
By: Delegate Hammen

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Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Prostitution or Lewdness - Seizure and Forfeiture of Motor Vehicles**

3 FOR the purpose of allowing the seizure and forfeiture of a motor vehicle used in
4 connection with soliciting an act of prostitution or lewdness; establishing certain
5 defenses; providing certain procedures for the seizure, maintenance, forfeiture, and
6 return of motor vehicles; providing for the disposition of forfeited motor vehicles
7 and proceeds of sales of forfeited motor vehicles; providing for the rights of certain
8 lienholders; allowing a court to review certain decisions and take certain actions
9 relating to the seizure and forfeiture of motor vehicles; defining certain terms; and
10 generally relating to the seizure and forfeiture of motor vehicles used in connection
11 with soliciting an act of prostitution or lewdness.

12 BY adding to

13 Article 27 - Crimes and Punishments
14 Section 17A
15 Annotated Code of Maryland
16 (1996 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article 27 - Crimes and Punishments**

20 17A.

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (2) "FINAL DISPOSITION" MEANS THE DATE ON WHICH ANY CRIMINAL
24 CHARGE GIVING RISE TO A FORFEITURE UNDER THIS SECTION IS TERMINATED BY
25 DISMISSAL, THE ENTRY OF A NOLLE PROSEQUI OR STET, THE ENTRY OF A NOT
26 GUILTY VERDICT, THE PRONOUNCEMENT OF SENTENCE, OR THE IMPOSITION OF
27 PROBATION UNDER § 641 OF THIS ARTICLE.

28 (3) "FORFEITING AUTHORITY" MEANS THE OFFICE OR PERSON
29 DESIGNATED UNDER § 297 OF THIS ARTICLE TO CONDUCT DRUG FORFEITURES IN A
30 COUNTY OR FOR THE STATE.

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1 (4) "LIENHOLDER" MEANS A PERSON WHO HAS A LIEN OR A SECURED
2 INTEREST ON A MOTOR VEHICLE CREATED BEFORE THE SEIZURE.

3 (5) (I) "OWNER" MEANS A PERSON HAVING A LEGITIMATE LEGAL,
4 EQUITABLE, OR POSSESSORY INTEREST IN A MOTOR VEHICLE.

5 (II) "OWNER" INCLUDES:

6 1. A CO-OWNER; AND

7 2. A BONA FIDE PURCHASER FOR VALUE.

8 (6) "SEIZING AGENCY" MEANS A LAW ENFORCEMENT AUTHORITY
9 WITHIN THE STATE AUTHORIZED TO INVESTIGATE CRIMES OF VIOLENCE AND
10 WHICH HAS SEIZED A MOTOR VEHICLE UNDER THIS SECTION.

11 (B) A VEHICLE THAT IS USED IN CONNECTION WITH SOLICITING AN ACT OF
12 PROSTITUTION OR LEWDNESS IN VIOLATION OF § 15 OF THIS ARTICLE IS SUBJECT TO
13 SEIZURE AND FORFEITURE UNDER THIS SECTION WITHOUT ANY PREREQUISITE
14 THAT CRIMINAL PROCEEDINGS HAVE COMMENCED OR CRIMINAL SANCTIONS HAVE
15 BEEN IMPOSED.

16 (C) A MOTOR VEHICLE MAY NOT BE FORFEITED UNDER THIS SECTION IF THE
17 OWNER ESTABLISHES BY A PREPONDERANCE OF THE EVIDENCE THAT THE VEHICLE
18 WAS USED IN CONNECTION WITH SOLICITING AN ACT OF PROSTITUTION OR
19 LEWDNESS IN VIOLATION OF § 15 OF THIS ARTICLE WITHOUT THE OWNER'S ACTUAL
20 KNOWLEDGE.

21 (D) A MOTOR VEHICLE SUBJECT TO FORFEITURE UNDER THIS SECTION MAY
22 BE SEIZED ON PROCESS ISSUED BY ANY COURT HAVING JURISDICTION OVER THE
23 MOTOR VEHICLE, EXCEPT THAT SEIZURE WITHOUT PROCESS MAY BE MADE WHEN:

24 (1) THE SEIZURE IS INCIDENT TO AN ARREST OR A SEARCH UNDER A
25 SEARCH WARRANT;

26 (2) THE MOTOR VEHICLE HAS BEEN THE SUBJECT OF A PRIOR
27 JUDGMENT IN FAVOR OF THE STATE; OR

28 (3) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE MOTOR
29 VEHICLE HAS BEEN USED IN CONNECTION WITH SOLICITING AN ACT OF
30 PROSTITUTION OR LEWDNESS IN VIOLATION OF § 15 OF THIS ARTICLE.

31 (E) EXCEPT AS PROVIDED IN SUBSECTION (G)(6) OF THIS SECTION, A MOTOR
32 VEHICLE TAKEN OR DETAINED UNDER THIS SECTION IS NOT REPLEVIABLE, BUT
33 SHALL BE DEEMED TO BE IN THE CUSTODY OF THE SEIZING AGENCY SUBJECT ONLY
34 TO THE ORDERS, JUDGMENTS, AND DECREES OF THE COURT OR THE OFFICIAL
35 HAVING JURISDICTION OVER THE MOTOR VEHICLE. WHENEVER A MOTOR VEHICLE
36 IS SEIZED UNDER THIS SECTION, THE SEIZING AGENCY MAY:

37 (1) PLACE THE MOTOR VEHICLE UNDER SEAL; AND

38 (2) REMOVE THE MOTOR VEHICLE TO A PLACE DESIGNATED BY THE
39 COURT.

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1 (F) EXCEPT AS PROVIDED IN SUBSECTION (I) OF THIS SECTION, THE
2 POLITICAL SUBDIVISION IN WHICH THE MOTOR VEHICLE WAS SEIZED OR, IF THE
3 VEHICLE WAS SEIZED BY STATE AUTHORITIES, THE STATE MAY:

4 (1) RETAIN THE VEHICLE FOR OFFICIAL USE;

5 (2) SELL THE VEHICLE, PROVIDED THAT THE PROCEEDS BE DISPOSED
6 OF FOR PAYMENT OF ALL PROPER EXPENSES OF THE PROCEEDINGS FOR
7 FORFEITURE AND SALE, INCLUDING EXPENSES OF SEIZURE, MAINTENANCE OF
8 CUSTODY, ADVERTISING, AND COURT COSTS; OR

9 (3) REQUIRE AN APPROPRIATE AGENCY TO TAKE CUSTODY OF THE
10 MOTOR VEHICLE AND REMOVE IT FOR DISPOSITION IN ACCORDANCE WITH LAW.

11 (G) (1) A COMPLAINT SEEKING FORFEITURE SHALL BE FILED WITHIN THE
12 EARLIER OF:

13 (I) 1 YEAR FOLLOWING THE FINAL DISPOSITION OF THE
14 CRIMINAL CHARGE GIVING RISE TO THE FORFEITURE PROCEEDING; OR

15 (II) 45 DAYS AFTER THE SEIZURE OF THE MOTOR VEHICLE.

16 (2) A COMPLAINT SHALL CONTAIN THE FOLLOWING:

17 (I) A DESCRIPTION OF THE MOTOR VEHICLE;

18 (II) A STATEMENT OF THE TIME AND PLACE WHERE SEIZED;

19 (III) THE OWNER, IF KNOWN;

20 (IV) THE PERSON IN POSSESSION, IF KNOWN;

21 (V) THE NAME OF ANY LIENHOLDER, IF ANY, IF KNOWN OR
22 REASONABLY SUBJECT TO DISCOVERY;

23 (VI) AN ALLEGATION THAT THE MOTOR VEHICLE IS SUBJECT TO
24 FORFEITURE;

25 (VII) IF THE FORFEITING AUTHORITY IS SEEKING TO FORFEIT A
26 LIENHOLDER'S INTEREST, AN ALLEGATION THAT THE LIEN WAS CREATED WITH
27 ACTUAL KNOWLEDGE THAT THE MOTOR VEHICLE WAS BEING USED IN
28 CONNECTION WITH SOLICITING AN ACT OF PROSTITUTION OR LEWDNESS IN
29 VIOLATION OF § 15 OF THIS ARTICLE;

30 (VIII) A STATEMENT OF THE FACTS AND CIRCUMSTANCES
31 SURROUNDING THE SEIZURE;

32 (IX) A STATEMENT SETTING FORTH THE SPECIFIC CAUSES OR
33 GROUNDS FOR THE FORFEITURE; AND

34 (X) AN OATH OR AFFIRMATION BY THE FORFEITING AUTHORITY
35 THAT THE CONTENTS OF THE COMPLAINT ARE TRUE TO THE BEST OF THE
36 FORFEITING AUTHORITY'S KNOWLEDGE, INFORMATION, AND BELIEF.

37 (3) WITHIN 10 DAYS AFTER THE FILING OF THE COMPLAINT:

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1 (I) COPIES OF THE SUMMONS AND COMPLAINT SHALL BE SENT BY
2 CERTIFIED MAIL REQUESTING "RESTRICTED DELIVERY - SHOW TO WHOM, DATE,
3 ADDRESS OF DELIVERY" AND FIRST CLASS MAIL ON ALL KNOWN OWNERS AND
4 LIENHOLDERS WHOSE IDENTITIES ARE REASONABLY SUBJECT TO DISCOVERY; AND

5 (II) THE SHERIFF SHALL POST ON THE DOOR OF THE COURTHOUSE
6 IN WHICH THE ACTION IS PENDING OR ON A BULLETIN BOARD WITHIN ITS
7 IMMEDIATE VICINITY A NOTICE WHICH INCLUDES A DESCRIPTION OF THE MOTOR
8 VEHICLE, THE DATE AND PLACE OF SEIZURE, THE KNOWN OWNERS AND
9 LIENHOLDERS OF THE MOTOR VEHICLE, THE VIOLATION OR VIOLATIONS OF LAW
10 ALLEGED TO BE THE BASIS FOR FORFEITURE, A STATEMENT THAT A COMPLAINT
11 HAS BEEN FILED AND THAT THE MOTOR VEHICLE SHALL BE FORFEITED IF NO
12 ANSWER IS TIMELY FILED, AND INSTRUCTIONS ON WHERE TO FILE AN ANSWER AND
13 WHOM TO CONTACT FOR ADDITIONAL INFORMATION CONCERNING THE
14 FORFEITURE.

15 (4) THE ANSWER SHALL COMPLY WITH THE MARYLAND RULES AND:

16 (I) SET FORTH THE NATURE AND EXTENT OF THE PERSON'S
17 RIGHT, TITLE, OR INTEREST IN THE MOTOR VEHICLE;

18 (II) SET FORTH THE DATE AND CIRCUMSTANCES OF THE
19 CREATION OF THE PERSON'S RIGHT, TITLE, OR INTEREST IN THE MOTOR VEHICLE;
20 AND

21 (III) CONTAIN A REQUEST FOR RELIEF.

22 (5) (I) THE COURT SHALL SET A HEARING ON THE FORFEITURE
23 CLAIM WITHIN 60 DAYS AFTER THE POSTING UNDER PARAGRAPH (4) OF THIS
24 SUBSECTION IF AN ANSWER HAS BEEN TIMELY FILED.

25 (II) THE COURT MAY ORDER FORFEITURE, WITHOUT A HEARING,
26 OF THE INTEREST OF ANY PERSON WHO FAILS TO FILE AN ANSWER TIMELY.

27 (6) (I) IF FORFEITURE PROCEEDINGS ARE NOT INSTITUTED WITHIN
28 THE APPLICABLE TIME PERIOD PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION,
29 THE MOTOR VEHICLE SHALL BE RETURNED TO THE OWNER:

30 1. IF A CRIMINAL CHARGE IS PENDING IN CONNECTION
31 WITH THE SEIZURE, ON PETITION BY THE OWNER OF THE PROPERTY FILED PRIOR
32 TO THE DISPOSITION OF THE CRIMINAL CHARGE; OR

33 2. IF NO CRIMINAL CHARGE IS PENDING IN CONNECTION
34 WITH THE SEIZURE, IN ACCORDANCE WITH A CIVIL COMPLAINT FOR REPLEVIN
35 FILED BY THE OWNER OF THE MOTOR VEHICLE WITHIN 1 YEAR AFTER THE TIME
36 FOR INSTITUTING FORFEITURE PROCEEDINGS HAS RUN.

37 (II) IF THE OWNER FAILS TO PETITION OR FILE A COMPLAINT FOR
38 THE RETURN OF THE MOTOR VEHICLE WITHIN THE APPLICABLE TIME PERIOD
39 PROVIDED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE MOTOR VEHICLE
40 SHALL BE DISPOSED OF IN THE MANNER PROVIDED IN SUBSECTION (F) OF THIS
41 SECTION.

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1 (H) (1) A MOTOR VEHICLE USED IN CONNECTION WITH SOLICITING AN ACT
2 OF PROSTITUTION OR LEWDNESS IN VIOLATION OF § 15 OF THIS ARTICLE MAY NOT
3 BE SEIZED AND FORFEITURE MAY NOT BE RECOMMENDED TO THE FORFEITING
4 AUTHORITY WHEN:

5 (I) AN INNOCENT REGISTERED OWNER LENDS THE MOTOR
6 VEHICLE TO ANOTHER AND THE OTHER PERSON OR SOMEONE INVITED INTO THE
7 MOTOR VEHICLE BY THE OTHER PERSON SOLICITS AN ACT OF PROSTITUTION OR
8 LEWDNESS IN VIOLATION OF § 15 OF THIS ARTICLE WITHOUT THE KNOWLEDGE OF
9 THE OWNER; OR

10 (II) THE MOTOR VEHICLE FALLS WITHIN THE PROVISIONS OF
11 SUBSECTION (C) OF THIS SECTION.

12 (2) (I) FORFEITURE OF THE MOTOR VEHICLE USED IN CONNECTION
13 WITH SOLICITING AN ACT OF PROSTITUTION OR LEWDNESS IN VIOLATION OF § 15 OF
14 THIS ARTICLE SHALL BE RECOMMENDED TO THE FORFEITING AUTHORITY ONLY
15 AFTER THE CHIEF LAW ENFORCEMENT OFFICER OF THE SEIZING AGENCY HAS
16 DETERMINED FROM THE RECORDS OF THE MOTOR VEHICLE ADMINISTRATION THE
17 NAMES AND ADDRESSES OF ALL REGISTERED OWNERS AND SECURED PARTIES AS
18 DEFINED BY LAW, HAS PERSONALLY REVIEWED THE FACTS AND CIRCUMSTANCES
19 OF THE SEIZURE AND HAS PERSONALLY DETERMINED THAT FORFEITURE IS
20 WARRANTED AND SO REPRESENTS IN WRITING TO THE APPROPRIATE FORFEITING
21 AUTHORITY.

22 (II) IN A PROCEEDING UNDER THIS SECTION FOR FORFEITURE OF
23 A MOTOR VEHICLE:

24 1. A SWORN AFFIDAVIT BY THE CHIEF LAW ENFORCEMENT
25 OFFICER THAT THE CHIEF FOLLOWED THE REQUIREMENTS OF THIS PARAGRAPH IS
26 ADMISSIBLE IN EVIDENCE; AND

27 2. THE CHIEF LAW ENFORCEMENT OFFICER MAY NOT BE
28 SUBPOENAED OR COMPELLED TO APPEAR AND TESTIFY IF ANOTHER LAW
29 ENFORCEMENT OFFICER WITH PERSONAL KNOWLEDGE OF THE FACTS AND
30 CIRCUMSTANCES SURROUNDING THE SEIZURE AND THE RECOMMENDATION OF
31 FORFEITURE APPEARS AND TESTIFIES AT THE PROCEEDING.

32 (I) IF THE FORFEITING AUTHORITY DETERMINES INDEPENDENT OF THE
33 DECISION OF THE SEIZING AGENCY THAT THE MOTOR VEHICLE FALLS WITHIN THE
34 PURVIEW OF SUBSECTION (H) OF THIS SECTION, THE FORFEITING AUTHORITY
35 SHALL SURRENDER THE VEHICLE ON REQUEST TO THE OWNER.

36 (J) (1) IN ANY PROCEEDING UNDER THIS SECTION, THE COURT MAY
37 DETERMINE IF THE SEIZING AGENCY OR FORFEITING AUTHORITY ABUSED ITS
38 DISCRETION OR WAS CLEARLY ERRONEOUS IN MAKING A RECOMMENDATION OF
39 FORFEITURE OF A MOTOR VEHICLE OR NOT SURRENDERING ON REQUEST A
40 MOTOR VEHICLE TO AN OWNER.

41 (2) IF, AFTER A FULL HEARING, THE COURT DETERMINES THAT THE
42 MOTOR VEHICLE SHOULD NOT BE FORFEITED, THE COURT SHALL ORDER THAT THE
43 MOTOR VEHICLE BE RELEASED.

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1 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (V) OF THIS
2 PARAGRAPH, IF THE COURT DETERMINES THAT THE MOTOR VEHICLE SHOULD BE
3 FORFEITED, THE COURT SHALL ORDER THAT THE MOTOR VEHICLE BE FORFEITED
4 TO THE APPROPRIATE GOVERNING BODY.

5 (II) IF, HOWEVER, THE COURT DETERMINES THAT THE FORFEITED
6 MOTOR VEHICLE IS SUBJECT TO A VALID LIEN CREATED WITHOUT ACTUAL
7 KNOWLEDGE THAT THE MOTOR VEHICLE WAS BEING USED IN CONNECTION WITH
8 SOLICITING AN ACT OF PROSTITUTION OR LEWDNESS IN VIOLATION OF § 15 OF THIS
9 ARTICLE, THE COURT SHALL ORDER THAT THE MOTOR VEHICLE BE RELEASED
10 WITHIN 5 DAYS TO THE FIRST PRIORITY LIENHOLDER.

11 (III) THE LIENHOLDER SHALL SELL THE MOTOR VEHICLE IN A
12 COMMERCIALY REASONABLE MANNER.

13 (IV) THE PROCEEDS OF THE SALE SHALL BE APPLIED AS FOLLOWS:

14 1. TO THE COURT COSTS OF THE FORFEITURE
15 PROCEEDING;

16 2. TO THE BALANCE DUE THE LIENHOLDER INCLUDING ALL
17 REASONABLE COSTS INCIDENT TO THE SALE;

18 3. TO PAYMENT OF ALL OTHER EXPENSES OF THE
19 PROCEEDINGS FOR FORFEITURE, INCLUDING EXPENSES OF SEIZURE, OR
20 MAINTENANCE OF CUSTODY; AND

21 4. EXCEPT AS PROVIDED IN SUBPARAGRAPH (V) OF THIS
22 PARAGRAPH, TO THE GENERAL FUNDS OF THE STATE OR THE POLITICAL
23 SUBDIVISION THAT SEIZED THE MOTOR VEHICLE.

24 (V) IF THE MOTOR VEHICLE WAS SEIZED BY STATE LAW
25 ENFORCEMENT AGENCIES:

26 1. THE COURT UNDER SUBPARAGRAPH (I) OF THIS
27 PARAGRAPH SHALL ORDER THE MOTOR VEHICLE TO BE FORFEITED TO THE STATE
28 LAW ENFORCEMENT AGENCIES; OR

29 2. THE PROCEEDS OF THE SALE UNDER SUBPARAGRAPH
30 (IV) 4 OF THIS PARAGRAPH SHALL BE PAID TO THE STATE LAW ENFORCEMENT
31 AGENCIES.

32 (VI) EXCEPT AS PROVIDED IN SUBPARAGRAPH (VII) OF THIS
33 PARAGRAPH, THE STATE LAW ENFORCEMENT AGENCY THAT RECEIVES A
34 FORFEITED MOTOR VEHICLE OR PROCEEDS FROM A SALE OF A FORFEITED MOTOR
35 VEHICLE UNDER THIS PARAGRAPH SHALL:

36 1. DISPOSE OF THE FORFEITED MOTOR VEHICLE AS
37 PROVIDED IN SUBSECTION (F) OF THIS SECTION; AND

38 2. PAY TO THE GENERAL FUND OF THE STATE ANY
39 PROCEEDS OF THE SALE OF THE FORFEITED MOTOR VEHICLE.

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1 (VII) EXCEPT AS OTHERWISE PROVIDED BY FEDERAL LAW, IF A LAW
2 ENFORCEMENT AGENCY OTHER THAN A STATE LAW ENFORCEMENT AGENCY
3 PARTICIPATED IN THE SEIZURE OF A MOTOR VEHICLE FORFEITED UNDER THIS
4 SUBSECTION THAT WAS SEIZED BY A LAW ENFORCEMENT AGENCY OF THE STATE:

5 1. THE STATE LAW ENFORCEMENT AGENCY SHALL PAY TO
6 THE OTHER LAW ENFORCEMENT AGENCY THE SHARE OF THE PROCEEDS FROM THE
7 SALE OF THE FORFEITED MOTOR VEHICLE AS AGREED BY THE LAW ENFORCEMENT
8 AGENCIES; OR

9 2. THE OTHER LAW ENFORCEMENT AGENCY MAY APPLY TO
10 THE COURT THAT ORDERED THE FORFEITURE FOR A DETERMINATION OF THE
11 SHARE OF THE PROCEEDS OF THE FORFEITED MOTOR VEHICLE TO BE PAID TO
12 THAT LAW ENFORCEMENT AGENCY AND THE STATE LAW ENFORCEMENT AGENCY
13 SHALL PAY THAT AMOUNT TO THE OTHER LAW ENFORCEMENT AGENCY.

14 (VIII) IF A LAW ENFORCEMENT AGENCY OF A POLITICAL
15 SUBDIVISION RECEIVES A SHARE OF PROCEEDS UNDER SUBPARAGRAPH (VII) OF
16 THIS PARAGRAPH, THE PROCEEDS SHALL BE DEPOSITED IN THE GENERAL FUND OF
17 THE POLITICAL SUBDIVISION.

18 (K) (1) IF AN OWNER OF A SEIZED MOTOR VEHICLE WANTS TO OBTAIN
19 POSSESSION OF THE VEHICLE, REGARDLESS OF WHETHER FORFEITURE
20 PROCEEDINGS HAVE BEEN COMMENCED, THE OWNER SHALL NOTIFY:

21 (I) IF FORFEITURE PROCEEDINGS HAVE BEEN COMMENCED, THE
22 CLERK OF THE COURT WHERE THE PROCEEDINGS HAVE BEEN COMMENCED;

23 (II) IF CRIMINAL PROCEEDINGS HAVE BEEN COMMENCED BUT
24 FORFEITURE PROCEEDINGS HAVE NOT, THE CLERK OF THE COURT WHERE THE
25 CRIMINAL PROCEEDINGS HAVE BEEN COMMENCED; OR

26 (III) IF NEITHER FORFEITURE NOR CRIMINAL PROCEEDINGS HAVE
27 BEEN COMMENCED, THE CLERK OF THE CIRCUIT COURT OF THE JURISDICTION
28 WHERE THE MOTOR VEHICLE WAS SEIZED.

29 (2) IF THE MOTOR VEHICLE IS NOT NEEDED FOR EVIDENTIARY
30 PURPOSES IN A JUDICIAL PROCEEDING, THE CLERK SHALL HAVE AN APPRAISAL OF
31 THE MOTOR VEHICLE MADE BY THE SHERIFF OF THE JURISDICTION IN WHICH THE
32 COURT IS LOCATED.

33 (3) THE SHERIFF SHALL PROMPTLY:

34 (I) INSPECT AND RENDER AN APPRAISAL OF THE VALUE OF THE
35 MOTOR VEHICLE; AND

36 (II) RETURN THE APPRAISAL, IN WRITING, UNDER OATH, TO THE
37 CLERK OF THE COURT.

38 (4) NOTICE OF THE APPRAISAL SHALL BE SENT TO ALL LIENHOLDERS
39 SHOWN IN THE RECORDS AS PRESCRIBED BY LAW FOR NOTICE OR THE PERFECTION
40 OF THE LIEN.

1 (5) (I) ON THE FILING OF THE APPRAISAL, THE OWNER MAY GIVE
2 BOND PAYABLE TO THE CLERK OF THE COURT IN AN AMOUNT EQUAL TO THE
3 GREATER OF THE APPRAISED VALUE OF THE MOTOR VEHICLE PLUS COSTS WHICH
4 MAY ACCRUE, OR THE AGGREGATE AMOUNT OF THE LIENS ON THE MOTOR
5 VEHICLE AS SHOWN IN THE RECORDS PRESCRIBED BY LAW FOR THE NOTICE OR
6 PERFECTION OF LIENS, WITH SECURITY TO BE APPROVED BY THE CLERK OF THE
7 COURT, AND CONDITIONED FOR PERFORMANCE ON FINAL JUDGMENT BY THE
8 COURT.

9 (II) THE BOND AUTHORIZED IN THIS SUBSECTION SHALL BE FILED
10 IN THE DISTRICT COURT OR CIRCUIT COURT WHERE THE CRIMINAL ACTION THAT
11 GAVE RISE TO THE SEIZURE IS PENDING AND SHALL BE PART OF THAT SAME
12 CRIMINAL PROCEEDING, UNLESS A COMPLAINT FOR FORFEITURE HAS BEEN FILED.
13 HOWEVER, IF NO CRIMINAL ACTION IS PENDING OR IF NO FORFEITURE COMPLAINT
14 HAS BEEN FILED, THE BOND SHALL BE FILED IN THE CIRCUIT COURT OR DISTRICT
15 COURT WHERE THE MOTOR VEHICLE WAS SEIZED.

16 (6) (I) IF FORFEITURE OF THE MOTOR VEHICLE OR OF AN INTEREST
17 OR EQUITY IN THE MOTOR VEHICLE OR PROCEEDS IS DIRECTED UNDER THIS
18 SECTION, JUDGMENT SHALL BE ENTERED AGAINST THE OBLIGORS ON THE BOND
19 WITHOUT FURTHER PROCEEDINGS, TO BE DISCHARGED BY PAYMENT OF THE
20 AMOUNT OF THE BOND, ON WHICH JUDGMENT MAY ISSUE.

21 (II) PAYMENT OF THE AMOUNT OF THE BOND SHALL BE APPLIED
22 AS PROVIDED UNDER SUBSECTION (J)(3)(IV) OF THIS SECTION.

23 (L) ANY SALE ORDERED UNDER THIS SECTION SHALL BE MADE FOR CASH
24 AND VEST IN THE PURCHASER A CLEAR AND ABSOLUTE TITLE TO THE MOTOR
25 VEHICLE THAT IS SOLD.

26 (M) (1) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT A
27 LIENHOLDER FROM EXERCISING ITS RIGHTS UNDER APPLICABLE LAW, INCLUDING
28 THE RIGHT TO SELL A MOTOR VEHICLE THAT HAS BEEN SEIZED UNDER THIS
29 SECTION, IN THE EVENT OF A DEFAULT IN THE OBLIGATION GIVING RISE TO THE
30 LIEN.

31 (2) (I) A LIENHOLDER EXERCISING THE RIGHT TO SELL A MOTOR
32 VEHICLE THAT HAS BEEN SEIZED UNDER THIS SECTION SHALL NOTIFY THE
33 FORFEITING AUTHORITY IN WRITING OF THE LIENHOLDER'S INTENTION TO SELL
34 THE MOTOR VEHICLE.

35 (II) THE NOTICE SHALL BE ACCOMPANIED BY COPIES OF
36 DOCUMENTS GIVING RISE TO THE LIEN AND SHALL INCLUDE AN AFFIDAVIT UNDER
37 OATH BY THE LIENHOLDER THAT THE UNDERLYING OBLIGATION IS IN DEFAULT
38 AND THE REASONS FOR THE DEFAULT.

39 (III) ON REQUEST OF THE LIENHOLDER, THE MOTOR VEHICLE
40 SHALL BE RELEASED TO THE LIENHOLDER.

41 (3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THE
42 RIGHTS AND DUTIES PROVIDED BY LAW TO THE LIENHOLDER FOR THE SALE OF

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1 COLLATERAL SECURING AN OBLIGATION IN DEFAULT SHALL GOVERN THE
2 REPOSSESSION AND SALE OF THE MOTOR VEHICLE.

3 (4) (I) THE LIENHOLDER MAY NOT BE REQUIRED TO TAKE
4 POSSESSION OF THE MOTOR VEHICLE PRIOR TO THE SALE OF THE MOTOR VEHICLE.

5 (II) THE PROCEEDS OF THE SALE SHALL BE APPLIED FIRST TO THE
6 COSTS OF THE FORFEITURE PROCEEDING, THEN AS PROVIDED BY LAW FOR
7 DISTRIBUTION OF PROCEEDS OF A SALE BY THE LIENHOLDER.

8 (III) ANY PORTION OF THE PROCEEDS THAT WOULD BE PAID TO AN
9 OWNER OF THE MOTOR VEHICLE UNDER THE APPLICABLE LAW RELATING TO
10 DISTRIBUTION OF PROCEEDS SHALL BE PAID TO THE SEIZING AGENCY AND SHALL
11 BE SUBJECT TO FORFEITURE. IF NO ORDER OF FORFEITURE IS ENTERED, THE STATE
12 SHALL REMIT TO THE OWNER THAT PORTION OF THE PROCEEDS AND ANY COSTS OF
13 THE FORFEITURE PROCEEDINGS PAID FROM THE PROCEEDS OF THE SALE.

14 (5) (I) IF THE INTEREST OF THE OWNER IN THE MOTOR VEHICLE IS
15 REDEEMED, THE LIENHOLDER SHALL MAIL A NOTICE OF THE REDEMPTION TO THE
16 FORFEITING AUTHORITY WITHIN 10 DAYS AFTER THE REDEMPTION.

17 (II) IF THE MOTOR VEHICLE HAS BEEN REPOSSESSED OR
18 OTHERWISE LAWFULLY TAKEN BY THE LIENHOLDER, THE LIENHOLDER SHALL
19 RETURN THE MOTOR VEHICLE TO THE SEIZING AGENCY WITHIN 21 DAYS AFTER
20 THE REDEMPTION.

21 (III) THE SEIZING AGENCY AND THE FORFEITING AUTHORITY MAY
22 THEN PROCEED WITH THE FORFEITURE OF THE MOTOR VEHICLE OR PROCEEDS,
23 AND ALL TIME LIMITATIONS REQUIRED UNDER THIS SECTION FOR NOTICE AND
24 FILING OF THE COMPLAINT FOR FORFEITURE SHALL RUN FROM THE DATE OF THE
25 REDEMPTION OR PURCHASE OF THE MOTOR VEHICLE.

26 (N) IN A PROCEEDING UNDER THIS SECTION, A COURT MAY:

27 (1) GRANT REQUESTS FOR MITIGATION OR REMISSION OF
28 FORFEITURE, OR TAKE ANY OTHER ACTION TO PROTECT THE RIGHTS OF INNOCENT
29 PERSONS WHICH IS IN THE INTEREST OF JUSTICE AND WHICH IS NOT INCONSISTENT
30 WITH THE PROVISIONS OF THIS SECTION;

31 (2) RESOLVE CLAIMS ARISING UNDER THIS SECTION; OR

32 (3) TAKE APPROPRIATE MEASURES NECESSARY TO SAFEGUARD AND
33 MAINTAIN A MOTOR VEHICLE ORDERED FORFEITED UNDER THIS SECTION
34 PENDING ITS DISPOSITION.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

36 October 1, 1997.