
By: Delegate Genn

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Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Handgun Offenses - Forfeiture of Motor Vehicles**

3 FOR the purpose of allowing the seizure and forfeiture of a motor vehicle in which a
4 handgun offense is committed; establishing certain defenses; providing certain
5 procedures and standards for the seizure, maintenance, forfeiture, and return of
6 motor vehicles; providing for the disposition of forfeited motor vehicles and
7 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 involved in
11 handgun offenses.

12 BY adding to

13 Article 27 - Crimes and Punishments
14 Section 36C-1
15 Annotated Code of Maryland
16 (1992 Replacement Volume and 1995 Supplement)

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 36C-1.

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) "HANDGUN OFFENSE" MEANS THE USE, WEARING, CARRYING, OR
2 TRANSPORTING OF A HANDGUN IN VIOLATION OF § 36B OF THIS SUBHEADING.

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

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

7 (II) "OWNER" INCLUDES:

8 1. A CO-OWNER; AND

9 2. A BONA FIDE PURCHASER FOR VALUE.

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

13 (B) A MOTOR VEHICLE IN WHICH A HANDGUN OFFENSE IS COMMITTED IS
14 SUBJECT TO SEIZURE AND FORFEITURE UNDER THIS SECTION.

15 (C) A MOTOR VEHICLE MAY NOT BE FORFEITED UNDER THIS SECTION IF THE
16 OWNER ESTABLISHES BY A PREPONDERANCE OF THE EVIDENCE THAT THE
17 HANDGUN OFFENSE WAS COMMITTED WITHOUT THE OWNER'S ACTUAL
18 KNOWLEDGE.

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

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

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

26 (3) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE MOTOR
27 VEHICLE HAS BEEN USED OR INTENDED TO BE USED IN THE COMMISSION OF A
28 HANDGUN OFFENSE.

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

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

36 (2) REMOVE THE MOTOR VEHICLE TO A PLACE DESIGNATED BY THE
37 COURT.

3

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) ONE 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, OR WAS TO BE, USED
28 IN A HANDGUN OFFENSE;

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

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

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

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

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;

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 A HANDGUN OFFENSE MAY NOT BE
2 SEIZED AND FORFEITURE MAY NOT BE RECOMMENDED TO THE FORFEITING
3 AUTHORITY WHEN:

4 (I) AN INNOCENT REGISTERED OWNER LENDS THE MOTOR
5 VEHICLE TO ANOTHER AND THE OTHER PERSON OR SOMEONE INVITED INTO THE
6 MOTOR VEHICLE BY THE OTHER PERSON COMMITS A HANDGUN OFFENSE WITHOUT
7 THE KNOWLEDGE OF THE OWNER; OR

8 (II) THE MOTOR VEHICLE FALLS WITHIN THE PROVISIONS OF
9 SUBSECTION (B) OF THIS SECTION.

10 (2) IN EXERCISING THE AUTHORITY TO SEIZE MOTOR VEHICLES
11 UNDER THIS SECTION, THE FOLLOWING STANDARDS SHALL BE UTILIZED:

12 (I) WHETHER THE MOTOR VEHICLE HAD BEEN USED OR WAS
13 INTENDED TO BE USED IN THE COMMISSION OF A CRIME;

14 (II) WHETHER THE HANDGUN HAD BEEN USED OR WAS INTENDED
15 TO BE USED IN THE COMMISSION OF A CRIME;

16 (III) THE TOTAL CIRCUMSTANCES OF THE CASE DICTATE THAT
17 SEIZURE AND FORFEITURE IS JUSTIFIED. THESE CIRCUMSTANCES WOULD INCLUDE
18 THE FOLLOWING:

19 1. AN EXTENSIVE CRIMINAL RECORD OF THE VIOLATOR;

20 2. A PREVIOUS CONVICTION OF THE VIOLATOR FOR A
21 HANDGUN OFFENSE;

22 3. CORROBORATED INFORMATION THAT IS DEVELOPED
23 INDICATING THAT THE VIOLATOR IS OR WAS RECENTLY AN ILLEGAL DISTRIBUTOR
24 OF CONTROLLED DANGEROUS SUBSTANCES OR FREQUENTLY ASSOCIATES WITH
25 INDIVIDUALS KNOWN TO BE DISTRIBUTORS OF ILLEGAL CONTROLLED DANGEROUS
26 SUBSTANCES OR PARAPHERNALIA;

27 4. THE CIRCUMSTANCES OF THE ARREST; AND

28 5. THE MANNER IN WHICH THE VEHICLE WAS BEING USED.

29 (3) (I) FORFEITURE OF THE MOTOR VEHICLE USED IN A HANDGUN
30 OFFENSE SHALL BE RECOMMENDED TO THE FORFEITING AUTHORITY ONLY AFTER
31 THE CHIEF LAW ENFORCEMENT OFFICER OF THE SEIZING AGENCY HAS
32 DETERMINED FROM THE RECORDS OF THE MOTOR VEHICLE ADMINISTRATION THE
33 NAMES AND ADDRESSES OF ALL REGISTERED OWNERS AND SECURED PARTIES AS
34 DEFINED BY LAW, HAS PERSONALLY REVIEWED THE FACTS AND CIRCUMSTANCES
35 OF THE SEIZURE AND HAS PERSONALLY DETERMINED, ACCORDING TO THE ABOVE
36 GUIDELINES, THAT FORFEITURE IS WARRANTED AND SO REPRESENTS IN WRITING
37 TO THE APPROPRIATE FORFEITING AUTHORITY.

38 (II) IN A PROCEEDING UNDER THIS SECTION FOR FORFEITURE OF
39 A MOTOR VEHICLE:

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

4 2. THE CHIEF LAW ENFORCEMENT OFFICER MAY NOT BE
5 SUBPOENAED OR COMPELLED TO APPEAR AND TESTIFY IF ANOTHER LAW
6 ENFORCEMENT OFFICER WITH PERSONAL KNOWLEDGE OF THE FACTS AND
7 CIRCUMSTANCES SURROUNDING THE SEIZURE AND THE RECOMMENDATION OF
8 FORFEITURE APPEARS AND TESTIFIES AT THE PROCEEDING.

9 (I) IF THE FORFEITING AUTHORITY DETERMINES INDEPENDENT OF THE
10 DECISION OF THE SEIZING AGENCY THAT THE MOTOR VEHICLE FALLS WITHIN THE
11 PURVIEW OF SUBSECTION (H) OF THIS SECTION, THE FORFEITING AUTHORITY
12 SHALL SURRENDER THE VEHICLE ON REQUEST TO THE OWNER.

13 (J) (1) IN ANY PROCEEDING UNDER THIS SECTION, THE COURT MAY
14 DETERMINE IF, BASED ON THE FACTORS PROVIDED IN SUBSECTION (H) OF THIS
15 SECTION, THE SEIZING AGENCY OR FORFEITING AUTHORITY ABUSED ITS
16 DISCRETION OR WAS CLEARLY ERRONEOUS IN MAKING A RECOMMENDATION OF
17 FORFEITURE OF A MOTOR VEHICLE OR NOT SURRENDERING ON REQUEST A
18 MOTOR VEHICLE TO AN OWNER.

19 (2) IF, AFTER A FULL HEARING, THE COURT DETERMINES THAT THE
20 MOTOR VEHICLE SHOULD NOT BE FORFEITED, THE COURT SHALL ORDER THAT THE
21 MOTOR VEHICLE BE RELEASED.

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

26 (II) IF, HOWEVER, THE COURT DETERMINES THAT THE FORFEITED
27 MOTOR VEHICLE IS SUBJECT TO A VALID LIEN CREATED WITHOUT ACTUAL
28 KNOWLEDGE THAT THE MOTOR VEHICLE WAS BEING, OR WAS TO BE, USED IN A
29 HANDGUN OFFENSE, THE COURT SHALL ORDER THAT THE MOTOR VEHICLE BE
30 RELEASED WITHIN 5 DAYS TO THE FIRST PRIORITY LIENHOLDER.

31 (III) THE LIENHOLDER SHALL SELL THE MOTOR VEHICLE IN A
32 COMMERCIALY REASONABLE MANNER.

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

34 1. TO THE COURT COSTS OF THE FORFEITURE
35 PROCEEDING;

36 2. TO THE BALANCE DUE THE LIENHOLDER INCLUDING ALL
37 REASONABLE COSTS INCIDENT TO THE SALE;

38 3. TO PAYMENT OF ALL OTHER EXPENSES OF THE
39 PROCEEDINGS FOR FORFEITURE, INCLUDING EXPENSES OF SEIZURE, OR
40 MAINTENANCE OF CUSTODY; AND

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

4 (V) IF THE MOTOR VEHICLE WAS SEIZED BY STATE LAW
5 ENFORCEMENT AGENCIES:

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

9 2. THE PROCEEDS OF THE SALE UNDER SUBPARAGRAPH
10 (IV) 4 OF THIS PARAGRAPH SHALL BE PAID TO THE STATE LAW ENFORCEMENT
11 AGENCIES.

12 (VI) EXCEPT AS PROVIDED IN SUBPARAGRAPH (VII) OF THIS
13 PARAGRAPH, THE STATE LAW ENFORCEMENT AGENCY THAT RECEIVES A
14 FORFEITED MOTOR VEHICLE OR PROCEEDS FROM A SALE OF A FORFEITED MOTOR
15 VEHICLE UNDER THIS PARAGRAPH SHALL:

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

18 2. PAY TO THE GENERAL FUND OF THE STATE ANY
19 PROCEEDS OF THE SALE OF THE FORFEITED MOTOR VEHICLE.

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

24 1. THE STATE LAW ENFORCEMENT AGENCY SHALL PAY TO
25 THE OTHER LAW ENFORCEMENT AGENCY THE SHARE OF THE PROCEEDS FROM THE
26 SALE OF THE FORFEITED MOTOR VEHICLE AS AGREED BY THE LAW ENFORCEMENT
27 AGENCIES; OR

28 2. THE OTHER LAW ENFORCEMENT AGENCY MAY APPLY TO
29 THE COURT THAT ORDERED THE FORFEITURE FOR A DETERMINATION OF THE
30 SHARE OF THE PROCEEDS OF THE FORFEITED MOTOR VEHICLE TO BE PAID TO
31 THAT LAW ENFORCEMENT AGENCY AND THE STATE LAW ENFORCEMENT AGENCY
32 SHALL PAY THAT AMOUNT TO THE OTHER LAW ENFORCEMENT AGENCY.

33 (VIII) IF A LAW ENFORCEMENT AGENCY OF A POLITICAL
34 SUBDIVISION RECEIVES A SHARE OF PROCEEDS UNDER SUBPARAGRAPH (VII) OF
35 THIS PARAGRAPH, THE PROCEEDS SHALL BE DEPOSITED IN THE GENERAL FUND OF
36 THE POLITICAL SUBDIVISION.

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

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

1 (II) IF CRIMINAL PROCEEDINGS HAVE BEEN COMMENCED BUT
2 FORFEITURE PROCEEDINGS HAVE NOT, THE CLERK OF THE COURT WHERE THE
3 CRIMINAL PROCEEDINGS HAVE BEEN COMMENCED; OR

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

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

11 (3) THE SHERIFF SHALL PROMPTLY:

12 (I) INSPECT AND RENDER AN APPRAISAL OF THE VALUE OF THE
13 MOTOR VEHICLE; AND

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

16 (4) NOTICE OF THE APPRAISAL SHALL BE SENT TO ALL LIENHOLDERS
17 SHOWN IN THE RECORDS PRESCRIBED BY LAW FOR NOTICE OR THE PERFECTION OF
18 THE LIEN.

19 (5) (I) ON THE FILING OF THE APPRAISAL, THE OWNER MAY GIVE
20 BOND PAYABLE TO THE CLERK OF THE COURT IN AN AMOUNT EQUAL TO THE
21 GREATER OF THE APPRAISED VALUE OF THE MOTOR VEHICLE PLUS COSTS WHICH
22 MAY ACCRUE, OR THE AGGREGATE AMOUNT OF THE LIENS ON THE MOTOR
23 VEHICLE AS SHOWN IN THE RECORDS PRESCRIBED BY LAW FOR THE NOTICE OR
24 PERFECTION OF LIENS, WITH SECURITY TO BE APPROVED BY THE CLERK OF THE
25 COURT, AND CONDITIONED FOR PERFORMANCE ON FINAL JUDGMENT BY THE
26 COURT.

27 (II) THE BOND AUTHORIZED IN THIS SUBSECTION SHALL BE FILED
28 IN THE DISTRICT COURT OR CIRCUIT COURT WHERE THE CRIMINAL ACTION THAT
29 GAVE RISE TO THE SEIZURE IS PENDING AND SHALL BE PART OF THAT SAME
30 CRIMINAL PROCEEDING, UNLESS A COMPLAINT FOR FORFEITURE HAS BEEN FILED.
31 HOWEVER, IF NO CRIMINAL ACTION IS PENDING OR IF NO FORFEITURE COMPLAINT
32 HAS BEEN FILED, THE BOND SHALL BE FILED IN THE CIRCUIT COURT OR DISTRICT
33 COURT WHERE THE MOTOR VEHICLE WAS SEIZED.

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

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

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

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

9 (2) (I) A LIENHOLDER EXERCISING THE RIGHT TO SELL A MOTOR
10 VEHICLE THAT HAS BEEN SEIZED UNDER THIS SECTION SHALL NOTIFY THE
11 FORFEITING AUTHORITY IN WRITING OF THE LIENHOLDER'S INTENTION TO SELL
12 THE MOTOR VEHICLE.

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

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

19 (3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THE
20 RIGHTS AND DUTIES PROVIDED BY LAW TO THE LIENHOLDER FOR THE SALE OF
21 COLLATERAL SECURING AN OBLIGATION IN DEFAULT SHALL GOVERN THE
22 REPOSSESSION AND SALE OF THE MOTOR VEHICLE.

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

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

28 (III) ANY PORTION OF THE PROCEEDS THAT WOULD BE PAID TO AN
29 OWNER OF THE MOTOR VEHICLE UNDER THE APPLICABLE LAW RELATING TO
30 DISTRIBUTION OF PROCEEDS SHALL BE PAID TO THE SEIZING AGENCY AND SHALL
31 BE SUBJECT TO FORFEITURE. IF NO ORDER OF FORFEITURE IS ENTERED, THE STATE
32 SHALL REMIT TO THE OWNER THAT PORTION OF THE PROCEEDS AND ANY COSTS OF
33 THE FORFEITURE PROCEEDINGS PAID FROM THE PROCEEDS OF THE SALE.

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

37 (II) IF THE MOTOR VEHICLE HAS BEEN REPOSSESSED OR
38 OTHERWISE LAWFULLY TAKEN BY THE LIENHOLDER, THE LIENHOLDER SHALL
39 RETURN THE MOTOR VEHICLE TO THE SEIZING AGENCY WITHIN 21 DAYS AFTER
40 THE REDEMPTION.

10

1 (III) THE SEIZING AGENCY AND THE FORFEITING AUTHORITY MAY
2 THEN PROCEED WITH THE FORFEITURE OF THE MOTOR VEHICLE OR PROCEEDS,
3 AND ALL TIME LIMITATIONS REQUIRED UNDER THIS SECTION FOR NOTICE AND
4 FILING OF THE COMPLAINT FOR FORFEITURE SHALL RUN FROM THE DATE OF THE
5 REDEMPTION OR PURCHASE OF THE MOTOR VEHICLE.

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

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

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

12 (3) TAKE APPROPRIATE MEASURES NECESSARY TO SAFEGUARD AND
13 MAINTAIN A MOTOR VEHICLE ORDERED FORFEITED UNDER THIS SECTION
14 PENDING ITS DISPOSITION.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 1996.