

SENATE BILL 633

E1, E2

8lr1677

By: **Senator Jacobs**

Introduced and read first time: February 1, 2008

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Property Used in Gang Activity – Seizure and Forfeiture**

3 FOR the purpose of authorizing the seizure of certain property used or intended for
4 use in connection with criminal gang activity; establishing certain procedures to
5 be followed for the forfeiture of certain property; establishing certain deadlines
6 for the filing of a complaint seeking forfeiture; requiring that the complaint
7 contain certain information; providing for service of a certain summons and
8 complaint; requiring a certain notice; establishing certain requirements for the
9 answer to a complaint seeking forfeiture; requiring the court to set a hearing on
10 the forfeiture claim within a certain time period; authorizing the court to order
11 forfeiture without a hearing under certain circumstances; providing that a
12 certain owner's interest in real property may be forfeited under certain
13 circumstances; providing for the jurisdiction and notice of forfeiture proceedings
14 for real property; establishing a certain rebuttable presumption; providing
15 certain exceptions for real property used as a principal family residence;
16 authorizing the court to take certain actions in a forfeiture proceeding;
17 requiring the court to order certain actions depending on the court's
18 determination after a full hearing; requiring a certain lienholder to sell a
19 certain property and apply the proceeds in a certain manner; providing
20 procedures for the disposition of forfeited property or proceeds; providing that a
21 sale of certain property shall be for cash and give the purchaser clear and
22 absolute title; defining certain terms; and generally relating to seizure and
23 forfeiture of property used in criminal gang activity.

24 BY adding to

25 Article – Criminal Law

26 Section 9–805

27 Annotated Code of Maryland

28 (2002 Volume and 2007 Supplement)

29 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Criminal Procedure
2 Section 13–401 through 13–416 to be under the new subtitle “Subtitle 4.
3 Violations of Criminal Gang Law”
4 Annotated Code of Maryland
5 (2001 Volume and 2007 Supplement)

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

8 **Article – Criminal Law**

9 **9–805.**

10 (A) ALL PROPERTY, REAL OR PERSONAL, INCLUDING MONEY, USED IN
11 CONNECTION WITH, INTENDED FOR USE IN THE COURSE OF, OR TRACEABLE TO
12 CONDUCT IN VIOLATION OF THIS SUBTITLE IS SUBJECT TO FORFEITURE TO THE
13 STATE.

14 (B) FORFEITURE PROCEEDINGS SHALL BE CONDUCTED IN
15 ACCORDANCE WITH THE PROVISIONS OF TITLE 13, SUBTITLE 4 OF THE
16 CRIMINAL PROCEDURE ARTICLE.

17 **Article – Criminal Procedure**

18 **SUBTITLE 4. VIOLATIONS OF CRIMINAL GANG LAW.**

19 **13–401.**

20 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
21 INDICATED.

22 (B) “CHIEF EXECUTIVE OFFICER” MEANS:

23 (1) FOR BALTIMORE CITY, THE MAYOR;

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

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

28 (4) FOR A COMMISSION COUNTY, THE COUNTY COMMISSIONERS;
29 OR

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

3 (C) “CONVICTED” MEANS FOUND GUILTY.

4 (D) “CRIMINAL GANG LAW” MEANS TITLE 9, SUBTITLE 8 OF THE
5 CRIMINAL LAW ARTICLE.

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

10 (F) “FORFEITING AUTHORITY” MEANS:

11 (1) THE UNIT OR PERSON DESIGNATED BY AGREEMENT BETWEEN
12 THE STATE’S ATTORNEY FOR A COUNTY AND THE CHIEF EXECUTIVE OFFICER
13 OF THE GOVERNING BODY HAVING JURISDICTION OVER ASSETS SUBJECT TO
14 FORFEITURE TO ACT ON BEHALF OF THE GOVERNING BODY REGARDING THOSE
15 ASSETS; OR

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

21 (G) “GOVERNING BODY” INCLUDES:

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

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

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

28 (4) BALTIMORE CITY, IF THE SEIZING AUTHORITY IS THE POLICE
29 DEPARTMENT OF BALTIMORE CITY.

30 (H) “LIEN” INCLUDES A MORTGAGE, DEED OF TRUST, PLEDGE,
31 SECURITY INTEREST, ENCUMBRANCE, OR RIGHT OF SETOFF.

- 1 **2. NEGOTIABLE AND NONNEGOTIABLE**
- 2 **INSTRUMENTS;**
- 3 **3. VEHICLES AND CONVEYANCES OF ANY TYPE;**
- 4 **4. PRIVILEGES;**
- 5 **5. INTERESTS;**
- 6 **6. CLAIMS; AND**
- 7 **7. RIGHTS;**

8 **(III) AN ITEM, OBJECT, TOOL, SUBSTANCE, DEVICE, OR**
 9 **WEAPON USED IN CONNECTION WITH A CRIME UNDER THE CRIMINAL GANG**
 10 **LAW; AND**

11 **(IV) MONEY.**

12 **(2) “PROPERTY” DOES NOT INCLUDE:**

13 **(I) AN ITEM UNLAWFULLY IN THE POSSESSION OF A**
 14 **PERSON OTHER THAN THE OWNER WHEN USED IN CONNECTION WITH A CRIME**
 15 **UNDER THE CRIMINAL GANG LAW; OR**

16 **(II) A LESSOR’S INTEREST IN PROPERTY SUBJECT TO A**
 17 **BONA FIDE LEASE, UNLESS THE FORFEITING AUTHORITY CAN SHOW THAT THE**
 18 **LESSOR PARTICIPATED IN A CRIME UNDER THE CRIMINAL GANG LAW OR THAT**
 19 **THE PROPERTY WAS THE PROCEEDS OF A CRIME UNDER THE CRIMINAL GANG**
 20 **LAW.**

21 **(N) (1) “REAL PROPERTY” MEANS LAND OR AN IMPROVEMENT TO**
 22 **LAND.**

23 **(2) “REAL PROPERTY” INCLUDES:**

24 **(I) A LEASEHOLD OR OTHER LIMITED INTEREST IN REAL**
 25 **PROPERTY;**

26 **(II) AN EASEMENT; AND**

27 **(III) A REVERSIONARY INTEREST IN A 99-YEAR GROUND**
 28 **LEASE RENEWABLE FOREVER.**

1 (O) **“SEIZING AUTHORITY” MEANS A LAW ENFORCEMENT UNIT IN THE**
2 **STATE THAT IS AUTHORIZED TO INVESTIGATE VIOLATIONS OF THE CRIMINAL**
3 **GANG LAW AND THAT HAS SEIZED PROPERTY UNDER THIS TITLE.**

4 **13-402.**

5 (A) **ALL PROPERTY USED IN SUBSTANTIAL CONNECTION WITH,**
6 **INTENDED FOR USE IN THE COURSE OF, OR TRACEABLE TO CONDUCT IN**
7 **VIOLATION OF A PROVISION OF THE CRIMINAL GANG LAW IS PRESUMED TO BE**
8 **FORFEITABLE.**

9 (B) **A CLAIMANT OF ANY PROPERTY DESCRIBED IN SUBSECTION (A) OF**
10 **THIS SECTION HAS THE BURDEN TO REBUT THE PRESUMPTION THAT THE**
11 **PROPERTY IS FORFEITABLE.**

12 (C) **THE APPROPRIATE FORFEITING AUTHORITY SHALL FILE**
13 **PROCEEDINGS UNDER THIS SUBTITLE IN THE CIRCUIT COURT.**

14 **13-403.**

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

18 (1) **90 DAYS AFTER THE SEIZURE; OR**

19 (2) **1 YEAR AFTER THE FINAL DISPOSITION OF THE CRIMINAL**
20 **CHARGE FOR THE VIOLATION GIVING RISE TO THE FORFEITURE.**

21 (B) **A COMPLAINT FOR THE FORFEITURE OF A MOTOR VEHICLE UNDER**
22 **THIS SUBTITLE SHALL BE FILED WITHIN 45 DAYS AFTER THE MOTOR VEHICLE IS**
23 **SEIZED.**

24 (C) (1) **A PROCEEDING ABOUT MONEY UNDER THIS SUBTITLE SHALL**
25 **BE FILED WITHIN 90 DAYS AFTER THE FINAL DISPOSITION OF CRIMINAL**
26 **PROCEEDINGS THAT ARISE OUT OF THE CRIMINAL GANG LAW.**

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

1 **(3) IF THE OWNER FAILS TO ASK FOR THE RETURN OF THE MONEY**
2 **WITHIN 1 YEAR AFTER THE FINAL DISPOSITION OF CRIMINAL PROCEEDINGS, AS**
3 **PROVIDED IN § 13-415 OF THIS SUBTITLE, THE MONEY SHALL REVERT TO:**

4 **(I) THE POLITICAL SUBDIVISION IN WHICH THE MONEY WAS**
5 **SEIZED; OR**

6 **(II) THE STATE, IF THE MONEY WAS SEIZED BY STATE**
7 **AUTHORITIES.**

8 **13-404.**

9 **A COMPLAINT SEEKING FORFEITURE UNDER THIS SUBTITLE SHALL**
10 **CONTAIN:**

11 **(1) A DESCRIPTION OF THE PROPERTY SEIZED;**

12 **(2) THE DATE AND PLACE OF THE SEIZURE;**

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

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

15 **(5) AN ALLEGATION THAT THE PROPERTY IS SUBJECT TO**
16 **FORFEITURE;**

17 **(6) IF THE FORFEITING AUTHORITY SEEKS TO FORFEIT A**
18 **LIENHOLDER'S INTEREST IN PROPERTY, AN ALLEGATION THAT AT THE TIME OF**
19 **THE CREATION OF THE LIEN, THE LIENHOLDER KNEW, OR SHOULD HAVE**
20 **KNOWN, THAT THE PROPERTY WAS BEING USED OR WAS TO BE USED IN**
21 **VIOLATION OF THE CRIMINAL GANG LAW;**

22 **(7) A STATEMENT OF THE FACTS AND CIRCUMSTANCES**
23 **SURROUNDING THE SEIZURE;**

24 **(8) A STATEMENT SETTING FORTH THE SPECIFIC GROUNDS FOR**
25 **FORFEITURE; AND**

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

29 **13-405.**

1 **WITHIN 20 DAYS AFTER THE FILING OF A COMPLAINT UNDER THIS**
2 **SUBTITLE, COPIES OF THE SUMMONS AND COMPLAINT SHALL BE SENT BY**
3 **CERTIFIED MAIL REQUESTING “RESTRICTED DELIVERY — SHOW TO WHOM,**
4 **DATE, ADDRESS OF DELIVERY” AND FIRST-CLASS MAIL TO ALL KNOWN OWNERS**
5 **AND LIENHOLDERS WHOSE IDENTITIES ARE REASONABLY SUBJECT TO**
6 **DISCOVERY, INCLUDING ALL REAL PROPERTY OWNERS AND LIENHOLDERS**
7 **SHOWN IN THE RECORDS REQUIRED BY LAW FOR NOTICE OR PERFECTION OF**
8 **THE LIEN.**

9 **13-406.**

10 **(A) A NOTICE UNDER THIS SUBTITLE SHALL BE SIGNED BY THE CLERK**
11 **OF THE COURT AND SHALL:**

12 **(1) INCLUDE THE CAPTION OF THE CASE;**

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

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

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

19 **(5) STATE WHERE TO FILE A RESPONSE AND WHOM TO CONTACT**
20 **FOR MORE INFORMATION CONCERNING THE FORFEITURE.**

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

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

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

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

32 **13-407.**

1 **THE ANSWER TO A COMPLAINT UNDER THIS SUBTITLE SHALL:**

2 (1) **COMPLY WITH THE MARYLAND RULES;**

3 (2) **STATE THE NATURE AND EXTENT OF THE PERSON'S RIGHT IN,**
4 **TITLE TO, OR INTEREST IN THE PROPERTY;**

5 (3) **STATE HOW AND WHEN THE PERSON ACQUIRED A RIGHT IN,**
6 **TITLE TO, OR INTEREST IN THE PROPERTY; AND**

7 (4) **CONTAIN A REQUEST FOR RELIEF AND A REQUEST FOR A**
8 **PROMPT HEARING.**

9 **13-408.**

10 (A) **IF AN ANSWER UNDER THIS SUBTITLE HAS BEEN FILED ON TIME,**
11 **THE COURT SHALL SET A HEARING ON THE FORFEITURE CLAIM WITHIN 60 DAYS**
12 **AFTER THE FILING OF THE ANSWER.**

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

15 **13-409.**

16 **EXCEPT AS PROVIDED IN § 13-412 OF THIS SUBTITLE, AN OWNER'S**
17 **INTEREST IN REAL PROPERTY MAY BE FORFEITED IF THE REAL PROPERTY WAS**
18 **USED IN CONNECTION WITH A VIOLATION OF THE CRIMINAL GANG LAW, OR WAS**
19 **ACQUIRED WITH PROCEEDS FROM THE VIOLATION OF THE CRIMINAL GANG**
20 **LAW.**

21 **13-410.**

22 (A) **FORFEITURE PROCEEDINGS FOR REAL PROPERTY UNDER THIS**
23 **SUBTITLE MAY BE BROUGHT IN THE JURISDICTION WHERE:**

24 (1) **THE CRIMINAL CHARGES ARE PENDING;**

25 (2) **THE OWNER RESIDES; OR**

26 (3) **THE REAL PROPERTY IS LOCATED.**

27 (B) (1) **IF FORFEITURE PROCEEDINGS FOR REAL PROPERTY ARE**
28 **BROUGHT IN A JURISDICTION OTHER THAN WHERE THE REAL PROPERTY IS**

1 LOCATED, A NOTICE OF PENDING LITIGATION SHALL BE FILED IN THE
2 JURISDICTION WHERE THE PROPERTY IS LOCATED.

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

5 (I) THE NAME AND ADDRESS OF THE OWNER OF THE REAL
6 PROPERTY;

7 (II) A DESCRIPTION OF THE REAL PROPERTY; AND

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

10 ~~13-411.~~

11 IF AN OWNER OF REAL PROPERTY USED AS THE PRINCIPAL FAMILY
12 RESIDENCE IS CONVICTED UNDER THE CRIMINAL GANG LAW, OR IS CONVICTED
13 OF AN ATTEMPT OR CONSPIRACY TO VIOLATE THE CRIMINAL GANG LAW AND
14 THE OWNER FILES AN APPEAL OF THE CONVICTION, THE COURT SHALL STAY
15 FORFEITURE PROCEEDINGS UNDER THIS SUBTITLE AGAINST THE REAL
16 PROPERTY DURING THE PENDENCY OF THE APPEAL.

17 ~~13-412.~~

18 (A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,
19 THERE IS A REBUTTABLE PRESUMPTION UNDER THIS SUBTITLE THAT
20 PROPERTY OR PART OF A PROPERTY IN WHICH A PERSON HAS AN OWNERSHIP
21 INTEREST IS SUBJECT TO FORFEITURE AS PROCEEDS OBTAINED FROM THE
22 VIOLATION OF THE CRIMINAL GANG LAW, IF THE STATE ESTABLISHES BY
23 CLEAR AND CONVINCING EVIDENCE THAT:

24 (I) THE PERSON HAS VIOLATED THE CRIMINAL GANG LAW
25 OR HAS ATTEMPTED OR CONSPIRED TO VIOLATE THE CRIMINAL GANG LAW;

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

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

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

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

3 **(1) AN OWNER OF THE REAL PROPERTY WAS CONVICTED OF A**
4 **CRIME DESCRIBED UNDER THE CRIMINAL GANG LAW; OR**

5 **(2) THE REAL PROPERTY IS COVERED BY EXCEPTIONS UNDER**
6 **THIS SUBTITLE.**

7 **13-413.**

8 **IN A PROCEEDING UNDER THIS SUBTITLE, A COURT:**

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

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

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

17 **13-414.**

18 **(A) AFTER A FULL HEARING, IF THE COURT DETERMINES THAT THE**
19 **PROPERTY SHOULD NOT BE FORFEITED UNDER THIS SUBTITLE, THE COURT**
20 **SHALL ORDER THAT THE PROPERTY BE RELEASED.**

21 **(B) IF THE COURT DETERMINES THAT THE PROPERTY SHOULD BE**
22 **FORFEITED, THE COURT SHALL ORDER THAT THE PROPERTY BE FORFEITED TO**
23 **THE APPROPRIATE GOVERNING BODY.**

24 **(C) IF THE COURT DETERMINES THAT THE FORFEITED PROPERTY IS**
25 **SUBJECT TO A VALID LIEN AND THE LIENHOLDER NEITHER KNEW NOR SHOULD**
26 **HAVE KNOWN THAT THE PROPERTY WAS BEING USED OR WAS TO BE USED IN**
27 **VIOLATION OF THE CRIMINAL GANG LAW, THE COURT SHALL ORDER THAT THE**
28 **PROPERTY BE RELEASED WITHIN 5 DAYS TO THE FIRST PRIORITY LIENHOLDER.**

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

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

3 (I) **TO THE COURT COSTS OF THE FORFEITURE**
4 **PROCEEDING;**

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

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

10 (IV) **EXCEPT AS PROVIDED IN § 13-415 OF THIS SUBTITLE,**
11 **TO THE GENERAL FUND OF THE STATE OR OF THE POLITICAL SUBDIVISION**
12 **THAT SEIZED THE PROPERTY.**

13 **13-415.**

14 (A) (1) **WHENEVER PROPERTY IS FORFEITED UNDER THIS SUBTITLE,**
15 **THE GOVERNING BODY WHERE THE PROPERTY WAS SEIZED MAY:**

16 (I) **KEEP THE PROPERTY FOR OFFICIAL USE;**

17 (II) **REQUIRE AN APPROPRIATE UNIT TO TAKE CUSTODY OF**
18 **THE PROPERTY AND DESTROY OR OTHERWISE DISPOSE OF THE PROPERTY; OR**

19 (III) **SELL THE PROPERTY IF:**

20 1. **THE LAW DOES NOT REQUIRE THE PROPERTY TO**
21 **BE DESTROYED; AND**

22 2. **THE PROPERTY IS NOT HARMFUL TO THE PUBLIC.**

23 (2) **THE PROCEEDS OF A SALE UNDER THIS SUBSECTION SHALL**
24 **FIRST BE USED TO PAY ALL PROPER EXPENSES OF THE PROCEEDINGS FOR**
25 **FORFEITURE AND SALE, INCLUDING EXPENSES OF SEIZURE, MAINTENANCE OF**
26 **CUSTODY, ADVERTISING, AND COURT COSTS.**

27 (B) **IF THE SEIZING AUTHORITY WAS A STATE LAW ENFORCEMENT UNIT:**

28 (1) **THE COURT SHALL ORDER THE PROPERTY TO BE FORFEITED**
29 **TO THE STATE LAW ENFORCEMENT UNIT UNDER THIS SUBTITLE; OR**

1 **(2) THE PROCEEDS OF THE SALE SHALL BE PAID TO THE STATE**
2 **LAW ENFORCEMENT UNIT UNDER THIS SUBTITLE.**

3 **(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE**
4 **STATE LAW ENFORCEMENT UNIT THAT RECEIVES FORFEITED PROPERTY OR**
5 **PROCEEDS FROM A SALE OF FORFEITED PROPERTY UNDER THIS SECTION**
6 **SHALL:**

7 **(1) DISPOSE OF THE FORFEITED PROPERTY AS PROVIDED IN**
8 **SUBSECTION (A) OF THIS SECTION; AND**

9 **(2) PAY TO THE GENERAL FUND OF THE STATE ANY PROCEEDS**
10 **OF THE SALE OF THE FORFEITED PROPERTY.**

11 **(D) EXCEPT AS OTHERWISE PROVIDED UNDER FEDERAL LAW, A LAW**
12 **ENFORCEMENT UNIT OTHER THAN A STATE LAW ENFORCEMENT UNIT THAT**
13 **PARTICIPATED WITH A STATE LAW ENFORCEMENT UNIT IN SEIZING PROPERTY**
14 **FORFEITED UNDER THIS SECTION:**

15 **(1) SHALL BE PAID BY THE STATE LAW ENFORCEMENT UNIT THE**
16 **SHARE OF THE PROCEEDS FROM THE SALE OF THE FORFEITED PROPERTY AS**
17 **AGREED BY THE LAW ENFORCEMENT UNITS; OR**

18 **(2) MAY ASK THE GOVERNOR'S OFFICE OF CRIME CONTROL AND**
19 **PREVENTION TO DETERMINE THE LAW ENFORCEMENT UNIT'S SHARE.**

20 **(E) PROCEEDS THAT A LAW ENFORCEMENT UNIT OTHER THAN A STATE**
21 **LAW ENFORCEMENT UNIT RECEIVES UNDER SUBSECTION (D) OF THIS SECTION**
22 **SHALL BE DEPOSITED IN THE GENERAL FUND OF THE POLITICAL SUBDIVISION**
23 **OF THAT LAW ENFORCEMENT UNIT.**

24 **13-416.**

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

27 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
28 **October 1, 2008.**