
By: Senator Trotter

Requested: November 4, 1996

Introduced and read first time: January 8, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Litter Control - Counties - Enforcement of Littering Prohibitions**

3 FOR the purpose of authorizing counties to prohibit littering by adding counties to
4 existing law authorizing municipalities to prohibit littering; establishing forfeiture of
5 aircraft, boats, and motor vehicles and other conveyances as an additional penalty
6 for certain kinds of littering; establishing protection for owners and lienholders of
7 conveyances during forfeiture proceedings; authorizing municipalities and counties
8 to impose penalties similar to the penalties established in the litter control law; and
9 generally relating to litter control and enforcement.

10 BY repealing and reenacting, with amendments,
11 Article 25A - Chartered Counties of Maryland
12 Section 5(A)
13 Annotated Code of Maryland
14 (1996 Replacement Volume)

15 BY repealing and reenacting, with amendments,
16 Article 27 - Crimes and Punishments
17 Section 468(b) and (e)
18 Annotated Code of Maryland
19 (1996 Replacement Volume)

20 BY adding to
21 Article 27 - Crimes and Punishments
22 Section 468A
23 Annotated Code of Maryland
24 (1996 Replacement Volume)

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

2

1 **Article 25A - Chartered Counties of Maryland**

2 5.

3 The following enumerated express powers are granted to and conferred upon any
4 county or counties which hereafter form a charter under the provisions of Article XI-A of
5 the Constitution, that is to say:

6 (A)

7 (1) To enact local laws for the county, including the power to repeal or amend
8 local laws of the county enacted by the General Assembly upon the matters covered by
9 the express powers in this article.

10 (2) To provide for the enforcement of all ordinances, resolutions, bylaws and
11 regulations adopted under the authority of this article by fines, penalties and
12 imprisonment, enforceable according to law as may be prescribed. A penalty may not
13 exceed \$1,000 for any offense, unless otherwise authorized in this subsection, or provide
14 for imprisonment for more than six months. IN ADDITION, THE LEGISLATIVE BODY OF
15 A COUNTY MAY CLASSIFY AS A "VIOLATION OF LOCAL LAW" LITTERING WITHIN THE
16 COUNTY AS PROHIBITED UNDER ARTICLE 27, § 468 OF THE CODE.

17 (3) To provide for the enforcement of local fair housing laws by fines or penalties
18 that do not exceed the fines or penalties provided in the federal Fair Housing Act
19 Amendments of 1988 for enforcement of similar federal fair housing laws.

20 (4) To provide for the enforcement of local employment discrimination laws or
21 public accommodations discrimination laws by fines or penalties that do not exceed
22 \$5,000 for any offense.

23 (5) To provide for enforcement of all ordinances, resolutions, bylaws, and
24 regulations adopted under the authority of this article by civil fines and penalties.

25 **Article 27 - Crimes and Punishments**

26 468.

27 (b) It is the intention of the legislature by this section to provide for uniform
28 prohibition throughout the State of Maryland of any and all littering on public or private
29 property, and to curb thereby the desecration of the beauty of the State and harm to the
30 health, welfare and safety of its citizens caused by individuals who litter. However, to
31 permit more active enforcement of littering prohibitions within a municipality OR
32 COUNTY, the legislative body of a municipality OR COUNTY may prohibit littering AND
33 IMPOSE SIMILAR PENALTIES, as does this section, and classify littering as a municipal
34 infraction under Article 23A, § 3(b) of the Code OR AS A VIOLATION OF LOCAL LAWS
35 UNDER ARTICLE 25A, § 5 OF THE CODE.

36 (e) Any person violating the provisions of subsection (d) of this section shall be
37 punished as follows:

38 (1) A person who dumps litter in violation of subsection (d) of this section in
39 an amount not exceeding 100 pounds in weight or 27 cubic feet in volume and not for

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1 commercial purposes is guilty of a misdemeanor and is subject to a fine of not more than
2 \$1,000, or by imprisonment for not more than 30 days, or both.

3 (2) A person who dumps litter in violation of subsection (d) of this section in
4 an amount exceeding 100 pounds in weight or 27 cubic feet in volume, but not exceeding
5 500 pounds in weight or 216 cubic feet in volume and not for commercial purposes is
6 guilty of a misdemeanor and subject to a fine of not more than \$10,000 or imprisonment
7 for not more than 1 year or both.

8 (3) A person who dumps litter in violation of subsection (d) of this section in
9 an amount exceeding 500 pounds in weight or 216 cubic feet in volume or in any quantity
10 for commercial purposes is guilty of a misdemeanor and subject to a fine of not more than
11 \$25,000 or imprisonment for not more than 5 years or both AND FORFEITURE OF THE
12 AIRCRAFT, BOAT, MOTOR VEHICLE OR OTHER CONVEYANCE USED TO DUMP LITTER
13 IN VIOLATION OF THIS SECTION.

14 (4) In addition to the sentences provided by this subsection, a court may
15 order the violator to:

16 (i) Remove or render harmless the litter dumped in violation of this
17 section;

18 (ii) Repair or restore property damaged by, or pay damages for, any
19 damage arising out of dumping the litter in violation of this section;

20 (iii) Perform public service relating to the removal of litter dumped in
21 violation of this section or to the restoration of an area polluted by litter dumped in
22 violation of subsection (d) of this section; or

23 (iv) Reimburse the State, county, municipal corporation, or bi-county
24 agency for any costs incurred by the State, county, municipal corporation, or bi-county
25 agency in the removal of litter dumped in violation of subsection (d) of this section.

26 468A.

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

29 (2) "AIRCRAFT" MEANS ANY DEVICE USED OR DESIGNED FOR
30 NAVIGATION OF OR FLIGHT IN THE AIR.

31 (3) (I) "CONVEYANCE" INCLUDES AIRCRAFT, BOATS, AND MOTOR
32 VEHICLES.

33 (II) "CONVEYANCE" DOES NOT INCLUDE:

34 1. ANY CONVEYANCE UNLAWFULLY IN THE POSSESSION OF
35 A PERSON OTHER THAN THE OWNER WHEN USED IN CONNECTION WITH AN
36 OFFENSE UNDER § 468 OF THIS ARTICLE; AND

37 2. A LESSOR'S INTEREST IN A CONVEYANCE SUBJECT TO A
38 BONA FIDE LEASE, UNLESS THE FORFEITING AUTHORITY CAN SHOW THAT THE
39 LESSOR PARTICIPATED IN AN OFFENSE UNDER § 468 OF THIS ARTICLE.

4

1 (4) "CONVICTED" MEANS A FINDING OF GUILT BY A CRIMINAL COURT
2 OF COMPETENT JURISDICTION.

3 (5) "FINAL DISPOSITION" MEANS THE DATE ON WHICH ANY CRIMINAL
4 CHARGE GIVING RISE TO A FORFEITURE UNDER THIS SECTION IS TERMINATED BY
5 DISMISSAL, THE ENTRY OF A NOLLE PROSEQUI OR STET, THE ENTRY OF A NOT
6 GUILTY VERDICT, THE PRONOUNCEMENT OF SENTENCE, OR THE IMPOSITION OF
7 PROBATION UNDER § 641 OF THIS ARTICLE.

8 (6) (I) "FORFEITING AUTHORITY" MEANS THE OFFICE OR PERSON
9 DESIGNATED, FROM TIME TO TIME, BY AGREEMENT BETWEEN THE STATE'S
10 ATTORNEY FOR A COUNTY AND THE CHIEF EXECUTIVE OFFICER OF THE
11 GOVERNING BODY HAVING JURISDICTION OVER THE ASSETS SUBJECT TO
12 FORFEITURE.

13 (II) THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S
14 DESIGNEE WHEN THE SEIZING AGENCY IS AN INSTRUMENTALITY OF THE STATE,
15 MAY, BY AGREEMENT WITH ANY STATE'S ATTORNEY, OR COUNTY OR MUNICIPAL
16 ATTORNEY, DESIGNATE AN OFFICE OR PERSON AS FORFEITING AUTHORITY TO ACT
17 ON BEHALF OF THE STATE REGARDING ANY ASSETS SUBJECT TO FORFEITURE BY
18 THE STATE.

19 (7) "GOVERNING BODY" INCLUDES:

20 (I) THE STATE, IF THE SEIZING AGENCY IS AN INSTRUMENTALITY
21 OF THE STATE;

22 (II) A COUNTY, IF THE SEIZING AGENCY IS AN INSTRUMENTALITY
23 OF A COUNTY;

24 (III) A MUNICIPALITY, IF THE SEIZING AGENCY IS AN
25 INSTRUMENTALITY OF A MUNICIPALITY; AND

26 (IV) BALTIMORE CITY, IF THE SEIZING AGENCY IS THE BALTIMORE
27 CITY POLICE DEPARTMENT.

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

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

32 (10) (I) "MOTOR VEHICLE" MEANS, EXCEPT AS PROVIDED IN
33 SUBPARAGRAPH (II) OF THIS PARAGRAPH, A VEHICLE THAT:

34 1. IS SELF-PROPELLED OR PROPELLED BY ELECTRIC POWER
35 OBTAINED FROM OVERHEAD ELECTRICAL WIRES; AND

36 2. IS NOT OPERATED ON RAILS.

37 (II) "MOTOR VEHICLE" DOES NOT INCLUDE A BICYCLE THAT IS
38 EQUIPPED WITH AN ASSISTING MOTOR, AS DESCRIBED IN § 11-134.1 OF THE
39 TRANSPORTATION ARTICLE.

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1 (11) (I) "OWNER" MEANS A PERSON HAVING A LEGITIMATE LEGAL,
2 EQUITABLE, OR POSSESSORY INTEREST IN A CONVEYANCE.

3 (II) "OWNER" INCLUDES:

4 1. A CO-OWNER; OR

5 2. A BONA FIDE PURCHASER FOR VALUE.

6 (12) "PROCEEDS" INCLUDES PROPERTY DERIVED DIRECTLY OR
7 INDIRECTLY IN CONNECTION WITH OR AS A RESULT OF AN OFFENSE OR OFFENSES
8 UNDER THIS SUBHEADING.

9 (13) "SEIZING AGENCY" MEANS ANY LAW ENFORCEMENT AUTHORITY
10 WITHIN THE STATE AUTHORIZED TO INVESTIGATE VIOLATIONS OF THIS
11 SUBHEADING WHICH HAS SEIZED PROPERTY UNDER THIS SECTION.

12 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, EVERY
13 CONVEYANCE, INCLUDING AIRCRAFT, VEHICLES OR VESSELS, WHICH IS USED OR
14 INTENDED FOR USE, TO DUMP LITTER IN VIOLATION OF § 468 OF THIS ARTICLE
15 SHALL BE SUBJECT TO FORFEITURE, AND NO PROPERTY RIGHT SHALL EXIST IN THE
16 CONVEYANCE.

17 (C) (1) A CONVEYANCE USED BY ANY PERSON AS A COMMON CARRIER OR
18 VEHICLE FOR HIRE IN THE TRANSACTION OF BUSINESS AS A COMMON CARRIER OR
19 VEHICLE FOR HIRE MAY NOT BE SEIZED OR FORFEITED UNDER THIS SUBHEADING
20 UNLESS IT APPEARS THAT THE OWNER OR OTHER PERSON IN CHARGE OF THE
21 CONVEYANCE WAS A CONSENTING PARTY OR PRIVY TO A VIOLATION OF THIS
22 SUBHEADING.

23 (2) A CONVEYANCE MAY NOT BE FORFEITED UNDER THE PROVISIONS
24 OF THIS SECTION BY REASON OF ANY ACT OR OMISSION ESTABLISHED BY THE
25 OWNER OF THE CONVEYANCE TO HAVE BEEN COMMITTED OR OMITTED BY ANY
26 PERSON OTHER THAN THE OWNER WHILE THE CONVEYANCE WAS UNLAWFULLY IN
27 THE POSSESSION OF A PERSON OTHER THAN THE OWNER IN VIOLATION OF THE
28 CRIMINAL LAWS OF THE UNITED STATES, OR OF ANY STATE.

29 (D) CONVEYANCES DESCRIBED UNDER SUBSECTION (B) OF THIS SECTION
30 MAY NOT BE FORFEITED IF THE OWNER ESTABLISHES BY A PREPONDERANCE OF
31 THE EVIDENCE THAT THE VIOLATION OF § 468 OF THIS ARTICLE WAS DONE
32 WITHOUT THE OWNER'S ACTUAL KNOWLEDGE.

33 (E) (1) ANY CONVEYANCE SUBJECT TO FORFEITURE UNDER THIS SECTION
34 MAY BE SEIZED UPON PROCESS ISSUED BY ANY COURT HAVING JURISDICTION
35 OVER THE CONVEYANCE EXCEPT THAT SEIZURE WITHOUT SUCH PROCESS MAY BE
36 MADE WHEN:

37 (I) THE SEIZURE IS INCIDENT TO AN ARREST OR A SEARCH
38 UNDER A SEARCH WARRANT OR AN INSPECTION UNDER AN ADMINISTRATIVE
39 INSPECTION WARRANT;

6

1 (II) THE CONVEYANCE SUBJECT TO SEIZURE HAS BEEN THE
2 SUBJECT OF A PRIOR JUDGMENT IN FAVOR OF THE STATE IN A CRIMINAL
3 INJUNCTION OR FORFEITURE PROCEEDING UNDER THIS SUBHEADING;

4 (III) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE
5 CONVEYANCE IS DIRECTLY OR INDIRECTLY DANGEROUS TO HEALTH OR SAFETY;
6 OR

7 (IV) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE
8 CONVEYANCE HAS BEEN USED OR INTENDED TO BE USED IN VIOLATION OF THIS §
9 468 OF THIS ARTICLE.

10 (2) IN THE EVENT OF SEIZURE PURSUANT TO PARAGRAPH (1)(III) AND
11 (IV) OF THIS SUBSECTION, PROCEEDINGS UNDER SUBSECTION (G) OF THIS SECTION
12 SHALL BE INSTITUTED PROMPTLY.

13 (F) (1) CONVEYANCE TAKEN OR DETAINED UNDER THIS SECTION ARE NOT
14 REPLEVIABLE BUT SHALL BE DEEMED TO BE IN THE CUSTODY OF THE SEIZING
15 AGENCY, SUBJECT ONLY TO THE ORDERS, JUDGMENTS, AND DECREES OF THE
16 COURT OR THE OFFICIAL HAVING JURISDICTION.

17 (2) WHENEVER A CONVEYANCE IS SEIZED UNDER THE PROVISIONS OF
18 THIS SUBHEADING, THE SEIZING AGENCY MAY:

19 (I) PLACE THE CONVEYANCE UNDER SEAL; AND

20 (II) REMOVE THE CONVEYANCE TO A PLACE DESIGNATED BY THE
21 COURT.

22 (G) EXCEPT AS PROVIDED UNDER SUBSECTION (K) OF THIS SECTION,
23 WHENEVER A CONVEYANCE IS FORFEITED UNDER THIS SECTION, THE POLITICAL
24 SUBDIVISION IN WHICH THE CONVEYANCE WAS SEIZED, OR, IF THE CONVEYANCE
25 WAS SEIZED BY STATE AUTHORITIES, THE STATE MAY:

26 (1) RETAIN THE CONVEYANCE FOR OFFICIAL USE;

27 (2) SELL ANY FORFEITED CONVEYANCE WHICH IS NOT REQUIRED TO
28 BE DESTROYED BY LAW AND WHICH IS NOT HARMFUL TO THE PUBLIC, PROVIDED
29 THAT THE PROCEEDS BE DISPOSED OF FOR PAYMENT OF ALL PROPER EXPENSES OF
30 THE PROCEEDINGS FOR FORFEITURE AND SALE INCLUDING EXPENSES OF SEIZURE,
31 MAINTENANCE OF CUSTODY, ADVERTISING AND COURT COSTS; OR

32 (3) REQUIRE AN APPROPRIATE AGENCY TO TAKE CUSTODY OF THE
33 CONVEYANCE AND REMOVE IT FOR DISPOSITION IN ACCORDANCE WITH LAW, OR
34 DESTRUCTION.

35 (H) (1) EXCEPT AS PROVIDED IN § 4-401(8) OF THE COURTS AND JUDICIAL
36 PROCEEDINGS ARTICLE, ALL PROCEEDINGS UNDER THIS SECTION SHALL BE
37 INSTITUTED IN THE CIRCUIT COURT BY THE APPROPRIATE FORFEITING
38 AUTHORITY.

7

1 (2) (I) EXCEPT AS PROVIDED UNDER SUBSECTION (E)(2) OF THIS
2 SECTION AND SUBPARAGRAPH (II) OF THIS PARAGRAPH, A COMPLAINT SEEKING
3 FORFEITURE SHALL BE FILED WITHIN THE EARLIER OF:

4 1. 90 DAYS FOLLOWING THE SEIZURE; OR

5 2. ONE YEAR FOLLOWING THE FINAL DISPOSITION OF A
6 CRIMINAL CHARGE FOR A VIOLATION UNDER § 468 OF THIS SUBHEADING GIVING
7 RISE TO THE FORFEITURE.

8 (II) A COMPLAINT FOR THE FORFEITURE OF A MOTOR VEHICLE
9 SHALL BE FILED WITHIN 45 DAYS AFTER THE SEIZURE OF THE MOTOR VEHICLE.

10 (3) A COMPLAINT SHALL CONTAIN THE FOLLOWING:

11 (I) A DESCRIPTION OF THE CONVEYANCE SEIZED;

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

13 (III) THE NAME OF THE OWNER, IF KNOWN;

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

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

17 (VI) AN ALLEGATION THAT THE CONVEYANCE IS SUBJECT TO
18 FORFEITURE;

19 (VII) IF THE FORFEITING AUTHORITY IS SEEKING TO FORFEIT A
20 LIENHOLDER'S INTEREST IN A CONVEYANCE, AN ALLEGATION THAT THE LIEN WAS
21 CREATED WITH ACTUAL KNOWLEDGE THAT THE CONVEYANCE WAS BEING, OR WAS
22 TO BE, USED IN VIOLATION OF § 468 OF THIS SUBHEADING;

23 (VIII) A STATEMENT OF THE FACTS AND CIRCUMSTANCES
24 SURROUNDING THE SEIZURE;

25 (IX) A STATEMENT SETTING FORTH THE SPECIFIC CAUSES OR
26 GROUNDS FOR FORFEITURE OR BOTH; AND

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

30 (4) WITHIN 10 DAYS AFTER THE FILING OF THE COMPLAINT:

31 (I) COPIES OF THE SUMMONS AND COMPLAINT SHALL BE SENT BY
32 CERTIFIED MAIL REQUESTING "RESTRICTED DELIVERY - SHOW TO WHOM, DATE,
33 ADDRESS OF DELIVERY" AND FIRST CLASS MAIL ON ALL KNOWN OWNERS AND
34 LIENHOLDERS WHOSE IDENTITIES ARE REASONABLY SUBJECT TO DISCOVERY.

35 (II) A NOTICE WHICH INCLUDES A DESCRIPTION OF THE
36 CONVEYANCE, THE DATE AND PLACE OF SEIZURE, THE KNOWN OWNERS AND
37 LIENHOLDERS OF THE CONVEYANCE, THE VIOLATION OR VIOLATIONS OF LAW

8

1 ALLEGED TO BE THE BASIS FOR FORFEITURE, A STATEMENT THAT A COMPLAINT
2 HAS BEEN FILED AND THAT THE CONVEYANCE SHALL BE FORFEITED IF NO ANSWER
3 IS TIMELY FILED, AND INSTRUCTIONS ON WHERE TO FILE AN ANSWER AND WHOM
4 TO CONTACT FOR ADDITIONAL INFORMATION CONCERNING THE FORFEITURE
5 SHALL BE:

6 1. POSTED BY THE SHERIFF ON THE DOOR OF THE
7 COURTHOUSE IN WHICH THE ACTION IS PENDING OR ON A BULLETIN BOARD
8 WITHIN ITS IMMEDIATE VICINITY; AND

9 2. EXCEPT IF THE PROPERTY IS A BOAT OR MOTOR
10 VEHICLE, PUBLISHED AT LEAST ONCE A WEEK IN EACH OF 3 SUCCESSIVE WEEKS IN
11 ONE OR MORE NEWSPAPERS OF GENERAL CIRCULATION PUBLISHED IN THE
12 COUNTY IN WHICH THE ACTION IS PENDING.

13 (5) THE ANSWER SHALL COMPLY WITH THE MARYLAND RULES AND:

14 (I) SET FORTH THE NATURE AND EXTENT OF THE PERSON'S
15 RIGHT, TITLE, OR INTEREST IN THE CONVEYANCE;

16 (II) SET FORTH THE DATE AND CIRCUMSTANCES OF THE
17 CREATION OF THE PERSON'S RIGHT, TITLE, OR INTEREST IN THE CONVEYANCE; AND

18 (III) CONTAIN A REQUEST FOR RELIEF.

19 (6) (I) THE COURT SHALL SET A HEARING ON THE FORFEITURE
20 CLAIM WITHIN 60 DAYS AFTER THE LATER OF THE POSTING OR FINAL PUBLICATION
21 OF THE NOTICE UNDER PARAGRAPH (4) OF THIS SUBSECTION IF AN ANSWER HAS
22 BEEN TIMELY FILED.

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

26 (I) IN EXERCISING THE AUTHORITY TO SEIZE MOTOR VEHICLES PURSUANT
27 TO THIS SECTION THE FOLLOWING STANDARDS SHALL BE UTILIZED:

28 (1) A MOTOR VEHICLE USED IN VIOLATION OF § 468 OF THIS
29 SUBHEADING SHALL BE SEIZED AND FORFEITURE RECOMMENDED TO THE
30 FORFEITING AUTHORITY.

31 (2) A MOTOR VEHICLE USED IN VIOLATION OF § 468 OF THIS
32 SUBHEADING SHALL NOT BE SEIZED AND FORFEITURE SHALL NOT BE
33 RECOMMENDED TO THE FORFEITING AUTHORITY WHEN:

34 (I) THE MOTOR VEHICLE IS BEING USED BY A MEMBER OF THE
35 FAMILY OTHER THAN THE REGISTERED OWNER AND WHEN DUMPING OCCURRED,
36 AND THE REGISTERED OWNER DID NOT KNOW THAT LITTER WAS IN THE MOTOR
37 VEHICLE OR THAT DUMPING WAS TO OCCUR;

38 (II) AN INNOCENT REGISTERED OWNER LENDS HIS MOTOR
39 VEHICLE TO ANOTHER AND THE LATTER OR SOMEONE INVITED INTO THE MOTOR

9

1 VEHICLE BY SUCH PERSON USES THE VEHICLE FOR DUMPING WITHOUT THE
2 KNOWLEDGE OF THE OWNER; OR

3 (III) THE MOTOR VEHICLE FALLS WITHIN THE PROVISIONS OF
4 SUBSECTION (B)(1) OR (2) OF THIS SECTION.

5 (3) (I) FORFEITURE OF THE MOTOR VEHICLE USED IN VIOLATION OF
6 § 468 OF THIS SUBHEADING SHALL BE RECOMMENDED TO THE FORFEITING
7 AUTHORITY ONLY AFTER THE CHIEF LAW ENFORCEMENT OFFICER OF THE POLICE
8 DEPARTMENT, BUREAU, OR FORCE THAT SEIZED THE MOTOR VEHICLE HAS:

9 1. DETERMINED FROM THE RECORDS OF THE MOTOR
10 VEHICLE ADMINISTRATION THE NAMES AND ADDRESSES OF ALL REGISTERED
11 OWNERS AND SECURED PARTIES AS DEFINED IN THE CODE;

12 2. HAS PERSONALLY REVIEWED THE FACTS AND
13 CIRCUMSTANCES OF THE SEIZURE; AND

14 3. PERSONALLY DETERMINED, ACCORDING TO THE
15 STANDINGS SET FORTH IN THIS SUBSECTION, THAT FORFEITURE IS WARRANTED
16 AND SO REPRESENTS IN WRITING TO THE APPROPRIATE FORFEITING AUTHORITY.

17 (II) IN A PROCEEDING UNDER THIS SECTION FOR FORFEITURE OF
18 A MOTOR VEHICLE:

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

22 2. THE CHIEF LAW ENFORCEMENT OFFICER MAY NOT BE
23 SUBPOENAED OR COMPELLED TO APPEAR AND TESTIFY IF ANOTHER LAW
24 ENFORCEMENT OFFICER WITH PERSONAL KNOWLEDGE OF THE FACTS AND
25 CIRCUMSTANCES SURROUNDING THE SEIZURE AND THE RECOMMENDATION OF
26 FORFEITURE APPEARS AND TESTIFIES AT THE PROCEEDING.

27 (J) IF THE FORFEITING AUTHORITY DETERMINES INDEPENDENT OF THE
28 DECISION OF THE POLICE DEPARTMENT, BUREAU, OR FORCE THAT SEIZED THE
29 MOTOR VEHICLE THAT THE MOTOR VEHICLE FALLS WITHIN THE PURVIEW OF
30 SUBSECTION (I)(2) OF THIS SECTION OR THAT THE STANDARDS TO BE UTILIZED
31 PURSUANT TO SUBSECTION (I)(1) OF THIS SECTION WERE NOT MET, THE FORFEITING
32 AUTHORITY SHALL SURRENDER THE VEHICLE UPON REQUEST TO THE OWNER.

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

38 (2) IF, AFTER A FULL HEARING, THE COURT DETERMINES THAT THE
39 CONVEYANCE SHOULD NOT BE FORFEITED, THE COURT SHALL ORDER THAT THE
40 CONVEYANCE BE RELEASED.

10

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

5 (II) IF, HOWEVER, THE COURT DETERMINES THAT THE FORFEITED
6 CONVEYANCE IS SUBJECT TO A VALID LIEN CREATED WITHOUT ACTUAL
7 KNOWLEDGE THAT THE CONVEYANCE WAS BEING, OR WAS TO BE, USED IN
8 VIOLATION OF § 468 OF THIS SUBHEADING, THE COURT SHALL ORDER THAT THE
9 CONVEYANCE BE RELEASED WITHIN 5 DAYS TO THE FIRST PRIORITY LIENHOLDER.

10 (III) THE LIENHOLDER SHALL SELL THE PROPERTY IN A
11 COMMERCIALY REASONABLE MANNER.

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

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

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

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

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

23 (V) IF THE CONVEYANCE WAS SEIZED BY STATE LAW
24 ENFORCEMENT AGENCIES:

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

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

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

35 1. DISPOSE OF THE FORFEITED CONVEYANCE AS PROVIDED
36 IN SUBSECTION (F) OF THIS SECTION; AND

37 2. PAY TO THE GENERAL FUND OF THE STATE ANY
38 PROCEEDS OF THE SALE OF THE FORFEITED CONVEYANCE.

11

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 CONVEYANCE FORFEITED UNDER § 468 OF
4 THIS ARTICLE THAT WAS SEIZED BY THE STATE LAW ENFORCEMENT AGENCY:

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 CONVEYANCE AS AGREED BY THE LAW ENFORCEMENT
8 AGENCIES; OR

9 2. THE OTHER LAW ENFORCEMENT AGENCY MAY APPLY TO
10 THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION FOR A
11 DETERMINATION OF THE SHARE OF THE PROCEEDS OF THE FORFEITED
12 CONVEYANCE TO BE PAID TO THAT LAW ENFORCEMENT AGENCY AND THE STATE
13 LAW ENFORCEMENT AGENCY SHALL PAY THAT AMOUNT TO THE OTHER LAW
14 ENFORCEMENT AGENCY.

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

19 (L) (1) IF AN OWNER OF A SEIZED CONVEYANCE WANTS TO OBTAIN
20 POSSESSION OF THE CONVEYANCE, REGARDLESS OF WHETHER FORFEITURE
21 PROCEEDINGS HAVE BEEN COMMENCED, THE OWNER SHALL NOTIFY:

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

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

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

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

33 (3) THE SHERIFF OR OTHER PERSON RESPONSIBLE FOR AN APPRAISAL
34 UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL PROMPTLY:

35 (I) INSPECT AND RENDER AN APPRAISAL OF THE VALUE OF THE
36 CONVEYANCE; AND

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

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

12

1 (5) (I) UPON 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 CONVEYANCE PLUS COSTS WHICH
4 MAY ACCRUE, OR THE AGGREGATE AMOUNT OF THE LIENS ON THE CONVEYANCE
5 AS SHOWN IN THE RECORDS PRESCRIBED BY LAW FOR THE NOTICE OR PERFECTION
6 OF LIENS, WITH SECURITY TO BE APPROVED BY THE CLERK OF THE COURT, AND
7 CONDITIONED FOR PERFORMANCE ON FINAL JUDGMENT BY THE COURT.

8 (II) 1. THE BOND AUTHORIZED IN THIS SUBSECTION SHALL BE
9 FILED IN THE DISTRICT COURT OR CIRCUIT COURT WHERE THE CRIMINAL ACTION
10 THAT GAVE RISE TO THE SEIZURE IS PENDING AND SHALL BE PART OF THAT SAME
11 CRIMINAL PROCEEDING, UNLESS A COMPLAINT FOR FORFEITURE HAS BEEN FILED.

12 2. HOWEVER, IF NO CRIMINAL ACTION IS PENDING OR IF NO
13 FORFEITURE COMPLAINT HAS BEEN FILED, THE BOND SHALL BE FILED IN THE
14 CIRCUIT COURT OR DISTRICT COURT WHERE THE PROPERTY WAS SEIZED.

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

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

22 (M) ANY SALE ORDERED PURSUANT TO THIS SECTION SHALL BE MADE FOR
23 CASH AND VEST IN THE PURCHASER A CLEAR AND ABSOLUTE TITLE TO THE
24 PROPERTY THAT IS SOLD.

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

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

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

37 (III) UPON REQUEST OF THE LIENHOLDER, THE CONVEYANCE
38 SHALL BE RELEASED TO THE LIENHOLDER.

39 (3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THE
40 RIGHTS AND DUTIES PROVIDED BY LAW TO THE LIENHOLDER FOR THE SALE OF
41 COLLATERAL SECURING AN OBLIGATION IN DEFAULT SHALL GOVERN THE
42 REPOSSESSION AND SALE OF THE CONVEYANCE.

13

1 (4) (I) THE LIENHOLDER MAY NOT BE REQUIRED TO TAKE
2 POSSESSION OF THE CONVEYANCE PRIOR TO THE SALE OF THE CONVEYANCE.

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

6 (III) 1. ANY PORTION OF THE PROCEEDS THAT WOULD BE PAID
7 TO AN OWNER OF THE CONVEYANCE UNDER THE APPLICABLE LAW RELATING TO
8 DISTRIBUTION OF PROCEEDS SHALL BE PAID TO THE SEIZING AGENCY AND SHALL
9 BE PROPERTY SUBJECT TO FORFEITURE.

10 2. IF NO ORDER OF FORFEITURE IS ENTERED, THE STATE
11 SHALL REMIT TO THE OWNER THAT PORTION OF THE PROCEEDS AND ANY COSTS OF
12 THE FORFEITURE PROCEEDINGS PAID FROM THE PROCEEDS OF THE SALE.

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

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

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

24 (O) IN A PROCEEDING UNDER THIS SECTION, A COURT MAY:

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

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

30 (3) TAKE APPROPRIATE MEASURES NECESSARY TO SAFEGUARD AND
31 MAINTAIN THE CONVEYANCE ORDERED FORFEITED UNDER THIS SECTION
32 PENDING ITS DISPOSITION.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 1997.