

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 666

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “requiring” in line 6 down through “affidavit” in line 7 and substitute “eliminating the requirement that there be a show cause order for forfeiture of money and currency”; in line 7, after the semicolon insert “requiring a certain notice to the owner of seized property regarding posting a bond under certain circumstances”; strike beginning with “requiring” in line 12 down through “circumstances” in line 13 and substitute “altering certain factors that may be considered and altering procedures relating to seizure and forfeiture of motor vehicles; requiring a court to appraise a motor vehicle under certain circumstances; altering the method of appraising the value of a seized motor vehicle for certain purposes; allowing a bond to be given by certain means”; in line 17, strike “and (i)” and substitute “(i), and (o)”.

AMENDMENT NO. 2

On page 3, in line 27, strike “30” and substitute “20”.

On page 4, in line 2, after “filed,” insert “A STATEMENT THAT THE OWNER OF SEIZED PROPERTY MAY OBTAIN POSSESSION OF THE PROPERTY PENDING FORFEITURE BY POSTING A BOND IN THE MANNER PROVIDED IN SUBSECTION (O) OF THIS SECTION.”; in lines 19 and 22, in each instance, strike the bracket; strike beginning with the first “THE” in line 28 down through “(II)” in line 31; in line 33, strike the brackets; and in the same line, strike “(III)”.

AMENDMENT NO. 3

On page 5, in line 1, strike the brackets; in the same line, strike “(IV)”;

in lines 4, 5, and 6, in each instance, strike the brackets; in line 6, strike “2.”; in line 11, strike “3.” and substitute “4.”; in lines 14 and 15, in each instance, strike the brackets; in lines 14 and 15, strike “4.” and “5.”, respectively; and strike beginning with “; OR” in line 15 down through “SUBHEADING” in line 19.

(Over)

AMENDMENT NO. 4

On page 6, after line 11, insert:

“(o) (1) Except as provided in subsection (m)(4) and (p) of this section, if an owner of seized property wants to obtain possession of the property, regardless of whether forfeiture proceedings have been commenced, or to convey an interest in real property, or remove a building or fixture on real property, where forfeiture proceedings have been commenced against the real property, the owner shall notify:

(i) If forfeiture proceedings have been commenced, the clerk of the court where the proceedings have been commenced;

(ii) If criminal proceedings have been commenced but forfeiture proceedings have not, the clerk of the court where the criminal proceedings have been commenced; or

(iii) If neither forfeiture nor criminal proceedings have been commenced, the clerk of the circuit court of the jurisdiction where the property was seized.

(2) If the property is not needed for evidentiary purposes in a judicial proceeding:

(i) For property other than motor vehicles, the clerk shall obtain an independent appraisal of the value of the property.

(ii) For motor vehicles, [the clerk shall have an appraisal made by the sheriff of the jurisdiction in which the court is located] UNLESS THE FORFEITING AUTHORITY AND THE OWNER AGREE TO A BOND IN ANOTHER AMOUNT:

1. EXCEPT AS PROVIDED IN ITEM 2 OF THIS ITEM, 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

2. IF THE OWNER SHOWS THAT THERE IS A LIEN 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 AUTOMOBILE DEALER’S ASSOCIATION OFFICIAL USED CAR GUIDE, LESS THE

AMOUNT OWED ON THE LIEN.

(3) (I) [The] FOR PROPERTY OTHER THAN A MOTOR VEHICLE, THE sheriff or other person responsible for an appraisal under paragraph (2) of this subsection shall promptly:

[(i)] 1. Inspect and render an appraisal of the value of the property; and

[(ii)] 2. Return the appraisal, in writing, under oath, to the clerk of the court.

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

(4) Notice of the appraisal shall be sent to all lienholders shown in the records prescribed by law for notice or the perfection of the lien.

(5) (i) Upon the filing of the appraisal, the owner may give bond payable to the clerk of the court in an amount equal to the greater of the appraised value of the property plus costs which may accrue, or the aggregate amount of the liens on the property as shown in the records prescribed by law for the notice or perfection of liens, [with security to be approved by the clerk of the court,] and conditioned for performance on final judgment by the court.

(II) A PERSON MAY GIVE A BOND UNDER THIS SUBSECTION BY MEANS OF CASH, THROUGH A SURETY, THROUGH A LIEN ON REAL PROPERTY, OR BY MEANS OF OTHER SECURITY APPROVED BY THE CLERK.

[(i)] (III) The bond authorized in this subsection shall be filed in the District Court or circuit court where the criminal action that gave rise to the seizure is pending and shall be part of that same criminal proceeding, unless a complaint for forfeiture has been filed. However, if no criminal action is pending or if no forfeiture complaint has been filed, the bond shall be filed in the circuit court or District Court where the property was seized.

(Over)

(6) (i) If forfeiture of the property or of an interest or equity in the property or proceeds is directed under this section, judgment shall be entered against the obligors on the bond without further proceedings, to be discharged by payment of the amount of the bond, on which judgment may issue.

(ii) Payment of the amount of the bond shall be applied as provided under subsection (k)(2)(iv) of this section.”.