided by law.

1           (q) Judicial review. If property has been declared  
2 forfeited under subsection (k) of this Section, any person who  
3 has an interest in the property declared forfeited may, within  
4 30 days after the effective date of the notice of the  
5 declaration of forfeiture, file a claim and cost bond as  
6 described in paragraph (3) of subsection (k) of this Section.  
7 If a claim and cost bond is filed under this Section, then the  
8 procedures described in subsection (l) of this Section apply.

9           (r) Burden of proof of exemption or exception. It is not  
10 necessary for the State to negate any exemption or exception in  
11 this Article in any complaint, information, indictment or other  
12 pleading or in any trial, hearing, or other proceeding under  
13 this Article. The burden of proof of any exemption or exception  
14 is upon the person claiming it.

15           (s) Review of administrative decisions. All administrative  
16 findings, rulings, final determinations, findings, and  
17 conclusions of the State's Attorney's Office under this Article  
18 are final and conclusive decisions of the matters involved. Any  
19 person aggrieved by the decision may obtain review of the  
20 decision pursuant to the provisions of the Administrative  
21 Review Law and the rules adopted pursuant to that Law. Pending  
22 final decision on such review, the administrative acts, orders,  
23 and rulings of the State's Attorney's Office remain in full  
24 force and effect unless modified or suspended by order of court  
25 pending final judicial decision. Pending final decision on such  
26 review, the acts, orders, and rulings of the State's Attorney's

1 Office remain in full force and effect, unless stayed by order  
2 of court. However, no stay of any decision of the  
3 administrative agency shall issue unless the person aggrieved  
4 by the decision establishes by a preponderance of the evidence  
5 that good cause exists for the stay. In determining good cause,  
6 the court shall find that the aggrieved party has established a  
7 substantial likelihood of prevailing on the merits and that  
8 granting the stay will not have an injurious effect on the  
9 general public.

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

11 (Text of Section after amendment by P.A. 100-512)

12 Sec. 29B-1. Money laundering.

13 (a) A person commits the offense of money laundering:

14 (1) when, knowing that the property involved in a  
15 financial transaction represents the proceeds of some form  
16 of unlawful activity, he or she conducts or attempts to  
17 conduct the ~~such a~~ financial transaction which in fact  
18 involves criminally derived property:

19 (A) with the intent to promote the carrying on of  
20 the unlawful activity from which the criminally  
21 derived property was obtained; or

22 (B) where he or she knows or reasonably should know  
23 that the financial transaction is designed in whole or  
24 in part:

25 (i) to conceal or disguise the nature, the

1 location, the source, the ownership or the control  
2 of the criminally derived property; or

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

5 (1.5) when he or she transports, transmits, or  
6 transfers, or attempts to transport, transmit, or transfer  
7 a monetary instrument:

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) knowing, or having reason to know, that the  
12 financial transaction is designed in whole or in part:

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

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

18 (2) when, with the intent to:

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

21 (B) conceal or disguise the nature, location,  
22 source, ownership, or control of property believed to  
23 be the proceeds of a specified criminal activity as  
24 defined in this Article ~~by subdivision (b) (6)~~; or

25 (C) avoid a transaction reporting requirement  
26 under State law,

1 he or she conducts or attempts to conduct a financial  
2 transaction involving property he or she believes to be the  
3 proceeds of specified criminal activity ~~as defined by~~  
4 ~~subdivision (b) (6)~~ or property used to conduct or  
5 facilitate specified criminal activity as defined in this  
6 Article ~~by subdivision (b) (6)~~.

7 (b) (Blank). ~~As used in this Section:~~

8 ~~(0.5) "Knowing that the property involved in a~~  
9 ~~financial transaction represents the proceeds of some form~~  
10 ~~of unlawful activity" means that the person knew the~~  
11 ~~property involved in the transaction represented proceeds~~  
12 ~~from some form, though not necessarily which form, of~~  
13 ~~activity that constitutes a felony under State, federal, or~~  
14 ~~foreign law.~~

15 ~~(1) "Financial transaction" means a purchase, sale,~~  
16 ~~loan, pledge, gift, transfer, delivery or other~~  
17 ~~disposition utilizing criminally derived property, and~~  
18 ~~with respect to financial institutions, includes a~~  
19 ~~deposit, withdrawal, transfer between accounts, exchange~~  
20 ~~of currency, loan, extension of credit, purchase or sale of~~  
21 ~~any stock, bond, certificate of deposit or other monetary~~  
22 ~~instrument, use of safe deposit box, or any other payment,~~  
23 ~~transfer or delivery by, through, or to a financial~~  
24 ~~institution. For purposes of clause (a) (2) of this Section,~~  
25 ~~the term "financial transaction" also means a transaction~~  
26 ~~which without regard to whether the funds, monetary~~

1 ~~instruments, or real or personal property involved in the~~  
2 ~~transaction are criminally derived, any transaction which~~  
3 ~~in any way or degree: (1) involves the movement of funds by~~  
4 ~~wire or any other means; (2) involves one or more monetary~~  
5 ~~instruments; or (3) the transfer of title to any real or~~  
6 ~~personal property. The receipt by an attorney of bona fide~~  
7 ~~fees for the purpose of legal representation is not a~~  
8 ~~financial transaction for purposes of this Section.~~

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

18 ~~(3) "Monetary instrument" means United States coins~~  
19 ~~and currency; coins and currency of a foreign country;~~  
20 ~~travelers checks; personal checks, bank checks, and money~~  
21 ~~orders; investment securities; bearer negotiable~~  
22 ~~instruments; bearer investment securities; or bearer~~  
23 ~~securities and certificates of stock in such form that~~  
24 ~~title thereto passes upon delivery.~~

25 ~~(4) "Criminally derived property" means: (A) any~~  
26 ~~property, real or personal, constituting or derived from~~

1 ~~proceeds obtained, directly or indirectly, from activity~~  
2 ~~that constitutes a felony under State, federal, or foreign~~  
3 ~~law; or (B) any property represented to be property~~  
4 ~~constituting or derived from proceeds obtained, directly~~  
5 ~~or indirectly, from activity that constitutes a felony~~  
6 ~~under State, federal, or foreign law.~~

7 ~~(5) "Conduct" or "conducts" includes, in addition to~~  
8 ~~its ordinary meaning, initiating, concluding, or~~  
9 ~~participating in initiating or concluding a transaction.~~

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

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

15 ~~(8) "Department" means the Department of State Police~~  
16 ~~of the State of Illinois or its successor agency.~~

17 ~~(9) "Transaction reporting requirement under State~~  
18 ~~law" means any violation as defined under the Currency~~  
19 ~~Reporting Act.~~

20 (c) Sentence.

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

23 (2) Laundering of criminally derived property of a  
24 value exceeding \$10,000 but not exceeding \$100,000 is a  
25 Class 2 felony;

26 (3) Laundering of criminally derived property of a

1 value exceeding \$100,000 but not exceeding \$500,000 is a  
2 Class 1 felony;

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

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

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

10 (A) Laundering of property of a value not exceeding  
11 \$10,000 is a Class 3 felony;

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

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

17 (D) Laundering of property of a value exceeding  
18 \$500,000 is a Class 1 non-probationable felony.

19 ~~(d) Evidence. In a prosecution under this Article, either~~  
20 ~~party may introduce the following evidence pertaining to the~~  
21 ~~issue of whether the property or proceeds were known to be some~~  
22 ~~form of criminally derived property or from some form of~~  
23 ~~unlawful activity:~~

24 ~~(1) A financial transaction was conducted or~~  
25 ~~structured or attempted in violation of the reporting~~  
26 ~~requirements of any State or federal law; or~~



1           ~~(2) A financial transaction was conducted or attempted~~  
2 ~~with the use of a false or fictitious name or a forged~~  
3 ~~instrument; or~~

4           ~~(3) A falsely altered or completed written instrument~~  
5 ~~or a written instrument that contains any materially false~~  
6 ~~personal identifying information was made, used, offered~~  
7 ~~or presented, whether accepted or not, in connection with a~~  
8 ~~financial transaction; or~~

9           ~~(4) A financial transaction was structured or~~  
10 ~~attempted to be structured so as to falsely report the~~  
11 ~~actual consideration or value of the transaction; or~~

12           ~~(5) A money transmitter, a person engaged in a trade or~~  
13 ~~business or any employee of a money transmitter or a person~~  
14 ~~engaged in a trade or business, knows or reasonably should~~  
15 ~~know that false personal identifying information has been~~  
16 ~~presented and incorporates the false personal identifying~~  
17 ~~information into any report or record; or~~

18           ~~(6) The criminally derived property is transported or~~  
19 ~~possessed in a fashion inconsistent with the ordinary or~~  
20 ~~usual means of transportation or possession of such~~  
21 ~~property and where the property is discovered in the~~  
22 ~~absence of any documentation or other indicia of legitimate~~  
23 ~~origin or right to such property; or~~

24           ~~(7) A person pays or receives substantially less than~~  
25 ~~face value for one or more monetary instruments; or~~

26           ~~(8) A person engages in a transaction involving one or~~

1 ~~more monetary instruments, where the physical condition or~~  
2 ~~form of the monetary instrument or instruments makes it~~  
3 ~~apparent that they are not the product of bona fide~~  
4 ~~business or financial transactions.~~

5 ~~(c) Duty to enforce this Article.~~

6 ~~(1) It is the duty of the Department of State Police,~~  
7 ~~and its agents, officers, and investigators, to enforce all~~  
8 ~~provisions of this Article, except those specifically~~  
9 ~~delegated, and to cooperate with all agencies charged with~~  
10 ~~the enforcement of the laws of the United States, or of any~~  
11 ~~state, relating to money laundering. Only an agent,~~  
12 ~~officer, or investigator designated by the Director may be~~  
13 ~~authorized in accordance with this Section to serve seizure~~  
14 ~~notices, warrants, subpoenas, and summonses under the~~  
15 ~~authority of this State.~~

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

24 ~~(f) Protective orders.~~

25 ~~(1) Upon application of the State, the court may enter~~  
26 ~~a restraining order or injunction, require the execution of~~

1 ~~a satisfactory performance bond, or take any other action~~  
2 ~~to preserve the availability of property described in~~  
3 ~~subsection (h) for forfeiture under this Article:~~

4 ~~(A) upon the filing of an indictment, information,~~  
5 ~~or complaint charging a violation of this Article for~~  
6 ~~which forfeiture may be ordered under this Article and~~  
7 ~~alleging that the property with respect to which the~~  
8 ~~order is sought would be subject to forfeiture under~~  
9 ~~this Article; or~~

10 ~~(B) prior to the filing of such an indictment,~~  
11 ~~information, or complaint, if, after notice to persons~~  
12 ~~appearing to have an interest in the property and~~  
13 ~~opportunity for a hearing, the court determines that:~~

14 ~~(i) there is probable cause to believe that the~~  
15 ~~State will prevail on the issue of forfeiture and~~  
16 ~~that failure to enter the order will result in the~~  
17 ~~property being destroyed, removed from the~~  
18 ~~jurisdiction of the court, or otherwise made~~  
19 ~~unavailable for forfeiture; and~~

20 ~~(ii) the need to preserve the availability of~~  
21 ~~the property through the entry of the requested~~  
22 ~~order outweighs the hardship on any party against~~  
23 ~~whom the order is to be entered.~~

24 ~~Provided, however, that an order entered pursuant~~  
25 ~~to subparagraph (B) shall be effective for not more~~  
26 ~~than 90 days, unless extended by the court for good~~

1           ~~cause shown or unless an indictment, information,~~  
2           ~~complaint, or administrative notice has been filed.~~

3           ~~(2) A temporary restraining order under this~~  
4           ~~subsection may be entered upon application of the State~~  
5           ~~without notice or opportunity for a hearing when an~~  
6           ~~indictment, information, complaint, or administrative~~  
7           ~~notice has not yet been filed with respect to the property,~~  
8           ~~if the State demonstrates that there is probable cause to~~  
9           ~~believe that the property with respect to which the order~~  
10           ~~is sought would be subject to forfeiture under this Section~~  
11           ~~and that provision of notice will jeopardize the~~  
12           ~~availability of the property for forfeiture. Such a~~  
13           ~~temporary order shall expire not more than 30 days after~~  
14           ~~the date on which it is entered, unless extended for good~~  
15           ~~cause shown or unless the party against whom it is entered~~  
16           ~~consents to an extension for a longer period. A hearing~~  
17           ~~requested concerning an order entered under this paragraph~~  
18           ~~shall be held at the earliest possible time and prior to~~  
19           ~~the expiration of the temporary order.~~

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

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

25           ~~(A) In general. Pursuant to its authority to enter~~  
26           ~~a pretrial restraining order under this Section, the~~

1 ~~court may order a defendant to repatriate any property~~  
2 ~~that may be seized and forfeited and to deposit that~~  
3 ~~property pending trial with the Illinois State Police~~  
4 ~~or another law enforcement agency designated by the~~  
5 ~~Illinois State Police.~~

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

9 ~~(g) Warrant of seizure. The State may request the issuance~~  
10 ~~of a warrant authorizing the seizure of property described in~~  
11 ~~subsection (h) in the same manner as provided for a search~~  
12 ~~warrant. If the court determines that there is probable cause~~  
13 ~~to believe that the property to be seized would be subject to~~  
14 ~~forfeiture, the court shall issue a warrant authorizing the~~  
15 ~~seizure of such property.~~

16 ~~(h) Forfeiture.~~

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

18 ~~(A) any property, real or personal, constituting,~~  
19 ~~derived from, or traceable to any proceeds the person~~  
20 ~~obtained directly or indirectly, as a result of a~~  
21 ~~violation of this Article;~~

22 ~~(B) any of the person's property used, or intended~~  
23 ~~to be used, in any manner or part, to commit, or to~~  
24 ~~facilitate the commission of, a violation of this~~  
25 ~~Article;~~

26 ~~(C) all conveyances, including aircraft, vehicles~~

1 ~~or vessels, which are used, or intended for use, to~~  
2 ~~transport, or in any manner to facilitate the~~  
3 ~~transportation, sale, receipt, possession, or~~  
4 ~~concealment of property described in subparagraphs (A)~~  
5 ~~and (B), but:~~

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

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

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

21 ~~(D) all real property, including any right, title,~~  
22 ~~and interest (including, but not limited to, any~~  
23 ~~leasehold interest or the beneficial interest in a land~~  
24 ~~trust) in the whole of any lot or tract of land and any~~  
25 ~~appurtenances or improvements, which is used or~~  
26 ~~intended to be used, in any manner or part, to commit,~~

1 ~~or in any manner to facilitate the commission of, any~~  
2 ~~violation of this Article or that is the proceeds of~~  
3 ~~any violation or act that constitutes a violation of~~  
4 ~~this Article.~~

5 ~~(2) Property subject to forfeiture under this Article~~  
6 ~~may be seized by the Director or any peace officer upon~~  
7 ~~process or seizure warrant issued by any court having~~  
8 ~~jurisdiction over the property. Seizure by the Director or~~  
9 ~~any peace officer without process may be made:~~

10 ~~(A) if the seizure is incident to a seizure~~  
11 ~~warrant;~~

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

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

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

23 ~~(E) in accordance with the Code of Criminal~~  
24 ~~Procedure of 1963.~~

25 ~~(3) In the event of seizure pursuant to paragraph (2),~~  
26 ~~forfeiture proceedings shall be instituted in accordance~~

1 ~~with subsections (i) through (r).~~

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

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

15 ~~(B) remove the property to a place designated by~~  
16 ~~the Director;~~

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

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

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



1 ~~forfeiture in any appropriate public record relating~~  
2 ~~to the property; or~~

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

7 ~~(5) When property is forfeited under this Article, the~~  
8 ~~Director shall sell all such property unless such property~~  
9 ~~is required by law to be destroyed or is harmful to the~~  
10 ~~public, and shall distribute the proceeds of the sale,~~  
11 ~~together with any moneys forfeited or seized, in accordance~~  
12 ~~with paragraph (6).~~

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

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

1 ~~the agency or agencies shall be used for the~~  
2 ~~enforcement of laws.~~

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

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

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

1 ~~property.~~

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

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

13 ~~(7.5) Preliminary Review.~~

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

18 ~~(B) The rules of evidence shall not apply to any~~  
19 ~~proceeding conducted under this Section.~~

20 ~~(C) The court may conduct the review under~~  
21 ~~subparagraph (A) of this paragraph (7.5)~~  
22 ~~simultaneously with a proceeding under Section 109-1~~  
23 ~~of the Code of Criminal Procedure of 1963 for a related~~  
24 ~~criminal offense if a prosecution is commenced by~~  
25 ~~information or complaint.~~

26 ~~(D) The court may accept a finding of probable~~

1 ~~cause at a preliminary hearing following the filing of~~  
2 ~~an information or complaint charging a related~~  
3 ~~criminal offense or following the return of indictment~~  
4 ~~by a grand jury charging the related offense as~~  
5 ~~sufficient evidence of probable cause as required~~  
6 ~~under subparagraph (A) of this paragraph (7.5).~~

7 ~~(E) Upon a finding of probable cause as required~~  
8 ~~under this Section, the circuit court shall order the~~  
9 ~~property subject to the applicable forfeiture Act held~~  
10 ~~until the conclusion of any forfeiture proceeding.~~

11 ~~(i) Notice to owner or interest holder.~~

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

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

1 ~~interest holder documenting actual notice, whichever is~~  
2 ~~first in time, or on the date of the last act performed by~~  
3 ~~the State's Attorney in attempting personal service. For~~  
4 ~~purposes of notice under this Section, if a person has been~~  
5 ~~arrested for the conduct giving rise to the forfeiture, the~~  
6 ~~address provided to the arresting agency at the time of~~  
7 ~~arrest shall be deemed to be that person's known address.~~  
8 ~~Provided, however, if an owner or interest holder's address~~  
9 ~~changes prior to the effective date of the notice of~~  
10 ~~pending forfeiture, the owner or interest holder shall~~  
11 ~~promptly notify the seizing agency of the change in address~~  
12 ~~or, if the owner or interest holder's address changes~~  
13 ~~subsequent to the effective date of the notice of pending~~  
14 ~~forfeiture, the owner or interest holder shall promptly~~  
15 ~~notify the State's Attorney of the change in address. If~~  
16 ~~the property seized is a conveyance, notice shall also be~~  
17 ~~directed to the address reflected in the office of the~~  
18 ~~agency or official in which title or interest to the~~  
19 ~~conveyance is required by law to be recorded.~~

20 ~~(A) (Blank);~~

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

1           ~~(A-10) Notice to any business entity, corporation,~~  
2           ~~LLC, LLP, or partnership shall be complete by a single~~  
3           ~~mailing of a copy of the notice by certified mail,~~  
4           ~~return receipt requested and first class mail, to that~~  
5           ~~address. This notice is complete regardless of the~~  
6           ~~return of a signed "return receipt requested".~~

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

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

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

1 ~~with the inmate's name clearly marked on the envelope.~~

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

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

24 ~~(C) (Blank).~~

25 ~~(2) Notice served under this Article is effective upon~~  
26 ~~personal service, the last date of publication, or the~~



1 ~~mailing of written notice, whichever is earlier.~~

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

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

25 ~~(1) If, after review of the facts surrounding the~~  
26 ~~seizure, the State's Attorney is of the opinion that the~~

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

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

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

21 ~~(i) the caption of the proceedings as set forth on~~  
22 ~~the notice of pending forfeiture and the name of the~~  
23 ~~claimant;~~

24 ~~(ii) the address at which the claimant will accept~~  
25 ~~mail;~~

26 ~~(iii) the nature and extent of the claimant's~~

1 ~~interest in the property;~~

2 ~~(iv) the date, identity of the transferor, and~~  
3 ~~circumstances of the claimant's acquisition of the~~  
4 ~~interest in the property;~~

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

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

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

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

12 ~~(B) If a claimant files the claim, then the State's~~  
13 ~~Attorney shall institute judicial in rem forfeiture~~  
14 ~~proceedings with the clerk of the court as described in~~  
15 ~~subsection (1) of this Section within 45 days after receipt~~  
16 ~~of the claim.~~

17 ~~(C) (Blank).~~

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

25 ~~(1) Judicial in rem procedures. If property seized under~~  
26 ~~the provisions of this Article is non real property that~~

1 ~~exceeds \$20,000 in value excluding the value of any conveyance,~~  
2 ~~or is real property, or a claimant has filed a claim under~~  
3 ~~paragraph (3) of subsection (k) of this Section, the following~~  
4 ~~judicial in rem procedures shall apply:~~

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

15 ~~(1.5) A complaint of forfeiture shall include:~~

16 ~~(i) a description of the property seized;~~

17 ~~(ii) the date and place of seizure of the property;~~

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

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

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

1 ~~following written notice:~~

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

24 ~~(2) The laws of evidence relating to civil actions~~  
25 ~~shall apply to proceedings under this Article with the~~  
26 ~~following exception. The parties shall be allowed to use,~~

1 ~~and the court shall receive and consider all relevant~~  
2 ~~hearsay evidence which relates to evidentiary foundation,~~  
3 ~~chain of custody, business records, recordings, laboratory~~  
4 ~~analysis, laboratory reports, and relevant hearsay related~~  
5 ~~to the use of technology in the investigation which~~  
6 ~~resulted in the seizure of property which is now subject to~~  
7 ~~this forfeiture action.~~

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

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

19 ~~(A) the caption of the proceedings as set forth on~~  
20 ~~the notice of pending forfeiture and the name of the~~  
21 ~~claimant;~~

22 ~~(B) the address at which the claimant will accept~~  
23 ~~mail;~~

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

26 ~~(D) the date, identity of transferor, and~~

1 ~~circumstances of the claimant's acquisition of the~~  
2 ~~interest in the property;~~

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

5 ~~(F) all essential facts supporting each assertion;~~

6 ~~(G) the precise relief sought; and~~

7 ~~(H) the answer shall follow the rules under the~~  
8 ~~Code of Civil Procedure.~~

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

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

13 ~~(7) At the judicial in rem proceeding, in the State's~~  
14 ~~case in chief, the State shall show by a preponderance of~~  
15 ~~the evidence that the property is subject to forfeiture. If~~  
16 ~~the State makes such a showing, the claimant shall have the~~  
17 ~~burden of production to set forth evidence that the~~  
18 ~~property is not related to the alleged factual basis of the~~  
19 ~~forfeiture. After this production of evidence, the State~~  
20 ~~shall maintain the burden of proof to overcome this~~  
21 ~~assertion. A claimant shall provide the State notice of its~~  
22 ~~intent to allege that the currency or its equivalent is not~~  
23 ~~related to the alleged factual basis of the forfeiture and~~  
24 ~~why. As to conveyances, at the judicial in rem proceeding,~~  
25 ~~in their case in chief, the State shall show by a~~  
26 ~~preponderance of the evidence, that (1) the property is~~

1 ~~subject to forfeiture; and (2) at least one of the~~  
2 ~~following:~~

3 ~~(i) that the claimant was legally accountable for~~  
4 ~~the conduct giving rise to the forfeiture;~~

5 ~~(ii) that the claimant knew or reasonably should~~  
6 ~~have known of the conduct giving rise to the~~  
7 ~~forfeiture;~~

8 ~~(iii) that the claimant knew or reasonable should~~  
9 ~~have known that the conduct giving rise to the~~  
10 ~~forfeiture was likely to occur;~~

11 ~~(iv) that the claimant held the property for the~~  
12 ~~benefit of, or as nominee for, any person whose conduct~~  
13 ~~gave rise to its forfeiture;~~

14 ~~(v) that if the claimant acquired their interest~~  
15 ~~through any person engaging in any of the conduct~~  
16 ~~described above or conduct giving rise to the~~  
17 ~~forfeiture;~~

18 ~~(1) the claimant did not acquire it as a bona~~  
19 ~~fide purchaser for value; or~~

20 ~~(2) the claimant acquired the interest under~~  
21 ~~the circumstances that they reasonably should have~~  
22 ~~known the property was derived from, or used in,~~  
23 ~~the conduct giving rise to the forfeiture; or~~

24 ~~(vii) that the claimant is not the true owner of~~  
25 ~~the property that is subject to forfeiture.~~

26 ~~(8) If the State does not meet its burden to show that~~



1 ~~the property is subject to forfeiture, the court shall~~  
2 ~~order the interest in the property returned or conveyed to~~  
3 ~~the claimant and shall order all other property forfeited~~  
4 ~~to the State. If the State does meet its burden to show~~  
5 ~~that the property is subject to forfeiture, the court shall~~  
6 ~~order all property forfeited to the State.~~

7 ~~(9) A defendant convicted in any criminal proceeding is~~  
8 ~~precluded from later denying the essential allegations of~~  
9 ~~the criminal offense of which the defendant was convicted~~  
10 ~~in any proceeding under this Article regardless of the~~  
11 ~~pendency of an appeal from that conviction. However,~~  
12 ~~evidence of the pendency of an appeal is admissible.~~

13 ~~(10) On a motion by the the parties, the court may stay~~  
14 ~~civil forfeiture proceedings during the criminal trial for~~  
15 ~~a related criminal indictment or information alleging a~~  
16 ~~money laundering violation. Such a stay shall not be~~  
17 ~~available pending an appeal. Property subject to~~  
18 ~~forfeiture under this Article shall not be subject to~~  
19 ~~return or release by a court exercising jurisdiction over a~~  
20 ~~criminal case involving the seizure of such property unless~~  
21 ~~such return or release is consented to by the State's~~  
22 ~~Attorney.~~

23 ~~Notwithstanding any other provision of this Section,~~  
24 ~~the State's burden of proof at the trial of the forfeiture~~  
25 ~~action shall be by clear and convincing evidence if: (1) a~~  
26 ~~finding of not guilty is entered as to all counts and all~~

1 ~~defendants in a criminal proceeding relating to the conduct~~  
2 ~~giving rise to the forfeiture action; or (2) the State~~  
3 ~~receives an adverse finding at a preliminary hearing and~~  
4 ~~fails to secure an indictment in a criminal proceeding~~  
5 ~~relating to the factual allegations of the forfeiture~~  
6 ~~action.~~

7 ~~(11) All property declared forfeited under this~~  
8 ~~Article vests in this State on the commission of the~~  
9 ~~conduct giving rise to forfeiture together with the~~  
10 ~~proceeds of the property after that time. Except as~~  
11 ~~otherwise provided in this Article, title to any such~~  
12 ~~property or proceeds subsequently transferred to any~~  
13 ~~person remain subject to forfeiture and thereafter shall be~~  
14 ~~ordered forfeited unless the person to whom the property~~  
15 ~~was transferred makes an appropriate claim and has his or~~  
16 ~~her claim adjudicated at the judicial in rem hearing.~~

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

25 ~~(m) Stay of time periods. If property is seized for~~  
26 ~~evidence and for forfeiture, the time periods for instituting~~

1 ~~judicial and non-judicial forfeiture proceedings shall not~~  
2 ~~begin until the property is no longer necessary for evidence.~~

3 ~~(n) Settlement of claims. Notwithstanding other provisions~~  
4 ~~of this Article, the State's Attorney and a claimant of seized~~  
5 ~~property may enter into an agreed upon settlement concerning~~  
6 ~~the seized property in such an amount and upon such terms as~~  
7 ~~are set out in writing in a settlement agreement. All proceeds~~  
8 ~~from a settlement agreement shall be tendered to the Department~~  
9 ~~of State Police and distributed under paragraph (6) of~~  
10 ~~subsection (h) of this Section.~~

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

21 ~~(p) Construction. It is the intent of the General Assembly~~  
22 ~~that the forfeiture provisions of this Article be liberally~~  
23 ~~construed so as to effect their remedial purpose. The~~  
24 ~~forfeiture of property and other remedies hereunder shall be~~  
25 ~~considered to be in addition to, and not exclusive of, any~~  
26 ~~sentence or other remedy provided by law.~~

1       ~~(q) Judicial review. If property has been declared~~  
2 ~~forfeited under subsection (k) of this Section, any person who~~  
3 ~~has an interest in the property declared forfeited may, within~~  
4 ~~30 days after the effective date of the notice of the~~  
5 ~~declaration of forfeiture, file a claim as described in~~  
6 ~~paragraph (3) of subsection (k) of this Section. If a claim is~~  
7 ~~filed under this Section, then the procedures described in~~  
8 ~~subsection (l) of this Section apply.~~

9       ~~(r) (Blank).~~

10       ~~(s) Review of administrative decisions. All administrative~~  
11 ~~findings, rulings, final determinations, findings, and~~  
12 ~~conclusions of the State's Attorney's Office under this Article~~  
13 ~~are final and conclusive decisions of the matters involved. Any~~  
14 ~~person aggrieved by the decision may obtain review of the~~  
15 ~~decision pursuant to the provisions of the Administrative~~  
16 ~~Review Law and the rules adopted pursuant to that Law. Pending~~  
17 ~~final decision on such review, the administrative acts, orders,~~  
18 ~~and rulings of the State's Attorney's Office remain in full~~  
19 ~~force and effect unless modified or suspended by order of court~~  
20 ~~pending final judicial decision. Pending final decision on such~~  
21 ~~review, the acts, orders, and rulings of the State's Attorney's~~  
22 ~~Office remain in full force and effect, unless stayed by order~~  
23 ~~of court. However, no stay of any decision of the~~  
24 ~~administrative agency shall issue unless the person aggrieved~~  
25 ~~by the decision establishes by a preponderance of the evidence~~  
26 ~~that good cause exists for the stay. In determining good cause,~~

1 ~~the court shall find that the aggrieved party has established a~~  
2 ~~substantial likelihood of prevailing on the merits and that~~  
3 ~~granting the stay will not have an injurious effect on the~~  
4 ~~general public.~~

5 ~~(t) Actual physical seizure of real property subject to~~  
6 ~~forfeiture under this Act requires the issuance of a seizure~~  
7 ~~warrant. Nothing in this Section prohibits the constructive~~  
8 ~~seizure of real property through the filing of a complaint for~~  
9 ~~forfeiture in circuit court and the recording of a lis pendens~~  
10 ~~against the real property which is subject to forfeiture~~  
11 ~~without any hearing, warrant application, or judicial~~  
12 ~~approval.~~

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

19 ~~(v) If property is ordered forfeited under this Section~~  
20 ~~from a claimant who held title to the property in joint tenancy~~  
21 ~~or tenancy in common with another claimant, the court shall~~  
22 ~~determine the amount of each owner's interest in the property~~  
23 ~~according to principles of property law.~~

24 ~~(w) A claimant or a party interested in personal property~~  
25 ~~contained within a seized conveyance may file a request with~~  
26 ~~the State's Attorney in a non judicial forfeiture action, or a~~

1 ~~motion with the court in a judicial forfeiture action for the~~  
2 ~~return of any personal property contained within a conveyance~~  
3 ~~which is seized under this Article. The return of personal~~  
4 ~~property shall not be unreasonably withheld if the personal~~  
5 ~~property is not mechanically or electrically coupled to the~~  
6 ~~conveyance, needed for evidentiary purposes, or otherwise~~  
7 ~~contraband. Any law enforcement agency that returns property~~  
8 ~~under a court order under this Section shall not be liable to~~  
9 ~~any person who claims ownership to the property if it is~~  
10 ~~returned to an improper party.~~

11 ~~(x) Innocent owner hearing.~~

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

18 ~~(i) that the claimant filing the motion is the true~~  
19 ~~owner of the conveyance as interpreted by case law;~~

20 ~~(ii) that the claimant was not legally accountable~~  
21 ~~for the conduct giving rise to the forfeiture or~~  
22 ~~acquiesced in the conduct;~~

23 ~~(iii) that the claimant did not solicit, conspire,~~  
24 ~~or attempt to commit the conduct giving rise to the~~  
25 ~~forfeiture;~~

26 ~~(iv) that the claimant did not know or did not have~~

1 ~~reason to know that the conduct giving rise to the~~  
2 ~~forfeiture was likely to occur; and~~

3 ~~(v) that the claimant did not hold the property for~~  
4 ~~the benefit of, or as nominee for any person whose~~  
5 ~~conduct gave rise to its forfeiture or if the owner or~~  
6 ~~interest holder acquired the interest through any~~  
7 ~~person, the owner or interest holder did not acquire it~~  
8 ~~as a bona fide purchaser for value or acquired the~~  
9 ~~interest without knowledge of the seizure of the~~  
10 ~~property for forfeiture.~~

11 ~~(2) The claimant shall include specific facts which~~  
12 ~~support these assertions in their motion.~~

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

21 ~~(i) After discovery is complete and the court has~~  
22 ~~allowed for sufficient time to review and investigate~~  
23 ~~the discovery responses, the court shall conduct a~~  
24 ~~hearing. At the hearing, the fact that the conveyance~~  
25 ~~is subject to forfeiture shall not be at issue. The~~  
26 ~~court shall only hear evidence relating to the issue of~~

1 ~~innocent ownership.~~

2 ~~(ii) At the hearing on the motion, it shall be the~~  
3 ~~burden of the claimant to prove each of the assertions~~  
4 ~~listed in paragraph (1) of this subsection (x) by a~~  
5 ~~preponderance of the evidence.~~

6 ~~(iii) If a claimant meets his burden of proof, the~~  
7 ~~court shall grant the motion and order the property~~  
8 ~~returned to the claimant. If the claimant fails to meet~~  
9 ~~his or her burden of proof then the court shall deny~~  
10 ~~the motion.~~

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

20 ~~(z) Forfeiture proceedings under this Section shall be~~  
21 ~~subject to the Code of Civil Procedure and the rules of~~  
22 ~~evidence relating to civil actions.~~

23 ~~(aa) Return of property, damages, and costs.~~

24 ~~(1) The law enforcement agency that holds custody of~~  
25 ~~property seized for forfeiture shall deliver property~~  
26 ~~ordered by the court to be returned or conveyed to the~~



1 ~~claimant within a reasonable time not to exceed 7 days,~~  
2 ~~unless the order is stayed by the trial court or a~~  
3 ~~reviewing court pending an appeal, motion to reconsider, or~~  
4 ~~other reason.~~

5 ~~(2) The law enforcement agency that holds custody of~~  
6 ~~property is responsible for any damages, storage fees, and~~  
7 ~~related costs applicable to property returned. The~~  
8 ~~claimant shall not be subject to any charges by the State~~  
9 ~~for storage of the property or expenses incurred in the~~  
10 ~~preservation of the property. Charges for the towing of a~~  
11 ~~conveyance shall be borne by the claimant unless the~~  
12 ~~conveyance was towed for the sole reason of seizure for~~  
13 ~~forfeiture. This Section does not prohibit the imposition~~  
14 ~~of any fees or costs by a home rule unit of local~~  
15 ~~government related to the impoundment of a conveyance under~~  
16 ~~an ordinance enacted by the unit of government.~~

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

1 ~~justification shall be retained for a period of not less~~  
2 ~~than 3 years.~~

3 ~~(bb) The changes made to this Section by this amendatory~~  
4 ~~Act of the 100th General Assembly are subject to Sections 2 and~~  
5 ~~4 of the Statute on Statutes.~~

6 (Source: P.A. 99-480, eff. 9-9-15; 100-512, eff. 7-1-18.)

7 (720 ILCS 5/29B-2 new)

8 Sec. 29B-2. Evidence in money laundering prosecutions.

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

14 (1) a financial transaction was conducted or  
15 structured or attempted in violation of the reporting  
16 requirements of any State or federal law;

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

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

25 (4) a financial transaction was structured or

1 attempted to be structured so as to falsely report the  
2 actual consideration or value of the transaction;

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

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

15 (7) a person pays or receives substantially less than  
16 face value for one or more monetary instruments; or

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

22 (720 ILCS 5/29B-3 new)

23 Sec. 29B-3. Duty to enforce this Article.

24 (a) It is the duty of the Department of State Police, and  
25 its agents, officers, and investigators, to enforce this

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

9 (b) An agent, officer, investigator, or peace officer  
10 designated by the Director may: (1) make seizure of property  
11 under this Article; and (2) perform other law enforcement  
12 duties as the Director designates. It is the duty of all  
13 State's Attorneys to prosecute violations of this Article and  
14 institute legal proceedings as authorized under this Article.

15 (720 ILCS 5/29B-4 new)

16 Sec. 29B-4. Protective orders and warrants for forfeiture  
17 purposes.

18 (a) Upon application of the State, the court may enter a  
19 restraining order or injunction, require the execution of a  
20 satisfactory performance bond, or take any other action to  
21 preserve the availability of property described in Section  
22 29B-5 of this Article for forfeiture under this Article:

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

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

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

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

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

17 Provided, however, that an order entered under  
18 paragraph (2) of this Section shall be effective for not  
19 more than 90 days, unless extended by the court for good  
20 cause shown or unless an indictment, information,  
21 complaint, or administrative notice has been filed.

22 (b) A temporary restraining order under this subsection (b)  
23 may be entered upon application of the State without notice or  
24 opportunity for a hearing when an indictment, information,  
25 complaint, or administrative notice has not yet been filed with  
26 respect to the property, if the State demonstrates that there

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

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

15 (d) Under its authority to enter a pretrial restraining  
16 order under this Section, the court may order a defendant to  
17 repatriate any property that may be seized and forfeited and to  
18 deposit that property pending trial with the Department of  
19 State Police or another law enforcement agency designated by  
20 the Department of State Police. Failure to comply with an order  
21 under this Section is punishable as a civil or criminal  
22 contempt of court.

23 (e) The State may request the issuance of a warrant  
24 authorizing the seizure of property described in Section 29B-5  
25 of this Article in the same manner as provided for a search  
26 warrant. If the court determines that there is probable cause

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

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

5 Sec. 29B-5. Property subject to forfeiture. The following  
6 are subject to forfeiture:

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

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

13 (3) all conveyances, including aircraft, vehicles, or  
14 vessels, which are used, or intended for use, to transport, or  
15 in any manner to facilitate the transportation, sale, receipt,  
16 possession, or concealment of property described in paragraphs  
17 (1) and (2) of this Section, but:

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

24 (B) no conveyance is subject to forfeiture under this  
25 Article by reason of any act or omission which the owner

1 proves to have been committed or omitted without his or her  
2 knowledge or consent;

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

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

15 (720 ILCS 5/29B-6 new)

16 Sec. 29B-6. Seizure.

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

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

23 (2) if the property subject to seizure has been the  
24 subject of a prior judgment in favor of the State in a  
25 criminal proceeding, or in an injunction or forfeiture



1 proceeding based upon this Article;

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

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

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

11 (b) In the event of seizure under subsection (a) of this  
12 Section, forfeiture proceedings shall be instituted in  
13 accordance with this Article.

14 (c) Actual physical seizure of real property subject to  
15 forfeiture requires the issuance of a seizure warrant. Nothing  
16 in this Article prohibits the constructive seizure of real  
17 property through the filing of a complaint for forfeiture in  
18 circuit court and the recording of a lis pendens against the  
19 real property that is subject to forfeiture without any  
20 hearing, warrant application, or judicial approval.

21 (720 ILCS 5/29B-7 new)

22 Sec. 29B-7. Safekeeping of seized property pending  
23 disposition.

24 (a) If property is seized under this Article, the seizing  
25 agency shall promptly conduct an inventory of the seized

1 property and estimate the property's value and shall forward a  
2 copy of the inventory of seized property and the estimate of  
3 the property's value to the Director. Upon receiving notice of  
4 seizure, the Director may:

5 (1) place the property under seal;

6 (2) remove the property to a place designated by the  
7 Director;

8 (3) keep the property in the possession of the seizing  
9 agency;

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

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 Director.

23 (b) When property is forfeited under this Article, the  
24 Director shall sell all the property unless the property is  
25 required by law to be destroyed or is harmful to the public,  
26 and shall distribute the proceeds of the sale, together with

1 any moneys forfeited or seized, under Section 29B-26 of this  
2 Article.

3 (720 ILCS 5/29B-8 new)

4 Sec. 29B-8. Notice to State's Attorney. The law enforcement  
5 agency seizing property for forfeiture under this Article  
6 shall, within 60 days after seizure, notify the State's  
7 Attorney for the county, either where an act or omission giving  
8 rise to the forfeiture occurred or where the property was  
9 seized, of the seizure of the property and the facts and  
10 circumstances giving rise to the seizure and shall provide the  
11 State's Attorney with the inventory of the property and its  
12 estimated value. If the property seized for forfeiture is a  
13 vehicle, the law enforcement agency seizing the property shall  
14 immediately notify the Secretary of State that forfeiture  
15 proceedings are pending regarding the vehicle. This notice  
16 shall be by Form 4-64.

17 (720 ILCS 5/29B-9 new)

18 Sec. 29B-9. Preliminary review.

19 (a) Within 28 days of the seizure, the State shall seek a  
20 preliminary determination from the circuit court as to whether  
21 there is probable cause that the property may be subject to  
22 forfeiture.

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

1       (c) The court may conduct the review under subsection (a)  
2 of this Section simultaneously with a proceeding under Section  
3 109-1 of the Code of Criminal Procedure of 1963 for a related  
4 criminal offense if a prosecution is commenced by information  
5 or complaint.

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

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

16       (720 ILCS 5/29B-10 new)

17       Sec. 29B-10. Notice to owner or interest holder.

18       (a) The first attempted service of notice shall be  
19 commenced within 28 days of the latter of filing of the  
20 verified claim or the receipt of the notice from the seizing  
21 agency by Form 4-64. A complaint for forfeiture or a notice of  
22 pending forfeiture shall be served on a claimant if the owner's  
23 or interest holder's name and current address are known, then  
24 by either: (1) personal service; or (2) mailing a copy of the  
25 notice by certified mail, return receipt requested, and first

1 class mail to that address.

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

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

23       (d) If the owner's or interest holder's address is not  
24 known, and is not on record as provided in this Section,  
25 service by publication for 3 successive weeks in a newspaper of  
26 general circulation in the county in which the seizure occurred

1 shall suffice for service requirements.

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

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

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

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

26 (i) After a claimant files a verified claim with the

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

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

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

23 (720 ILCS 5/29B-11 new)

24 Sec. 29B-11. Replevin prohibited. Property taken or  
25 detained under this Article shall not be subject to replevin,



1 but is deemed to be in the custody of the Director subject only  
2 to the order and judgments of the circuit court having  
3 jurisdiction over the forfeiture proceedings and the decisions  
4 of the State's Attorney under this Article.

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

6 Sec. 29B-12. Non-judicial forfeiture. If non-real  
7 property that exceeds \$20,000 in value excluding the value of  
8 any conveyance, or if real property is seized under the  
9 provisions of this Article, the State's Attorney shall  
10 institute judicial in rem forfeiture proceedings as described  
11 in Section 29B-13 of this Article within 28 days from receipt  
12 of notice of seizure from the seizing agency under Section  
13 29B-8 of this Article. However, if non-real property that does  
14 not exceed \$20,000 in value excluding the value of any  
15 conveyance is seized, the following procedure shall be used:

16 (1) If, after review of the facts surrounding the seizure,  
17 the State's Attorney is of the opinion that the seized property  
18 is subject to forfeiture, then within 28 days after the receipt  
19 of notice of seizure from the seizing agency, the State's  
20 Attorney shall cause notice of pending forfeiture to be given  
21 to the owner of the property and all known interest holders of  
22 the property in accordance with Section 29B-10 of this Article.

23 (2) The notice of pending forfeiture shall include a  
24 description of the property, the estimated value of the  
25 property, the date and place of seizure, the conduct giving

1 rise to forfeiture or the violation of law alleged, and a  
2 summary of procedures and procedural rights applicable to the  
3 forfeiture action.

4 (3) (A) Any person claiming an interest in property that is  
5 the subject of notice under paragraph (1) of this Section,  
6 must, in order to preserve any rights or claims to the  
7 property, within 45 days after the effective date of notice as  
8 described in Section 29B-10 of this Article, file a verified  
9 claim with the State's Attorney expressing his or her interest  
10 in the property. The claim shall set forth:

11 (i) the caption of the proceedings as set forth on the  
12 notice of pending forfeiture and the name of the claimant;

13 (ii) the address at which the claimant will accept  
14 mail;

15 (iii) the nature and extent of the claimant's interest  
16 in the property;

17 (iv) the date, identity of the transferor, and  
18 circumstances of the claimant's acquisition of the  
19 interest in the property;

20 (v) the names and addresses of all other persons known  
21 to have an interest in the property;

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

24 (vii) all essential facts supporting each assertion;  
25 and

26 (viii) the relief sought.

1       (B) If a claimant files the claim, then the State's  
2 Attorney shall institute judicial in rem forfeiture  
3 proceedings with the clerk of the court as described in Section  
4 29B-13 of this Article within 28 days after receipt of the  
5 claim.

6       (4) If no claim is filed within the 28-day period as  
7 described in paragraph (3) of this Section, the State's  
8 Attorney shall declare the property forfeited and shall  
9 promptly notify the owner and all known interest holders of the  
10 property and the Director of State Police of the declaration of  
11 forfeiture and the Director shall dispose of the property in  
12 accordance with law.

13       (720 ILCS 5/29B-13 new)

14       Sec. 29B-13. Judicial in rem procedures. If property seized  
15 under this Article is non-real property that exceeds \$20,000 in  
16 value excluding the value of any conveyance, or is real  
17 property, or a claimant has filed a claim under paragraph (3)  
18 of Section 29B-12 of this Article, the following judicial in  
19 rem procedures shall apply:

20       (1) If, after a review of the facts surrounding the  
21 seizure, the State's Attorney is of the opinion that the seized  
22 property is subject to forfeiture, then within 28 days of the  
23 receipt of notice of seizure by the seizing agency or the  
24 filing of the claim, whichever is later, the State's Attorney  
25 shall institute judicial forfeiture proceedings by filing a

1 verified complaint for forfeiture. If authorized by law, a  
2 forfeiture shall be ordered by a court on an action in rem  
3 brought by a State's Attorney under a verified complaint for  
4 forfeiture.

5 (2) A complaint of forfeiture shall include:

6 (A) a description of the property seized;

7 (B) the date and place of seizure of the property;

8 (C) the name and address of the law enforcement agency  
9 making the seizure; and

10 (D) the specific statutory and factual grounds for the  
11 seizure.

12 (3) The complaint shall be served upon the person from whom  
13 the property was seized and all persons known or reasonably  
14 believed by the State to claim an interest in the property, as  
15 provided in Section 29B-10 of this Article. The complaint shall  
16 be accompanied by the following written notice:

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

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

11 (4) Forfeiture proceedings under this Article shall be  
12 subject to the Code of Civil Procedure and the rules of  
13 evidence relating to civil actions shall apply to proceedings  
14 under this Article with the following exception. The parties  
15 shall be allowed to use, and the court shall receive and  
16 consider, all relevant hearsay evidence that relates to  
17 evidentiary foundation, chain of custody, business records,  
18 recordings, laboratory analysis, laboratory reports, and  
19 relevant hearsay related to the use of technology in the  
20 investigation that resulted in the seizure of property that is  
21 subject to the forfeiture action.

22 (5) Only an owner of or interest holder in the property may  
23 file an answer asserting a claim against the property in the  
24 action in rem. For purposes of this Section, the owner or  
25 interest holder shall be referred to as claimant. Upon motion  
26 of the State, the court shall first hold a hearing, in which a

1 claimant shall establish by a preponderance of the evidence,  
2 that he or she has a lawful, legitimate ownership interest in  
3 the property and that it was obtained through a lawful source.

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

6 (A) the caption of the proceedings as set forth on the  
7 notice of pending forfeiture and the name of the claimant;

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

9 (C) the nature and extent of the claimant's interest in  
10 the property;

11 (D) the date, identity of transferor, and  
12 circumstances of the claimant's acquisition of the  
13 interest in the property;

14 (E) the names and addresses of all other persons known  
15 to have an interest in the property;

16 (F) all essential facts supporting each assertion;

17 (G) the precise relief sought;

18 (H) in a forfeiture action involving currency or its  
19 equivalent, a claimant shall provide the State with notice  
20 of his or her intent to allege that the currency or its  
21 equivalent is not related to the alleged factual basis for  
22 the forfeiture, and why; and

23 (I) the answer shall follow the rules under the Code of  
24 Civil Procedure.

25 (7) The answer shall be filed with the court within 45 days  
26 after service of the civil in rem complaint.

1       (8) The hearing shall be held within 60 days after filing  
2 of the answer unless continued for good cause.

3       (9) At the judicial in rem proceeding, in the State's case  
4 in chief, the State shall show by a preponderance of the  
5 evidence that the property is subject to forfeiture. If the  
6 State makes such a showing, the claimant shall have the burden  
7 of production to set forth evidence that the property is not  
8 related to the alleged factual basis of the forfeiture. After  
9 this production of evidence, the State shall maintain the  
10 burden of proof to overcome this assertion. A claimant shall  
11 provide the State notice of its intent to allege that the  
12 currency or its equivalent is not related to the alleged  
13 factual basis of the forfeiture and why. As to conveyances, at  
14 the judicial in rem proceeding, in its case in chief, the State  
15 shall show by a preponderance of the evidence, that (A) the  
16 property is subject to forfeiture; and (B) at least one of the  
17 following:

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

20           (ii) that the claimant knew or reasonably should have  
21 known of the conduct giving rise to the forfeiture;

22           (iii) that the claimant knew or reasonably should have  
23 known that the conduct giving rise to the forfeiture was  
24 likely to occur;

25           (iv) that the claimant held the property for the  
26 benefit of, or as nominee for, any person whose conduct

1 gave rise to its forfeiture;

2 (v) that if the claimant acquired the interest through  
3 any person engaging in any of the conduct described above  
4 or conduct giving rise to the forfeiture:

5 (a) the claimant did not acquire it as a bona fide  
6 purchaser for value; or

7 (b) the claimant acquired the interest under the  
8 circumstances that the claimant reasonably should have  
9 known the property was derived from, or used in, the  
10 conduct giving rise to the forfeiture; or

11 (vi) that the claimant is not the true owner of the  
12 property that is subject to forfeiture.

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

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

26 (12) On a motion by the parties, the court may stay civil



1 forfeiture proceedings during the criminal trial for a related  
2 criminal indictment or information alleging a money laundering  
3 violation. Such a stay shall not be available pending an  
4 appeal. Property subject to forfeiture under this Article shall  
5 not be subject to return or release by a court exercising  
6 jurisdiction over a criminal case involving the seizure of the  
7 property unless the return or release is consented to by the  
8 State's Attorney.

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

10 Sec. 29B-14. Innocent owner hearing.

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

17 (1) that the claimant filing the motion is the true  
18 owner of the conveyance as interpreted by case law;

19 (2) that the claimant was not legally accountable for  
20 the conduct giving rise to the forfeiture or acquiesced in  
21 the conduct;

22 (3) that the claimant did not solicit, conspire, or  
23 attempt to commit the conduct giving rise to the  
24 forfeiture;

25 (4) that the claimant did not know or did not have

1 reason to know that the conduct giving rise to the  
2 forfeiture was likely to occur; and

3 (5) that the claimant did not hold the property for the  
4 benefit of, or as nominee for any person whose conduct gave  
5 rise to its forfeiture or if the owner or interest holder  
6 acquired the interest through any person, the owner or  
7 interest holder did not acquire it as a bona fide purchaser  
8 for value or acquired the interest without knowledge of the  
9 seizure of the property for forfeiture.

10 (b) The claimant's motion shall include specific facts  
11 supporting these assertions.

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

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

26 (2) At the hearing on the motion, it shall be the

1 burden of the claimant to prove each of the assertions  
2 listed in subsection (a) of this Section by a preponderance  
3 of the evidence.

4 (3) If a claimant meets his or her burden of proof, the  
5 court shall grant the motion and order the property  
6 returned to the claimant. If the claimant fails to meet his  
7 or her burden of proof, then the court shall deny the  
8 motion and the forfeiture case shall proceed according to  
9 the Code of Civil Procedure.

10 (720 ILCS 5/29B-15 new)

11 Sec. 29B-15. Burden and commencement of forfeiture action.

12 (a) Notwithstanding any other provision of this Article,  
13 the State's burden of proof at the trial of the forfeiture  
14 action shall be by clear and convincing evidence if:

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

18 (2) the State receives an adverse finding at a  
19 preliminary hearing and fails to secure an indictment in a  
20 criminal proceeding relating to the factual allegations of  
21 the forfeiture action.

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

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

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

13 (720 ILCS 5/29B-16 new)

14 Sec. 29B-16. Joint tenancy or tenancy in common. If  
15 property is ordered forfeited under this Section from a  
16 claimant who held title to the property in joint tenancy or  
17 tenancy in common with another claimant, the court shall  
18 determine the amount of each owner's interest in the property  
19 according to principles of property law.

20 (720 ILCS 5/29B-17 new)

21 Sec. 29B-17. Exception for bona fide purchasers. No  
22 property shall be forfeited under this Article from a person  
23 who, without actual or constructive notice that the property  
24 was the subject of forfeiture proceedings, obtained possession

1 of the property as a bona fide purchaser for value. A person  
2 who purports to affect transfer of property after receiving  
3 actual or constructive notice that the property is subject to  
4 seizure or forfeiture is guilty of contempt of court, and shall  
5 be liable to the State for a penalty in the amount of the fair  
6 market value of the property.

7 (720 ILCS 5/29B-18 new)

8 Sec. 29B-18. Proportionality. Property that is forfeited  
9 shall be subject to an 8th Amendment to the United States  
10 Constitution disproportionate penalties analysis and the  
11 property forfeiture may be denied in whole or in part if the  
12 court finds that the forfeiture would constitute an excessive  
13 fine in violation of the 8th Amendment as interpreted by case  
14 law.

15 (720 ILCS 5/29B-19 new)

16 Sec. 29B-19. Stay of time periods. If property is seized  
17 for evidence and for forfeiture, the time periods for  
18 instituting judicial and non-judicial forfeiture proceedings  
19 shall not begin until the property is no longer necessary for  
20 evidence.

21 (720 ILCS 5/29B-20 new)

22 Sec. 29B-20. Settlement of claims. Notwithstanding other  
23 provisions of this Article, the State's Attorney and a claimant

1 of seized property may enter into an agreed-upon settlement  
2 concerning the seized property in such an amount and upon such  
3 terms as are set out in writing in a settlement agreement. All  
4 proceeds from a settlement agreement shall be tendered to the  
5 Department of State Police and distributed under Section 29B-26  
6 of this Article.

7 (720 ILCS 5/29B-21 new)

8 Sec. 29B-21. Attorney's fees. Nothing in this Article  
9 applies to property that constitutes reasonable bona fide  
10 attorney's fees paid to an attorney for services rendered or to  
11 be rendered in the forfeiture proceeding or criminal proceeding  
12 relating directly thereto if the property was paid before its  
13 seizure, before the issuance of any seizure warrant or court  
14 order prohibiting transfer of the property and if the attorney,  
15 at the time he or she received the property did not know that  
16 it was property subject to forfeiture under this Article.

17 (720 ILCS 5/29B-22 new)

18 Sec. 29B-22. Construction.

19 (a) It is the intent of the General Assembly that the  
20 forfeiture provisions of this Article be liberally construed so  
21 as to effect their remedial purpose. The forfeiture of property  
22 and other remedies under this Article shall be considered to be  
23 in addition to, and not exclusive of, any sentence or other  
24 remedy provided by law.

1       (b) The changes made to this Article by Public Act 100-0512  
2 and this amendatory Act of the 100th General Assembly are  
3 subject to Section 2 of the Statute on Statutes.

4       (720 ILCS 5/29B-23 new)

5       Sec. 29B-23. Judicial review. If property has been declared  
6 forfeited under Section 29B-12 of this Article, any person who  
7 has an interest in the property declared forfeited may, within  
8 30 days after the effective date of the notice of the  
9 declaration of forfeiture, file a claim as described in  
10 paragraph (3) of Section 29B-12 of this Article. If a claim is  
11 filed under this Section, then the procedures described in  
12 Section of 29B-13 of this Article apply.

13       (720 ILCS 5/29B-24 new)

14       Sec. 29B-24. Review of administrative decisions. All  
15 administrative findings, rulings, final determinations,  
16 findings, and conclusions of the State's Attorney's Office  
17 under this Article are final and conclusive decisions of the  
18 matters involved. Any person aggrieved by the decision may  
19 obtain review of the decision under the provisions of the  
20 Administrative Review Law and the rules adopted under that Law.  
21 Pending final decision on such review, the administrative acts,  
22 orders, and rulings of the State's Attorney's Office remain in  
23 full force and effect unless modified or suspended by order of  
24 court pending final judicial decision. Pending final decision

1 on such review, the acts, orders, and rulings of the State's  
2 Attorney's Office remain in full force and effect, unless  
3 stayed by order of court. However, no stay of any decision of  
4 the administrative agency shall issue unless the person  
5 aggrieved by the decision establishes by a preponderance of the  
6 evidence that good cause exists for the stay. In determining  
7 good cause, the court shall find that the aggrieved party has  
8 established a substantial likelihood of prevailing on the  
9 merits and that granting the stay will not have an injurious  
10 effect on the general public.

11 (720 ILCS 5/29B-25 new)

12 Sec. 29B-25. Return of property, damages, and costs.

13 (a) The law enforcement agency that holds custody of  
14 property seized for forfeiture shall deliver property ordered  
15 by the court to be returned or conveyed to the claimant within  
16 a reasonable time not to exceed 7 days, unless the order is  
17 stayed by the trial court or a reviewing court pending an  
18 appeal, motion to reconsider, or other reason.

19 (b) The law enforcement agency that holds custody of  
20 property is responsible for any damages, storage fees, and  
21 related costs applicable to property returned. The claimant  
22 shall not be subject to any charges by the State for storage of  
23 the property or expenses incurred in the preservation of the  
24 property. Charges for the towing of a conveyance shall be borne  
25 by the claimant unless the conveyance was towed for the sole



1 reason of seizure for forfeiture. This Section does not  
2 prohibit the imposition of any fees or costs by a home rule  
3 unit of local government related to the impoundment of a  
4 conveyance under an ordinance enacted by the unit of  
5 government.

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

17 (d) A claimant or a party interested in personal property  
18 contained within a seized conveyance may file a request with  
19 the State's Attorney in a non-judicial forfeiture action, or a  
20 motion with the court in a judicial forfeiture action for the  
21 return of any personal property contained within a conveyance  
22 that is seized under this Article. The return of personal  
23 property shall not be unreasonably withheld if the personal  
24 property is not mechanically or electrically coupled to the  
25 conveyance, needed for evidentiary purposes, or otherwise  
26 contraband. Any law enforcement agency that returns property

1 under a court order under this Section shall not be liable to  
2 any person who claims ownership to the property if it is  
3 returned to an improper party.

4 (720 ILCS 5/29B-26 new)

5 Sec. 29B-26. Distribution of proceeds.

6 All monies and the sale proceeds of all other property  
7 forfeited and seized under this Article shall be distributed as  
8 follows:

9 (1) 65% shall be distributed to the metropolitan  
10 enforcement group, local, municipal, county, or State law  
11 enforcement agency or agencies that conducted or  
12 participated in the investigation resulting in the  
13 forfeiture. The distribution shall bear a reasonable  
14 relationship to the degree of direct participation of the  
15 law enforcement agency in the effort resulting in the  
16 forfeiture, taking into account the total value of the  
17 property forfeited and the total law enforcement effort  
18 with respect to the violation of the law upon which the  
19 forfeiture is based. Amounts distributed to the agency or  
20 agencies shall be used for the enforcement of laws.

21 (2) (i) 12.5% shall be distributed to the Office of the  
22 State's Attorney of the county in which the prosecution  
23 resulting in the forfeiture was instituted, deposited in a  
24 special fund in the county treasury and appropriated to the  
25 State's Attorney for use in the enforcement of laws. In

1 counties over 3,000,000 population, 25% shall be  
2 distributed to the Office of the State's Attorney for use  
3 in the enforcement of laws. If the prosecution is  
4 undertaken solely by the Attorney General, the portion  
5 provided under this subparagraph (i) shall be distributed  
6 to the Attorney General for use in the enforcement of laws.

7 (ii) 12.5% shall be distributed to the Office of the  
8 State's Attorneys Appellate Prosecutor and deposited in  
9 the Narcotics Profit Forfeiture Fund of that office to be  
10 used for additional expenses incurred in the  
11 investigation, prosecution, and appeal of cases arising  
12 under laws. The Office of the State's Attorneys Appellate  
13 Prosecutor shall not receive distribution from cases  
14 brought in counties with over 3,000,000 population.

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

18 Moneys and the sale proceeds distributed to the Department  
19 of State Police under this Article shall be deposited in the  
20 Money Laundering Asset Recovery Fund created in the State  
21 treasury and shall be used by the Department of State Police  
22 for State law enforcement purposes. All moneys and sale  
23 proceeds of property forfeited and seized under this Article  
24 and distributed according to this Section may also be used to  
25 purchase opioid antagonists as defined in Section 5-23 of the  
26 Alcoholism and Other Drug Abuse and Dependency Act.

1 (720 ILCS 5/29B-27 new)

2 Sec. 29B-27. Applicability; savings clause.

3 (a) The changes made to this Article by Public Act 100-0512  
4 and this amendatory Act of the 100th General Assembly only  
5 apply to property seized on and after July 1, 2018.

6 (b) The changes made to this Article by this amendatory Act  
7 of the 100th General Assembly are subject to Section 4 of the  
8 Statute on Statutes.

9 (720 ILCS 5/33G-6)

10 (Text of Section before amendment by P.A. 100-512)

11 (Section scheduled to be repealed on June 11, 2022)

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

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

17 (1) ordering any person to disgorge illicit proceeds  
18 obtained by a violation of this Article or divest himself  
19 or herself of any interest, direct or indirect, in any  
20 enterprise or real or personal property of any character,  
21 including money, obtained, directly or indirectly, by a  
22 violation of this Article;

23 (2) imposing reasonable restrictions on the future  
24 activities or investments of any person or enterprise,

1 including prohibiting any person or enterprise from  
2 engaging in the same type of endeavor as the person or  
3 enterprise engaged in, that violated this Article; or

4 (3) ordering dissolution or reorganization of any  
5 enterprise, making due provision for the rights of innocent  
6 persons.

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

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

11 (Text of Section after amendment by P.A. 100-512)

12 (Section scheduled to be repealed on June 11, 2022)

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

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

18 (1) ordering any person to disgorge illicit proceeds  
19 obtained by a violation of this Article or divest himself  
20 or herself of any interest, direct or indirect, in any  
21 enterprise or real or personal property of any character,  
22 including money, obtained, directly or indirectly, by a  
23 violation of this Article;

24 (2) imposing reasonable restrictions on the future  
25 activities or investments of any person or enterprise,

1 including prohibiting any person or enterprise from  
2 engaging in the same type of endeavor as the person or  
3 enterprise engaged in, that violated this Article; or

4 (3) ordering dissolution or reorganization of any  
5 enterprise, making due provision for the rights of innocent  
6 persons.

7 (b) Any violation of this Article is subject to the  
8 remedies, procedures, and forfeiture as set forth in Article  
9 29B ~~subsections (f) through (s) of Section 29B-1~~ of this Code.

10 (c) Property seized or forfeited under this Article is  
11 subject to reporting under the Seizure and Forfeiture Reporting  
12 Act.

13 (Source: P.A. 100-512, eff. 7-1-18.)

14 (720 ILCS 5/36-1.1)

15 (This Section may contain text from a Public Act with a  
16 delayed effective date)

17 Sec. 36-1.1. Seizure.

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

22 (b) Any property subject to forfeiture under this Article  
23 may be seized and impounded by the Director of State Police or  
24 any peace officer without process if there is probable cause to  
25 believe that the property is subject to forfeiture under

1 Section 36-1 of this Article and the property is seized under  
2 circumstances in which a warrantless seizure or arrest would be  
3 reasonable.

4 (c) If the seized property is a conveyance, 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 to or  
8 interest in ~~to~~ the conveyance is required by law to be  
9 recorded.

10 (d) After seizure under this Section, notice shall be given  
11 to all known interest holders that forfeiture proceedings,  
12 including a preliminary review, may be instituted and the  
13 proceedings may be instituted under this Article.

14 (Source: P.A. 100-512, eff. 7-1-18.)

15 (720 ILCS 5/36-1.3)

16 (This Section may contain text from a Public Act with a  
17 delayed effective date)

18 Sec. 36-1.3. Safekeeping of seized property pending  
19 disposition.

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

25 (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 shall forward a  
3 copy of the inventory of seized property and the estimate of  
4 the property's value to the Director of State Police. Upon  
5 receiving notice of seizure, the Director of State Police may:

6 (1) place the property under seal;

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

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

11 (4) remove the property to a storage area for  
12 safekeeping; ~~or~~

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

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

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

25 (d) Property seized or forfeited under this Article is  
26 subject to reporting under the Seizure and Forfeiture Reporting



1 Act.

2 (Source: P.A. 100-512, eff. 7-1-18.)

3 (720 ILCS 5/36-1.4)

4 (This Section may contain text from a Public Act with a  
5 delayed effective date)

6 Sec. 36-1.4. Notice to State's Attorney. The law  
7 enforcement agency seizing property for forfeiture under this  
8 Article shall, as soon as practicable but not later than 28  
9 days after the seizure, notify the State's Attorney for the  
10 county in which an act or omission giving rise to the seizure  
11 occurred or in which the property was seized and the facts and  
12 circumstances giving rise to the seizure, and shall provide the  
13 State's Attorney with the inventory of the property and its  
14 estimated value. The notice shall be by the delivery of  
15 Illinois State Police Notice/Inventory of Seized Property  
16 (Form 4-64) ~~the form 4-64~~. If the property seized for  
17 forfeiture is a vehicle, the law enforcement agency seizing the  
18 property shall immediately notify the Secretary of State that  
19 forfeiture proceedings are pending regarding the vehicle.

20 (Source: P.A. 100-512, eff. 7-1-18.)

21 (720 ILCS 5/36-1.5)

22 (Text of Section before amendment by P.A. 100-512)

23 Sec. 36-1.5. Preliminary review.

24 (a) Within 14 days of the seizure, the State's Attorney in

1 the county in which the seizure occurred shall seek a  
2 preliminary determination from the circuit court as to whether  
3 there is probable cause that the property may be subject to  
4 forfeiture.

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

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

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

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

22 For seizures of conveyances, within 7 days of a finding of  
23 probable cause under subsection (a), the registered owner or  
24 other claimant may file a motion in writing supported by sworn  
25 affidavits claiming that denial of the use of the conveyance  
26 during the pendency of the forfeiture proceedings creates a

1 substantial hardship. The court shall consider the following  
2 factors in determining whether a substantial hardship has been  
3 proven:

4 (1) the nature of the claimed hardship;

5 (2) the availability of public transportation or other  
6 available means of transportation; and

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

9 If the court determines that a substantial hardship has  
10 been proven, the court shall then balance the nature of the  
11 hardship against the State's interest in safeguarding the  
12 conveyance. If the court determines that the hardship outweighs  
13 the State's interest in safeguarding the conveyance, the court  
14 may temporarily release the conveyance to the registered owner  
15 or the registered owner's authorized designee, or both, until  
16 the conclusion of the forfeiture proceedings or for such  
17 shorter period as ordered by the court provided that the person  
18 to whom the conveyance is released provides proof of insurance  
19 and a valid driver's license and all State and local  
20 registrations for operation of the conveyance are current. The  
21 court shall place conditions on the conveyance limiting its use  
22 to the stated hardship and restricting the conveyance's use to  
23 only those individuals authorized to use the conveyance by the  
24 registered owner. The court shall revoke the order releasing  
25 the conveyance and order that the conveyance be resealed by law  
26 enforcement if the conditions of release are violated or if the

1 conveyance is used in the commission of any offense identified  
2 in subsection (a) of Section 6-205 of the Illinois Vehicle  
3 Code.

4 If the court orders the release of the conveyance during  
5 the pendency of the forfeiture proceedings, the registered  
6 owner or his or her authorized designee shall post a cash  
7 security with the Clerk of the Court as ordered by the court.  
8 The court shall consider the following factors in determining  
9 the amount of the cash security:

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

11 (B) the nature of the hardship;

12 (C) the extent and length of the usage of the  
13 conveyance; and

14 (D) such other conditions as the court deems necessary  
15 to safeguard the conveyance.

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

25 If the conveyance subject to forfeiture is released under  
26 this Section and is subsequently forfeited, the person to whom

1 the conveyance was released shall return the conveyance to the  
2 law enforcement agency that seized the conveyance within 7 days  
3 from the date of the declaration of forfeiture or order of  
4 forfeiture. If the conveyance is not returned within 7 days,  
5 the cash security shall be forfeited in the same manner as the  
6 conveyance subject to forfeiture. If the cash security was less  
7 than the full market value, a judgment shall be entered against  
8 the parties to whom the conveyance was released and the  
9 registered owner, jointly and severally, for the difference  
10 between the full market value and the amount of the cash  
11 security. If the conveyance is returned in a condition other  
12 than the condition in which it was released, the cash security  
13 shall be returned to the surety who posted the security minus  
14 the amount of the diminished value, and that amount shall be  
15 forfeited in the same manner as the conveyance subject to  
16 forfeiture. Additionally, the court may enter an order allowing  
17 any law enforcement agency in the State of Illinois to seize  
18 the conveyance wherever it may be found in the State to satisfy  
19 the judgment if the cash security was less than the full market  
20 value of the conveyance.

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

23 (Text of Section after amendment by P.A. 100-512)

24 Sec. 36-1.5. Preliminary review.

25 (a) Within 14 days of the seizure, the State's Attorney of

1 ~~in~~ the county in which the seizure occurred shall seek a  
2 preliminary determination from the circuit court as to whether  
3 there is probable cause that the property may be subject to  
4 forfeiture.

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

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

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

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

22 For seizures of conveyances, within 28 days of a finding of  
23 probable cause under subsection (a) of this Section, the  
24 registered owner or other claimant may file a motion in writing  
25 supported by sworn affidavits claiming that denial of the use  
26 of the conveyance during the pendency of the forfeiture

1 proceedings creates a substantial hardship and alleges facts  
2 showing that the hardship ~~delay~~ was not due to his or her  
3 culpable negligence. The court shall consider the following  
4 factors in determining whether a substantial hardship has been  
5 proven:

6 (1) the nature of the claimed hardship;

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

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

11 If the court determines that a substantial hardship has  
12 been proven, the court shall then balance the nature of the  
13 hardship against the State's interest in safeguarding the  
14 conveyance. If the court determines that the hardship outweighs  
15 the State's interest in safeguarding the conveyance, the court  
16 may temporarily release the conveyance to the registered owner  
17 or the registered owner's authorized designee, or both, until  
18 the conclusion of the forfeiture proceedings or for such  
19 shorter period as ordered by the court provided that the person  
20 to whom the conveyance is released provides proof of insurance  
21 and a valid driver's license and all State and local  
22 registrations for operation of the conveyance are current. The  
23 court shall place conditions on the conveyance limiting its use  
24 to the stated hardship and providing transportation for  
25 employment, religious purposes, medical needs, child care, and  
26 restricting the conveyance's use to only those individuals

1 authorized to use the conveyance by the registered owner. The  
2 use of the vehicle shall be further restricted to exclude all  
3 recreational and entertainment purposes. The court may order  
4 additional restrictions it deems reasonable and just on its own  
5 motion or on motion of the People. The court shall revoke the  
6 order releasing the conveyance and order that the conveyance be  
7 reseized by law enforcement if the conditions of release are  
8 violated or if the conveyance is used in the commission of any  
9 offense identified in subsection (a) of Section 6-205 of the  
10 Illinois Vehicle Code.

11 If the court orders the release of the conveyance during  
12 the pendency of the forfeiture proceedings, the court may order  
13 the registered owner or his or her authorized designee to post  
14 a cash security with the clerk ~~Clerk~~ of the court ~~Court~~ as  
15 ordered by the court. If cash security is ordered, the court  
16 shall consider the following factors in determining the amount  
17 of the cash security:

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

19 (B) the nature of the hardship;

20 (C) the extent and length of the usage of the  
21 conveyance;

22 (D) the ability of the owner or designee to pay; and

23 (E) other conditions as the court deems necessary to  
24 safeguard the conveyance.

25 If the conveyance is released, the court shall order that  
26 the registered owner or his or her designee safeguard the



1 conveyance, not remove the conveyance from the jurisdiction,  
2 not conceal, destroy, or otherwise dispose of the conveyance,  
3 not encumber the conveyance, and not diminish the value of the  
4 conveyance in any way. The court shall also make a  
5 determination of the full market value of the conveyance prior  
6 to it being released based on a source or sources defined in 50  
7 Ill. Adm. Code 919.80(c) (2) (A) or 919.80(c) (2) (B).

8 If the conveyance subject to forfeiture is released under  
9 this Section and is subsequently forfeited, the person to whom  
10 the conveyance was released shall return the conveyance to the  
11 law enforcement agency that seized the conveyance within 7 days  
12 from the date of the declaration of forfeiture or order of  
13 forfeiture. If the conveyance is not returned within 7 days,  
14 the cash security shall be forfeited in the same manner as the  
15 conveyance subject to forfeiture. If the cash security was less  
16 than the full market value, a judgment shall be entered against  
17 the parties to whom the conveyance was released and the  
18 registered owner, jointly and severally, for the difference  
19 between the full market value and the amount of the cash  
20 security. If the conveyance is returned in a condition other  
21 than the condition in which it was released, the cash security  
22 shall be returned to the surety who posted the security minus  
23 the amount of the diminished value, and that amount shall be  
24 forfeited in the same manner as the conveyance subject to  
25 forfeiture. Additionally, the court may enter an order allowing  
26 any law enforcement agency in the State of Illinois to seize

1 the conveyance wherever it may be found in the State to satisfy  
2 the judgment if the cash security was less than the full market  
3 value of the conveyance.

4 (Source: P.A. 100-512, eff. 7-1-18.)

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

6 (Text of Section before amendment by P.A. 100-512)

7 Sec. 36-2. Action for forfeiture.

8 (a) The State's Attorney in the county in which such  
9 seizure occurs if he or she finds that the forfeiture was  
10 incurred without willful negligence or without any intention on  
11 the part of the owner of the vessel or watercraft, vehicle or  
12 aircraft or any person whose right, title or interest is of  
13 record as described in Section 36-1, to violate the law, or  
14 finds the existence of such mitigating circumstances as to  
15 justify remission of the forfeiture, may cause the law  
16 enforcement agency to remit the same upon such terms and  
17 conditions as the State's Attorney deems reasonable and just.  
18 The State's Attorney shall exercise his or her discretion under  
19 the foregoing provision of this Section 36-2(a) prior to or  
20 promptly after the preliminary review under Section 36-1.5.

21 (b) If the State's Attorney does not cause the forfeiture  
22 to be remitted he or she shall forthwith bring an action for  
23 forfeiture in the Circuit Court within whose jurisdiction the  
24 seizure and confiscation has taken place. The State's Attorney  
25 shall give notice of seizure and the forfeiture proceeding to

1 each person according to the following method: upon each person  
2 whose right, title, or interest is of record in the office of  
3 the Secretary of State, the Secretary of Transportation, the  
4 Administrator of the Federal Aviation Agency, or any other  
5 department of this State, or any other state of the United  
6 States if the vessel or watercraft, vehicle, or aircraft is  
7 required to be so registered, as the case may be, by delivering  
8 the notice and complaint in open court or by certified mail to  
9 the address as given upon the records of the Secretary of  
10 State, the Division of Aeronautics of the Department of  
11 Transportation, the Capital Development Board, or any other  
12 department of this State or the United States if the vessel or  
13 watercraft, vehicle, or aircraft is required to be so  
14 registered.

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

21 (d) The State shall show at such hearing by a preponderance  
22 of the evidence, that such vessel or watercraft, vehicle, or  
23 aircraft was used in the commission of an offense described in  
24 Section 36-1.

25 (e) The owner of such vessel or watercraft, vehicle, or  
26 aircraft or any person whose right, title, or interest is of

1 record as described in Section 36-1, may show by a  
2 preponderance of the evidence that he did not know, and did not  
3 have reason to know, that the vessel or watercraft, vehicle, or  
4 aircraft was to be used in the commission of such an offense or  
5 that any of the exceptions set forth in Section 36-3 are  
6 applicable.

7 (f) Unless the State shall make such showing, the Court  
8 shall order such vessel or watercraft, vehicle, or aircraft  
9 released to the owner. Where the State has made such showing,  
10 the Court may order the vessel or watercraft, vehicle, or  
11 aircraft destroyed or may order it forfeited to any local,  
12 municipal or county law enforcement agency, or the Department  
13 of State Police or the Department of Revenue of the State of  
14 Illinois.

15 (g) A copy of the order shall be filed with the law  
16 enforcement agency, and with each Federal or State office or  
17 agency with which such vessel or watercraft, vehicle, or  
18 aircraft is required to be registered. Such order, when filed,  
19 constitutes authority for the issuance of clear title to such  
20 vessel or watercraft, vehicle, or aircraft, to the department  
21 or agency to whom it is delivered or any purchaser thereof. The  
22 law enforcement agency shall comply promptly with instructions  
23 to remit received from the State's Attorney or Attorney General  
24 in accordance with Sections 36-2(a) or 36-3.

25 (h) The proceeds of any sale at public auction pursuant to  
26 Section 36-2 of this Act, after payment of all liens and

1 deduction of the reasonable charges and expenses incurred by  
2 the State's Attorney's Office shall be paid to the law  
3 enforcement agency having seized the vehicle for forfeiture.

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

6 (Text of Section after amendment by P.A. 100-512)

7 Sec. 36-2. Complaint for forfeiture.

8 (a) If the State's Attorney of ~~in~~ the county in which such  
9 seizure occurs finds that the alleged violation of law giving  
10 rise to the seizure was incurred without willful negligence or  
11 without any intention on the part of the owner of the vessel or  
12 watercraft, vehicle or aircraft or any person whose right,  
13 title or interest is of record as described in Section 36-1 of  
14 this Article, to violate the law, or finds the existence of  
15 such mitigating circumstances as to justify remission of the  
16 forfeiture, he or she may cause the law enforcement agency  
17 having custody of the property to return the property to the  
18 owner within a reasonable time not to exceed 7 days. The  
19 State's Attorney shall exercise his or her discretion under  
20 this subsection (a) prior to or promptly after the preliminary  
21 review under Section 36-1.5.

22 (b) If, after review of the facts surrounding the seizure,  
23 the State's Attorney is of the opinion that the seized property  
24 is subject to forfeiture and the State's Attorney does not  
25 cause the forfeiture to be remitted under subsection (a) of

1 this Section, he or she shall ~~forthwith~~ bring an action for  
2 forfeiture in the circuit court ~~Circuit Court~~ within whose  
3 jurisdiction the seizure and confiscation has taken place by  
4 filing a verified complaint for ~~of~~ forfeiture in the circuit  
5 court within whose jurisdiction the seizure occurred, or within  
6 whose jurisdiction an act or omission giving rise to the  
7 seizure occurred, subject to Supreme Court Rule 187. The  
8 complaint shall be filed as soon as practicable but not later  
9 ~~less~~ than 28 days after the State's Attorney receives notice  
10 from the seizing agency as provided ~~a finding of probable cause~~  
11 ~~at a preliminary review~~ under Section 36-1.4 ~~36-1.5~~ of this  
12 Article. A complaint of forfeiture 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; and
- 17 (4) the specific statutory and factual grounds for the  
18 seizure.

19 The complaint shall be served upon each person whose right,  
20 title, or interest is of record in the office of the Secretary  
21 of State, the Secretary of Transportation, the Administrator of  
22 the Federal Aviation Agency, or any other department of this  
23 State, or any other state of the United States if the vessel or  
24 watercraft, vehicle, or aircraft is required to be so  
25 registered, as the case may be, the person from whom the  
26 property was seized, and all persons known or reasonably

1 believed by the State to claim an interest in the property, as  
2 provided in this Article. The complaint shall be accompanied by  
3 the following written notice:

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

24 (c) (Blank).

25 (d) (Blank).

26 (e) (Blank).

1 (f) (Blank).

2 (g) (Blank).

3 (h) (Blank).

4 (Source: P.A. 99-78, eff. 7-20-15; 100-512, eff. 7-1-18.)

5 (720 ILCS 5/36-2.1)

6 (This Section may contain text from a Public Act with a  
7 delayed effective date)

8 Sec. 36-2.1. Notice to owner or interest holder. The first  
9 attempted service of notice shall be commenced within 28 days  
10 of the receipt of the notice from the seizing agency by Form  
11 ~~the form~~ 4-64. If the property seized is a conveyance, notice  
12 shall also be directed to the address reflected in the office  
13 of the agency or official in which title to or interest in ~~to~~  
14 the conveyance is required by law to be recorded. A complaint  
15 for forfeiture shall be served upon the property owner or  
16 interest holder in the following manner:

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

19 (A) personal service; or

20 (B) mailing a copy of the notice by certified mail,  
21 return receipt requested, and first class mail, to that  
22 address.

23 (i) If notice is sent by certified mail and no  
24 signed return receipt is received by the State's  
25 Attorney within 28 days of mailing, and no



1 communication from the owner or interest holder is  
2 received by the State's Attorney documenting  
3 actual notice by said parties, the State's  
4 Attorney shall, within a reasonable period of  
5 time, mail a second copy of the notice by certified  
6 mail, return receipt requested, and first class  
7 mail to that address.

8 (ii) If no signed return receipt is received by  
9 the State's Attorney within 28 days of the second  
10 attempt at service by certified mail, and no  
11 communication from the owner or interest holder is  
12 received by the State's Attorney documenting  
13 actual notice by said parties, the State's  
14 Attorney shall have 60 days to attempt to serve the  
15 notice by personal service, which also includes  
16 substitute service by leaving a copy at the usual  
17 place of abode, with some person of the family or a  
18 person residing there, of the age of 13 years or  
19 upwards. If, after 3 attempts at service in this  
20 manner, no service of the notice is accomplished,  
21 then the notice shall be posted in a conspicuous  
22 manner at this address and service shall be made by  
23 the posting.

24 The attempts at service and the posting if  
25 required, shall be documented by the person attempting  
26 service and said documentation shall be made part of a

1 return of service returned to the State's Attorney.

2 The State's Attorney may utilize a Sheriff or  
3 Deputy Sheriff, any peace officer, a private process  
4 server or investigator, or any employee, agent, or  
5 investigator of the State's Attorney's office to  
6 attempt service without seeking leave of court.

7 After the procedures are followed, service shall  
8 be effective on an owner or interest holder on the date  
9 of receipt by the State's Attorney of a ~~returned~~ return  
10 receipt ~~requested~~, or on the date of receipt of a  
11 communication from an owner or interest holder  
12 documenting actual notice, whichever is first in time,  
13 or on the date of the last act performed by the State's  
14 Attorney in attempting personal service under item  
15 (ii) of this paragraph (1). If notice is to be shown by  
16 actual notice from communication with a claimant, then  
17 the State's Attorney shall file an affidavit providing  
18 details of the communication, which shall be accepted  
19 as sufficient proof of service by the court.

20 For purposes of notice under this Section, if a  
21 person has been arrested for the conduct giving rise to  
22 the forfeiture, the address provided to the arresting  
23 agency at the time of arrest shall be deemed to be that  
24 person's known address. Provided, however, if an owner  
25 or interest holder's address changes prior to the  
26 effective date of the complaint for forfeiture, the

1 owner or interest holder shall promptly notify the  
2 seizing agency of the change in address or, if the  
3 owner or interest holder's address changes subsequent  
4 to the effective date of the notice of pending  
5 forfeiture, the owner or interest holder shall  
6 promptly notify the State's Attorney of the change in  
7 address; or if the property seized is a conveyance, to  
8 the address reflected in the office of the agency or  
9 official in which title to or interest in ~~to~~ the  
10 conveyance is required by law to be recorded.

11 (2) If the owner's or interest holder's address is not  
12 known, and is not on record, then notice shall be served by  
13 publication for 3 successive weeks in a newspaper of  
14 general circulation in the county in which the seizure  
15 occurred.

16 (3) Notice to any business entity, corporation,  
17 limited liability company, limited liability partnership  
18 ~~LLC, LLP~~, or partnership shall be completed ~~complete~~ by a  
19 single mailing of a copy of the notice by certified mail,  
20 return receipt requested, and first class mail ~~to~~ to that  
21 address. This notice is complete regardless of the return  
22 of a signed "return receipt ~~requested~~".

23 (4) Notice to a person whose address is not within the  
24 State shall be completed ~~complete~~ by a single mailing of a  
25 copy of the notice by certified mail, return receipt  
26 requested, and first class mail ~~to~~ to that address. This

1 notice is complete regardless of the return of a signed  
2 "~~return receipt requested~~".

3 (5) Notice to a person whose address is not within the  
4 United States shall be completed ~~complete~~ by a single  
5 mailing of a copy of the notice by certified mail, return  
6 receipt requested, and first class mail, to that address.  
7 This notice shall be complete regardless of the return of a  
8 signed "~~return receipt requested~~". If certified mail is not  
9 available in the foreign country where the person has an  
10 address, then notice shall proceed by publication under  
11 paragraph (2) of this Section.

12 (6) Notice to any person whom the State's Attorney  
13 reasonably should know is incarcerated within the State  
14 shall also include the mailing a copy of the notice by  
15 certified mail, return receipt requested, and first class  
16 mail, to the address of the detention facility with the  
17 inmate's name clearly marked on the envelope.

18 (Source: P.A. 100-512, eff. 7-1-18.)

19 (720 ILCS 5/36-2.2)

20 (This Section may contain text from a Public Act with a  
21 delayed effective date)

22 Sec. 36-2.2. Replevin prohibited; return of personal  
23 property inside seized conveyance.

24 (a) Property seized under this Article shall not be subject  
25 to replevin, but is deemed to be in the custody of the Director

1 of State Police, subject only to the order and judgments of the  
2 circuit court having jurisdiction over the forfeiture  
3 proceedings and the decisions of the State's Attorney.

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

16 (Source: P.A. 100-512, eff. 7-1-18.)

17 (720 ILCS 5/36-2.5)

18 (This Section may contain text from a Public Act with a  
19 delayed effective date)

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

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

23 (b) Only an owner of or interest holder in the property may  
24 file an answer asserting a claim against the property in the  
25 action in rem. For purposes of this Section, the owner or

1 interest holder shall be referred to as claimant. A person not  
2 named in the forfeiture complaint who claims to have an  
3 interest in the property may petition to intervene as a  
4 claimant under Section 2-408 of the Code of Civil Procedure.

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

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

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

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

12 (2) at least one of the following:

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

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

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

20 (f) Notwithstanding any other provision of this Section,  
21 the State's burden of proof at the trial of the forfeiture  
22 action shall be by clear and convincing evidence if:

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

26 (2) the State receives an adverse finding at a

1 preliminary hearing and fails to secure an indictment in a  
2 criminal proceeding related to the factual allegations of  
3 the forfeiture action.

4 (g) If the State does not meet its burden of proof, the  
5 court shall order the interest in the property returned or  
6 conveyed to the claimant and shall order all other property in  
7 which the State does meet its burden of proof forfeited to the  
8 State. If the State does meet its burden of proof, the court  
9 shall order all property forfeited to the State.

10 (h) A defendant convicted in any criminal proceeding is  
11 precluded from later denying the essential allegations of the  
12 criminal offense of which the defendant was convicted in any  
13 proceeding under this Article regardless of the pendency of an  
14 appeal from that conviction. However, evidence of the pendency  
15 of an appeal is admissible.

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

23 (j) Title to all property declared forfeited under this Act  
24 vests in this State on the commission of the conduct giving  
25 rise to forfeiture together with the proceeds of the property  
26 after that time. Except as otherwise provided in this Article,

1 any property or proceeds subsequently transferred to any person  
2 remain subject to forfeiture unless a person to whom the  
3 property was transferred makes an appropriate claim under or  
4 has the ~~their~~ claim adjudicated at the judicial in rem hearing.

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

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

21 (m) If property is ordered forfeited under this Article  
22 from a claimant who held title to the property in joint tenancy  
23 or tenancy in common with another claimant, the court shall  
24 determine the amount of each owner's interest in the property  
25 according to principles of property law.

26 (Source: P.A. 100-512, eff. 7-1-18.)



1 (720 ILCS 5/36-2.7)

2 (This Section may contain text from a Public Act with a  
3 delayed effective date)

4 Sec. 36-2.7. Innocent owner hearing.

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

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

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

16 ~~(b)~~ The claimant's motion ~~claimant~~ shall include specific  
17 facts ~~that which~~ support these assertions ~~in their motion~~.

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

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

7        (d) ~~(e)~~ At the hearing on the motion, the claimant shall  
8 bear the burden of proving each of the assertions listed in  
9 subsection (a) of this Section by a preponderance of the  
10 evidence. ~~(f)~~ If a claimant meets the ~~their~~ burden of proof,  
11 the court shall grant the motion and order the conveyance  
12 returned to the claimant. If the claimant fails to meet the  
13 ~~their~~ burden of proof, the court shall deny the motion and the  
14 forfeiture case shall proceed according to the Code Rules of  
15 Civil Procedure.

16        (Source: P.A. 100-512, eff. 7-1-18.)

17        (720 ILCS 5/36-7)

18        (This Section may contain text from a Public Act with a  
19 delayed effective date)

20        Sec. 36-7. Distribution of proceeds; selling or retaining  
21 seized property prohibited.

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

25        (b) The Department of State Police or its designee shall

1 dispose of all property at public auction and shall distribute  
2 the proceeds of the sale, together with any moneys forfeited or  
3 seized, under subsection (c) of this Section.

4 (c) All moneys ~~monies~~ and the sale proceeds of all other  
5 property forfeited and seized under this Act shall be  
6 distributed as follows:

7 (1) 65% shall be distributed to the drug task force,  
8 metropolitan enforcement group, local, municipal, county,  
9 or State ~~state~~ law enforcement agency or agencies that  
10 ~~which~~ conducted or participated in the investigation  
11 resulting in the forfeiture. The distribution shall bear a  
12 reasonable relationship to the degree of direct  
13 participation of the law enforcement agency in the effort  
14 resulting in the forfeiture, taking into account the total  
15 value of the property forfeited and the total law  
16 enforcement effort with respect to the violation of the law  
17 upon which the forfeiture is based. Amounts distributed to  
18 the agency or agencies shall be used, at the discretion of  
19 the agency, for the enforcement of criminal laws; or for  
20 public education in the community or schools in the  
21 prevention or detection of the abuse of drugs or alcohol;  
22 or for security cameras used for the prevention or  
23 detection of violence, except that amounts distributed to  
24 the Secretary of State shall be deposited into the  
25 Secretary of State Evidence Fund to be used as provided in  
26 Section 2-115 of the Illinois Vehicle Code.

1 Any local, municipal, or county law enforcement agency  
2 entitled to receive a monetary distribution of forfeiture  
3 proceeds may share those forfeiture proceeds pursuant to  
4 the terms of an intergovernmental agreement with a  
5 municipality that has a population in excess of 20,000 if:

6 (A) the receiving agency has entered into an  
7 intergovernmental agreement with the municipality to  
8 provide police services;

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

12 (C) the seizure took place within the geographical  
13 limits of the municipality; and

14 (D) the funds are used only for the enforcement of  
15 criminal laws; for public education in the community or  
16 schools in the prevention or detection of the abuse of  
17 drugs or alcohol; or for security cameras used for the  
18 prevention or detection of violence or the  
19 establishment of a municipal police force, including  
20 the training of officers, construction of a police  
21 station, the purchase of law enforcement equipment, or  
22 vehicles.

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

23 12.5% shall be distributed to the Office of the State's  
24 Attorneys Appellate Prosecutor and shall be used at the  
25 discretion of the State's Attorneys Appellate Prosecutor  
26 for additional expenses incurred in the investigation,

1 prosecution and appeal of cases arising in the enforcement  
2 of criminal laws; or for public education in the community  
3 or schools in the prevention or detection of the abuse of  
4 drugs or alcohol. The Office of the State's Attorneys  
5 Appellate Prosecutor shall not receive distribution from  
6 cases brought in counties with over 3,000,000 population.

7 (3) 10% shall be retained by the Department of State  
8 Police for expenses related to the administration and sale  
9 of seized and forfeited property.

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

21 (Source: P.A. 100-512, eff. 7-1-18.)

22 (720 ILCS 5/36-10 new)

23 Sec. 36-10. Applicability; savings clause.

24 (a) The changes made to this Article by Public Act 100-0512  
25 and this amendatory Act of the 100th General Assembly only

1 apply to property seized on and after July 1, 2018.

2 (b) The changes made to this Article by this amendatory Act  
3 of the 100th General Assembly are subject to Section 4 of the  
4 Statute on Statutes.

5 Section 25. The Cannabis Control Act is amended by changing  
6 Section 12 as follows:

7 (720 ILCS 550/12) (from Ch. 56 1/2, par. 712)

8 (Text of Section before amendment by P.A. 100-512)

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

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

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

17 (3) all conveyances, including aircraft, vehicles or  
18 vessels, which are used, or intended for use, to transport,  
19 or in any manner to facilitate the transportation, sale,  
20 receipt, possession, or concealment of property described  
21 in paragraph (1) or (2) that constitutes a felony violation  
22 of the Act, but:

23 (i) no conveyance used by any person as a common  
24 carrier in the transaction of business as a common

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

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

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

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

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

23 (6) all real property, including any right, title, and  
24 interest including, but not limited to, any leasehold  
25 interest or the beneficial interest to a land trust, in the  
26 whole of any lot or tract of land and any appurtenances or



1 improvements, that is used or intended to be used to  
2 facilitate the manufacture, distribution, sale, receipt,  
3 or concealment of property described in paragraph (1) or  
4 (2) of this subsection (a) that constitutes a felony  
5 violation of more than 2,000 grams of a substance  
6 containing cannabis or that is the proceeds of any felony  
7 violation of this Act.

8 (b) Property subject to forfeiture under this Act may be  
9 seized by the Director or any peace officer upon process or  
10 seizure warrant issued by any court having jurisdiction over  
11 the property. Seizure by the Director or any peace officer  
12 without process may be made:

13 (1) 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 Act or the Drug Asset Forfeiture  
17 Procedure Act;

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

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

25 (4) in accordance with the Code of Criminal Procedure  
26 of 1963.

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

9           (c-1) In the event the State's Attorney is of the opinion  
10 that real property is subject to forfeiture under this Act,  
11 forfeiture proceedings shall be instituted in accordance with  
12 the Drug Asset Forfeiture Procedure Act. The exemptions from  
13 forfeiture provisions of Section 8 of the Drug Asset Forfeiture  
14 Procedure Act are applicable.

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

26           (1) place the property under seal;

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

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

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

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

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

17 (e) No disposition may be made of property under seal until  
18 the time for taking an appeal has elapsed or until all appeals  
19 have been concluded unless a court, upon application therefor,  
20 orders the sale of perishable substances and the deposit of the  
21 proceeds of the sale with the court.

22 (f) When property is forfeited under this Act the Director  
23 shall sell all such property unless such property is required  
24 by law to be destroyed or is harmful to the public, and shall  
25 distribute the proceeds of the sale, together with any moneys  
26 forfeited or seized, in accordance with subsection (g).

1 However, upon the application of the seizing agency or  
2 prosecutor who was responsible for the investigation, arrest or  
3 arrests and prosecution which lead to the forfeiture, the  
4 Director may return any item of forfeited property to the  
5 seizing agency or prosecutor for official use in the  
6 enforcement of laws relating to cannabis or controlled  
7 substances, if the agency or prosecutor can demonstrate that  
8 the item requested would be useful to the agency or prosecutor  
9 in their enforcement efforts. When any forfeited conveyance,  
10 including an aircraft, vehicle, or vessel, is returned to the  
11 seizing agency or prosecutor, the conveyance may be used  
12 immediately in the enforcement of the criminal laws of this  
13 State. Upon disposal, all proceeds from the sale of the  
14 conveyance must be used for drug enforcement purposes. When any  
15 real property returned to the seizing agency is sold by the  
16 agency or its unit of government, the proceeds of the sale  
17 shall be delivered to the Director and distributed in  
18 accordance with subsection (g).

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

22 (1) (i) 65% shall be distributed to the metropolitan  
23 enforcement group, local, municipal, county, or state law  
24 enforcement agency or agencies which conducted or  
25 participated in the investigation resulting in the  
26 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. Amounts distributed to the agency or  
7 agencies shall be used for 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 for security  
11 cameras used for the prevention or detection of violence,  
12 except that amounts distributed to the Secretary of State  
13 shall be deposited into the Secretary of State Evidence  
14 Fund to be used as provided in Section 2-115 of the  
15 Illinois Vehicle Code.

16 (ii) Any local, municipal, or county law enforcement  
17 agency entitled to receive a monetary distribution of  
18 forfeiture proceeds may share those forfeiture proceeds  
19 pursuant to the terms of an intergovernmental agreement  
20 with a municipality that has a population in excess of  
21 20,000 if:

22 (I) the receiving agency has entered into an  
23 intergovernmental agreement with the municipality to  
24 provide police services;

25 (II) the intergovernmental agreement for police  
26 services provides for consideration in an amount of not

1 less than \$1,000,000 per year;

2 (III) the seizure took place within the  
3 geographical limits of the municipality; and

4 (IV) the funds are used only for the enforcement of  
5 laws governing cannabis and controlled substances; for  
6 public education in the community or schools in the  
7 prevention or detection of the abuse of drugs or  
8 alcohol; or for security cameras used for the  
9 prevention or detection of violence or the  
10 establishment of a municipal police force, including  
11 the training of officers, construction of a police  
12 station, the purchase of law enforcement equipment, or  
13 vehicles.

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

1 in the enforcement of laws governing cannabis and  
2 controlled substances; for public education in the  
3 community or schools in the prevention or detection of the  
4 abuse of drugs or alcohol; or at the discretion of the  
5 State's Attorney, in addition to other authorized  
6 purposes, to make grants to local substance abuse treatment  
7 facilities and half-way houses. If the prosecution is  
8 undertaken solely by the Attorney General, the portion  
9 provided hereunder shall be distributed to the Attorney  
10 General for use in the enforcement of laws governing  
11 cannabis and controlled substances.

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

23 (3) 10% shall be retained by the Department of State  
24 Police for expenses related to the administration and sale  
25 of seized and forfeited property.

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

1 (Text of Section after amendment by P.A. 100-512)

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

3 (1) (blank);

4 (2) all raw materials, products, and equipment of any  
5 kind which are produced, delivered, or possessed in  
6 connection with any substance containing cannabis in a  
7 felony 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 any substance  
12 containing cannabis or property described in paragraph (2)  
13 of this subsection (a) that constitutes a felony violation  
14 of 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 violation;

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 knowledge or consent;

25 (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 neither had knowledge of nor  
3           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 for  
7           use in a felony violation 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 this Act, all proceeds traceable to such an  
11          exchange, and all moneys, negotiable instruments, and  
12          securities used, or intended to be used, to commit or in  
13          any manner to facilitate any felony violation of this Act;

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

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

1 event of seizure, forfeiture proceedings shall be instituted  
2 under the Drug Asset Forfeiture Procedure Act.

3 (c) Forfeiture under this Act is subject to ~~subject to~~ an  
4 8th Amendment ~~amendment~~ to the United States Constitution  
5 disproportionate penalties analysis as provided under Section  
6 9.5 of the Drug Asset Forfeiture Procedure Act.

7 (c-1) With regard to possession of cannabis offenses only,  
8 a sum of currency with a value of less than \$500 shall not be  
9 subject to forfeiture under this Act. For all other offenses  
10 under this Act, a sum of currency with a value of less than  
11 \$100 shall not be subject to forfeiture under this Act. In  
12 seizures of currency in excess of these amounts, this Section  
13 shall not create an exemption for these amounts.

14 (d) (Blank).

15 (e) (Blank).

16 (f) (Blank).

17 (g) (Blank).

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

23 (i) The changes made to this Section by Public Act 100-0512  
24 and this amendatory Act of the 100th General Assembly only  
25 apply to property seized on and after July 1, 2018.

26 (j) The changes made to this Section by this amendatory Act

1 of the 100th General Assembly are subject to Section 4 of the  
2 Statute on Statutes.

3 (Source: P.A. 99-686, eff. 7-29-16; 100-512, eff. 7-1-18.)

4 Section 30. The Illinois Controlled Substances Act is  
5 amended by changing Section 505 as follows:

6 (720 ILCS 570/505) (from Ch. 56 1/2, par. 1505)

7 (Text of Section before amendment by P.A. 100-512)

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

9 (1) all substances which have been manufactured,  
10 distributed, dispensed, or possessed in violation of this  
11 Act;

12 (2) all raw materials, products and equipment of any  
13 kind which are used, or intended for use in manufacturing,  
14 distributing, dispensing, administering or possessing any  
15 substance in violation of this Act;

16 (3) all conveyances, including aircraft, vehicles or  
17 vessels, which are used, or intended for use, to transport,  
18 or in any manner to facilitate the transportation, sale,  
19 receipt, possession, or concealment of property described  
20 in paragraphs (1) and (2), but:

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

1 charge of the conveyance is a consenting party or privy  
2 to a violation of this Act;

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

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

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

15 (5) everything of value furnished, or intended to be  
16 furnished, in exchange for a substance in violation of this  
17 Act, all proceeds traceable to such an exchange, and all  
18 moneys, negotiable instruments, and securities used, or  
19 intended to be used, to commit or in any manner to  
20 facilitate any violation of this Act;

21 (6) all real property, including any right, title, and  
22 interest (including, but not limited to, any leasehold  
23 interest or the beneficial interest in a land trust) in the  
24 whole of any lot or tract of land and any appurtenances or  
25 improvements, which is used or intended to be used, in any  
26 manner or part, to commit, or in any manner to facilitate

1 the commission of, any violation or act that constitutes a  
2 violation of Section 401 or 405 of this Act or that is the  
3 proceeds of any violation or act that constitutes a  
4 violation of Section 401 or 405 of this Act.

5 (b) Property subject to forfeiture under this Act may be  
6 seized by the Director or any peace officer upon process or  
7 seizure warrant issued by any court having jurisdiction over  
8 the property. Seizure by the Director or any peace officer  
9 without process may be made:

10 (1) if the seizure is incident to inspection under an  
11 administrative inspection warrant;

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

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 Act and the  
22 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 (c) In the event of seizure pursuant to subsection (b),

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

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

19 (1) place the property under seal;

20 (2) remove the property to a place designated by the  
21 Director;

22 (3) keep the property in the possession of the seizing  
23 agency;

24 (4) remove the property to a storage area for  
25 safekeeping or, if the property is a negotiable instrument  
26 or money and is not needed for evidentiary purposes,

1 deposit it in an interest bearing account;

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

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

11 (e) If the Department of Financial and Professional  
12 Regulation suspends or revokes a registration, all controlled  
13 substances owned or possessed by the registrant at the time of  
14 suspension or the effective date of the revocation order may be  
15 placed under seal by the Director. No disposition may be made  
16 of substances under seal until the time for taking an appeal  
17 has elapsed or until all appeals have been concluded unless a  
18 court, upon application therefor, orders the sale of perishable  
19 substances and the deposit of the proceeds of the sale with the  
20 court. Upon a suspension or revocation order becoming final,  
21 all substances may be forfeited to the Illinois State Police.

22 (f) When property is forfeited under this Act the Director  
23 shall sell all such property unless such property is required  
24 by law to be destroyed or is harmful to the public, and shall  
25 distribute the proceeds of the sale, together with any moneys  
26 forfeited or seized, in accordance with subsection (g).

1 However, upon the application of the seizing agency or  
2 prosecutor who was responsible for the investigation, arrest or  
3 arrests and prosecution which lead to the forfeiture, the  
4 Director may return any item of forfeited property to the  
5 seizing agency or prosecutor for official use in the  
6 enforcement of laws relating to cannabis or controlled  
7 substances, if the agency or prosecutor can demonstrate that  
8 the item requested would be useful to the agency or prosecutor  
9 in their enforcement efforts. When any forfeited conveyance,  
10 including an aircraft, vehicle, or vessel, is returned to the  
11 seizing agency or prosecutor, the conveyance may be used  
12 immediately in the enforcement of the criminal laws of this  
13 State. Upon disposal, all proceeds from the sale of the  
14 conveyance must be used for drug enforcement purposes. When any  
15 real property returned to the seizing agency is sold by the  
16 agency or its unit of government, the proceeds of the sale  
17 shall be delivered to the Director and distributed in  
18 accordance with subsection (g).

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

22 (1) (i) 65% shall be distributed to the metropolitan  
23 enforcement group, local, municipal, county, or state law  
24 enforcement agency or agencies which conducted or  
25 participated in the investigation resulting in the  
26 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. Amounts distributed to the agency or  
7 agencies shall be used for 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 for security  
11 cameras used for the prevention or detection of violence,  
12 except that amounts distributed to the Secretary of State  
13 shall be deposited into the Secretary of State Evidence  
14 Fund to be used as provided in Section 2-115 of the  
15 Illinois Vehicle Code.

16 (ii) Any local, municipal, or county law enforcement  
17 agency entitled to receive a monetary distribution of  
18 forfeiture proceeds may share those forfeiture proceeds  
19 pursuant to the terms of an intergovernmental agreement  
20 with a municipality that has a population in excess of  
21 20,000 if:

22 (I) the receiving agency has entered into an  
23 intergovernmental agreement with the municipality to  
24 provide police services;

25 (II) the intergovernmental agreement for police  
26 services provides for consideration in an amount of not

1 less than \$1,000,000 per year;

2 (III) the seizure took place within the  
3 geographical limits of the municipality; and

4 (IV) the funds are used only for the enforcement of  
5 laws governing cannabis and controlled substances; for  
6 public education in the community or schools in the  
7 prevention or detection of the abuse of drugs or  
8 alcohol; or for security cameras used for the  
9 prevention or detection of violence or the  
10 establishment of a municipal police force, including  
11 the training of officers, construction of a police  
12 station, the purchase of law enforcement equipment, or  
13 vehicles.

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

1 in the enforcement of laws governing cannabis and  
2 controlled substances; for public education in the  
3 community or schools in the prevention or detection of the  
4 abuse of drugs or alcohol; or at the discretion of the  
5 State's Attorney, in addition to other authorized  
6 purposes, to make grants to local substance abuse treatment  
7 facilities and half-way houses. If the prosecution is  
8 undertaken solely by the Attorney General, the portion  
9 provided hereunder shall be distributed to the Attorney  
10 General for use in the enforcement of laws governing  
11 cannabis and controlled substances or for public education  
12 in the community or schools in the prevention or detection  
13 of the abuse of drugs or alcohol.

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

25 (3) 10% shall be retained by the Department of State  
26 Police for expenses related to the administration and sale

1 of seized and forfeited property.

2 (h) Species of plants from which controlled substances in  
3 Schedules I and II may be derived which have been planted or  
4 cultivated in violation of this Act, or of which the owners or  
5 cultivators are unknown, or which are wild growths, may be  
6 seized and summarily forfeited to the State. The failure, upon  
7 demand by the Director or any peace officer, of the person in  
8 occupancy or in control of land or premises upon which the  
9 species of plants are growing or being stored, to produce  
10 registration, or proof that he or she is the holder thereof,  
11 constitutes authority for the seizure and forfeiture of the  
12 plants.

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

14 (Text of Section after amendment by P.A. 100-512)

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

16 (1) (blank);

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

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

1 violation of this Act, or property described in paragraph  
2 ~~paragraphs~~ (2) of this subsection (a), but:

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

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

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

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

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

1 (6) all real property, including any right, title, and  
2 interest (including, but not limited to, any leasehold  
3 interest or the beneficial interest in a land trust) in the  
4 whole of any lot or tract of land and any appurtenances or  
5 improvements, which is used or intended to be used, in any  
6 manner or part, to commit, or in any manner to facilitate  
7 the commission of, any violation or act that constitutes a  
8 violation of Section 401 or 405 of this Act or that is the  
9 proceeds of any violation or act that constitutes a  
10 violation of Section 401 or 405 of this Act.

11 (b) Property subject to forfeiture under this Act may be  
12 seized under the Drug Asset Forfeiture Procedure Act. In the  
13 event of seizure, forfeiture proceedings shall be instituted  
14 under the Drug Asset Forfeiture Procedure Act.

15 (c) Forfeiture under this Act is subject to ~~subject to~~ an  
16 8th Amendment ~~amendment~~ to the United States Constitution  
17 disproportionate penalties analysis as provided under Section  
18 9.5 of the Drug Asset Forfeiture Procedure Act.

19 (d) With regard to possession of controlled substances  
20 offenses only, a sum of currency with a value of less than \$500  
21 shall not be subject to forfeiture under this Act. For all  
22 other offenses under this Act, a sum of currency with a value  
23 of less than ~~currency with a value of under~~ \$100 shall not be  
24 subject to forfeiture under this Act. In seizures of currency  
25 in excess of these amounts, this Section shall not create an  
26 exemption for these amounts.

1           (d-5) For felony offenses involving possession of  
2 controlled substances only, no property shall be subject to  
3 forfeiture under this Act because of the possession of less  
4 than 2 single unit doses of a controlled substance. This  
5 exemption shall not apply in instances when the possessor, or  
6 another person at the direction of the possessor, engaged in  
7 the destruction of any amount of a controlled substance. The  
8 amount of a single unit dose shall be the State's burden to  
9 prove in its ~~their~~ case in chief.

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

22           (f) (Blank).

23           (g) (Blank).

24           (h) (Blank).

25           (i) Contraband, including controlled substances possessed  
26 without authorization under State or federal law, is not

1 subject to forfeiture. No property right exists in contraband.  
2 Contraband is subject to seizure and shall be disposed of  
3 according to State law.

4 (j) The changes made to this Section by Public Act 100-0512  
5 and this amendatory Act of the 100th General Assembly only  
6 apply to property seized on and after July 1, 2018.

7 (k) The changes made to this Section by this amendatory Act  
8 of the 100th General Assembly are subject to Section 4 of the  
9 Statute on Statutes.

10 (Source: P.A. 99-686, eff. 7-29-16; 100-512, eff. 7-1-18.)

11 Section 35. The Methamphetamine Control and Community  
12 Protection Act is amended by changing Section 85 as follows:

13 (720 ILCS 646/85)

14 (Text of Section before amendment by P.A. 100-512)

15 Sec. 85. Forfeiture.

16 (a) The following are subject to forfeiture:

17 (1) all substances containing methamphetamine which  
18 have been produced, manufactured, delivered, or possessed  
19 in violation of this Act;

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

24 (3) all conveyances, including aircraft, vehicles or



1 vessels, which are used, or intended for use, to transport,  
2 or in any manner to facilitate the transportation, sale,  
3 receipt, possession, or concealment of property described  
4 in paragraph (1) or (2) that constitutes a felony violation  
5 of the Act, but:

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

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

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

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

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

1 exchange, and all moneys, negotiable instruments, and  
2 securities used, or intended to be used, to commit or in  
3 any manner to facilitate any felony violation of this Act.

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

13 (b) Property subject to forfeiture under this Act may be  
14 seized by the Director or any peace officer upon process or  
15 seizure warrant issued by any court having jurisdiction over  
16 the property. Seizure by the Director or any peace officer  
17 without process may be made:

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

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

26 (3) if there is probable cause to believe that the

1 property is subject to forfeiture under this Act and the  
2 property is seized under circumstances in which a  
3 warrantless seizure or arrest would be reasonable; or

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

6 (c) In the event of seizure pursuant to subsection (b),  
7 notice shall be given forthwith to all known interest holders  
8 that forfeiture proceedings, including a preliminary review,  
9 shall be instituted in accordance with the Drug Asset  
10 Forfeiture Procedure Act and such proceedings shall thereafter  
11 be instituted in accordance with that Act. Upon a showing of  
12 good cause, the notice required for a preliminary review under  
13 this Section may be postponed.

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

25 (1) place the property under seal;

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

1 her;

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

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

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

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

17 (e) No disposition may be made of property under seal until  
18 the time for taking an appeal has elapsed or until all appeals  
19 have been concluded unless a court, upon application therefor,  
20 orders the sale of perishable substances and the deposit of the  
21 proceeds of the sale with the court.

22 (f) When property is forfeited under this Act, the Director  
23 shall sell the property unless the property is required by law  
24 to be destroyed or is harmful to the public, and shall  
25 distribute the proceeds of the sale, together with any moneys  
26 forfeited or seized, in accordance with subsection (g).

1 However, upon the application of the seizing agency or  
2 prosecutor who was responsible for the investigation, arrest or  
3 arrests and prosecution which lead to the forfeiture, the  
4 Director may return any item of forfeited property to the  
5 seizing agency or prosecutor for official use in the  
6 enforcement of laws relating to methamphetamine, cannabis, or  
7 controlled substances, if the agency or prosecutor  
8 demonstrates that the item requested would be useful to the  
9 agency or prosecutor in their enforcement efforts. When any  
10 forfeited conveyance, including an aircraft, vehicle, or  
11 vessel, is returned to the seizing agency or prosecutor, the  
12 conveyance may be used immediately in the enforcement of the  
13 criminal laws of this State. Upon disposal, all proceeds from  
14 the sale of the conveyance must be used for drug enforcement  
15 purposes. When any real property returned to the seizing agency  
16 is sold by the agency or its unit of government, the proceeds  
17 of the sale shall be delivered to the Director and distributed  
18 in accordance with subsection (g).

19 (g) All moneys and the sale proceeds of all other property  
20 forfeited and seized under this Act shall be distributed as  
21 follows:

22 (1) (i) 65% shall be distributed to the metropolitan  
23 enforcement group, local, municipal, county, or State law  
24 enforcement agency or agencies which conducted or  
25 participated in the investigation resulting in the  
26 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. Amounts distributed to the agency or  
7 agencies shall be used for 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 for security cameras used for the  
12 prevention or detection of violence, except that amounts  
13 distributed to the Secretary of State shall be deposited  
14 into the Secretary of State Evidence Fund to be used as  
15 provided in Section 2-115 of the Illinois Vehicle Code.

16 (ii) Any local, municipal, or county law enforcement  
17 agency entitled to receive a monetary distribution of  
18 forfeiture proceeds may share those forfeiture proceeds  
19 pursuant to the terms of an intergovernmental agreement  
20 with a municipality that has a population in excess of  
21 20,000 if:

22 (I) the receiving agency has entered into an  
23 intergovernmental agreement with the municipality to  
24 provide police services;

25 (II) the intergovernmental agreement for police  
26 services provides for consideration in an amount of not

1 less than \$1,000,000 per year;

2 (III) the seizure took place within the  
3 geographical limits of the municipality; and

4 (IV) the funds are used only for the enforcement of  
5 laws governing cannabis and controlled substances; for  
6 public education in the community or schools in the  
7 prevention or detection of the abuse of drugs or  
8 alcohol; or for security cameras used for the  
9 prevention or detection of violence or the  
10 establishment of a municipal police force, including  
11 the training of officers, construction of a police  
12 station, the purchase of law enforcement equipment, or  
13 vehicles.

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

1 State's Attorney for use in the enforcement of laws  
2 governing methamphetamine, cannabis, and controlled  
3 substances; for public education in the community or  
4 schools in the prevention or detection of the abuse of  
5 drugs or alcohol; or at the discretion of the State's  
6 Attorney, in addition to other authorized purposes, to make  
7 grants to local substance abuse treatment facilities and  
8 half-way houses. If the prosecution is undertaken solely by  
9 the Attorney General, the portion provided hereunder shall  
10 be distributed to the Attorney General for use in the  
11 enforcement of laws governing methamphetamine, cannabis,  
12 and controlled substances or for public education in the  
13 community or schools in the prevention or detection of the  
14 abuse of drugs or alcohol.

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



1           (3) 10% shall be retained by the Department of State  
2           Police for expenses related to the administration and sale  
3           of seized and forfeited property.

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

5           (Text of Section after amendment by P.A. 100-512)

6           Sec. 85. Forfeiture.

7           (a) The following are subject to forfeiture:

8                 (1) (blank);

9                 (2) all methamphetamine manufacturing materials which  
10            have been produced, delivered, or possessed in connection  
11            with any substance containing methamphetamine in violation  
12            of this Act;

13                 (3) all conveyances, including aircraft, vehicles, or  
14            vessels, which are used, or intended for use, to transport,  
15            or in any manner to facilitate the transportation, sale,  
16            receipt, possession, or concealment of any substance  
17            containing methamphetamine or property described in  
18            paragraph (2) of this subsection (a) that constitutes a  
19            felony violation of the Act, but:

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

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

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

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

13           (5) everything of value furnished or intended to be  
14 furnished by any person in exchange for a substance in  
15 violation of this Act, all proceeds traceable to such an  
16 exchange, and all moneys, negotiable instruments, and  
17 securities used, or intended to be used, to commit or in  
18 any manner to facilitate any felony violation of this Act;

19           -

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

1 violation of this Act or that is the proceeds of any  
2 violation or act that constitutes a violation of this Act.

3 (b) Property subject to forfeiture under this Act may be  
4 seized under the Drug Asset Forfeiture Procedure Act. In the  
5 event of seizure, forfeiture proceedings shall be instituted  
6 under the Drug Asset Forfeiture Procedure Act.

7 (c) Forfeiture under this Act is subject to ~~subject to~~ an  
8 8th Amendment ~~amendment~~ to the United States Constitution  
9 disproportionate penalties analysis as provided under Section  
10 9.5 of the Drug Asset Forfeiture Procedure Act.

11 (d) With regard to possession of methamphetamine offenses  
12 only, a sum of currency with a value of less than \$500 shall  
13 not be subject to forfeiture under this Act. For all other  
14 offenses under this Act, a sum of currency with a value of less  
15 than ~~under~~ \$100 shall not be subject to forfeiture under this  
16 Act. In seizures of currency in excess of these amounts, this  
17 Section shall not create an exemption for these amounts.

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

1 (f) (Blank).

2 (g) (Blank).

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

8 (i) The changes made to this Section by Public Act 100-0512  
9 and this amendatory Act of the 100th General Assembly only  
10 apply to property seized on and after July 1, 2018.

11 (j) The changes made to this Section by this amendatory Act  
12 of the 100th General Assembly are subject to Section 4 of the  
13 Statute on Statutes.

14 (Source: P.A. 99-686, eff. 7-29-16; 100-512, eff. 7-1-18.)

15 Section 40. The Drug Asset Forfeiture Procedure Act is  
16 amended by changing Sections 3.1, 3.3, 3.5, 4, 5, 5.1, 6, 7, 8,  
17 9, 9.1, and 11, by adding Section 13.4, renumbering and  
18 changing Sections 15 and 17, and renumbering Section 20 as  
19 follows:

20 (725 ILCS 150/3.1)

21 (This Section may contain text from a Public Act with a  
22 delayed effective date)

23 Sec. 3.1. Seizure.

24 (a) Actual physical seizure of real property subject to

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

7 (b) 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 upon process or seizure warrant issued by any court having  
13 jurisdiction over the property.

14 (c) Personal property subject to forfeiture under the  
15 Illinois Controlled Substances Act, the Cannabis Control Act,  
16 the Illinois Food, Drug and Cosmetic Act, or the  
17 Methamphetamine Control and Community Protection Act may be  
18 seized by the Director of State Police or any peace officer  
19 without process:

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

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

26 (3) if there is probable cause to believe that the

1 property is directly or indirectly dangerous to health or  
2 safety;

3 (4) if there is probable cause to believe that the  
4 property is subject to forfeiture under the Illinois  
5 Controlled Substances Act, the Cannabis Control Act, the  
6 Illinois Food, Drug and Cosmetic Act, or the  
7 Methamphetamine Control and Community Protection Act, and  
8 the property is seized under circumstances in which a  
9 warrantless seizure or arrest would be reasonable; or

10 (5) under the Code of Criminal Procedure of 1963.

11 (d) If a conveyance is seized under this Act, an  
12 investigation shall be made by the law enforcement agency as to  
13 any person whose right, title, interest, or lien is of record  
14 in the office of the agency or official in which title to or  
15 interest in ~~to~~ the conveyance is required by law to be  
16 recorded.

17 (e) After seizure under this Section, notice shall be given  
18 to all known interest holders that forfeiture proceedings,  
19 including a preliminary review, may be instituted and the  
20 proceedings may be instituted under this Act. Upon a showing of  
21 good cause related to an ongoing investigation, the notice  
22 required for a preliminary review under this Section may be  
23 postponed.

24 (Source: P.A. 100-512, eff. 7-1-18.)

25 (725 ILCS 150/3.3)

1 (This Section may contain text from a Public Act with a  
2 delayed effective date)

3 Sec. 3.3. Safekeeping of seized property pending  
4 disposition.

5 (a) Property seized under this Act is deemed to be in the  
6 custody of the Director of State Police, subject only to the  
7 order and judgments of the circuit court having jurisdiction  
8 over the forfeiture proceedings and the decisions of the  
9 State's Attorney under this Act.

10 (b) If property is seized under this Act, the seizing  
11 agency shall promptly conduct an inventory of the seized  
12 property and estimate the property's value, and shall forward a  
13 copy of the inventory of seized property and the estimate of  
14 the property's value to the Director of State Police. Upon  
15 receiving notice of seizure, the Director of State Police may:

16 (1) place the property under seal;

17 (2) remove the property to a place designated by the  
18 seizing agency;

19 (3) keep the property in the possession of the Director  
20 of State Police;

21 (4) remove the property to a storage area for  
22 safekeeping; ~~or~~

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 seizing agency.

6 (c) The seizing agency is required to exercise ordinary  
7 care to protect the seized property from negligent loss,  
8 damage, or destruction.

9 (Source: P.A. 100-512, eff. 7-1-18.)

10 (725 ILCS 150/3.5)

11 (Text of Section before amendment by P.A. 100-512)

12 Sec. 3.5. Preliminary review.

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

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

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

24 (d) The court may accept a finding of probable cause at a  
25 preliminary hearing following the filing of an information or



1 complaint charging a related criminal offense or following the  
2 return of indictment by a grand jury charging the related  
3 offense as sufficient evidence of probable cause as required  
4 under subsection (a).

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

9 For seizures of conveyances, within 7 days of a finding of  
10 probable cause under subsection (a), the registered owner or  
11 other claimant may file a motion in writing supported by sworn  
12 affidavits claiming that denial of the use of the conveyance  
13 during the pendency of the forfeiture proceedings creates a  
14 substantial hardship. The court shall consider the following  
15 factors in determining whether a substantial hardship has been  
16 proven:

17 (1) the nature of the claimed hardship;

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

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

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

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

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

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

24 (B) the nature of the hardship;

25 (C) the extent and length of the usage of the  
26 conveyance; and

1           (D) such other conditions as the court deems necessary  
2           to safeguard the conveyance.

3           If the conveyance is released, the court shall order that  
4           the registered owner or his or her designee safeguard the  
5           conveyance, not remove the conveyance from the jurisdiction,  
6           not conceal, destroy, or otherwise dispose of the conveyance,  
7           not encumber the conveyance, and not diminish the value of the  
8           conveyance in any way. The court shall also make a  
9           determination of the full market value of the conveyance prior  
10          to it being released based on a source or sources defined in 50  
11          Ill. Adm. Code 919.80(c)(2)(A) or 919.80(c)(2)(B).

12          If the conveyance subject to forfeiture is released under  
13          this Section and is subsequently forfeited, the person to whom  
14          the conveyance was released shall return the conveyance to the  
15          law enforcement agency that seized the conveyance within 7 days  
16          from the date of the declaration of forfeiture or order of  
17          forfeiture. If the conveyance is not returned within 7 days,  
18          the cash security shall be forfeited in the same manner as the  
19          conveyance subject to forfeiture. If the cash security was less  
20          than the full market value, a judgment shall be entered against  
21          the parties to whom the conveyance was released and the  
22          registered owner, jointly and severally, for the difference  
23          between the full market value and the amount of the cash  
24          security. If the conveyance is returned in a condition other  
25          than the condition in which it was released, the cash security  
26          shall be returned to the surety who posted the security minus

1 the amount of the diminished value, and that amount shall be  
2 forfeited in the same manner as the conveyance subject to  
3 forfeiture. Additionally, the court may enter an order allowing  
4 any law enforcement agency in the State of Illinois to seize  
5 the conveyance wherever it may be found in the State to satisfy  
6 the judgment if the cash security was less than the full market  
7 value of the conveyance.

8 (Source: P.A. 97-544, eff. 1-1-12; 97-680, eff. 3-16-12.)

9 (Text of Section after amendment by P.A. 100-512)

10 Sec. 3.5. Preliminary review.

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

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

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

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

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

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

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

17 (1) the nature of the claimed hardship;

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

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

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

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

23 If the court orders the release of the conveyance during  
24 the pendency of the forfeiture proceedings, the court may order  
25 the registered owner or his or her authorized designee to post  
26 a cash security with the clerk ~~Clerk~~ of the court ~~Court~~ as

1 ordered by the court. If cash security is ordered, the court  
2 shall consider the following factors in determining the amount  
3 of the cash security:

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

5 (B) the nature of the hardship;

6 (C) the extent and length of the usage of the  
7 conveyance;

8 (D) the ability of the owner or designee to pay; and

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

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

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

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

16 (Source: P.A. 100-512, eff. 7-1-18.)

17 (725 ILCS 150/4) (from Ch. 56 1/2, par. 1674)

18 (Text of Section before amendment by P.A. 100-512)

19 Sec. 4. Notice to owner or interest holder.

20 (A) Whenever notice of pending forfeiture or service of an  
21 in rem complaint is required under the provisions of this Act,  
22 such notice or service shall be given as follows:

23 (1) If the owner's or interest holder's name and  
24 current address are known, then by either personal service  
25 or mailing a copy of the notice by certified mail, return



1 receipt requested, to that address. For purposes of notice  
2 under this Section, if a person has been arrested for the  
3 conduct giving rise to the forfeiture, then the address  
4 provided to the arresting agency at the time of arrest  
5 shall be deemed to be that person's known address.  
6 Provided, however, if an owner or interest holder's address  
7 changes prior to the effective date of the notice of  
8 pending forfeiture, the owner or interest holder shall  
9 promptly notify the seizing agency of the change in address  
10 or, if the owner or interest holder's address changes  
11 subsequent to the effective date of the notice of pending  
12 forfeiture, the owner or interest holder shall promptly  
13 notify the State's Attorney of the change in address; or

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

20 (3) If the owner's or interest holder's address is not  
21 known, and is not on record as provided in paragraph (2),  
22 then by publication for 3 successive weeks in a newspaper  
23 of general circulation in the county in which the seizure  
24 occurred.

25 (B) Notice served under this Act is effective upon personal  
26 service, the last date of publication, or the mailing of

1 written notice, whichever is earlier.

2 (Source: P.A. 86-1382; 87-614.)

3 (Text of Section after amendment by P.A. 100-512)

4 Sec. 4. Notice to owner or interest holder. The first  
5 attempted service of notice shall be commenced within 28 days  
6 of the filing of the verified claim or the receipt of the  
7 notice from the seizing agency by Illinois State Police  
8 Notice/Inventory of Seized Property (Form 4-64) ~~the form 4-64~~,  
9 whichever occurs sooner. A complaint for forfeiture or a notice  
10 of pending forfeiture shall be served upon the property owner  
11 or interest holder in the following manner:

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

14 (A) personal service; or

15 (B) mailing a copy of the notice by certified mail,  
16 return receipt requested, and first class mail, to that  
17 address.

18 (i) If notice is sent by certified mail and no  
19 signed return receipt is received by the State's  
20 Attorney within 28 days of mailing, and no  
21 communication from the owner or interest holder is  
22 received by the State's Attorney documenting  
23 actual notice by said parties, then the State's  
24 Attorney shall, within a reasonable period of  
25 time, mail a second copy of the notice by certified

1 mail, return receipt requested, and first class  
2 mail to that address.

3 (ii) If no signed return receipt is received by  
4 the State's Attorney within 28 days of the second  
5 attempt at service by certified mail, and no  
6 communication from the owner or interest holder is  
7 received by the State's Attorney documenting  
8 actual notice by said parties, then the State's  
9 Attorney shall have 60 days to attempt to serve the  
10 notice by personal service, which also includes  
11 substitute service by leaving a copy at the usual  
12 place of abode, with some person of the family or a  
13 person residing there, of the age of 13 years or  
14 upwards. If, after 3 attempts at service in this  
15 manner, no service of the notice is accomplished,  
16 then the notice shall be posted in a conspicuous  
17 manner at this address and service shall be made by  
18 posting.

19 The attempts at service and the posting if  
20 required, shall be documented by the person  
21 attempting service and said documentation shall be  
22 made part of a return of service returned to the  
23 State's Attorney.

24 The State's Attorney may utilize any Sheriff  
25 or Deputy Sheriff, any peace officer, a private  
26 process server or investigator, or any employee,

1 agent, or investigator of the State's Attorney's  
2 Office to attempt service without seeking leave of  
3 court.

4 After the procedures set forth are followed,  
5 service shall be effective on an owner or interest  
6 holder on the date of receipt by the State's  
7 Attorney of a ~~returned~~ return receipt ~~requested~~,  
8 or on the date of receipt of a communication from  
9 an owner or interest holder documenting actual  
10 notice, whichever is first in time, or on the date  
11 of the last act performed by the State's Attorney  
12 in attempting personal service under subparagraph  
13 (ii) above. If notice is to be shown by actual  
14 notice from communication with a claimant, then  
15 the State's Attorney shall file an affidavit  
16 providing details of the communication, which may  
17 be accepted as sufficient proof of service by the  
18 court.

19 After a claimant files a verified claim with  
20 the State's Attorney and provides ~~provide~~ an  
21 address at which the claimant ~~they~~ will accept  
22 service, the complaint shall be served and notice  
23 shall be perfected upon mailing of the complaint to  
24 the claimant at the address the claimant provided  
25 via certified mail, return receipt requested, and  
26 first class mail. No return receipt ~~card~~ need be

1 received, or any other attempts at service need be  
2 made to comply with service and notice  
3 requirements under this Act. This certified  
4 mailing, return receipt requested, shall be proof  
5 of service of the complaint on the claimant.

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

25 (2) If the owner's or interest holder's address is not  
26 known, and is not on record, then notice shall be served by

1 publication for 3 successive weeks in a newspaper of  
2 general circulation in the county in which the seizure  
3 occurred.

4 (3) After a claimant files a verified claim with the  
5 State's Attorney and provides an address at which the  
6 claimant ~~they~~ will accept service, the complaint shall be  
7 served and notice shall be perfected upon mailing of the  
8 complaint to the claimant at the address the claimant  
9 provided via certified mail, return receipt requested, and  
10 first class mail. No return receipt ~~card~~ need be received  
11 or any other attempts at service need be made to comply  
12 with service and notice requirements under this Act. This  
13 certified mailing, return receipt requested, shall be  
14 proof of service of the complaint on the claimant.

15 (4) Notice to any business entity, corporation,  
16 limited liability company, limited liability partnership  
17 ~~LLC, LLP,~~ or partnership shall be completed ~~complete~~ by a  
18 single mailing of a copy of the notice by certified mail,  
19 return receipt requested, and first class mail, ~~to~~ that  
20 address. This notice is complete regardless of the return  
21 of a signed "return receipt requested".

22 (5) Notice to a person whose address is not within the  
23 State shall be completed ~~complete~~ by a single mailing of a  
24 copy of the notice by certified mail, return receipt  
25 requested, and first class mail, ~~to~~ that address. This  
26 notice is complete regardless of the return of a signed

1       ~~"return receipt requested".~~

2           (6) Notice to a person whose address is not within the  
3       United States shall be completed ~~complete~~ by a single  
4       mailing of a copy of the notice by certified mail, return  
5       receipt requested, and first class mail, ~~to~~ to that address.  
6       This notice shall be complete regardless of the return of a  
7       signed ~~"return receipt requested"~~. If certified mail is not  
8       available in the foreign country where the person has an  
9       address, then notice shall proceed by publication under  
10      paragraph (2) of this Section.

11          (7) Notice to any person whom the State's Attorney  
12      reasonably should know is incarcerated within the State  
13      shall also include the mailing a copy of the notice by  
14      certified mail, return receipt requested, and first class  
15      mail, ~~to~~ to the address of the detention facility with the  
16      inmate's name clearly marked on the envelope.

17      ~~(A) (Blank).~~

18      ~~(B) (Blank).~~

19      (Source: P.A. 100-512, eff. 7-1-18.)

20           (725 ILCS 150/5) (from Ch. 56 1/2, par. 1675)

21           (Text of Section before amendment by P.A. 100-512)

22           Sec. 5. Notice to State's Attorney. The law enforcement  
23      agency seizing property for forfeiture under the Illinois  
24      Controlled Substances Act, the Cannabis Control Act, or the  
25      Methamphetamine Control and Community Protection Act shall,

1 within 52 days of seizure, notify the State's Attorney for the  
2 county in which an act or omission giving rise to the  
3 forfeiture occurred or in which the property was seized of the  
4 seizure of the property and the facts and circumstances giving  
5 rise to the seizure and shall provide the State's Attorney with  
6 the inventory of the property and its estimated value. When the  
7 property seized for forfeiture is a vehicle, the law  
8 enforcement agency seizing the property shall immediately  
9 notify the Secretary of State that forfeiture proceedings are  
10 pending regarding such vehicle.

11 (Source: P.A. 94-556, eff. 9-11-05.)

12 (Text of Section after amendment by P.A. 100-512)

13 Sec. 5. Notice to State's Attorney. The law enforcement  
14 agency seizing property for forfeiture under the Illinois  
15 Controlled Substances Act, the Cannabis Control Act, or the  
16 Methamphetamine Control and Community Protection Act, or the  
17 Illinois Food, Drug, and Cosmetic Act shall, as soon as  
18 practicable but not later than 28 days after the seizure,  
19 notify the State's Attorney for the county in which an act or  
20 omission giving rise to the seizure occurred or in which the  
21 property was seized of the seizure of the property and the  
22 facts and circumstances giving rise to the seizure and shall  
23 provide the State's Attorney with the inventory of the property  
24 and its estimated value. Said notice shall be by the delivery  
25 of Form ~~the form~~ 4-64. When the property seized for forfeiture



1 is a vehicle, the law enforcement agency seizing the property  
2 shall immediately notify the Secretary of State that forfeiture  
3 proceedings are pending regarding such vehicle.

4 (Source: P.A. 100-512, eff. 7-1-18.)

5 (725 ILCS 150/5.1)

6 (This Section may contain text from a Public Act with a  
7 delayed effective date)

8 Sec. 5.1. Replevin prohibited; return of personal property  
9 inside seized conveyance.

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

15 (b) A claimant or a party interested in personal property  
16 contained within a seized conveyance may file a request with  
17 the State's Attorney in an administrative forfeiture action, or  
18 a motion with the court in a judicial forfeiture action, for  
19 the return of any personal property contained within a  
20 conveyance seized under this Act. The return of personal  
21 property shall not be unreasonably withheld if the personal  
22 property is not mechanically or electrically coupled to the  
23 conveyance, needed for evidentiary purposes, or otherwise  
24 contraband. A law enforcement agency that returns property  
25 under a court order under this Section shall not be liable to

1 any person who claims ownership to the property if the property  
2 is returned to an improper party.

3 (Source: P.A. 100-512, eff. 7-1-18.)

4 (725 ILCS 150/6) (from Ch. 56 1/2, par. 1676)

5 (Text of Section before amendment by P.A. 100-512)

6 Sec. 6. Non-judicial forfeiture. If non-real property that  
7 exceeds \$150,000 in value excluding the value of any  
8 conveyance, or if real property is seized under the provisions  
9 of the Illinois Controlled Substances Act, the Cannabis Control  
10 Act, or the Methamphetamine Control and Community Protection  
11 Act, the State's Attorney shall institute judicial in rem  
12 forfeiture proceedings as described in Section 9 of this Act  
13 within 45 days from receipt of notice of seizure from the  
14 seizing agency under Section 5 of this Act. However, if  
15 non-real property that does not exceed \$150,000 in value  
16 excluding the value of any conveyance is seized, the following  
17 procedure shall be used:

18 (A) If, after review of the facts surrounding the  
19 seizure, the State's Attorney is of the opinion that the  
20 seized property is subject to forfeiture, then within 45  
21 days of the receipt of notice of seizure from the seizing  
22 agency, the State's Attorney shall cause notice of pending  
23 forfeiture to be given to the owner of the property and all  
24 known interest holders of the property in accordance with  
25 Section 4 of this Act.

1           (B) 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           (C) (1) Any person claiming an interest in property  
8 which is the subject of notice under subsection (A) of  
9 Section 6 of this Act, may, within 45 days after the  
10 effective date of notice as described in Section 4 of this  
11 Act, file a verified claim with the State's Attorney  
12 expressing his or her interest in the property. The claim  
13 must set forth:

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

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

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

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

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

26           (vi) the specific provision of law relied on in

1           asserting the property is not subject to forfeiture;

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

4           (viii) the relief sought.

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

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

1 prosecuting the civil forfeiture to be applied to the costs  
2 of prosecution and the clerk shall retain as costs 10% of  
3 the sum deposited.

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

12 (Source: P.A. 97-544, eff. 1-1-12.)

13 (Text of Section after amendment by P.A. 100-512)

14 Sec. 6. Non-judicial forfeiture. If non-real property that  
15 exceeds \$150,000 in value excluding the value of any  
16 conveyance, or if real property is seized under the provisions  
17 of the Illinois Controlled Substances Act, the Cannabis Control  
18 Act, or the Methamphetamine Control and Community Protection  
19 Act, the State's Attorney shall institute judicial in rem  
20 forfeiture proceedings as described in Section 9 of this Act  
21 within 28 ~~45~~ days from receipt of notice of seizure from the  
22 seizing agency under Section 5 of this Act. However, if  
23 non-real property that does not exceed \$150,000 in value  
24 excluding the value of any conveyance is seized, the following  
25 procedure shall be used:

1 (A) If, after review of the facts surrounding the  
2 seizure, the State's Attorney is of the opinion that the  
3 seized property is subject to forfeiture, then within 28 ~~45~~  
4 days of the receipt of notice of seizure from the seizing  
5 agency, the State's Attorney shall cause notice of pending  
6 forfeiture to be given to the owner of the property and all  
7 known interest holders of the property in accordance with  
8 Section 4 of this Act.

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

15 (C) (1) Any person claiming an interest in property  
16 which is the subject of notice under subsection (A) of this  
17 ~~Section 6 of this Act,~~ may, within 45 days after the  
18 effective date of notice as described in Section 4 of this  
19 Act, file a verified claim with the State's Attorney  
20 expressing his or her interest in the property. The claim  
21 must set forth:

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

25 (ii) the address at which the claimant will accept  
26 mail;

1 (iii) the nature and extent of the claimant's  
2 interest in the property;

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

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

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

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

13 (viii) the relief sought.

14 (2) If a claimant files the claim then the State's  
15 Attorney shall institute judicial in rem forfeiture  
16 proceedings within 28 ~~30~~ days after receipt of the claim.↵

17 (D) If no claim is filed within the 45 day period as  
18 described in subsection (C) of this Section ~~6 of this Act~~,  
19 the State's Attorney shall declare the property forfeited  
20 and shall promptly notify the owner and all known interest  
21 holders of the property and the Director of the Illinois  
22 Department of State Police of the declaration of forfeiture  
23 and the Director shall dispose of the property in  
24 accordance with law.

25 (Source: P.A. 100-512, eff. 7-1-18.)

1 (725 ILCS 150/7) (from Ch. 56 1/2, par. 1677)

2 (Text of Section before amendment by P.A. 100-512)

3 Sec. 7. Presumptions. The following situations shall give  
4 rise to a presumption that the property described therein was  
5 furnished or intended to be furnished in exchange for a  
6 substance in violation of the Illinois Controlled Substances  
7 Act, the Cannabis Control Act, or the Methamphetamine Control  
8 and Community Protection Act, or is the proceeds of such an  
9 exchange, and therefore forfeitable under this Act, such  
10 presumptions being rebuttable by a preponderance of the  
11 evidence:

12 (1) All moneys, coin, or currency found in close proximity  
13 to forfeitable substances, to forfeitable drug manufacturing  
14 or distributing paraphernalia, or to forfeitable records of the  
15 importation, manufacture or distribution of substances;

16 (2) All property acquired or caused to be acquired by a  
17 person either between the dates of occurrence of two or more  
18 acts in felony violation of the Illinois Controlled Substances  
19 Act, the Cannabis Control Act, or the Methamphetamine Control  
20 and Community Protection Act, or an act committed in another  
21 state, territory or country which would be punishable as a  
22 felony under the Illinois Controlled Substances Act, the  
23 Cannabis Control Act, or the Methamphetamine Control and  
24 Community Protection Act, committed by that person within 5  
25 years of each other, or all property acquired by such person  
26 within a reasonable amount of time after the commission of such



1 acts if:

2 (a) At least one of the above acts was committed after  
3 the effective date of this Act; and

4 (b) At least one of the acts is or was punishable as a  
5 Class X, Class 1, or Class 2 felony; and

6 (c) There was no likely source for such property other  
7 than a violation of the above Acts.

8 (Source: P.A. 94-556, eff. 9-11-05.)

9 (Text of Section after amendment by P.A. 100-512)

10 Sec. 7. Presumptions and inferences.

11 (1) The following situation shall give rise to a  
12 presumption that the property described therein was furnished  
13 or intended to be furnished in exchange for a substance in  
14 violation of the Illinois Controlled Substances Act, the  
15 Cannabis Control Act, or the Methamphetamine Control and  
16 Community Protection Act, or is the proceeds of such an  
17 exchange, and therefore forfeitable under this Act, such  
18 presumptions being rebuttable by a preponderance of the  
19 evidence:

20 All moneys, coin, or currency found in close proximity to  
21 any forfeitable substances manufactured, distributed,  
22 dispensed, or possessed in violation of the Illinois Controlled  
23 Substances Act, the Cannabis Control Act, or the  
24 Methamphetamine Control and Community Protection Act, to  
25 forfeitable drug manufacturing or distributing paraphernalia,

1 or to forfeitable records of the importation, manufacture or  
2 distribution of substances.

3 (2) In the following situation, the trier of fact may infer  
4 that the property described therein was furnished or intended  
5 to be furnished in exchange for a substance in violation of the  
6 Illinois Controlled Substances Act, the Cannabis Control Act,  
7 or the Methamphetamine Control and Community Protection Act, or  
8 is the proceeds of such an exchange, and therefore forfeitable  
9 under this Act:

10 All property acquired or caused to be acquired by a person  
11 either between the dates of occurrence of two or more acts in  
12 felony violation of the Illinois Controlled Substances Act, the  
13 Cannabis Control Act, or the Methamphetamine Control and  
14 Community Protection Act, or an act committed in another state,  
15 territory or country which would be punishable as a felony  
16 under the Illinois Controlled Substances Act, the Cannabis  
17 Control Act, or the Methamphetamine Control and Community  
18 Protection Act, committed by that person within 5 years of each  
19 other, or all property acquired by such person within a  
20 reasonable amount of time after the commission of such acts if:

21 (a) at ~~At~~ least one of the above acts was committed  
22 after the effective date of this Act; and

23 (b) both ~~Both~~ of the acts are or were punishable as a  
24 Class X, Class 1, or Class 2 felony; and

25 (c) there ~~There~~ was no likely source for such property  
26 other than a violation of the above Acts.

1           (3) Presumptions and permissive inferences set forth in  
2 this Section shall apply to all portions of all phases of all  
3 ~~the judicial in rem~~ forfeiture proceedings under this Act.

4           (Source: P.A. 100-512, eff. 7-1-18.)

5           (725 ILCS 150/8) (from Ch. 56 1/2, par. 1678)

6           (Text of Section before amendment by P.A. 100-512)

7           Sec. 8. Exemptions from forfeiture. A property interest is  
8 exempt from forfeiture under this Section if its owner or  
9 interest holder establishes by a preponderance of evidence that  
10 the owner or interest holder:

11           (A) (i) in the case of personal property, is not legally  
12 accountable for the conduct giving rise to the forfeiture, did  
13 not acquiesce in it, and did not know and could not reasonably  
14 have known of the conduct or that the conduct was likely to  
15 occur, or

16           (ii) in the case of real property, is not legally  
17 accountable for the conduct giving rise to the forfeiture, or  
18 did not solicit, conspire, or attempt to commit the conduct  
19 giving rise to the forfeiture; and

20           (B) had not acquired and did not stand to acquire  
21 substantial proceeds from the conduct giving rise to its  
22 forfeiture other than as an interest holder in an arms length  
23 commercial transaction; and

24           (C) with respect to conveyances, did not hold the property  
25 jointly or in common with a person whose conduct gave rise to

1 the forfeiture; and

2 (D) does not hold the property for the benefit of or as  
3 nominee for any person whose conduct gave rise to its  
4 forfeiture, and, if the owner or interest holder acquired the  
5 interest through any such person, the owner or interest holder  
6 acquired it as a bona fide purchaser for value without  
7 knowingly taking part in the conduct giving rise to the  
8 forfeiture; and

9 (E) that the owner or interest holder acquired the  
10 interest:

11 (i) before the commencement of the conduct giving rise to  
12 its forfeiture and the person whose conduct gave rise to its  
13 forfeiture did not have the authority to convey the interest to  
14 a bona fide purchaser for value at the time of the conduct; or

15 (ii) after the commencement of the conduct giving rise to  
16 its forfeiture, and the owner or interest holder acquired the  
17 interest as a mortgagee, secured creditor, lienholder, or bona  
18 fide purchaser for value without knowledge of the conduct which  
19 gave rise to the forfeiture; and

20 (a) in the case of personal property, without knowledge of  
21 the seizure of the property for forfeiture; or

22 (b) in the case of real estate, before the filing in the  
23 office of the Recorder of Deeds of the county in which the real  
24 estate is located of a notice of seizure for forfeiture or a  
25 lis pendens notice.

26 (Source: P.A. 86-1382.)

1 (Text of Section after amendment by P.A. 100-512)

2 Sec. 8. Exemptions from forfeiture.

3 (a) No vessel or watercraft, vehicle, or aircraft used by  
4 any person as a common carrier in the transaction of business  
5 as a common carrier may be forfeited under this Act unless the  
6 State proves by a preponderance of the evidence that:

7 (1) in the case of a railway car or engine, the owner,  
8 or

9 (2) in the case of any other such vessel or watercraft,  
10 vehicle or aircraft, the owner or the master of such vessel  
11 or watercraft or the owner or conductor, driver, pilot, or  
12 other person in charge of that vehicle or aircraft was at  
13 the time of the alleged illegal act a consenting party or  
14 privy to that knowledge.

15 (b) No vessel or watercraft, vehicle, or aircraft shall be  
16 forfeited under this Act by reason of any act or omission  
17 committed or omitted by any person other than such owner while  
18 a vessel or watercraft, vehicle, or aircraft was unlawfully in  
19 the possession of a person who acquired possession in violation  
20 of the criminal laws of the United States, or of any state.

21 ~~(A) (blank); and~~

22 ~~(B) (blank); and~~

23 ~~(C) (blank); and~~

24 ~~(D) (blank); and~~

25 ~~(E) (blank); and~~

1 (Source: P.A. 100-512, eff. 7-1-18.)

2 (725 ILCS 150/9) (from Ch. 56 1/2, par. 1679)

3 (Text of Section before amendment by P.A. 100-512)

4 Sec. 9. Judicial in rem procedures. If property seized  
5 under the provisions of the Illinois Controlled Substances Act,  
6 the Cannabis Control Act, or the Methamphetamine Control and  
7 Community Protection Act is non-real property that exceeds  
8 \$20,000 in value excluding the value of any conveyance, or is  
9 real property, or a claimant has filed a claim and a cost bond  
10 under subsection (C) of Section 6 of this Act, the following  
11 judicial in rem procedures shall apply:

12 (A) If, after a review of the facts surrounding the  
13 seizure, the State's Attorney is of the opinion that the seized  
14 property is subject to forfeiture, then within 45 days of the  
15 receipt of notice of seizure by the seizing agency or the  
16 filing of the claim and cost bond, whichever is later, the  
17 State's Attorney shall institute judicial forfeiture  
18 proceedings by filing a verified complaint for forfeiture and,  
19 if the claimant has filed a claim and cost bond, by depositing  
20 the cost bond with the clerk of the court. When authorized by  
21 law, a forfeiture must be ordered by a court on an action in  
22 rem brought by a State's Attorney under a verified complaint  
23 for forfeiture.

24 (B) During the probable cause portion of the judicial in  
25 rem proceeding wherein the State presents its case-in-chief,

1 the court must receive and consider, among other things, all  
2 relevant hearsay evidence and information. The laws of evidence  
3 relating to civil actions shall apply to all other portions of  
4 the judicial in rem proceeding.

5 (C) Only an owner of or interest holder in the property may  
6 file an answer asserting a claim against the property in the  
7 action in rem. For purposes of this Section, the owner or  
8 interest holder shall be referred to as claimant.

9 (D) The answer must be signed by the owner or interest  
10 holder under penalty of perjury and must set forth:

11 (i) the caption of the proceedings as set forth on the  
12 notice of pending forfeiture and the name of the claimant;

13 (ii) the address at which the claimant will accept  
14 mail;

15 (iii) the nature and extent of the claimant's interest  
16 in the property;

17 (iv) the date, identity of transferor, and  
18 circumstances of the claimant's acquisition of the  
19 interest in the property;

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

22 (vi) the specific provisions of Section 8 of this Act  
23 relied on in asserting it is not subject to forfeiture;

24 (vii) all essential facts supporting each assertion;  
25 and

26 (viii) the precise relief sought.

1 (E) The answer must be filed with the court within 45 days  
2 after service of the civil in rem complaint.

3 (F) The hearing must be held within 60 days after filing of  
4 the answer unless continued for good cause.

5 (G) The State shall show the existence of probable cause  
6 for forfeiture of the property. If the State shows probable  
7 cause, the claimant has the burden of showing by a  
8 preponderance of the evidence that the claimant's interest in  
9 the property is not subject to forfeiture.

10 (H) If the State does not show existence of probable cause  
11 or a claimant has established by a preponderance of evidence  
12 that the claimant has an interest that is exempt under Section  
13 8 of this Act, the court shall order the interest in the  
14 property returned or conveyed to the claimant and shall order  
15 all other property forfeited to the State. If the State does  
16 show existence of probable cause and the claimant does not  
17 establish by a preponderance of evidence that the claimant has  
18 an interest that is exempt under Section 8 of this Act, the  
19 court shall order all property forfeited to the State.

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

26 (J) An acquittal or dismissal in a criminal proceeding



1 shall not preclude civil proceedings under this Act; however,  
2 for good cause shown, on a motion by the State's Attorney, the  
3 court may stay civil forfeiture proceedings during the criminal  
4 trial for a related criminal indictment or information alleging  
5 a violation of the Illinois Controlled Substances Act, the  
6 Cannabis Control Act, or the Methamphetamine Control and  
7 Community Protection Act. Such a stay shall not be available  
8 pending an appeal. Property subject to forfeiture under the  
9 Illinois Controlled Substances Act, the Cannabis Control Act,  
10 or the Methamphetamine Control and Community Protection Act  
11 shall not be subject to return or release by a court exercising  
12 jurisdiction over a criminal case involving the seizure of such  
13 property unless such return or release is consented to by the  
14 State's Attorney.

15 (K) All property declared forfeited under this Act vests in  
16 this State on the commission of the conduct giving rise to  
17 forfeiture together with the proceeds of the property after  
18 that time. Any such property or proceeds subsequently  
19 transferred to any person remain subject to forfeiture and  
20 thereafter shall be ordered forfeited unless the transferee  
21 claims and establishes in a hearing under the provisions of  
22 this Act that the transferee's interest is exempt under Section  
23 8 of this Act.

24 (L) A civil action under this Act must be commenced within  
25 5 years after the last conduct giving rise to forfeiture became  
26 known or should have become known or 5 years after the

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

5 (Source: P.A. 94-556, eff. 9-11-05.)

6 (Text of Section after amendment by P.A. 100-512)

7 Sec. 9. Judicial in rem procedures. If property seized  
8 under the provisions of the Illinois Controlled Substances Act,  
9 the Cannabis Control Act, or the Methamphetamine Control and  
10 Community Protection Act is non-real property that exceeds  
11 \$150,000 in value excluding the value of any conveyance, or is  
12 real property, or a claimant has filed a claim ~~and a cost bond~~  
13 under subsection (C) of Section 6 of this Act, the following  
14 judicial in rem procedures shall apply:

15 (A) If, after a review of the facts surrounding the  
16 seizure, the State's Attorney is of the opinion that the seized  
17 property is subject to forfeiture, the State's Attorney shall  
18 institute judicial forfeiture proceedings by filing a verified  
19 complaint for forfeiture in the circuit court within whose  
20 jurisdiction the seizure occurred, or within whose  
21 jurisdiction an act or omission giving rise to the seizure  
22 occurred, subject to Supreme Court Rule 187. The complaint for  
23 ~~of~~ forfeiture shall be filed as soon as practicable, but not  
24 later than 28 days after the filing of a verified claim by a  
25 claimant if the property was acted upon under a non-judicial

1 forfeiture action, or 28 days after the State's Attorney  
2 receives notice from the seizing agency as provided under  
3 Section 5 of this Act, whichever occurs later. When authorized  
4 by law, a forfeiture must be ordered by a court on an action in  
5 rem brought by a State's Attorney under a verified complaint  
6 for forfeiture.

7 (A-5) If the State's Attorney finds that the alleged  
8 violation of law giving rise to the seizure was incurred  
9 without willful negligence or without any intention on the part  
10 of the owner of the property to violate the law or finds the  
11 existence of ~~these~~ mitigating circumstances to justify  
12 remission of the forfeiture, may cause the law enforcement  
13 agency having custody of the property to return the property to  
14 the owner within a reasonable time not to exceed 7 days. The  
15 State's Attorney shall exercise his or her discretion prior to  
16 or promptly after the preliminary review under Section 3.5 of  
17 this Act. Judicial in rem forfeiture proceedings under this Act  
18 shall be subject to the Code of Civil Procedure and the rules  
19 of evidence relating to civil actions.

20 (A-10) A complaint of forfeiture shall include:

- 21 (1) a description of the property seized;  
22 (2) the date and place of seizure of the property;  
23 (3) the name and address of the law enforcement agency  
24 making the seizure; and  
25 (4) the specific statutory and factual grounds for the  
26 seizure.

1           The complaint shall be served upon the person from whom the  
2 property was seized and all persons known or reasonably  
3 believed by the State to claim an interest in the property, as  
4 provided in Section 4 of this Act. The complaint shall be  
5 accompanied by the following written notice:

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

1 back.".

2 (B) The laws of evidence relating to civil actions shall  
3 apply to all other proceedings under this Act except that the  
4 parties shall be allowed to use, and the court must receive and  
5 consider, all relevant hearsay evidence that ~~which~~ relates to  
6 evidentiary foundation, chain of custody, business records,  
7 recordings, laboratory analysis, laboratory reports, and the  
8 use of technology in the investigation that resulted in the  
9 seizure of the property that ~~which~~ is subject to the ~~this~~  
10 forfeiture action.

11 (C) Only an owner of or interest holder in the property may  
12 file an answer asserting a claim against the property in the  
13 action in rem. For purposes of this Section, the owner or  
14 interest holder shall be referred to as claimant. A person not  
15 named in the forfeiture complaint who claims to have an  
16 interest in the property may petition to intervene as a  
17 claimant under Section 2-408 of the Code of Civil Procedure.

18 (D) The answer must be signed by the owner or interest  
19 holder under penalty of perjury and must set forth:

20 (i) the caption of the proceedings as set forth on the  
21 notice of pending forfeiture and the name of the claimant;

22 (ii) the address at which the claimant will accept  
23 mail;

24 (iii) the nature and extent of the claimant's interest  
25 in the property;

26 (iv) the date, identity of transferor, and

1 circumstances of the claimant's acquisition of the  
2 interest in the property;

3 (v) the names and addresses ~~name and address~~ of all  
4 other persons known to have an interest in the property;

5 (vi) the specific provisions of Section 8 of this Act  
6 relied on in asserting it is exempt from forfeiture, if  
7 applicable;

8 (vii) all essential facts supporting each assertion;

9 (viii) the precise relief sought; and

10 (ix) in a forfeiture action involving currency or its  
11 equivalent, a claimant shall provide the State with notice  
12 of the claimant's ~~their~~ intent to allege that the currency  
13 or its equivalent is not related to the alleged factual  
14 basis for the forfeiture, and why.

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

17 (F) The trial shall be held within 60 days after filing of  
18 the answer unless continued for good cause.

19 (G) The State, in its case in chief, shall show by a  
20 preponderance of the evidence the property is subject to  
21 forfeiture; and at least one of the following:

22 (i) In the case of personal property, including  
23 conveyances:

24 (a) that the claimant was legally accountable for  
25 the conduct giving rise to the forfeiture;

26 (b) that the claimant knew or reasonably should

1 have known of the conduct giving rise to the  
2 forfeiture;

3 (c) that the claimant knew or reasonably should  
4 have known that the conduct giving rise to the  
5 forfeiture was likely to occur;

6 (d) that the claimant held the property for the  
7 benefit of, or as nominee for, any person whose conduct  
8 gave rise to its forfeiture;

9 (e) that if the claimant acquired the ~~their~~  
10 interest through any person engaging in any of the  
11 conduct described above or conduct giving rise to the  
12 forfeiture:

13 (1) the claimant did not acquire it as a bona  
14 fide purchaser for value, or

15 (2) the claimant acquired the interest under  
16 such circumstances that the claimant ~~they~~  
17 reasonably should have known the property was  
18 derived from, or used in, the conduct giving rise  
19 to the forfeiture; ~~or~~

20 (f) that the claimant is not the true owner of the  
21 property;

22 (g) that the claimant acquired the interest:

23 (1) before the commencement of the conduct  
24 giving rise to the forfeiture and the person whose  
25 conduct gave rise to the forfeiture did not have  
26 authority to convey the interest to a bona fide

1 purchaser for value at the time of the conduct; or

2 (2) after the commencement of the conduct  
3 giving rise to the forfeiture and the owner or  
4 interest holder acquired the interest as a  
5 mortgagee, secured creditor, lienholder, or bona  
6 fide purchaser for value without knowledge of the  
7 conduct that ~~which~~ gave rise to the forfeiture, and  
8 without the knowledge of the seizure of the  
9 property for forfeiture.

10 (ii) In the case of real property:

11 (a) that the claimant was legally accountable for  
12 the conduct giving rise to the forfeiture;

13 (b) that the claimant solicited, conspired, or  
14 attempted to commit the conduct giving rise to the  
15 forfeiture; or

16 (c) that the claimant had acquired or stood to  
17 acquire substantial proceeds from the conduct giving  
18 rise to its forfeiture other than as an interest holder  
19 in an arm's length transaction;

20 (d) that the claimant is not the true owner of the  
21 property;

22 (e) that the claimant acquired the interest:

23 (1) before the commencement of the conduct  
24 giving rise to the forfeiture and the person whose  
25 conduct gave rise to the forfeiture did not have  
26 authority to convey the interest to a bona fide



1 purchaser for value at the time of the conduct; or

2 (2) after the commencement of the conduct  
3 giving rise to the forfeiture and the owner or  
4 interest holder acquired the interest as a  
5 mortgagee, secured creditor, lienholder, or bona  
6 fide purchaser for value without knowledge of the  
7 conduct that ~~which~~ gave rise to the forfeiture, and  
8 before the filing in the office of the recorder of  
9 deeds of the county in which the real estate is  
10 located a notice of seizure for forfeiture or a lis  
11 pendens notice.

12 (G-5) If the property that is the subject of the forfeiture  
13 proceeding is currency or its equivalent, the State, in its  
14 case in chief, shall show by a preponderance of the evidence  
15 that the property is subject to forfeiture. If the State makes  
16 that showing, the claimant shall have the burden of production  
17 to set forth evidence that the currency or its equivalent is  
18 not related to the alleged factual basis of the forfeiture.  
19 After the production of evidence, the State shall maintain the  
20 burden of proof to overcome this assertion.

21 (G-10) Notwithstanding any other provision of this  
22 Section, the State's burden of proof at the trial of the  
23 forfeiture action shall be by clear and convincing evidence if:

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

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

5           (H) If the State does not meet its burden of proof, the  
6 court shall order the interest in the property returned or  
7 conveyed to the claimant and shall order all other property as  
8 to which the State does meet its burden of proof forfeited to  
9 the State. If the State does meet its burden of proof, the  
10 court shall order all property forfeited to the State.

11           (I) A defendant convicted in any criminal proceeding is  
12 precluded from later denying the essential allegations of the  
13 criminal offense of which the defendant was convicted in any  
14 proceeding under this Act regardless of the pendency of an  
15 appeal from that conviction. However, evidence of the pendency  
16 of an appeal is admissible.

17           (J) An acquittal or dismissal in a criminal proceeding  
18 shall not preclude civil proceedings under this Act; however,  
19 for good cause shown, on a motion by the State's Attorney, the  
20 court may stay civil forfeiture proceedings during the criminal  
21 trial for a related criminal indictment or information alleging  
22 a violation of the Illinois Controlled Substances Act, the  
23 Cannabis Control Act, or the Methamphetamine Control and  
24 Community Protection Act. Such a stay shall not be available  
25 pending an appeal. Property subject to forfeiture under the  
26 Illinois Controlled Substances Act, the Cannabis Control Act,

1 or the Methamphetamine Control and Community Protection Act  
2 shall not be subject to return or release by a court exercising  
3 jurisdiction over a criminal case involving the seizure of such  
4 property unless such return or release is consented to by the  
5 State's Attorney.

6 (K) Title to all property declared forfeited under this Act  
7 vests in the ~~this~~ State on the commission of the conduct giving  
8 rise to forfeiture together with the proceeds of the property  
9 after that time. Except as otherwise provided in this Act, any  
10 such property or proceeds subsequently transferred to any  
11 person remain subject to forfeiture unless a person to whom the  
12 property was transferred makes an appropriate claim under this  
13 Act and has the ~~their~~ claim adjudicated in the judicial in rem  
14 proceeding.

15 (L) A civil action under this Act must be commenced within  
16 5 years after the last conduct giving rise to forfeiture became  
17 known or should have become known or 5 years after the  
18 forfeitable property is discovered, whichever is later,  
19 excluding any time during which either the property or claimant  
20 is out of the State or in confinement or during which criminal  
21 proceedings relating to the same conduct are in progress.

22 (M) No property shall be forfeited under this Act from a  
23 person who, without actual or constructive notice that the  
24 property was the subject of forfeiture proceedings, obtained  
25 possession of the property as a bona fide purchaser for value.  
26 A person who purports to transfer property after receiving

1 actual or constructive notice that the property is subject to  
2 seizure or forfeiture is guilty of contempt of court and shall  
3 be liable to the State for a penalty in the amount of the fair  
4 market value of the property.

5 (N) If property is ordered forfeited under this Act from a  
6 claimant who held title to the property in joint tenancy or  
7 tenancy in common with another claimant, the court shall  
8 determine the amount of each owner's interest in the property  
9 according to principles of property law.

10 (Source: P.A. 100-512, eff. 7-1-18.)

11 (725 ILCS 150/9.1)

12 (This Section may contain text from a Public Act with a  
13 delayed effective date)

14 Sec. 9.1. Innocent owner hearing.

15 (a) After a complaint for forfeiture is filed and all  
16 claimants have appeared and answered, a claimant may file a  
17 motion with the court for an innocent owner hearing prior to  
18 trial. This motion shall be made and supported by sworn  
19 affidavit and shall assert the following along with specific  
20 facts that ~~which~~ support each assertion:

21 (1) that the claimant filing the motion is the true  
22 owner of the conveyance as interpreted by case law;

23 (2) that the claimant was not legally accountable for  
24 the conduct giving rise to the forfeiture or acquiesced in  
25 the conduct;

1           (3) that the claimant did not solicit, conspire, or  
2 attempt to commit the conduct giving rise to the  
3 forfeiture;

4           (4) that the claimant did not know or did not ~~they~~ have  
5 reason to know that the conduct giving rise to the  
6 forfeiture was likely to occur; and

7           (5) that the claimant did not hold the property for the  
8 benefit of, or as nominee for any person whose conduct gave  
9 rise to its forfeiture, or if the owner or interest holder  
10 acquired the interest through any such person, the owner or  
11 interest holder did not acquire it as a bona fide purchaser  
12 for value, or acquired the interest without knowledge of  
13 the seizure of the property for forfeiture.

14       ~~(b)~~ The claimant's motion shall include specific facts  
15 supporting these assertions.

16       (b) ~~(e)~~ Upon this filing, a hearing may only be held after  
17 the parties have been given the opportunity to conduct limited  
18 discovery as to the ownership and control of the property, the  
19 claimant's knowledge, or any matter relevant to the issues  
20 raised or facts alleged in the claimant's motion. Discovery  
21 shall be limited to the People's requests in these areas but  
22 may proceed by any means allowed in the Code of Civil  
23 Procedure.

24       (c) ~~(d)~~ After discovery is complete and the court has  
25 allowed for sufficient time to review and investigate the  
26 discovery responses, the court shall conduct a hearing. At the

1 hearing, the fact that the property is subject to forfeiture  
2 shall not be at issue. The court shall only hear evidence  
3 relating to the issue of innocent ownership.

4 (d) ~~(e)~~ At the hearing on the motion, the claimant shall  
5 bear the burden of proving by a preponderance of the evidence  
6 each of the assertions set forth in subsection (a) of this  
7 Section. ~~(f)~~ If a claimant meets the ~~their~~ burden of proof, the  
8 court shall grant the motion and order the property returned to  
9 the claimant. If the claimant fails to meet the ~~their~~ burden of  
10 proof, then the court shall deny the motion and the forfeiture  
11 case shall proceed according to the Code ~~Rules~~ of Civil  
12 Procedure.

13 (Source: P.A. 100-512, eff. 7-1-18.)

14 (725 ILCS 150/11) (from Ch. 56 1/2, par. 1681)

15 (Text of Section before amendment by P.A. 100-512)

16 Sec. 11. Settlement of claims. Notwithstanding other  
17 provisions of this Act, the State's Attorney and a claimant of  
18 seized property may enter into an agreed-upon settlement  
19 concerning the seized property in such an amount and upon such  
20 terms as are set out in writing in a settlement agreement.

21 (Source: P.A. 86-1382.)

22 (Text of Section after amendment by P.A. 100-512)

23 Sec. 11. Settlement of claims. Notwithstanding other  
24 provisions of this Act, the State's Attorney and a claimant of

1 seized property may enter into an agreed-upon settlement  
2 concerning the seized property in such an amount and upon such  
3 terms as are set out in writing in a settlement agreement. All  
4 proceeds from a settlement agreement shall be tendered to the  
5 Department of State Police and distributed in accordance with  
6 the provisions of Section 13.2 ~~17~~ of this Act.

7 (Source: P.A. 100-512, eff. 7-1-18.)

8 (725 ILCS 150/13.1)

9 (This Section may contain text from a Public Act with a  
10 delayed effective date)

11 Sec. 13.1 ~~15~~. Return of property, damages, and costs.

12 (a) The law enforcement agency that holds custody of  
13 property seized for forfeiture shall deliver property ordered  
14 by the court to be returned or conveyed to the claimant within  
15 a reasonable time not to exceed 7 days, unless the order is  
16 stayed by the trial court or a reviewing court pending an  
17 appeal, motion to reconsider, or other reason.

18 (b) The law enforcement agency that holds custody of  
19 property described in subsection (a) of this Section is  
20 responsible for any damages, storage fees, and related costs  
21 applicable to property returned. The claimant shall not be  
22 subject to any charges by the State for storage of the property  
23 or expenses incurred in the preservation of the property.  
24 Charges for the towing of a conveyance shall be borne by the  
25 claimant unless the conveyance was towed for the sole reason of

1 seizure for forfeiture. This Section does not prohibit the  
2 imposition of any fees or costs by a home rule unit of local  
3 government related to the impoundment of a conveyance pursuant  
4 to an ordinance enacted by the unit of government.

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

16 (Source: P.A. 100-512, eff. 7-1-18.)

17 (725 ILCS 150/13.2)

18 (This Section may contain text from a Public Act with a  
19 delayed effective date)

20 Sec. 13.2 ~~17~~. Distribution of proceeds; selling or  
21 retaining seized property prohibited.

22 (a) Except as otherwise provided in this Section, the court  
23 shall order that property forfeited under this Act be delivered  
24 to the Department of State Police within 60 days.

25 (b) All moneys ~~monies~~ and the sale proceeds of all other



1 property forfeited and seized under this Act shall be  
2 distributed as follows:

3 (1)(i) 65% shall be distributed to the metropolitan  
4 enforcement group, local, municipal, county, or State  
5 ~~state~~ law enforcement agency or agencies that ~~which~~  
6 conducted or participated in the investigation resulting  
7 in the forfeiture. The distribution shall bear a reasonable  
8 relationship to the degree of direct participation of the  
9 law enforcement agency in the effort resulting in the  
10 forfeiture, taking into account the total value of the  
11 property forfeited and the total law enforcement effort  
12 with respect to the violation of the law upon which the  
13 forfeiture is based. Amounts distributed to the agency or  
14 agencies shall be used for the enforcement of laws  
15 governing cannabis and controlled substances; for public  
16 education in the community or schools in the prevention or  
17 detection of the abuse of drugs or alcohol; or for security  
18 cameras used for the prevention or detection of violence,  
19 except that amounts distributed to the Secretary of State  
20 shall be deposited into the Secretary of State Evidence  
21 Fund to be used as provided in Section 2-115 of the  
22 Illinois Vehicle Code.

23 (ii) Any local, municipal, or county law enforcement  
24 agency entitled to receive a monetary distribution of  
25 forfeiture proceeds may share those forfeiture proceeds  
26 pursuant to the terms of an intergovernmental agreement

1 with a municipality that has a population in excess of  
2 20,000 if:

3 (A) the receiving agency has entered into an  
4 intergovernmental agreement with the municipality to  
5 provide police services;

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

9 (C) the seizure took place within the geographical  
10 limits of the municipality; and

11 (D) the funds are used only for the enforcement of  
12 laws governing cannabis and controlled substances; for  
13 public education in the community or schools in the  
14 prevention or detection of the abuse of drugs or  
15 alcohol; or for security cameras used for the  
16 prevention or detection of violence or the  
17 establishment of a municipal police force, including  
18 the training of officers, construction of a police  
19 station, or the purchase of law enforcement equipment  
20 or vehicles.

21 (2) (i) 12.5% shall be distributed to the Office of the  
22 State's Attorney of the county in which the prosecution  
23 resulting in the forfeiture was instituted, deposited in a  
24 special fund in the county treasury and appropriated to the  
25 State's Attorney for use in the enforcement of laws  
26 governing cannabis and controlled substances; for public

1 education in the community or schools in the prevention or  
2 detection of the abuse of drugs or alcohol; or, at the  
3 discretion of the State's Attorney, in addition to other  
4 authorized purposes, to make grants to local substance  
5 abuse treatment facilities and half-way houses. In  
6 counties over 3,000,000 population, 25% shall be  
7 distributed to the Office of the State's Attorney for use  
8 in the enforcement of laws governing cannabis and  
9 controlled substances; for public education in the  
10 community or schools in the prevention or detection of the  
11 abuse of drugs or alcohol; or at the discretion of the  
12 State's Attorney, in addition to other authorized  
13 purposes, to make grants to local substance abuse treatment  
14 facilities and half-way houses. If the prosecution is  
15 undertaken solely by the Attorney General, the portion  
16 provided shall be distributed to the Attorney General for  
17 use in the enforcement of laws governing cannabis and  
18 controlled substances or for public education in the  
19 community or schools in the prevention or detection of the  
20 abuse of drugs or alcohol.

21 (ii) 12.5% shall be distributed to the Office of the  
22 State's Attorneys Appellate Prosecutor and deposited in  
23 the Narcotics Profit Forfeiture Fund of that office to be  
24 used for additional expenses incurred in the  
25 investigation, prosecution and appeal of cases arising  
26 under laws governing cannabis and controlled substances or

1 for public education in the community or schools in the  
2 prevention or detection of the abuse of drugs or alcohol.  
3 The Office of the State's Attorneys Appellate Prosecutor  
4 shall not receive distribution from cases brought in  
5 counties with over 3,000,000 population.

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

9 (Source: P.A. 100-512, eff. 7-1-18.)

10 (725 ILCS 150/13.3)

11 (This Section may contain text from a Public Act with a  
12 delayed effective date)

13 Sec. 13.3 ~~20~~. Reporting. Property seized or forfeited under  
14 this Act is subject to reporting under the Seizure and  
15 Forfeiture Reporting Act.

16 (Source: P.A. 100-512, eff. 7-1-18.)

17 (725 ILCS 150/13.4 new)

18 Sec. 13.4. Applicability; savings clause.

19 (a) The changes made to this Act by Public Act 100-0512 and  
20 this amendatory Act of the 100th General Assembly only apply to  
21 property seized on and after July 1, 2018.

22 (b) The changes made to this Act by this amendatory Act of  
23 the 100th General Assembly are subject to Section 4 of the  
24 Statute on Statutes.

1           Section 42. The Illinois Streetgang Terrorism Omnibus  
2 Prevention Act is amended by changing Section 40 as follows:

3           (740 ILCS 147/40)

4           (Text of Section before amendment by P.A. 100-512)

5           Sec. 40. Contraband.

6           (a) The following are declared to be contraband and no  
7 person shall have a property interest in them:

8                 (1) any property that is directly or indirectly used or  
9 intended for use in any manner to facilitate streetgang  
10 related activity; and

11                (2) any property constituting or derived from gross  
12 profits or other proceeds obtained from streetgang related  
13 activity.

14           (b) Within 60 days of the date of the seizure of contraband  
15 under this Section, the State's Attorney shall initiate  
16 forfeiture proceedings as provided in Article 36 of the  
17 Criminal Code of 2012. An owner or person who has a lien on the  
18 property may establish as a defense to the forfeiture of  
19 property that is subject to forfeiture under this Section that  
20 the owner or lienholder had no knowledge that the property was  
21 acquired through a pattern of streetgang related activity.  
22 Property that is forfeited under this Section shall be disposed  
23 of as provided in Article 36 of the Criminal Code of 2012 for  
24 the forfeiture of vehicles, vessels, and aircraft. The proceeds

1 of the disposition shall be paid to the Gang Violence Victims  
2 and Witnesses Fund to be used to assist in the prosecution of  
3 gang crimes.

4 (Source: P.A. 97-1150, eff. 1-25-13.)

5 (Text of Section after amendment by P.A. 100-512)

6 Sec. 40. Forfeiture.

7 (a) The following are subject to seizure and forfeiture:

8 (1) any property that is directly or indirectly used or  
9 intended for use in any manner to facilitate streetgang  
10 related activity; and

11 (2) any property constituting or derived from gross  
12 profits or other proceeds obtained from streetgang related  
13 activity.

14 (b) Property subject to forfeiture under this Section may  
15 be seized under the procedures set forth under Section 36-2.1  
16 of the Criminal Code of 2012, except that actual physical  
17 seizure of real property subject to forfeiture under this Act  
18 requires the issuance of a seizure warrant. Nothing in this  
19 Section prohibits the constructive seizure of real property  
20 through the filing of a complaint for forfeiture in circuit  
21 court and the recording of a lis pendens against the real  
22 property without a hearing, warrant application, or judicial  
23 approval.

24 (c) The State's Attorney may initiate forfeiture  
25 proceedings under the procedures in Article 36 of the Criminal

1 Code of 2012. The State shall bear the burden of proving by a  
2 preponderance of the evidence that the property was acquired  
3 through a pattern of streetgang related activity.

4 (d) Property forfeited under this Section shall be disposed  
5 of in accordance with Section 36-7 of Article 36 of the  
6 Criminal Code of 2012 for the forfeiture of vehicles, vessels,  
7 and aircraft.

8 (e) Within 60 days of the date of the seizure of contraband  
9 under this Section, the State's Attorney shall initiate  
10 forfeiture proceedings as provided in Article 36 of the  
11 Criminal Code of 2012. An owner or person who has a lien on the  
12 property may establish as a defense to the forfeiture of  
13 property that is subject to forfeiture under this Section that  
14 the owner or lienholder had no knowledge that the property was  
15 acquired through a pattern of streetgang related activity.  
16 Property that is forfeited under this Section shall be disposed  
17 of as provided in Article 36 of the Criminal Code of 2012 for  
18 the forfeiture of vehicles, vessels, and aircraft. The proceeds  
19 of the disposition shall be paid to the Gang Violence Victims  
20 and Witnesses Fund to be used to assist in the prosecution of  
21 gang crimes.

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

25 (g) The changes made to this Section by Public Act 100-0512  
26 only apply to property seized on and after July 1, 2018.

1 (Source: P.A. 100-512, eff. 7-1-18.)

2 Section 45. The Illinois Securities Law of 1953 is amended  
3 by changing Section 11 as follows:

4 (815 ILCS 5/11) (from Ch. 121 1/2, par. 137.11)

5 (Text of Section before amendment by P.A. 100-512)

6 Sec. 11. Duties and powers of the Secretary of State.

7 A. (1) The administration of this Act is vested in the  
8 Secretary of State, who may from time to time make, amend and  
9 rescind such rules and regulations as may be necessary to carry  
10 out this Act, including rules and regulations governing  
11 procedures of registration, statements, applications and  
12 reports for various classes of securities, persons and matters  
13 within his or her jurisdiction and defining any terms, whether  
14 or not used in this Act, insofar as the definitions are not  
15 inconsistent with this Act. The rules and regulations adopted  
16 by the Secretary of State under this Act shall be effective in  
17 the manner provided for in the Illinois Administrative  
18 Procedure Act.

19 (2) Among other things, the Secretary of State shall have  
20 authority, for the purposes of this Act, to prescribe the form  
21 or forms in which required information shall be set forth,  
22 accounting practices, the items or details to be shown in  
23 balance sheets and earning statements, and the methods to be  
24 followed in the preparation of accounts, in the appraisal or



1 valuation of assets and liabilities, in the determination of  
2 depreciation and depletion, in the differentiation of  
3 recurring and non-recurring income, in the differentiation of  
4 investment and operating income, and in the preparation of  
5 consolidated balance sheets or income accounts of any person,  
6 directly or indirectly, controlling or controlled by the  
7 issuer, or any person under direct or indirect common control  
8 with the issuer.

9 (3) No provision of this Act imposing any liability shall  
10 apply to any act done or omitted in good faith in conformity  
11 with any rule or regulation of the Secretary of State under  
12 this Act, notwithstanding that the rule or regulation may,  
13 after the act or omission, be amended or rescinded or be  
14 determined by judicial or other authority to be invalid for any  
15 reason.

16 (4) The Securities Department of the Office of the  
17 Secretary of State shall be deemed a criminal justice agency  
18 for purposes of all federal and state laws and regulations and,  
19 in that capacity, shall be entitled to access to any  
20 information available to criminal justice agencies and has the  
21 power to appoint special agents to conduct all investigations,  
22 searches, seizures, arrests, and other duties imposed under the  
23 provisions of any law administered by the Department. The  
24 special agents have and may exercise all the powers of peace  
25 officers solely for the purpose of enforcing provisions of this  
26 Act.

1           The Director must authorize to each special agent employed  
2 under this Section a distinct badge that, on its face, (i)  
3 clearly states that the badge is authorized by the Department  
4 and (ii) contains a unique and identifying number.

5           Special agents shall comply with all training requirements  
6 established for law enforcement officers by provisions of the  
7 Illinois Police Training Act.

8           (5) The Secretary of State, by rule, may conditionally or  
9 unconditionally exempt any person, security, or transaction,  
10 or any class or classes of persons, securities, or transactions  
11 from any provision of Section 5, 6, 7, 8, 8a, or 9 of this Act  
12 or of any rule promulgated under these Sections, to the extent  
13 that such exemption is necessary or appropriate in the public  
14 interest, and is consistent with the protection of investors.

15           B. The Secretary of State may, anything in this Act to the  
16 contrary notwithstanding, require financial statements and  
17 reports of the issuer, dealer, Internet portal, salesperson,  
18 investment adviser, or investment adviser representative as  
19 often as circumstances may warrant. In addition, the Secretary  
20 of State may secure information or books and records from or  
21 through others and may make or cause to be made investigations  
22 respecting the business, affairs, and property of the issuer of  
23 securities, any person involved in the sale or offer for sale,  
24 purchase or offer to purchase of any mineral investment  
25 contract, mineral deferred delivery contract, or security and  
26 of dealers, Internet portals, salespersons, investment

1 advisers, and investment adviser representatives that are  
2 registered or are the subject of an application for  
3 registration under this Act. The costs of an investigation  
4 shall be borne by the registrant or the applicant, provided  
5 that the registrant or applicant shall not be obligated to pay  
6 the costs without his, her or its consent in advance.

7 C. Whenever it shall appear to the Secretary of State,  
8 either upon complaint or otherwise, that this Act, or any rule  
9 or regulation prescribed under authority thereof, has been or  
10 is about to be violated, he or she may, in his or her  
11 discretion, do one or more of the following:

12 (1) require or permit the person to file with the  
13 Secretary of State a statement in writing under oath, or  
14 otherwise, as to all the facts and circumstances concerning  
15 the subject matter which the Secretary of State believes to  
16 be in the public interest to investigate, audit, examine,  
17 or inspect;

18 (2) conduct an investigation, audit, examination, or  
19 inspection as necessary or advisable for the protection of  
20 the interests of the public; and

21 (3) appoint investigators to conduct all  
22 investigations, searches, seizures, arrests, and other  
23 duties imposed under the provisions of any law administered  
24 by the Department. The Director must authorize to each  
25 investigator employed under this Section a distinct badge  
26 that, on its face, (i) clearly states that the badge is

1 authorized by the Department and (ii) contains a unique and  
2 identifying number.

3 D. (1) For the purpose of all investigations, audits,  
4 examinations, or inspections which in the opinion of the  
5 Secretary of State are necessary and proper for the enforcement  
6 of this Act, the Secretary of State or a person designated by  
7 him or her is empowered to administer oaths and affirmations,  
8 subpoena witnesses, take evidence, and require, by subpoena or  
9 other lawful means provided by this Act or the rules adopted by  
10 the Secretary of State, the production of any books and  
11 records, papers, or other documents which the Secretary of  
12 State or a person designated by him or her deems relevant or  
13 material to the inquiry.

14 (2) The Secretary of State or a person designated by him or  
15 her is further empowered to administer oaths and affirmations,  
16 subpoena witnesses, take evidence, and require the production  
17 of any books and records, papers, or other documents in this  
18 State at the request of a securities agency of another state,  
19 if the activities constituting the alleged violation for which  
20 the information is sought would be in violation of Section 12  
21 of this Act if the activities had occurred in this State.

22 (3) The Circuit Court of any County of this State, upon  
23 application of the Secretary of State or a person designated by  
24 him or her may order the attendance of witnesses, the  
25 production of books and records, papers, accounts and documents  
26 and the giving of testimony before the Secretary of State or a

1 person designated by him or her; and any failure to obey the  
2 order may be punished by the Circuit Court as a contempt  
3 thereof.

4 (4) The fees of subpoenaed witnesses under this Act for  
5 attendance and travel shall be the same as fees of witnesses  
6 before the Circuit Courts of this State, to be paid when the  
7 witness is excused from further attendance, provided, the  
8 witness is subpoenaed at the instance of the Secretary of  
9 State; and payment of the fees shall be made and audited in the  
10 same manner as other expenses of the Secretary of State.

11 (5) Whenever a subpoena is issued at the request of a  
12 complainant or respondent as the case may be, the Secretary of  
13 State may require that the cost of service and the fee of the  
14 witness shall be borne by the party at whose instance the  
15 witness is summoned.

16 (6) The Secretary of State shall have power at his or her  
17 discretion, to require a deposit to cover the cost of the  
18 service and witness fees and the payment of the legal witness  
19 fee and mileage to the witness served with subpoena.

20 (7) A subpoena issued under this Act shall be served in the  
21 same manner as a subpoena issued out of a circuit court.

22 (8) The Secretary of State may in any investigation,  
23 audits, examinations, or inspections cause the taking of  
24 depositions of persons residing within or without this State in  
25 the manner provided in civil actions under the laws of this  
26 State.

1 E. Anything in this Act to the contrary notwithstanding:

2 (1) If the Secretary of State shall find that the offer  
3 or sale or proposed offer or sale or method of offer or  
4 sale of any securities by any person, whether exempt or  
5 not, in this State, is fraudulent, or would work or tend to  
6 work a fraud or deceit, or is being offered or sold in  
7 violation of Section 12, or there has been a failure or  
8 refusal to submit any notification filing or fee required  
9 under this Act, the Secretary of State may by written order  
10 prohibit or suspend the offer or sale of securities by that  
11 person or deny or revoke the registration of the securities  
12 or the exemption from registration for the securities.

13 (2) If the Secretary of State shall find that any  
14 person has violated subsection C, D, E, F, G, H, I, J, or K  
15 of Section 12 of this Act, the Secretary of State may by  
16 written order temporarily or permanently prohibit or  
17 suspend the person from offering or selling any securities,  
18 any mineral investment contract, or any mineral deferred  
19 delivery contract in this State, provided that any person  
20 who is the subject of an order of permanent prohibition may  
21 petition the Secretary of State for a hearing to present  
22 evidence of rehabilitation or change in circumstances  
23 justifying the amendment or termination of the order of  
24 permanent prohibition.

25 (3) If the Secretary of State shall find that any  
26 person is engaging or has engaged in the business of

1 selling or offering for sale securities as a dealer,  
2 Internet portal, or salesperson or is acting or has acted  
3 as an investment adviser, investment adviser  
4 representative, or federal covered investment adviser,  
5 without prior thereto and at the time thereof having  
6 complied with the registration or notice filing  
7 requirements of this Act, the Secretary of State may by  
8 written order prohibit or suspend the person from engaging  
9 in the business of selling or offering for sale securities,  
10 or acting as an investment adviser, investment adviser  
11 representative, or federal covered investment adviser, in  
12 this State.

13 (4) In addition to any other sanction or remedy  
14 contained in this subsection E, the Secretary of State,  
15 after finding that any provision of this Act has been  
16 violated, may impose a fine as provided by rule, regulation  
17 or order not to exceed \$10,000 for each violation of this  
18 Act, may issue an order of public censure against the  
19 violator, and may charge as costs of investigation all  
20 reasonable expenses, including attorney's fees and witness  
21 fees.

22 F. (1) The Secretary of State shall not deny, suspend or  
23 revoke the registration of securities, suspend or revoke the  
24 registration of a dealer, Internet portal, salesperson,  
25 investment adviser, or investment adviser representative,  
26 prohibit or suspend the offer or sale of any securities,

1 prohibit or suspend any person from offering or selling any  
2 securities in this State, prohibit or suspend a dealer or  
3 salesperson from engaging in the business of selling or  
4 offering for sale securities, prohibit or suspend a person from  
5 acting as an investment adviser or federal covered investment  
6 adviser, or investment adviser representative, impose any fine  
7 for violation of this Act, issue an order of public censure, or  
8 enter into an agreed settlement except after an opportunity for  
9 hearing upon not less than 10 days notice given by personal  
10 service or registered mail or certified mail, return receipt  
11 requested, to the person or persons concerned. Such notice  
12 shall state the date and time and place of the hearing and  
13 shall contain a brief statement of the proposed action of the  
14 Secretary of State and the grounds for the proposed action. A  
15 failure to appear at the hearing or otherwise respond to the  
16 allegations set forth in the notice of hearing shall constitute  
17 an admission of any facts alleged therein and shall constitute  
18 sufficient basis to enter an order.

19 (2) Anything herein contained to the contrary  
20 notwithstanding, the Secretary of State may temporarily  
21 prohibit or suspend, for a maximum period of 90 days, by an  
22 order effective immediately, the offer or sale or registration  
23 of securities, the registration of a dealer, Internet portal,  
24 salesperson, investment adviser, or investment adviser  
25 representative, or the offer or sale of securities by any  
26 person, or the business of rendering investment advice, without



1 the notice and prior hearing in this subsection prescribed, if  
2 the Secretary of State shall in his or her opinion, based on  
3 credible evidence, deem it necessary to prevent an imminent  
4 violation of this Act or to prevent losses to investors which  
5 the Secretary of State reasonably believes will occur as a  
6 result of a prior violation of this Act. Immediately after  
7 taking action without such notice and hearing, the Secretary of  
8 State shall deliver a copy of the temporary order to the  
9 respondent named therein by personal service or registered mail  
10 or certified mail, return receipt requested. The temporary  
11 order shall set forth the grounds for the action and shall  
12 advise that the respondent may request a hearing, that the  
13 request for a hearing will not stop the effectiveness of the  
14 temporary order and that respondent's failure to request a  
15 hearing within 30 days after the date of the entry of the  
16 temporary order shall constitute an admission of any facts  
17 alleged therein and shall constitute sufficient basis to make  
18 the temporary order final. Any provision of this paragraph (2)  
19 to the contrary notwithstanding, the Secretary of State may not  
20 pursuant to the provisions of this paragraph (2) suspend the  
21 registration of a dealer, limited Canadian dealer,  
22 salesperson, investment adviser, or investment adviser  
23 representative based upon sub-paragraph (n) of paragraph (1) of  
24 subsection E of Section 8 of this Act or revoke the  
25 registration of securities or revoke the registration of any  
26 dealer, salesperson, investment adviser representative, or

1 investment adviser.

2 (3) The Secretary of State may issue a temporary order  
3 suspending or delaying the effectiveness of any registration of  
4 securities under subsection A or B of Section 5, 6 or 7 of this  
5 Act subsequent to and upon the basis of the issuance of any  
6 stop, suspension or similar order by the Securities and  
7 Exchange Commission with respect to the securities which are  
8 the subject of the registration under subsection A or B of  
9 Section 5, 6 or 7 of this Act, and the order shall become  
10 effective as of the date and time of effectiveness of the  
11 Securities and Exchange Commission order and shall be vacated  
12 automatically at such time as the order of the Securities and  
13 Exchange Commission is no longer in effect.

14 (4) When the Secretary of State finds that an application  
15 for registration as a dealer, Internet portal, salesperson,  
16 investment adviser, or investment adviser representative  
17 should be denied, the Secretary of State may enter an order  
18 denying the registration. Immediately after taking such  
19 action, the Secretary of State shall deliver a copy of the  
20 order to the respondent named therein by personal service or  
21 registered mail or certified mail, return receipt requested.  
22 The order shall state the grounds for the action and that the  
23 matter will be set for hearing upon written request filed with  
24 the Secretary of State within 30 days after the receipt of the  
25 request by the respondent. The respondent's failure to request  
26 a hearing within 30 days after receipt of the order shall

1 constitute an admission of any facts alleged therein and shall  
2 make the order final. If a hearing is held, the Secretary of  
3 State shall affirm, vacate, or modify the order.

4 (5) The findings and decision of the Secretary of State  
5 upon the conclusion of each final hearing held pursuant to this  
6 subsection shall be set forth in a written order signed on  
7 behalf of the Secretary of State by his or her designee and  
8 shall be filed as a public record. All hearings shall be held  
9 before a person designated by the Secretary of State, and  
10 appropriate records thereof shall be kept.

11 (6) Notwithstanding the foregoing, the Secretary of State,  
12 after notice and opportunity for hearing, may at his or her  
13 discretion enter into an agreed settlement, stipulation or  
14 consent order with a respondent in accordance with the  
15 provisions of the Illinois Administrative Procedure Act. The  
16 provisions of the agreed settlement, stipulation or consent  
17 order shall have the full force and effect of an order issued  
18 by the Secretary of State.

19 (7) Anything in this Act to the contrary notwithstanding,  
20 whenever the Secretary of State finds that a person is  
21 currently expelled from, refused membership in or association  
22 with, or limited in any material capacity by a self-regulatory  
23 organization registered under the Federal 1934 Act or the  
24 Federal 1974 Act because of a fraudulent or deceptive act or a  
25 practice in violation of a rule, regulation, or standard duly  
26 promulgated by the self-regulatory organization, the Secretary

1 of State may, at his or her discretion, enter a Summary Order  
2 of Prohibition, which shall prohibit the offer or sale of any  
3 securities, mineral investment contract, or mineral deferred  
4 delivery contract by the person in this State. The order shall  
5 take effect immediately upon its entry. Immediately after  
6 taking the action the Secretary of State shall deliver a copy  
7 of the order to the named Respondent by personal service or  
8 registered mail or certified mail, return receipt requested. A  
9 person who is the subject of an Order of 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 Prohibition.

14 G. No administrative action shall be brought by the  
15 Secretary of State for relief under this Act or upon or because  
16 of any of the matters for which relief is granted by this Act  
17 after the earlier to occur of (i) 3 years from the date upon  
18 which the Secretary of State had notice of facts which in the  
19 exercise of reasonable diligence would lead to actual knowledge  
20 of the alleged violation of the Act, or (ii) 5 years from the  
21 date on which the alleged violation occurred.

22 H. The action of the Secretary of State in denying,  
23 suspending, or revoking the registration of a dealer, Internet  
24 portal, limited Canadian dealer, salesperson, investment  
25 adviser, or investment adviser representative, in prohibiting  
26 any person from engaging in the business of offering or selling

1 securities as a dealer, limited Canadian dealer, or  
2 salesperson, in prohibiting or suspending the offer or sale of  
3 securities by any person, in prohibiting a person from acting  
4 as an investment adviser, federal covered investment adviser,  
5 or investment adviser representative, in denying, suspending,  
6 or revoking the registration of securities, in prohibiting or  
7 suspending the offer or sale or proposed offer or sale of  
8 securities, in imposing any fine for violation of this Act, or  
9 in issuing any order shall be subject to judicial review in the  
10 Circuit Courts of Cook or Sangamon Counties in this State. The  
11 Administrative Review Law shall apply to and govern every  
12 action for the judicial review of final actions or decisions of  
13 the Secretary of State under this Act.

14 I. Notwithstanding any other provisions of this Act to the  
15 contrary, whenever it shall appear to the Secretary of State  
16 that any person is engaged or about to engage in any acts or  
17 practices which constitute or will constitute a violation of  
18 this Act or of any rule or regulation prescribed under  
19 authority of this Act, the Secretary of State may at his or her  
20 discretion, through the Attorney General take any of the  
21 following actions:

22 (1) File a complaint and apply for a temporary  
23 restraining order without notice, and upon a proper showing  
24 the court may enter a temporary restraining order without  
25 bond, to enforce this Act.

26 (2) File a complaint and apply for a preliminary or

1 permanent injunction, and, after notice and a hearing and  
2 upon a proper showing, the court may grant a preliminary or  
3 permanent injunction and may order the defendant to make an  
4 offer of rescission with respect to any sales or purchases  
5 of securities, mineral investment contracts, or mineral  
6 deferred delivery contracts determined by the court to be  
7 unlawful under this Act.

8 (3) Seek the seizure of assets when probable cause  
9 exists that the assets were obtained by a defendant through  
10 conduct in violation of Section 12, paragraph F, G, I, J,  
11 K, or L of this Act, and thereby subject to a judicial  
12 forfeiture hearing as required under this Act.

13 (a) In the event that such probable cause exists  
14 that the subject of an investigation who is alleged to  
15 have committed one of the relevant violations of this  
16 Act has in his possession assets obtained as a result  
17 of the conduct giving rise to the violation, the  
18 Secretary of State may seek a seizure warrant in any  
19 circuit court in Illinois.

20 (b) In seeking a seizure warrant, the Secretary of  
21 State, or his or her designee, shall submit to the  
22 court a sworn affidavit detailing the probable cause  
23 evidence for the seizure, the location of the assets to  
24 be seized, the relevant violation under Section 12 of  
25 this Act, and a statement detailing any known owners or  
26 interest holders in the assets.

1           (c) Seizure of the assets shall be made by any  
2           peace officer upon process of the seizure warrant  
3           issued by the court. Following the seizure of assets  
4           under this Act and pursuant to a seizure warrant,  
5           notice of seizure, including a description of the  
6           seized assets, shall immediately be returned to the  
7           issuing court. Seized assets shall be maintained  
8           pending a judicial forfeiture hearing in accordance  
9           with the instructions of the court.

10           (d) In the event that management of seized assets  
11           becomes necessary to prevent the devaluation,  
12           dissipation, or otherwise to preserve the property,  
13           the court shall have jurisdiction to appoint a  
14           receiver, conservator, ancillary receiver, or  
15           ancillary conservator for that purpose, as provided in  
16           item (2) of this subsection.

17           (4) Seek the forfeiture of assets obtained through  
18           conduct in violation of Section 12, paragraph F, G, H, I,  
19           J, K, or L when authorized by law. A forfeiture must be  
20           ordered by a circuit court or an action brought by the  
21           Secretary of State as provided for in this Act, under a  
22           verified complaint for forfeiture.

23           (a) In the event assets have been seized pursuant  
24           to this Act, forfeiture proceedings shall be  
25           instituted by the Attorney General within 45 days of  
26           seizure.

1           (b) Service of the complaint filed under the  
2 provisions of this Act shall be made in the manner as  
3 provided in civil actions in this State.

4           (c) Only an owner of or interest holder in the  
5 property may file an answer asserting a claim against  
6 the property. For purposes of this Section, the owner  
7 or interest holder shall be referred to as claimant.

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

11                 (i) the caption of the proceedings as set forth  
12 on the notice of pending forfeiture and the name of  
13 the claimant;

14                 (ii) the address at which the claimant will  
15 accept mail;

16                 (iii) the nature and extent of the claimant's  
17 interest in the property;

18                 (iv) the date, identity of the transferor, and  
19 circumstances of the claimant's acquisition of the  
20 interest in the property;

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

23                 (vi) the specific provisions of this Act  
24 relied on in asserting that the property is not  
25 subject to forfeiture;

26                 (vii) all essential facts supporting each



1           assertion; and

2                   (viii) the precise relief sought.

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

5           (f) A property interest is exempt from forfeiture  
6 under this Act if its owner or interest holder  
7 establishes by a preponderance of evidence that the  
8 owner or interest holder:

9                   (i) is not legally accountable for the conduct  
10 giving rise to the forfeiture, did not acquiesce in  
11 it, and did not know and could not reasonably have  
12 known of the conduct or that the conduct was likely  
13 to occur;

14                   (ii) with respect to conveyances, did not hold  
15 the property jointly or in common with a person  
16 whose conduct gave rise to the forfeiture;

17                   (iii) does not hold the property for the  
18 benefit of or as a nominee for any person whose  
19 conduct gave rise to its forfeiture and the owner  
20 or interest holder acquires it as a bona fide  
21 purchaser for value without knowingly taking part  
22 in the conduct giving rise to the forfeiture; or

23                   (iv) acquired the interest after the  
24 commencement of the conduct giving rise to its  
25 forfeiture and the owner or interest holder  
26 acquired the interest as a mortgagee, secured

1 creditor, lienholder, or bona fide purchaser for  
2 value without knowledge of the conduct that gave  
3 rise to the forfeiture.

4 (g) The hearing must be held within 60 days after  
5 the answer is filed unless continued for good cause.

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

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

19 (j) If the Secretary of State does not show the  
20 existence of probable cause or a claimant has an  
21 interest that is exempt under subdivision I (4) (d) of  
22 this Section, the court shall order the interest in the  
23 property returned or conveyed to the claimant and shall  
24 order all other property forfeited to the Secretary of  
25 State pursuant to all provisions of this Act. If the  
26 Secretary of State does show the existence of probable

1 cause and the claimant does not establish by a  
2 preponderance of the evidence that the claimant has an  
3 interest that is exempt under subsection D herein, the  
4 court shall order all the property forfeited to the  
5 Secretary of State pursuant to the provisions of the  
6 Section.

7 (k) A defendant convicted in any criminal  
8 proceeding is precluded from later denying the  
9 essential allegations of the criminal offense of which  
10 the defendant was convicted in any proceeding for  
11 violations of the Act giving rise to forfeiture of  
12 property herein regardless of the pendency of an appeal  
13 from that conviction. However, evidence of the  
14 pendency of an appeal is admissible.

15 (l) An acquittal or dismissal in a criminal  
16 proceeding for violations of the Act giving rise to the  
17 forfeiture of property herein shall not preclude civil  
18 proceedings under this provision; however, for good  
19 cause shown, on a motion by the Secretary of State, the  
20 court may stay civil forfeiture proceedings during the  
21 criminal trial for a related criminal indictment or  
22 information alleging violation of the provisions of  
23 Section 12 of the Illinois Securities Law of 1953.  
24 Property subject to forfeiture under this Section  
25 shall not be subject to return or release by a court  
26 exercising jurisdiction over a criminal case involving

1 the seizure of the property unless the return or  
2 release is consented to by the Secretary of State.

3 (m) All property declared forfeited under this Act  
4 vests in the State on the commission of the conduct  
5 giving rise to forfeiture together with the proceeds of  
6 the property after that time. Any such property or  
7 proceeds subsequently transferred to any person remain  
8 subject to forfeiture and thereafter shall be ordered  
9 forfeited unless the transferee claims and establishes  
10 in a hearing under the provisions of this Act that the  
11 transferee's interest is exempt under the Act. Any  
12 assets forfeited to the State shall be disposed of in  
13 following manner:

14 (i) all forfeited property and assets shall be  
15 liquidated by the Secretary of State in accordance  
16 with all laws and rules governing the disposition  
17 of such property;

18 (ii) the Secretary of State shall provide the  
19 court at the time the property and assets are  
20 declared forfeited a verified statement of  
21 investors subject to the conduct giving rise to the  
22 forfeiture;

23 (iii) after payment of any costs of sale,  
24 receivership, storage, or expenses for  
25 preservation of the property seized, other costs  
26 to the State, and payment to claimants for any

1 amount deemed exempt from forfeiture, the proceeds  
2 from liquidation shall be distributed pro rata to  
3 investors subject to the conduct giving rise to the  
4 forfeiture; and

5 (iv) any proceeds remaining after all verified  
6 investors have been made whole shall be  
7 distributed 25% to the Securities Investors  
8 Education Fund, 25% to the Securities Audit and  
9 Enforcement Fund, 25% to the Attorney General or  
10 any State's Attorney bringing criminal charges for  
11 the conduct giving rise to the forfeiture, and 25%  
12 to other law enforcement agencies participating in  
13 the investigation of the criminal charges for the  
14 conduct giving rise to the forfeiture. In the event  
15 that no other law enforcement agencies are  
16 involved in the investigation of the conduct  
17 giving rise to the forfeiture, then the portion to  
18 other law enforcement agencies shall be  
19 distributed to the Securities Investors Education  
20 Fund.

21 (n) The Secretary of State shall notify by  
22 certified mail, return receipt requested, all known  
23 investors in the matter giving rise to the forfeiture  
24 of the forfeiture proceeding and sale of assets  
25 forfeited arising from the violations of this Act, and  
26 shall further publish notice in a paper of general

1           circulation in the district in which the violations  
2           were prosecuted. The notice to investors shall  
3           identify the name, address, and other identifying  
4           information about any defendant prosecuted for  
5           violations of this Act that resulted in forfeiture and  
6           sale of property, the offense for which the defendant  
7           was convicted, and that the court has ordered  
8           forfeiture and sale of property for claims of investors  
9           who incurred losses or damages as a result of the  
10          violations. Investors may then file a claim in a form  
11          prescribed by the Secretary of State in order to share  
12          in disbursement of the proceeds from sale of the  
13          forfeited property. Investor claims must be filed with  
14          the Secretary of State within 30 days after receipt of  
15          the certified mail return receipt, or within 30 days  
16          after the last date of publication of the general  
17          notice in a paper of general circulation in the  
18          district in which the violations were prosecuted,  
19          whichever occurs last.

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

1 proceedings relating to the same conduct are in  
2 progress.

3 (p) If property is seized for evidence and for  
4 forfeiture, the time periods for instituting judicial  
5 forfeiture proceedings shall not begin until the  
6 property is no longer necessary for evidence.

7 (q) Notwithstanding other provisions of this Act,  
8 the Secretary of State and a claimant of forfeitable  
9 property may enter into an agreed-upon settlement  
10 concerning the forfeitable property in such an amount  
11 and upon such terms as are set out in writing in a  
12 settlement agreement.

13 (r) Nothing in this Act shall apply to property  
14 that constitutes reasonable bona fide attorney's fees  
15 paid to an attorney for services rendered or to be  
16 rendered in the forfeiture proceeding or criminal  
17 proceeding relating directly thereto when the property  
18 was paid before its seizure and before the issuance of  
19 any seizure warrant or court order prohibiting  
20 transfer of the property and when the attorney, at the  
21 time he or she received the property, did not know that  
22 it was property subject to forfeiture under this Act.

23 The court shall further have jurisdiction and authority, in  
24 addition to the penalties and other remedies in this Act  
25 provided, to enter an order for the appointment of the court or  
26 a person as a receiver, conservator, ancillary receiver or

1 ancillary conservator for the defendant or the defendant's  
2 assets located in this State, or to require restitution,  
3 damages or disgorgement of profits on behalf of the person or  
4 persons injured by the act or practice constituting the subject  
5 matter of the action, and may assess costs against the  
6 defendant for the use of the State; provided, however, that the  
7 civil remedies of rescission and appointment of a receiver,  
8 conservator, ancillary receiver or ancillary conservator shall  
9 not be available against any person by reason of the failure to  
10 file with the Secretary of State, or on account of the contents  
11 of, any report of sale provided for in subsection G or P of  
12 Section 4, paragraph (2) of subsection D of Sections 5 and 6,  
13 or paragraph (2) of subsection F of Section 7 of this Act.  
14 Appeals may be taken as in other civil cases.

15 J. In no case shall the Secretary of State, or any of his  
16 or her employees or agents, in the administration of this Act,  
17 incur any official or personal liability by instituting an  
18 injunction or other proceeding or by denying, suspending or  
19 revoking the registration of a dealer or salesperson, or by  
20 denying, suspending or revoking the registration of securities  
21 or prohibiting the offer or sale of securities, or by  
22 suspending or prohibiting any person from acting as a dealer,  
23 limited Canadian dealer, salesperson, investment adviser, or  
24 investment adviser representative or from offering or selling  
25 securities.

26 K. No provision of this Act shall be construed to require



1 or to authorize the Secretary of State to require any  
2 investment adviser or federal covered investment adviser  
3 engaged in rendering investment supervisory services to  
4 disclose the identity, investments, or affairs of any client of  
5 the investment adviser or federal covered investment adviser,  
6 except insofar as the disclosure may be necessary or  
7 appropriate in a particular proceeding or investigation having  
8 as its object the enforcement of this Act.

9 L. Whenever, after an examination, investigation or  
10 hearing, the Secretary of State deems it of public interest or  
11 advantage, he or she may certify a record to the State's  
12 Attorney of the county in which the act complained of, examined  
13 or investigated occurred. The State's Attorney of that county  
14 within 90 days after receipt of the record shall file a written  
15 statement at the Office of the Secretary of State, which  
16 statement shall set forth the action taken upon the record, or  
17 if no action has been taken upon the record that fact, together  
18 with the reasons therefor, shall be stated.

19 M. The Secretary of State may initiate, take, pursue, or  
20 prosecute any action authorized or permitted under Section 6d  
21 of the Federal 1974 Act.

22 N. (1) Notwithstanding any provision of this Act to the  
23 contrary, to encourage uniform interpretation, administration,  
24 and enforcement of the provisions of this Act, the Secretary of  
25 State may cooperate with the securities agencies or  
26 administrators of one or more states, Canadian provinces or

1 territories, or another country, the Securities and Exchange  
2 Commission, the Commodity Futures Trading Commission, the  
3 Securities Investor Protection Corporation, any  
4 self-regulatory organization, and any governmental law  
5 enforcement or regulatory agency.

6 (2) The cooperation authorized by paragraph (1) of this  
7 subsection includes, but is not limited to, the following:

8 (a) establishing or participating in a central  
9 depository or depositories for registration under this Act  
10 and for documents or records required under this Act;

11 (b) making a joint audit, inspection, examination, or  
12 investigation;

13 (c) holding a joint administrative hearing;

14 (d) filing and prosecuting a joint civil or criminal  
15 proceeding;

16 (e) sharing and exchanging personnel;

17 (f) sharing and exchanging information and documents;

18 or

19 (g) issuing any joint statement or policy.

20 (Source: P.A. 99-182, eff. 1-1-16.)

21 (Text of Section after amendment by P.A. 100-512)

22 Sec. 11. Duties and powers of the Secretary of State.

23 A. (1) The administration of this Act is vested in the  
24 Secretary of State, who may from time to time make, amend and  
25 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           violation, 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.

25 (d) In the event that management of seized assets  
26 becomes necessary to prevent the devaluation,

1           dissipation, or otherwise to preserve the property,  
2           the court shall have jurisdiction to appoint a  
3           receiver, conservator, ancillary receiver, or  
4           ancillary conservator for that purpose, as provided in  
5           item (2) of this subsection.

6           (4) Seek the forfeiture of assets obtained through  
7           conduct in violation of Section 12, paragraph F, G, H, I,  
8           J, K, or L when authorized by law. A forfeiture must be  
9           ordered by a circuit court or an action brought by the  
10          Secretary of State as provided for in this Act, under a  
11          verified complaint for forfeiture.

12           (a) In the event assets have been seized pursuant  
13          to this Act, forfeiture proceedings shall be  
14          instituted by the Attorney General within 45 days of  
15          seizure.

16           (b) Service of the complaint filed under the  
17          provisions of this Act shall be made in the manner as  
18          provided in civil actions in this State.

19           (c) Only an owner of or interest holder in the  
20          property may file an answer asserting a claim against  
21          the property. For purposes of this Section, the owner  
22          or interest holder shall be referred to as claimant.

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

26                   (i) the caption of the proceedings as set forth

1 on the notice of pending forfeiture and the name of  
2 the claimant;

3 (ii) the address at which the claimant will  
4 accept mail;

5 (iii) the nature and extent of the claimant's  
6 interest in the property;

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

10 (v) the names and addresses ~~name and address~~ of  
11 all other persons known to have an interest in the  
12 property;

13 (vi) the specific provisions of this Act  
14 relied on in asserting that the property is not  
15 subject to forfeiture;

16 (vii) all essential facts supporting each  
17 assertion; and

18 (viii) the precise relief sought.

19 (e) The answer must be filed with the court within  
20 45 days after service of the complaint.

21 (f) A property interest is exempt from forfeiture  
22 under this Act if its owner or interest holder  
23 establishes by a preponderance of evidence that the  
24 owner or interest holder:

25 (i) is not legally accountable for the conduct  
26 giving rise to the forfeiture, did not acquiesce in

1           it, and did not know and could not reasonably have  
2           known of the conduct or that the conduct was likely  
3           to occur;

4           (ii) with respect to conveyances, did not hold  
5           the property jointly or in common with a person  
6           whose conduct gave rise to the forfeiture;

7           (iii) does not hold the property for the  
8           benefit of or as a nominee for any person whose  
9           conduct gave rise to its forfeiture and the owner  
10          or interest holder acquires it as a bona fide  
11          purchaser for value without knowingly taking part  
12          in the conduct giving rise to the forfeiture; or

13          (iv) acquired the interest after the  
14          commencement of the conduct giving rise to its  
15          forfeiture and the owner or interest holder  
16          acquired the interest as a mortgagee, secured  
17          creditor, lienholder, or bona fide purchaser for  
18          value without knowledge of the conduct that gave  
19          rise to the forfeiture.

20          (g) The hearing must be held within 60 days after  
21          the answer is filed unless continued for good cause.

22          (h) During the probable cause portion of the  
23          judicial in rem proceeding wherein the Secretary of  
24          State presents its case-in-chief, the court must  
25          receive and consider, among other things, any relevant  
26          hearsay evidence and information. The laws of evidence

1 relating to civil actions shall apply to all other  
2 portions of the judicial in rem proceeding.

3 (i) The Secretary of State shall show the existence  
4 of probable cause for forfeiture of the property. If  
5 the Secretary of State shows probable cause, the  
6 claimant has the burden of showing by a preponderance  
7 of the evidence that the claimant's interest in the  
8 property is not subject to forfeiture.

9 (j) If the Secretary of State does not show the  
10 existence of probable cause or a claimant has an  
11 interest that is exempt under subdivision I (4)(d) of  
12 this Section, the court shall order the interest in the  
13 property returned or conveyed to the claimant and shall  
14 order all other property forfeited to the Secretary of  
15 State pursuant to all provisions of this Act. If the  
16 Secretary of State does show the existence of probable  
17 cause and the claimant does not establish by a  
18 preponderance of the evidence that the claimant has an  
19 interest that is exempt under subsection D herein, the  
20 court shall order all the property forfeited to the  
21 Secretary of State pursuant to the provisions of the  
22 Section.

23 (k) A defendant convicted in any criminal  
24 proceeding is precluded from later denying the  
25 essential allegations of the criminal offense of which  
26 the defendant was convicted in any proceeding for

1 violations of the Act giving rise to forfeiture of  
2 property herein regardless of the pendency of an appeal  
3 from that conviction. However, evidence of the  
4 pendency of an appeal is admissible.

5 (l) An acquittal or dismissal in a criminal  
6 proceeding for violations of the Act giving rise to the  
7 forfeiture of property herein shall not preclude civil  
8 proceedings under this provision; however, for good  
9 cause shown, on a motion by the Secretary of State, the  
10 court may stay civil forfeiture proceedings during the  
11 criminal trial for a related criminal indictment or  
12 information alleging violation of the provisions of  
13 Section 12 of the Illinois Securities Law of 1953.  
14 Property subject to forfeiture under this Section  
15 shall not be subject to return or release by a court  
16 exercising jurisdiction over a criminal case involving  
17 the seizure of the property unless the return or  
18 release is consented to by the Secretary of State.

19 (m) All property declared forfeited under this Act  
20 vests in the State on the commission of the conduct  
21 giving rise to forfeiture together with the proceeds of  
22 the property after that time. Any such property or  
23 proceeds subsequently transferred to any person remain  
24 subject to forfeiture and thereafter shall be ordered  
25 forfeited unless the transferee claims and establishes  
26 in a hearing under the provisions of this Act that the

1 transferee's interest is exempt under the Act. Any  
2 assets forfeited to the State shall be disposed of in  
3 following manner:

4 (i) all forfeited property and assets shall be  
5 liquidated by the Secretary of State in accordance  
6 with all laws and rules governing the disposition  
7 of such property;

8 (ii) the Secretary of State shall provide the  
9 court at the time the property and assets are  
10 declared forfeited a verified statement of  
11 investors subject to the conduct giving rise to the  
12 forfeiture;

13 (iii) after payment of any costs of sale,  
14 receivership, storage, or expenses for  
15 preservation of the property seized, other costs  
16 to the State, and payment to claimants for any  
17 amount deemed exempt from forfeiture, the proceeds  
18 from liquidation shall be distributed pro rata to  
19 investors subject to the conduct giving rise to the  
20 forfeiture; and

21 (iv) any proceeds remaining after all verified  
22 investors have been made whole shall be  
23 distributed 25% to the Securities Investors  
24 Education Fund, 25% to the Securities Audit and  
25 Enforcement Fund, 25% to the Attorney General or  
26 any State's Attorney bringing criminal charges for

1           the conduct giving rise to the forfeiture, and 25%  
2           to other law enforcement agencies participating in  
3           the investigation of the criminal charges for the  
4           conduct giving rise to the forfeiture. In the event  
5           that no other law enforcement agencies are  
6           involved in the investigation of the conduct  
7           giving rise to the forfeiture, then the portion to  
8           other law enforcement agencies shall be  
9           distributed to the Securities Investors Education  
10          Fund.

11          (n) The Secretary of State shall notify by  
12          certified mail, return receipt requested, all known  
13          investors in the matter giving rise to the forfeiture  
14          of the forfeiture proceeding and sale of assets  
15          forfeited arising from the violations of this Act, and  
16          shall further publish notice in a paper of general  
17          circulation in the district in which the violations  
18          were prosecuted. The notice to investors shall  
19          identify the name, address, and other identifying  
20          information about any defendant prosecuted for  
21          violations of this Act that resulted in forfeiture and  
22          sale of property, the offense for which the defendant  
23          was convicted, and that the court has ordered  
24          forfeiture and sale of property for claims of investors  
25          who incurred losses or damages as a result of the  
26          violations. Investors may then file a claim in a form



1           prescribed by the Secretary of State in order to share  
2           in disbursement of the proceeds from sale of the  
3           forfeited property. Investor claims must be filed with  
4           the Secretary of State within 30 days after receipt of  
5           the certified mail return receipt, or within 30 days  
6           after the last date of publication of the general  
7           notice in a paper of general circulation in the  
8           district in which the violations were prosecuted,  
9           whichever occurs last.

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

19           (p) If property is seized for evidence and for  
20           forfeiture, the time periods for instituting judicial  
21           forfeiture proceedings shall not begin until the  
22           property is no longer necessary for evidence.

23           (q) Notwithstanding other provisions of this Act,  
24           the Secretary of State and a claimant of forfeitable  
25           property may enter into an agreed-upon settlement  
26           concerning the forfeitable property in such an amount

1           and upon such terms as are set out in writing in a  
2           settlement agreement.

3           (r) Nothing in this Act shall apply to property  
4           that constitutes reasonable bona fide attorney's fees  
5           paid to an attorney for services rendered or to be  
6           rendered in the forfeiture proceeding or criminal  
7           proceeding relating directly thereto when the property  
8           was paid before its seizure and before the issuance of  
9           any seizure warrant or court order prohibiting  
10          transfer of the property and when the attorney, at the  
11          time he or she received the property, did not know that  
12          it was property subject to forfeiture under this Act.

13          The court shall further have jurisdiction and authority, in  
14          addition to the penalties and other remedies in this Act  
15          provided, to enter an order for the appointment of the court or  
16          a person as a receiver, conservator, ancillary receiver or  
17          ancillary conservator for the defendant or the defendant's  
18          assets located in this State, or to require restitution,  
19          damages or disgorgement of profits on behalf of the person or  
20          persons injured by the act or practice constituting the subject  
21          matter of the action, and may assess costs against the  
22          defendant for the use of the State; provided, however, that the  
23          civil remedies of rescission and appointment of a receiver,  
24          conservator, ancillary receiver or ancillary conservator shall  
25          not be available against any person by reason of the failure to  
26          file with the Secretary of State, or on account of the contents

1 of, any report of sale provided for in subsection G or P of  
2 Section 4, paragraph (2) of subsection D of Sections 5 and 6,  
3 or paragraph (2) of subsection F of Section 7 of this Act.  
4 Appeals may be taken as in other civil cases.

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

7 J. In no case shall the Secretary of State, or any of his  
8 or her employees or agents, in the administration of this Act,  
9 incur any official or personal liability by instituting an  
10 injunction or other proceeding or by denying, suspending or  
11 revoking the registration of a dealer or salesperson, or by  
12 denying, suspending or revoking the registration of securities  
13 or prohibiting the offer or sale of securities, or by  
14 suspending or prohibiting any person from acting as a dealer,  
15 limited Canadian dealer, salesperson, investment adviser, or  
16 investment adviser representative or from offering or selling  
17 securities.

18 K. No provision of this Act shall be construed to require  
19 or to authorize the Secretary of State to require any  
20 investment adviser or federal covered investment adviser  
21 engaged in rendering investment supervisory services to  
22 disclose the identity, investments, or affairs of any client of  
23 the investment adviser or federal covered investment adviser,  
24 except insofar as the disclosure may be necessary or  
25 appropriate in a particular proceeding or investigation having  
26 as its object the enforcement of this Act.

1 L. Whenever, after an examination, investigation or  
2 hearing, the Secretary of State deems it of public interest or  
3 advantage, he or she may certify a record to the State's  
4 Attorney of the county in which the act complained of, examined  
5 or investigated occurred. The State's Attorney of that county  
6 within 90 days after receipt of the record shall file a written  
7 statement at the Office of the Secretary of State, which  
8 statement shall set forth the action taken upon the record, or  
9 if no action has been taken upon the record that fact, together  
10 with the reasons therefor, shall be stated.

11 M. The Secretary of State may initiate, take, pursue, or  
12 prosecute any action authorized or permitted under Section 6d  
13 of the Federal 1974 Act.

14 N. (1) Notwithstanding any provision of this Act to the  
15 contrary, to encourage uniform interpretation, administration,  
16 and enforcement of the provisions of this Act, the Secretary of  
17 State may cooperate with the securities agencies or  
18 administrators of one or more states, Canadian provinces or  
19 territories, or another country, the Securities and Exchange  
20 Commission, the Commodity Futures Trading Commission, the  
21 Securities Investor Protection Corporation, any  
22 self-regulatory organization, and any governmental law  
23 enforcement or regulatory agency.

24 (2) The cooperation authorized by paragraph (1) of this  
25 subsection includes, but is not limited to, the following:

26 (a) establishing or participating in a central

1 depository or depositories for registration under this Act  
2 and for documents or records required under this Act;

3 (b) making a joint audit, inspection, examination, or  
4 investigation;

5 (c) holding a joint administrative hearing;

6 (d) filing and prosecuting a joint civil or criminal  
7 proceeding;

8 (e) sharing and exchanging personnel;

9 (f) sharing and exchanging information and documents;

10 or

11 (g) issuing any joint statement or policy.

12 (Source: P.A. 99-182, eff. 1-1-16; 100-512, eff. 7-1-18.)

13 Section 50. "AN ACT concerning criminal law", approved  
14 September 19, 2017, (Public Act 100-0512) is amended by adding  
15 Section 997 as follows:

16 Section 997. Savings clause. The provisions of this Act are  
17 subject to Section 4 of the Statute on Statutes.

18 Section 95. No acceleration or delay. Where this Act makes  
19 changes in a statute that is represented in this Act by text  
20 that is not yet or no longer in effect (for example, a Section  
21 represented by multiple versions), the use of that text does  
22 not accelerate or delay the taking effect of (i) the changes  
23 made by this Act or (ii) provisions derived from any other

1 Public Act.

2 Section 99. Effective date. This Act takes effect July 1,  
3 2018.".