

SB0463/758470/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 463
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 12, after “purposes;” insert “specifying certain property subject to forfeiture; specifying certain conditions to exclude property from forfeiture;”; strike beginning with “requiring” in line 15 down through “party;” in line 21 and substitute “specifying certain standards and exceptions regarding the seizure of motor vehicles; requiring a certain law enforcement officer to recommend that a motor vehicle be forfeited under certain circumstances; requiring that a forfeiting authority surrender a motor vehicle on request to the owner under certain circumstances; specifying conditions under which an owner may obtain possession of seized property; specifying the time when seizure of real property occurs; authorizing an owner or owner’s tenant to remain in possession of seized real property under certain circumstances; prohibiting an owner of real property from taking certain actions; specifying certain procedures for the conduct of forfeiture proceedings, including the filing of complaints and answers, posting and publishing of notice, and conducting hearings for real property and other property; specifying certain restrictions on forfeiture proceedings on property used as the principal family residence; specifying certain powers of a court in a certain forfeiture proceeding; requiring a court to issue a certain order after a full hearing under certain circumstances;”; and in line 24, after “purpose;” insert “specifying the terms of sale of forfeited property; specifying the law governing the sale of certain collateral; requiring certain proceeds from the sale of certain property to be distributed in a certain manner; requiring lienholders to take certain actions before exercising the right to sell certain property and after the redemption of certain property; specifying the effect of this Act;”.

On page 2, in line 6, strike “13-509” and substitute “13-535”.

AMENDMENT NO. 2

(Over)

On page 5, after line 11, insert:

“(B) “CHIEF EXECUTIVE OFFICER” MEANS:

(1) FOR BALTIMORE CITY, THE MAYOR;

(2) FOR A CHARTER COUNTY, THE COUNTY EXECUTIVE OR, IF THERE IS NO COUNTY EXECUTIVE, THE COUNTY COUNCIL;

(3) FOR A CODE COUNTY, THE COUNTY COMMISSIONERS OR COUNTY COUNCIL;

(4) FOR A COUNTY COMMISSIONER COUNTY, THE COUNTY COMMISSIONERS; OR

(5) FOR A MUNICIPAL CORPORATION, THE LEGISLATIVE BODY ESTABLISHED BY MUNICIPAL CHARTER.

“(C) “CONVICTED” MEANS FOUND GUILTY.

“(D) “FINAL DISPOSITION” MEANS A DISMISSAL, ENTRY OF A NOLLE PROSEQUI, THE MARKING OF A CRIMINAL CHARGE “STET” ON THE DOCKET, ENTRY OF A NOT GUILTY VERDICT, THE PRONOUNCEMENT OF SENTENCE, OR IMPOSITION OF PROBATION UNDER § 6-220 OF THIS ARTICLE.

“(E) “FORFEITING AUTHORITY” MEANS:

(1) THE UNIT OR PERSON DESIGNATED BY AGREEMENT BETWEEN THE STATE’S ATTORNEY FOR A COUNTY AND THE CHIEF EXECUTIVE OFFICER OF THE GOVERNING BODY HAVING JURISDICTION OVER ASSETS SUBJECT TO

FORFEITURE TO ACT ON BEHALF OF THE GOVERNING BODY REGARDING THOSE ASSETS; OR

(2) IF THE SEIZING AUTHORITY IS A UNIT OF THE STATE, A UNIT OR PERSON THAT THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE DESIGNATES BY AGREEMENT WITH A STATE'S ATTORNEY, COUNTY ATTORNEY, OR MUNICIPAL ATTORNEY TO ACT ON BEHALF OF THE STATE REGARDING ASSETS SUBJECT TO FORFEITURE BY THE STATE.

(F) "GOVERNING BODY" INCLUDES:

(1) THE STATE, IF THE SEIZING AUTHORITY IS A UNIT OF THE STATE;

(2) A COUNTY, IF THE SEIZING AUTHORITY IS A UNIT OF A COUNTY;

(3) A MUNICIPAL CORPORATION, IF THE SEIZING AUTHORITY IS A UNIT OF A MUNICIPALITY; AND

(4) BALTIMORE CITY, IF THE SEIZING AUTHORITY IS THE BALTIMORE POLICE DEPARTMENT."

in line 12, strike "**(B)**" and substitute "**(G)**"; after line 13, insert:

"(H) "LIEN" INCLUDES A MORTGAGE, DEED OF TRUST, PLEDGE, SECURITY INTEREST, ENCUMBRANCE, OR RIGHT OF SETOFF.

(I) "LIENHOLDER" MEANS A PERSON WHO HAS A LIEN OR A SECURED INTEREST ON PROPERTY CREATED BEFORE THE SEIZURE.

(Over)

(J) “LOCAL FINANCIAL AUTHORITY” MEANS:

(1) IF THE SEIZING AUTHORITY IS A UNIT OF A COUNTY, THE TREASURER OR DIRECTOR OF FINANCE OF THE COUNTY; OR

(2) IF THE SEIZING AUTHORITY IS A UNIT OF A MUNICIPAL CORPORATION, THE TREASURER OR DIRECTOR OF FINANCE OF THE MUNICIPAL CORPORATION.”;

and in lines 14 and 24 strike “(C)” and “(D)”, respectively, and substitute “**(K)**” and “**(L)**”, respectively.

AMENDMENT NO. 3

On page 6, in line 22, strike “(E)” and substitute “**(M)**”.

On page 7, strike in their entirety lines 3 through 6, inclusive, and substitute:

“(N) “SEIZING AUTHORITY” MEANS A LAW ENFORCEMENT UNIT IN THE STATE THAT IS AUTHORIZED TO INVESTIGATE VIOLATIONS OF THE HUMAN TRAFFICKING LAW AND THAT HAS SEIZED PROPERTY UNDER THIS SUBTITLE.

13-502.

THE FOLLOWING ARE SUBJECT TO FORFEITURE:”;

in line 7, after “(1)” insert “**EXCEPT AS PROVIDED IN § 13-503 OF THIS SUBTITLE,**”;
in line 15, after “(4)” insert “**EXCEPT AS PROVIDED IN § 13-503 OF THIS SUBTITLE,**”;
in line 17, after “(5)” insert “**EXCEPT AS PROVIDED IN § 13-503 OF THIS SUBTITLE,**”.

On pages 7 and 8, strike in their entirety the lines beginning with line 23 on page 7 through line 3 on page 8, inclusive, and substitute:

“(A) PROPERTY OR AN INTEREST IN PROPERTY DESCRIBED IN § 13-502(A)(1), (4), OR (5) OF THIS SUBTITLE MAY NOT BE FORFEITED IF THE OWNER ESTABLISHES BY A PREPONDERANCE OF THE EVIDENCE THAT THE VIOLATION OF THE HUMAN TRAFFICKING LAW WAS COMMITTED WITHOUT THE OWNER’S ACTUAL KNOWLEDGE.

(B) (1) A CONVEYANCE USED AS A COMMON CARRIER OR VEHICLE FOR HIRE IN THE TRANSACTION OF BUSINESS AS A COMMON CARRIER OR VEHICLE FOR HIRE MAY NOT BE SEIZED OR FORFEITED UNDER THIS SUBTITLE UNLESS IT APPEARS THAT THE OWNER OR OTHER PERSON IN CHARGE OF THE CONVEYANCE WAS A CONSENTING PARTY OR PRIVY TO A VIOLATION OF THE HUMAN TRAFFICKING LAW.

(2) A CONVEYANCE MAY NOT BE FORFEITED UNDER THIS SUBTITLE FOR AN ACT OR OMISSION THAT THE OWNER SHOWS WAS COMMITTED OR OMITTED BY A PERSON OTHER THAN THE OWNER WHILE THE PERSON OTHER THAN THE OWNER POSSESSED THE CONVEYANCE IN CRIMINAL VIOLATION OF FEDERAL LAW OR THE LAW OF ANY STATE.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE MAY NOT BE FORFEITED UNDER THIS SUBTITLE UNLESS ONE OF THE OWNERS OF THE REAL PROPERTY WAS CONVICTED OF A VIOLATION OF THE HUMAN TRAFFICKING LAW OR OF AN ATTEMPT OR CONSPIRACY TO VIOLATE THE HUMAN TRAFFICKING LAW.

(2) WITHOUT A CONVICTION, A COURT MAY ORDER A FORFEITURE OF REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE IF THE OWNER OF THE FAMILY RESIDENCE:

(I) FAILS TO APPEAR FOR A REQUIRED COURT APPEARANCE; AND

(II) FAILS TO SURRENDER TO THE JURISDICTION OF THE COURT WITHIN 180 DAYS AFTER THE REQUIRED COURT APPEARANCE.

(D) REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE BY A HUSBAND AND WIFE AND HELD BY THE HUSBAND AND WIFE AS TENANTS BY THE ENTIRETY MAY NOT BE FORFEITED UNLESS:

(1) THE PROPERTY WAS USED IN CONNECTION WITH A VIOLATION OF THE HUMAN TRAFFICKING LAW OR WITH AN ATTEMPT OR CONSPIRACY TO VIOLATE THE HUMAN TRAFFICKING LAW; AND

(2) BOTH THE HUSBAND AND WIFE ARE CONVICTED OF A VIOLATION OF THE HUMAN TRAFFICKING LAW OR OF AN ATTEMPT OR CONSPIRACY TO VIOLATE THE HUMAN TRAFFICKING LAW.

13-504.

PROPERTY SUBJECT TO FORFEITURE UNDER THIS SUBTITLE MAY BE SEIZED:

(1) ON A WARRANT ISSUED BY A COURT THAT HAS JURISDICTION OVER THE PROPERTY; AND

(2) WITHOUT A WARRANT WHEN:

(I) THE SEIZURE IS INCIDENT TO AN ARREST OR A SEARCH UNDER A SEARCH WARRANT;

(II) THE SEIZURE IS INCIDENT TO AN INSPECTION UNDER AN ADMINISTRATIVE INSPECTION WARRANT;

(III) THE PROPERTY SUBJECT TO SEIZURE HAS BEEN THE SUBJECT OF A PRIOR JUDGMENT IN FAVOR OF THE STATE IN A CRIMINAL INJUNCTION OR FORFEITURE PROCEEDING UNDER THIS SUBTITLE;

(IV) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY IS DIRECTLY OR INDIRECTLY DANGEROUS TO HEALTH OR SAFETY;
OR

(V) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY HAS BEEN USED OR IS INTENDED TO BE USED IN VIOLATION OF THE HUMAN TRAFFICKING LAW OR THIS SUBTITLE.”.

AMENDMENT NO. 4

On page 8, in line 4, strike “**13-504.**” and substitute “**13-505.**”.

On pages 8 and 9, strike in their entirety the lines beginning with line 14 on page 8 through line 9 on page 9, inclusive, and substitute:

“13-506.

(A) PROPERTY SEIZED UNDER THIS SUBTITLE:

(Over)

(1) IS NOT REPLEVIABLE; BUT

(2) IS IN THE CUSTODY OF THE SEIZING AUTHORITY, SUBJECT ONLY TO THE ORDERS, JUDGMENTS, AND DECREES OF THE COURT OR THE OFFICIAL HAVING JURISDICTION OVER THE PROPERTY.

(B) A SEIZING AUTHORITY MAY PLACE SEIZED PROPERTY UNDER SEAL AND REMOVE THE PROPERTY TO A PLACE DESIGNATED BY THE COURT.

13-507.

(A) A SEIZING AUTHORITY SHALL SEIZE A MOTOR VEHICLE USED IN VIOLATION OF THE HUMAN TRAFFICKING LAW OR THIS SUBTITLE AND RECOMMEND FORFEITURE TO THE FORFEITING AUTHORITY IF THE TOTAL CIRCUMSTANCES OF THE CASE AS LISTED IN SUBSECTION (B) OF THIS SECTION DICTATE THAT SEIZURE AND FORFEITURE ARE JUSTIFIED.

(B) CIRCUMSTANCES TO BE CONSIDERED IN DECIDING WHETHER SEIZURE AND FORFEITURE ARE JUSTIFIED INCLUDE:

(1) AN EXTENSIVE CRIMINAL RECORD OF THE VIOLATOR;

(2) A PREVIOUS CONVICTION OF THE VIOLATOR FOR A HUMAN TRAFFICKING CRIME;

(3) EVIDENCE THAT THE MOTOR VEHICLE WAS ACQUIRED BY USE OF PROCEEDS FROM A TRANSACTION INVOLVING A HUMAN TRAFFICKING CRIME;

(4) CIRCUMSTANCES OF THE ARREST; AND

(5) THE WAY IN WHICH THE MOTOR VEHICLE WAS USED.

13-508.

(A) THE CHIEF LAW ENFORCEMENT OFFICER OF THE SEIZING AUTHORITY THAT SEIZES A MOTOR VEHICLE USED IN VIOLATION OF THIS SUBTITLE SHALL RECOMMEND TO THE APPROPRIATE FORFEITING AUTHORITY IN WRITING THAT THE MOTOR VEHICLE BE FORFEITED ONLY IF THE OFFICER:

(1) DETERMINES FROM THE RECORDS OF THE MOTOR VEHICLE ADMINISTRATION THE NAMES AND ADDRESSES OF ALL REGISTERED OWNERS AND SECURED PARTIES AS DEFINED IN THE CODE;

(2) PERSONALLY REVIEWS THE FACTS AND CIRCUMSTANCES OF THE SEIZURE; AND

(3) PERSONALLY DETERMINES, ACCORDING TO THE STANDARDS LISTED IN § 13-507 OF THIS SUBTITLE, AND REPRESENTS IN WRITING THAT FORFEITURE IS WARRANTED.

(B) (1) A SWORN AFFIDAVIT BY THE CHIEF LAW ENFORCEMENT OFFICER THAT THE OFFICER FOLLOWED THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION IS ADMISSIBLE IN EVIDENCE IN A PROCEEDING UNDER THIS SECTION.

(2) THE CHIEF LAW ENFORCEMENT OFFICER MAY NOT BE SUBPOENAED OR COMPELLED TO APPEAR AND TESTIFY IF ANOTHER LAW ENFORCEMENT OFFICER WITH PERSONAL KNOWLEDGE OF THE FACTS AND

(Over)

CIRCUMSTANCES SURROUNDING THE SEIZURE AND THE RECOMMENDATION OF FORFEITURE APPEARS AND TESTIFIES AT THE PROCEEDING.

13-509.

(A) THE FORFEITING AUTHORITY SHALL SURRENDER THE MOTOR VEHICLE ON REQUEST TO THE OWNER IF THE FORFEITING AUTHORITY DETERMINES, INDEPENDENT OF THE DECISION OF THE SEIZING AUTHORITY, THAT:

(1) THE MOTOR VEHICLE FALLS WITHIN THE PURVIEW OF § 13-508 OF THIS SUBTITLE; OR

(2) THE CIRCUMSTANCES LISTED UNDER § 13-507(B) OF THIS SUBTITLE WERE NOT MET.

(B) IN A PROCEEDING UNDER THIS SUBTITLE, THE COURT MAY DETERMINE, BASED ON THE CIRCUMSTANCES LISTED IN § 13-507(B) OF THIS SUBTITLE, WHETHER THE SEIZING AUTHORITY OR FORFEITING AUTHORITY ABUSED ITS DISCRETION OR WAS CLEARLY ERRONEOUS:

(1) IN RECOMMENDING THE FORFEITURE OF A MOTOR VEHICLE;
OR

(2) IN NOT SURRENDERING ON REQUEST A MOTOR VEHICLE TO AN OWNER.

13-510.

(A) (1) EXCEPT AS PROVIDED IN §§ 13-512 AND 13-513 OF THIS SUBTITLE, AN OWNER OF SEIZED PROPERTY WHO WISHES TO OBTAIN POSSESSION OF THE PROPERTY, TO CONVEY AN INTEREST IN REAL PROPERTY, OR TO REMOVE A BUILDING OR FIXTURE FROM REAL PROPERTY SHALL NOTIFY THE CLERK OF THE PROPER COURT.

(2) IF FORFEITURE PROCEEDINGS HAVE BEGUN, THE PROPER COURT IS THE COURT WHERE THE PROCEEDINGS HAVE BEGUN.

(3) IF CRIMINAL PROCEEDINGS HAVE BEGUN BUT FORFEITURE PROCEEDINGS HAVE NOT BEGUN, THE PROPER COURT IS THE COURT WHERE THE CRIMINAL PROCEEDINGS HAVE BEGUN.

(4) IF BOTH FORFEITURE PROCEEDINGS AND CRIMINAL PROCEEDINGS HAVE NOT BEGUN, THE PROPER COURT IS THE CIRCUIT COURT FOR THE COUNTY WHERE THE PROPERTY WAS SEIZED.

(B) (1) UNLESS THE FORFEITING AUTHORITY AND THE OWNER AGREE TO A BOND IN ANOTHER AMOUNT, IF A MOTOR VEHICLE IS NOT NEEDED FOR EVIDENTIARY PURPOSES IN A JUDICIAL PROCEEDING:

(I) THE COURT SHALL APPRAISE THE VALUE OF THE MOTOR VEHICLE ON THE BASIS OF THE AVERAGE VALUE OF THE MOTOR VEHICLE SET FORTH IN THE NATIONAL AUTOMOBILE DEALER'S ASSOCIATION OFFICIAL USED CAR GUIDE; OR

(II) IF THE OWNER SHOWS THAT A LIEN IS ON THE MOTOR VEHICLE AND THE OWNER AGREES TO MAKE THE REQUIRED PAYMENTS TO THE LIENHOLDER, THE COURT SHALL REQUIRE A BOND IN AN AMOUNT OF THE AVERAGE VALUE OF THE MOTOR VEHICLE SET FORTH IN THE NATIONAL

(Over)

AUTOMOBILE DEALER'S ASSOCIATION OFFICIAL USED CAR GUIDE, LESS THE AMOUNT OWED ON THE LIEN.

(2) FOR A MOTOR VEHICLE, THE COURT SHALL APPRAISE THE VALUE IN THE MANNER PROVIDED IN THIS SUBSECTION AND PROVIDE THE APPRAISAL IN WRITING TO THE CLERK OF THE COURT.

(C) (1) IF PROPERTY OTHER THAN A MOTOR VEHICLE IS NOT NEEDED FOR EVIDENTIARY PURPOSES IN A JUDICIAL PROCEEDING, THE CLERK SHALL OBTAIN AN INDEPENDENT APPRAISAL OF THE VALUE OF THE PROPERTY.

(2) THE SHERIFF OR OTHER PERSON RESPONSIBLE FOR AN APPRAISAL UNDER THIS SUBSECTION SHALL PROMPTLY:

(I) INSPECT AND APPRAISE THE VALUE OF THE PROPERTY;

AND

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

(D) NOTICE OF THE APPRAISAL SHALL BE SENT TO ALL LIENHOLDERS SHOWN IN THE RECORDS REQUIRED BY LAW FOR NOTICE OR THE PERFECTION OF THE LIEN.

(E) (1) ON THE FILING OF AN APPRAISAL, THE OWNER MAY GIVE BOND PAYABLE TO THE CLERK OF THE COURT IN AN AMOUNT EQUAL TO THE GREATER OF:

(I) THE APPRAISED VALUE OF THE PROPERTY PLUS ANY ACCRUED COSTS; OR

(II) THE AGGREGATE AMOUNT OF THE LIENS ON THE PROPERTY THAT ARE SHOWN IN THE RECORDS REQUIRED BY LAW FOR THE NOTICE OR PERFECTION OF LIENS.

(2) A PERSON MAY GIVE A BOND UNDER THIS SUBSECTION BY CASH, THROUGH A SURETY, THROUGH A LIEN ON REAL PROPERTY, OR BY OTHER MEANS THAT THE CLERK APPROVES.

(3) A BOND AUTHORIZED UNDER THIS SUBSECTION:

(I) SHALL BE CONDITIONED FOR PERFORMANCE ON FINAL JUDGMENT BY THE COURT;

(II) SHALL BE FILED IN THE DISTRICT COURT OR CIRCUIT COURT WHERE THE CRIMINAL ACTION THAT GAVE RISE TO THE SEIZURE IS PENDING; AND

(III) UNLESS A COMPLAINT FOR FORFEITURE HAS BEEN FILED, SHALL BE PART OF THE SAME CRIMINAL PROCEEDING.

(4) IF A CRIMINAL ACTION IS NOT PENDING OR A FORFEITURE COMPLAINT HAS NOT BEEN FILED, THE BOND SHALL BE FILED IN THE CIRCUIT COURT OR DISTRICT COURT WHERE THE PROPERTY WAS SEIZED.

(F) (1) IF THE COURT ORDERS THAT PROPERTY OR AN INTEREST OR EQUITY IN THE PROPERTY OR PROCEEDS BE FORFEITED UNDER THIS SUBTITLE, THE COURT SHALL ENTER JUDGMENT IN THE AMOUNT OF THE BOND AGAINST THE OBLIGORS ON THE BOND WITHOUT FURTHER PROCEEDINGS.

(Over)

(2) PAYMENT OF THE AMOUNT OF THE BOND SHALL BE APPLIED AS PROVIDED UNDER § 13-527(D)(2) OF THIS SUBTITLE.

13-511.

SEIZURE OF REAL PROPERTY OCCURS ON THE EARLIER OF THE FILING:

(1) OF A COMPLAINT FOR FORFEITURE UNDER THIS SUBTITLE; OR

(2) OF A NOTICE OF PENDING LITIGATION IN THE CIRCUIT COURT OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED.

13-512.

(A) SUBJECT TO THE RIGHTS OF A LIENHOLDER TO SELL THE REAL PROPERTY, AN OWNER OR OWNER'S TENANT MAY REMAIN IN POSSESSION OF SEIZED REAL PROPERTY UNTIL FORFEITURE IS ORDERED.

(B) THE FORFEITING AUTHORITY MAY APPLY TO THE COURT FOR THE APPOINTMENT OF A RECEIVER TO APPLY INCOME FROM INCOME-PRODUCING PROPERTY.

(C) IF A PERSON WHO IS AN OWNER OR OWNER'S TENANT REMAINS IN POSSESSION OF THE REAL PROPERTY AND THE PERSON'S INTEREST IN THE REAL PROPERTY IS FORFEITED, THE PERSON SHALL IMMEDIATELY SURRENDER THE REAL PROPERTY TO THE SEIZING AUTHORITY IN SUBSTANTIALLY THE SAME CONDITION AS WHEN SEIZED.

13-513.

(A) THIS SECTION DOES NOT APPLY IF:

(1) AN ACT IS AGREED TO BY A FORFEITING AUTHORITY OR IS ORDERED BY THE COURT; OR

(2) AN OWNER POSTS A BOND UNDER § 13-510 OF THIS SUBTITLE.

(B) SUBJECT TO SUBSECTION (A) OF THIS SECTION, UNTIL THE COURT ENTERS JUDGMENT IN FAVOR OF THE OWNER, AN OWNER MAY NOT ATTEMPT:

(1) TO CONVEY OR ENCUMBER AN INTEREST IN SEIZED REAL PROPERTY; OR

(2) TO REMOVE A BUILDING OR FIXTURE ON SEIZED REAL PROPERTY.

13-514.

EXCEPT AS PROVIDED IN § 13-517(C) OF THIS SUBTITLE, IF PROPERTY IS SEIZED UNDER § 13-504(A)(2)(IV) AND (V) OF THIS SUBTITLE BECAUSE THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY IS DIRECTLY OR INDIRECTLY DANGEROUS TO HEALTH OR SAFETY AND THAT THE PROPERTY WAS OR WILL BE USED TO VIOLATE THIS SUBTITLE, FORFEITURE PROCEEDINGS UNDER THIS SUBTITLE SHALL BE FILED PROMPTLY.

13-515.

EXCEPT AS PROVIDED IN § 13-516 OF THIS SUBTITLE, THE APPROPRIATE FORFEITING AUTHORITY SHALL FILE PROCEEDINGS UNDER THIS SUBTITLE IN THE CIRCUIT COURT.

(Over)

13-516.

(A) TO APPLY FOR THE FORFEITURE OF MONEY, THE APPROPRIATE LOCAL FINANCIAL AUTHORITY OR THE ATTORNEY GENERAL SHALL FILE A COMPLAINT AND AFFIDAVIT IN THE DISTRICT COURT OR THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE MONEY WAS SEIZED.

(B) THE COMPLAINT AND AFFIDAVIT SHALL BE SERVED IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

13-517.

(A) EXCEPT AS PROVIDED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION, A COMPLAINT SEEKING FORFEITURE SHALL BE FILED WITHIN THE EARLIER OF:

(1) 90 DAYS AFTER THE SEIZURE; OR

(2) 1 YEAR AFTER THE FINAL DISPOSITION OF THE CRIMINAL CHARGE FOR THE VIOLATION GIVING RISE TO THE FORFEITURE.

(B) A COMPLAINT FOR THE FORFEITURE OF A MOTOR VEHICLE SHALL BE FILED WITHIN 45 DAYS AFTER THE MOTOR VEHICLE IS SEIZED.

(C) (1) A PROCEEDING ABOUT MONEY SHALL BE FILED WITHIN 90 DAYS AFTER THE FINAL DISPOSITION OF CRIMINAL PROCEEDINGS THAT ARISE OUT OF THE HUMAN TRAFFICKING LAW.

(2) IF THE STATE OR A POLITICAL SUBDIVISION DOES NOT FILE PROCEEDINGS ABOUT MONEY WITHIN THE 90-DAY PERIOD, THE MONEY SEIZED UNDER THIS SUBTITLE SHALL BE RETURNED TO THE OWNER ON REQUEST BY THE OWNER.

(3) IF THE OWNER FAILS TO ASK FOR THE RETURN OF THE MONEY WITHIN 1 YEAR AFTER THE FINAL DISPOSITION OF CRIMINAL PROCEEDINGS, AS PROVIDED UNDER § 13-528 OF THIS SUBTITLE, THE MONEY SHALL REVERT TO THE ANTI-HUMAN TRAFFICKING FUND UNDER § 11-920 OF THIS ARTICLE.

13-518.

(A) A COMPLAINT SEEKING FORFEITURE SHALL CONTAIN:

(1) A DESCRIPTION OF THE PROPERTY SEIZED;

(2) THE DATE AND PLACE OF THE SEIZURE;

(3) THE NAME OF THE OWNER, IF KNOWN;

(4) THE NAME OF THE PERSON IN POSSESSION, IF KNOWN;

(5) THE NAME OF EACH LIENHOLDER, IF KNOWN OR REASONABLY SUBJECT TO DISCOVERY;

(6) AN ALLEGATION THAT THE PROPERTY IS SUBJECT TO FORFEITURE;

(7) IF THE FORFEITING AUTHORITY SEEKS TO FORFEIT A LIENHOLDER'S INTEREST IN PROPERTY, AN ALLEGATION THAT THE LIEN WAS

(Over)

CREATED WITH ACTUAL KNOWLEDGE THAT THE PROPERTY WAS BEING OR WAS TO BE USED IN VIOLATION OF THE HUMAN TRAFFICKING LAW;

(8) A STATEMENT OF THE FACTS AND CIRCUMSTANCES SURROUNDING THE SEIZURE;

(9) A STATEMENT SETTING FORTH THE SPECIFIC GROUNDS FOR FORFEITURE; AND

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

(B) WITHIN 20 DAYS AFTER THE FILING OF THE COMPLAINT, COPIES OF THE SUMMONS AND COMPLAINT SHALL BE SENT BY CERTIFIED MAIL REQUESTING "RESTRICTED DELIVERY – SHOW TO WHOM, DATE, ADDRESS OF DELIVERY" AND FIRST-CLASS MAIL TO ALL KNOWN OWNERS AND LIENHOLDERS WHOSE IDENTITIES ARE REASONABLY SUBJECT TO DISCOVERY, INCLUDING ALL REAL PROPERTY OWNERS AND LIENHOLDERS SHOWN IN THE RECORDS REQUIRED BY LAW FOR NOTICE OR PERFECTION OF THE LIEN.

13-519.

(A) A NOTICE SHALL BE SIGNED BY THE CLERK AND SHALL:

(1) INCLUDE THE CAPTION OF THE CASE;

(2) DESCRIBE THE SUBSTANCE OF THE COMPLAINT AND THE RELIEF SOUGHT;

(3) STATE THE LATEST DATE ON WHICH A RESPONSE MAY BE FILED;

(4) STATE THAT THE PROPERTY SHALL BE FORFEITED IF A RESPONSE IS NOT FILED ON TIME;

(5) STATE THAT THE OWNER OF THE PROPERTY MAY HAVE POSSESSION OF THE PROPERTY PENDING FORFEITURE BY POSTING A BOND AS PROVIDED IN § 13-510 OF THIS SUBTITLE; AND

(6) TELL WHERE TO FILE A RESPONSE AND WHO TO CONTACT FOR MORE INFORMATION CONCERNING THE FORFEITURE.

(B) WITHIN 20 DAYS AFTER THE FILING OF THE COMPLAINT, THE NOTICE SHALL BE:

(1) POSTED BY THE SHERIFF ON THE DOOR OF THE COURTHOUSE WHERE THE ACTION IS PENDING OR ON A BULLETIN BOARD WITHIN THE IMMEDIATE VICINITY OF THE DOOR;

(2) POSTED BY THE SHERIFF IN A CONSPICUOUS PLACE ON THE LAND, IF FORFEITURE OF REAL PROPERTY IS SOUGHT; AND

(3) PUBLISHED AT LEAST ONCE A WEEK IN EACH OF 3 SUCCESSIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN THE COUNTY IN WHICH THE ACTION IS PENDING, UNLESS THE PROPERTY IS A BOAT OR MOTOR VEHICLE.

13-520.

(Over)

THE ANSWER TO A COMPLAINT SHALL:

- (1) COMPLY WITH THE MARYLAND RULES;
- (2) STATE THE NATURE AND EXTENT OF THE PERSON'S RIGHT IN, TITLE TO, OR INTEREST IN THE PROPERTY;
- (3) STATE HOW AND WHEN THE PERSON ACQUIRED A RIGHT IN, TITLE TO, OR INTEREST IN THE PROPERTY; AND
- (4) CONTAIN A REQUEST FOR RELIEF AND A REQUEST FOR A PROMPT HEARING.

13-521.

(A) IF AN ANSWER HAS BEEN FILED ON TIME, THE COURT SHALL SET A HEARING ON THE FORFEITURE CLAIM WITHIN 60 DAYS AFTER THE LATER OF:

- (1) POSTING OF NOTICE UNDER § 13-519(B)(1) OR (2) OF THIS SUBTITLE; OR
- (2) FINAL PUBLICATION OF NOTICE UNDER § 13-519(B)(3) OF THIS SUBTITLE.

(B) WITHOUT A HEARING, THE COURT MAY ORDER FORFEITURE OF THE PROPERTY INTEREST OF A PERSON WHO FAILS TO TIMELY FILE AN ANSWER.

13-522.

EXCEPT AS PROVIDED IN §§ 13-503(D) AND 13-524 OF THIS SUBTITLE, AN OWNER'S INTEREST IN REAL PROPERTY MAY BE FORFEITED IF THE REAL PROPERTY WAS USED IN CONNECTION WITH A VIOLATION OF THE HUMAN TRAFFICKING LAW OR THE OWNER OF THE REAL PROPERTY IS CONVICTED OF AN ATTEMPT OR CONSPIRACY TO VIOLATE THE HUMAN TRAFFICKING LAW.

13-523.

(A) FORFEITURE PROCEEDINGS FOR REAL PROPERTY MAY BE BROUGHT IN THE JURISDICTION WHERE:

- (1) THE CRIMINAL CHARGES ARE PENDING;
- (2) THE OWNER RESIDES; OR
- (3) THE REAL PROPERTY IS LOCATED.

(B) (1) IF FORFEITURE PROCEEDINGS FOR REAL PROPERTY ARE BROUGHT IN A JURISDICTION OTHER THAN WHERE THE REAL PROPERTY IS LOCATED, A NOTICE OF PENDING LITIGATION SHALL BE FILED IN THE JURISDICTION WHERE THE PROPERTY IS LOCATED.

(2) A NOTICE OF PENDING LITIGATION REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE AT LEAST:

- (I) THE NAME AND ADDRESS OF THE OWNER OF THE REAL PROPERTY;
- (II) A DESCRIPTION OF THE REAL PROPERTY; AND

(III) A DESCRIPTION OF THE REASONS FOR THE FILING OF THE FORFEITURE PROCEEDINGS AND NOTICE OF PENDING LITIGATION.

13-524.

IF AN OWNER OF REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE IS CONVICTED UNDER THE HUMAN TRAFFICKING LAW OR IS CONVICTED OF AN ATTEMPT OR CONSPIRACY TO VIOLATE THE HUMAN TRAFFICKING LAW AND THE OWNER FILES AN APPEAL OF THE CONVICTION, THE COURT SHALL STAY FORFEITURE PROCEEDINGS UNDER § 13-503(D) OR § 13-525(B) OF THIS SUBTITLE AGAINST THE REAL PROPERTY DURING THE PENDENCY OF THE APPEAL.

13-525.

(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THERE IS A REBUTTABLE PRESUMPTION THAT PROPERTY OR PART OF A PROPERTY IN WHICH A PERSON HAS AN OWNERSHIP INTEREST IS SUBJECT TO FORFEITURE AS PROCEEDS, IF THE STATE ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT:

(I) THE PERSON HAS VIOLATED THE HUMAN TRAFFICKING LAW OR HAS ATTEMPTED OR CONSPIRED TO VIOLATE THE HUMAN TRAFFICKING LAW;

(II) THE PROPERTY WAS ACQUIRED BY THE PERSON DURING THE VIOLATION OR WITHIN A REASONABLE TIME AFTER THE VIOLATION; AND

(III) THERE WAS NO OTHER LIKELY SOURCE FOR THE PROPERTY.

(2) A CLAIMANT OF THE PROPERTY HAS THE BURDEN OF PROOF TO REBUT THE PRESUMPTION IN PARAGRAPH (1) OF THIS SUBSECTION.

(B) REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE MAY NOT BE FORFEITED UNDER THIS SECTION UNLESS:

(1) AN OWNER OF THE REAL PROPERTY WAS CONVICTED OF A CRIME DESCRIBED UNDER SUBSECTION (A)(1)(I) OF THIS SECTION; OR

(2) THE REAL PROPERTY IS COVERED BY § 13-503(D) OF THIS SUBTITLE.

13-526.

IN A PROCEEDING UNDER THIS SUBTITLE, A COURT:

(1) MAY GRANT REQUESTS FOR MITIGATION OR REMISSION OF FORFEITURE OR TAKE OTHER ACTION THAT PROTECTS THE RIGHTS OF INNOCENT PERSONS, IS CONSISTENT WITH THIS SUBTITLE, AND IS IN THE INTEREST OF JUSTICE;

(2) MAY RESOLVE CLAIMS ARISING UNDER THIS SUBTITLE; AND

(3) MAY TAKE APPROPRIATE MEASURES TO SAFEGUARD AND MAINTAIN PROPERTY FORFEITED UNDER THIS SUBTITLE PENDING THE DISPOSITION OF THE PROPERTY.

13-527.

(Over)

(A) AFTER A FULL HEARING, IF THE COURT DETERMINES THAT THE PROPERTY SHOULD NOT BE FORFEITED, THE COURT SHALL ORDER THAT THE PROPERTY BE RELEASED.

(B) SUBJECT TO § 13-528(B) OF THIS SUBTITLE, IF THE COURT DETERMINES THAT THE PROPERTY SHOULD BE FORFEITED, THE COURT SHALL ORDER THAT THE PROPERTY BE FORFEITED TO THE APPROPRIATE GOVERNING BODY.

(C) IF THE COURT DETERMINES THAT THE FORFEITED PROPERTY IS SUBJECT TO A VALID LIEN CREATED WITHOUT ACTUAL KNOWLEDGE OF THE LIENHOLDER THAT THE PROPERTY WAS BEING OR WAS TO BE USED IN VIOLATION OF THE HUMAN TRAFFICKING LAW, THE COURT SHALL ORDER THAT THE PROPERTY BE RELEASED WITHIN 5 DAYS TO THE FIRST PRIORITY LIENHOLDER.

(D) (1) THE LIENHOLDER SHALL SELL THE PROPERTY IN A COMMERCIALY REASONABLE MANNER.

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

(I) TO THE COURT COSTS OF THE FORFEITURE PROCEEDING;

(II) TO THE BALANCE DUE THE LIENHOLDER, INCLUDING ALL REASONABLE COSTS INCIDENT TO THE SALE;

(III) TO PAYMENT OF ALL OTHER EXPENSES OF THE PROCEEDINGS FOR FORFEITURE, INCLUDING EXPENSES OF SEIZURE OR MAINTENANCE OF CUSTODY; AND

(IV) TO THE ANTI-HUMAN TRAFFICKING FUND UNDER § 11-920 OF THIS ARTICLE.”.

AMENDMENT NO. 5

On page 9, in lines 10 and 20, in each instance, strike “**13-508.**” and “**13-509.**”, respectively, and substitute “**13-528.**” and “**13-529.**”, respectively; and after line 28, insert:

“13-530.

A SALE OF PROPERTY ORDERED UNDER THIS SUBTITLE SHALL BE MADE FOR CASH AND GIVES THE PURCHASER CLEAR AND ABSOLUTE TITLE.

13-531.

(A) BEFORE EXERCISING THE RIGHT TO SELL PROPERTY THAT HAS BEEN SEIZED UNDER THIS SUBTITLE, A LIENHOLDER SHALL GIVE TO THE FORFEITING AUTHORITY:

- (1) WRITTEN NOTICE OF THE INTENTION TO SELL;
- (2) COPIES OF DOCUMENTS GIVING RISE TO THE LIEN;
- (3) AN AFFIDAVIT UNDER OATH BY THE LIENHOLDER:

(I) STATING THAT THE UNDERLYING OBLIGATION IS IN DEFAULT; AND

(II) STATING THE REASONS FOR THE DEFAULT.

(B) ON REQUEST OF THE LIENHOLDER, THE FORFEITING AUTHORITY SHALL RELEASE THE PROPERTY TO THE LIENHOLDER.

13-532.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE LAW GOVERNING THE SALE OF COLLATERAL SECURING AN OBLIGATION IN DEFAULT GOVERNS A LIENHOLDER'S REPOSSESSION AND SALE OF PROPERTY THAT HAS BEEN SEIZED UNDER THIS SUBTITLE.

(B) A LIENHOLDER MAY NOT BE REQUIRED TO TAKE POSSESSION OF THE PROPERTY BEFORE THE SALE OF THE PROPERTY.

13-533.

(A) ANY PART OF THE PROCEEDS FROM A SALE OF PROPERTY THAT HAS BEEN SEIZED UNDER THIS SUBTITLE THAT WOULD BE PAID TO AN OWNER OF THE PROPERTY UNDER THE APPLICABLE LAW RELATING TO DISTRIBUTION OF PROCEEDS:

(1) SHALL BE PAID TO THE SEIZING AUTHORITY; AND

(2) SHALL BE PROPERTY SUBJECT TO FORFEITURE.

(B) IF AN ORDER OF FORFEITURE IS NOT ENTERED, THE STATE SHALL RETURN TO THE OWNER THAT PART OF THE PROCEEDS AND ANY COSTS OF THE FORFEITURE PROCEEDINGS PAID FROM THE PROCEEDS OF THE SALE.

13-534.

(A) IF THE INTEREST OF THE OWNER IN PROPERTY THAT HAS BEEN SEIZED UNDER THIS SUBTITLE IS REDEEMED, THE LIENHOLDER SHALL MAIL A NOTICE OF THE REDEMPTION TO THE FORFEITING AUTHORITY WITHIN 10 DAYS AFTER THE REDEMPTION.

(B) (1) IF PROPERTY THAT HAS BEEN SEIZED UNDER THIS SUBTITLE HAS BEEN REPOSSESSED OR OTHERWISE LAWFULLY TAKEN BY THE LIENHOLDER, THE LIENHOLDER SHALL RETURN THE PROPERTY TO THE SEIZING AUTHORITY WITHIN 21 DAYS AFTER THE REDEMPTION.

(2) THE SEIZING AUTHORITY AND THE FORFEITING AUTHORITY MAY THEN PROCEED WITH THE FORFEITURE OF THE PROPERTY OR THE PROCEEDS FROM THE SALE OF THE PROPERTY.

(C) TIME LIMITATIONS REQUIRED UNDER THIS SUBTITLE FOR NOTICE AND FILING OF THE COMPLAINT FOR FORFEITURE RUN FROM THE DATE OF REDEMPTION OR PURCHASE OF THE PROPERTY THAT HAS BEEN SEIZED UNDER THIS SUBTITLE.

13-535.

(Over)

THIS SUBTITLE DOES NOT PROHIBIT A LIENHOLDER FROM EXERCISING RIGHTS UNDER APPLICABLE LAW, INCLUDING THE RIGHT TO SELL PROPERTY THAT HAS BEEN SEIZED UNDER THIS SUBTITLE, IF A DEFAULT OCCURS IN THE OBLIGATION GIVING RISE TO THE LIEN.”.