

# SENATE BILL 202

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By: **Senators Kelley, Conway, Currie, Forehand, Kasemeyer, Pugh, and Stone**

Introduced and read first time: January 23, 2009

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

### **Identity Fraud – Seizure and Forfeiture of Property**

3 FOR the purpose of establishing seizure and forfeiture procedures for property  
4 obtained through or used in connection with identity fraud; establishing  
5 conditions that would exclude certain property from forfeiture; establishing how  
6 certain property subject to forfeiture may be seized, with certain exceptions;  
7 establishing circumstances that must be considered when determining whether  
8 to seize certain property; establishing a certain deadline for filing a complaint  
9 seeking forfeiture; providing for the contents and distribution of a certain  
10 complaint; providing for the forfeiture of interest in certain real property;  
11 providing for a stay of forfeiture of a certain family residence under certain  
12 circumstances; establishing a certain rebuttable presumption; providing for  
13 certain post-hearing orders; providing for the application of proceeds from a  
14 certain sale of forfeited property; defining certain terms; providing for the  
15 application of this Act; providing for the effective date of this Act; and generally  
16 relating to seizure and forfeiture of property used in connection with violation of  
17 the Identity Fraud law.

18 BY repealing and reenacting, without amendments,

19 Article – Criminal Procedure

20 Section 12–101(c), (f), (g), (i), (k), and (o), 12–202, 12–203, 12–208 through  
21 12–211, 12–301 through 12–308, 12–402, and 12–403

22 Annotated Code of Maryland

23 (2008 Replacement Volume)

24 BY adding to

25 Article – Criminal Procedure

26 Section 13–501 through 13–509 to be under the new subtitle “Subtitle 5.  
27 Violations of Identity Fraud Law”

28 Annotated Code of Maryland

29 (2008 Replacement Volume)

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Criminal Procedure**

4 12–101.

5 (c) “Controlled Dangerous Substances law” means Title 5 of the Criminal  
6 Law Article.

7 (f) “Forfeiting authority” means:

8 (1) the unit or person designated by agreement between the State’s  
9 Attorney for a county and the chief executive officer of the governing body having  
10 jurisdiction over assets subject to forfeiture to act on behalf of the governing body  
11 regarding those assets; or

12 (2) if the seizing authority is a unit of the State, a unit or person that  
13 the Attorney General or the Attorney General’s designee designates by agreement  
14 with a State’s Attorney, county attorney, or municipal attorney to act on behalf of the  
15 State regarding assets subject to forfeiture by the State.

16 (g) “Governing body” includes:

17 (1) the State, if the seizing authority is a unit of the State;

18 (2) a county, if the seizing authority is a unit of a county;

19 (3) a municipal corporation, if the seizing authority is a unit of a  
20 municipality; and

21 (4) Baltimore City, if the seizing authority is the Police Department of  
22 Baltimore City.

23 (i) “Lienholder” means a person who has a lien or a secured interest on  
24 property created before the seizure.

25 (k) (1) “Owner” means a person having a legal, equitable, or possessory  
26 interest in property.

27 (2) “Owner” includes:

28 (i) a co-owner;

29 (ii) a life tenant;

30 (iii) a remainderman to a life tenancy in real property;

- (iv) a holder of an inchoate interest in real property; and
- (v) a bona fide purchaser for value.

3 (o) "Seizing authority" means a law enforcement unit in the State that is  
4 authorized to investigate violations of the Controlled Dangerous Substances law and  
5 that has seized property under this title.

6 12-202.

7 (a) Property subject to forfeiture under this title may be seized:

10 (2) without a warrant when:

11 (i) the seizure is incident to an arrest or a search under a  
12 search warrant;

13 (ii) the seizure is incident to an inspection under an  
14 administrative inspection warrant;

15 (iii) the property subject to seizure has been the subject of a  
16 prior judgment in favor of the State in a criminal injunction or forfeiture proceeding  
17 under this title;

18 (iv) there is probable cause to believe that the property is  
19 directly or indirectly dangerous to health or safety; or

20 (v) there is probable cause to believe that the property has been  
21 used or is intended to be used in violation of the Controlled Dangerous Substances law  
22 or this title.

23 (b) The seizing authority that seizes money that is contraband shall  
24 immediately:

25 (1) photograph the contraband money and record the quantity of each  
26 denomination of coin or currency seized; and

27 (2) deposit the money to the account of the appropriate local financial  
28 authority.

29 (c) A photograph taken under subsection (b) of this section may be  
30 substituted for money as evidence in a criminal or forfeiture proceeding.

31 12-203.

(a) Property seized under this title:

(1) is not repleviable; but

6 (b) A seizing authority may place seized property under seal and remove the  
7 property to a place designated by the court.

8 12-208.

15 (3) If criminal proceedings have begun but forfeiture proceedings have  
16 not begun, the proper court is the court where the criminal proceedings have begun.

17 (4) If neither forfeiture nor criminal proceedings have begun, the  
18 proper court is the circuit court for the county where the property was seized.

19 (b) (1) Unless the forfeiting authority and the owner agree to a bond in  
20 another amount, if a motor vehicle is not needed for evidentiary purposes in a judicial  
21 proceeding:

22 (i) the court shall appraise the value of the motor vehicle on the  
23 basis of the average value of the motor vehicle set forth in the National Automobile  
24 Dealer's Association official used car guide; or

4 (2) The sheriff or other person responsible for an appraisal under this  
5 subsection shall promptly:

6 (i) inspect and appraise the value of the property; and

7 (ii) return the appraisal in writing under oath to the clerk of the  
8 court.

9 (d) Notice of the appraisal shall be sent to all lienholders shown in the  
10 records required by law for notice or the perfection of the lien.

11 (e) (1) On the filing of an appraisal, the owner may give bond payable to  
12 the clerk of the court in an amount equal to the greater of:

15 (ii) the aggregate amount of the liens on the property that are  
16 shown in the records required by law for the notice or perfection of liens.

17 (2) A person may give a bond under this section by cash, through a  
18 surety, through a lien on real property, or by other means that the clerk approves.

19 (3) A bond authorized under this section:

20 (i) shall be conditioned for performance on final judgment by  
21 the court;

22 (ii) shall be filed in the District Court or circuit court where the  
23 criminal action that gave rise to the seizure is pending; and

24 (iii) unless a complaint for forfeiture has been filed, shall be part  
25 of the same criminal proceeding.

29 (f) (1) If the court orders that property or an interest or equity in the  
30 property or proceeds be forfeited under this title, the court shall enter judgment in the  
31 amount of the bond against the obligors on the bond without further proceedings.

32 (2) Payment of the amount of the bond shall be applied as provided  
33 under § 12-402(d)(2) of this title.

1 12–209.

2 Seizure of real property occurs on the earlier of the filing:

3 (1) of a complaint for forfeiture under this title; or

4 (2) of a notice of pending litigation in the circuit court of the county  
5 where the real property is located.

6 12–210.

7 (a) Subject to the rights of a lienholder to sell the real property, an owner or  
8 owner's tenant may remain in possession of seized real property until forfeiture is  
9 ordered.

10 (b) The forfeiting authority may apply to the court for the appointment of a  
11 receiver to apply income from income-producing property.

12 (c) If a person who is an owner or owner's tenant and remains in possession  
13 of the real property and the person's interest in the real property is forfeited, the  
14 person shall immediately surrender the real property to the seizing authority in  
15 substantially the same condition as when seized.

16 12–211.

17 (a) This section does not apply if:

18 (1) an act is agreed to by a forfeiting authority or is ordered by the  
19 court; or

20 (2) an owner posts a bond under § 12–208 of this subtitle.

21 (b) Subject to subsection (a) of this section, until the court enters judgment  
22 in favor of the owner, an owner may not attempt:

23 (1) to convey or encumber an interest in seized real property; or

24 (2) to remove a building or fixture on seized real property.

25 12–301.

26 Except as provided in § 12–304(c) of this subtitle, if property is seized under §  
27 12–202(a)(2)(iv) and (v) of this title because there is probable cause to believe that the  
28 property is directly or indirectly dangerous to health or safety and that the property  
29 was or will be used to violate this title, forfeiture proceedings under this subtitle shall  
30 be filed promptly.

1 12-302.

2 (a) To apply for the forfeiture of money, the appropriate local financial  
3 authority or the Attorney General shall file a complaint and affidavit in the District  
4 Court or the circuit court for the county in which the money was seized.

5 (b) The complaint and affidavit shall be served in accordance with the  
6 Maryland Rules of Procedure.

7 12-303.

8 Except as provided in § 12-302 of this subtitle and § 4-401(9) of the Courts  
9 Article, the appropriate forfeiting authority shall file proceedings under this title in  
10 the circuit court.

11 12-304.

12 (a) Except as provided under subsections (b) and (c) of this section, a  
13 complaint seeking forfeiture shall be filed within the earlier of:

14 (1) 90 days after the seizure; or

15 (2) 1 year after the final disposition of the criminal charge for the  
16 violation giving rise to the forfeiture.

17 (b) A complaint for the forfeiture of a motor vehicle shall be filed within 45  
18 days after the motor vehicle is seized.

19 (c) (1) A proceeding about money shall be filed within 90 days after the  
20 final disposition of criminal proceedings that arise out of the Controlled Dangerous  
21 Substances law.

22 (2) If the State or a political subdivision does not file proceedings  
23 about money within the 90-day period, the money seized under this title shall be  
24 returned to the owner on request by the owner.

25 (3) If the owner fails to ask the return of the money within 1 year after  
26 the final disposition of criminal proceedings, as provided under § 12-403 of this title,  
27 the money shall revert to:

28 (i) the political subdivision in which the money was seized; or

29 (ii) the State, if the money was seized by State authorities.

30 12-305.

31 (a) A complaint seeking forfeiture shall contain:

24 12-306.

25 (a) A notice shall be signed by the clerk and shall:

26 (1) include the caption of the case;

27 (2) describe the substance of the complaint and the relief sought;

28 (3) state the latest date on which a response may be filed;

29 (4) state that the property shall be forfeited if a response is not filed

30 on time;

1 (5) state that the owner of the property may have possession of the  
2 property pending forfeiture by posting a bond as provided in § 12-208 of this title; and

3 (6) tell where to file a response and whom to contact for more  
4 information concerning the forfeiture.

5 (b) Within 20 days after the filing of the complaint, the notice shall be:

6 (1) posted by the sheriff on the door of the courthouse where the action  
7 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 12-307.

14 The answer to a complaint shall:

15 (1) comply with the Maryland Rules;

16 (2) state the nature and extent of the person's right in, title to, or  
17 interest in the property;

18 (3) state how and when the person acquired a right in, title to, or  
19 interest in the property; and

20 (4) contain a request for relief and a request for a prompt hearing.

21 12-308.

22 (a) If an answer has been filed on time, the court shall set a hearing on the  
23 forfeiture claim within 60 days after the later of:

24 (1) posting of notice under § 12–306(b)(1) or (2) of this subtitle; or

25 (2) final publication of notice under § 12-306(b)(3) of this subtitle.

26 (b) Without a hearing, the court may order forfeiture of the property interest  
27 of a person who fails to timely file an answer.

28 12-402.

29                   (a) After a full hearing, if the court determines that the property should not  
30 be forfeited, the court shall order that the property be released.

4 (c) If the court determines that the forfeited property is subject to a valid  
5 lien created without actual knowledge of the lienholder that the property was being or  
6 was to be used in violation of the Controlled Dangerous Substances law, the court  
7 shall order that the property be released within 5 days to the first priority lienholder.

10 (2) The proceeds of the sale shall be applied as follows:

11 (i) to the court costs of the forfeiture proceeding;

12 (ii) to the balance due the lienholder, including all reasonable  
13 costs incident to the sale;

14 (iii) to payment of all other expenses of the proceedings for  
15 forfeiture, including expenses of seizure or maintenance of custody; and

(iv) except as provided in § 12–403(b) of this subtitle, to the General Fund of the State or of the political subdivision that seized the property.

18 12-403.

19                   (a)    (1)    Whenever property is forfeited under this title, the governing body  
20 where the property was seized may:

21 (i) keep the property for official use;

22 (ii) require an appropriate unit to take custody of the property  
23 and destroy or otherwise dispose of it; or

24 (iii) sell the property if:

27 2. the property is not harmful to the public.

31 (b) If the seizing authority was a State law enforcement unit:

(1) under § 12-402(b) of this subtitle, the court shall order the property to be forfeited to the State law enforcement unit; or

5 (c) Except as provided in subsection (d) of this section, the State law  
6 enforcement unit that receives forfeited property or proceeds from a sale of forfeited  
7 property under this section shall:

8 (1) dispose of the forfeited property as provided in subsection (a) of  
9 this section; and

10 (2) pay to the General Fund of the State any proceeds of the sale of the  
11 forfeited property.

12 (d) Except as otherwise provided under federal law, a law enforcement unit  
13 other than a State law enforcement unit that participated with a State law  
14 enforcement unit in seizing property forfeited under this section:

15 (1) shall be paid by the State law enforcement unit the share of the  
16 proceeds from the sale of the forfeited property as agreed by the law enforcement  
17 units; or

18 (2) may ask the Governor's Office of Crime Control and Prevention to  
19 determine its share.

20 (e) Proceeds that a law enforcement unit other than a State law enforcement  
21 unit receives under subsection (d) of this section shall be deposited in the general fund  
22 of the political subdivision of that law enforcement unit.

## **SUBTITLE 5. VIOLATIONS OF IDENTITY FRAUD LAW.**

24 13-501.

25 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
26 INDICATED.

27                   **(B) "FORFEITING AUTHORITY" HAS THE MEANING STATED IN § 12-101**  
28                   **OF THIS ARTICLE**

3 (E) "LIENHOLDER" HAS THE MEANING STATED IN § 12-101 OF THIS  
4 ARTICLE.

5 (F) **“OWNER” HAS THE MEANING STATED IN § 12-101 OF THIS ARTICLE.**

6 (G) "PROCEEDS" INCLUDES PROPERTY DERIVED DIRECTLY OR  
7 INDIRECTLY IN CONNECTION WITH OR AS A RESULT OF A VIOLATION OF THE  
8 IDENTITY FRAUD LAW.

9 (H) (1) "PROPERTY" INCLUDES:

10 (I) REAL PROPERTY AND ANYTHING GROWING ON OR  
11 ATTACHED TO REAL PROPERTY;

12 (II) VEHICLES AND CONVEYANCES OF ANY TYPE; AND

### 13 (III) MONEY.

14 (2) "PROPERTY" DOES NOT INCLUDE:

15 (I) AN ITEM UNLAWFULLY IN THE POSSESSION OF A  
16 PERSON OTHER THAN THE OWNER WHEN USED IN CONNECTION WITH A  
17 VIOLATION OF THE IDENTITY FRAUD LAW; OR

23 (I) "SEIZING AUTHORITY" HAS THE MEANING STATED IN § 12-101 OF  
24 THIS ARTICLE.

25 13-502.

26 THE FOLLOWING PROPERTY IS SUBJECT TO SEIZURE OR FORFEITURE  
27 UNDER THIS SUBTITLE:

28 (1) PROPERTY OBTAINED BY OR THROUGH OR DERIVED  
29 DIRECTLY OR INDIRECTLY FROM A VIOLATION OF THE IDENTITY FRAUD LAW;

**(2) PROPERTY RECEIVED AS AN INDUCEMENT TO VIOLATE THE  
IDENTITY FRAUD LAW;**

**(3) PROPERTY USED OR INTENDED TO BE USED TO COMMIT OR TO  
FACILITATE THE COMMISSION OF A VIOLATION OF THE IDENTITY FRAUD LAW;  
AND**

**(4) PROCEEDS OF PROPERTY DESCRIBED IN THIS SECTION.**

13-503.

(A) PROPERTY OR AN INTEREST IN PROPERTY MAY NOT BE FORFEITED IF THE OWNER ESTABLISHES BY A PREPONDERANCE OF THE EVIDENCE THAT THE VIOLATION OF THE IDENTITY FRAUD LAW WAS COMMITTED WITHOUT THE ACTUAL KNOWLEDGE OF THE OWNER.

(B) (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 IDENTITY FRAUD LAW.

(2) A COURT MAY ORDER A FORFEITURE OF REAL PROPERTY USED AS THE PRINCIPAL FAMILY RESIDENCE WITHOUT A CONVICTION 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.**

(C) 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 IDENTITY FRAUD LAW OR AN ATTEMPT OR CONSPIRACY TO VIOLATE THE IDENTITY FRAUD LAW; AND

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

1 **13-504.**

2 (A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS  
3 SECTION, SEIZURE OF PROPERTY UNDER THIS SUBTITLE SHALL BE SUBJECT TO  
4 THE PROCEDURES SET FORTH IN §§ 12-202, 12-203, AND 12-208 THROUGH  
5 12-211 OF THIS ARTICLE.

6 (B) FOR THE PURPOSES OF THIS SUBTITLE, THE PROBABLE CAUSE  
7 DESCRIBED IN § 12-202(A)(2)(V) OF THIS ARTICLE IS PROBABLE CAUSE TO  
8 BELIEVE THAT THE PROPERTY HAS BEEN USED OR IS INTENDED TO BE USED IN  
9 VIOLATION OF THE IDENTITY FRAUD LAW.

10 (C) PAYMENT OF THE AMOUNT OF THE BOND UNDER § 12-208(F)(2) OF  
11 THIS ARTICLE SHALL BE APPLIED AS PROVIDED UNDER § 13-508(D) OF THIS  
12 SUBTITLE.

13 **13-505.**

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

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

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

23 (3) PERSONALLY DETERMINES, CONSIDERING THE  
24 CIRCUMSTANCES LISTED IN SUBSECTION (B) OF THIS SECTION, AND  
25 REPRESENTS IN WRITING THAT THE TOTAL CIRCUMSTANCES OF THE CASE  
26 DICTATE THAT SEIZURE AND FORFEITURE ARE JUSTIFIED.

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

29 (1) AN EXTENSIVE CRIMINAL RECORD OF THE VIOLATOR;

30 (2) A PREVIOUS CONVICTION OF THE VIOLATOR UNDER THE  
31 IDENTITY FRAUD LAW;

**(3) EVIDENCE THAT THE MOTOR VEHICLE WAS ACQUIRED BY USE  
OF PROCEEDS FROM A TRANSACTION INVOLVING IDENTITY FRAUD;**

**(4) CIRCUMSTANCES OF THE ARREST; AND**

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

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

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

(D) 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 THE SEIZURE AND FORFEITURE ARE NOT JUSTIFIED BASED ON THE CIRCUMSTANCES LISTED IN SUBSECTION (B) OF THIS SECTION.

(E) IN A PROCEEDING UNDER THIS SUBTITLE, THE COURT MAY DETERMINE, BASED ON THE CIRCUMSTANCES LISTED IN SUBSECTION (B) OF THIS SECTION, WHETHER THE SEIZING AUTHORITY OR FORFEITING AUTHORITY ABUSED 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.

26 13-506.

27                   (A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS  
28 SECTION, FORFEITURE OF PROPERTY UNDER THIS SUBTITLE SHALL BE  
29 SUBJECT TO THE PROCEDURES SET FORTH IN §§ 12-301 THROUGH 12-308 OF  
30 THIS ARTICLE.

**(1) A COMPLAINT SEEKING FORFEITURE SHALL BE FILED WITHIN 90 DAYS AFTER THE EARLIER OF:**

(I) CONVICTION OF THE CRIMINAL CHARGE WHICH LED TO THE INITIATION OF THE FORFEITURE PROCEEDINGS; OR

**(II) FINAL DISPOSITION OF THE CRIMINAL CHARGE GIVING  
RISE TO THE FORFEITURE PROCEEDINGS;**

7 (2) IF THE STATE OR POLITICAL SUBDIVISION DOES NOT FILE  
8 PROCEEDINGS ABOUT MONEY WITHIN THE 90-DAY PERIOD, THE MONEY SEIZED  
9 UNDER THIS TITLE SHALL BE RETURNED TO THE OWNER ON REQUEST BY THE  
10 OWNER; AND

15 (C) THE ALLEGATION REQUIRED BY § 12-305(A)(7) OF THIS ARTICLE  
16 SHALL REFER TO THE IDENTITY FRAUD LAW RATHER THAN THE CONTROLLED  
17 DANGEROUS SUBSTANCES LAW.

18 13-507.

19 (A) EXCEPT AS PROVIDED IN THIS SECTION AND IN § 13-503(C) OF THIS  
20 SUBTITLE, AN OWNER'S INTEREST IN REAL PROPERTY MAY BE FORFEITED IF  
21 THE REAL PROPERTY WAS USED IN CONNECTION WITH A VIOLATION OF THE  
22 IDENTITY FRAUD LAW.

23 (B) FORFEITURE PROCEEDINGS FOR REAL PROPERTY MAY BE  
24 BROUGHT IN THE JURISDICTION WHERE:

25 (1) THE CRIMINAL CHARGES ARE PENDING;

26 (2) THE OWNER RESIDES; OR

28 (C) (1) IF FORFEITURE PROCEEDINGS FOR REAL PROPERTY ARE  
29 BROUGHT IN A JURISDICTION OTHER THAN WHERE THE REAL PROPERTY IS  
30 LOCATED, A NOTICE OF PENDING LITIGATION SHALL BE FILED IN THE  
31 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.**

**(I) THE PERSON HAS VIOLATED THE IDENTITY FRAUD LAW:**

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

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

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

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

1 **13-508.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
3 MEANINGS INDICATED.

4 (2) "IDENTIFIABLE LOSSES RESULTING FROM THE OFFENSE"  
5 INCLUDE:

6 (I) EXPENSES NECESSARY TO CANCEL, STOP PAYMENT ON,  
7 OR REPLACE STOLEN ITEMS SUCH AS CREDIT CARDS, CHECKS, DRIVERS'  
8 LICENSES, AND OTHER DOCUMENTS;

9 (II) COSTS INCURRED IN DISCOVERING THE EXTENT OF THE  
10 IDENTITY FRAUD, IN REPAIRING DAMAGE FROM THE FRAUD SUCH AS DAMAGE  
11 TO CREDIT RATINGS AND REPORTS, AND PREVENTING FURTHER DAMAGES  
12 FROM THE FRAUD;

13 (III) LONG DISTANCE TELEPHONE CHARGES TO LAW  
14 ENFORCEMENT OFFICIALS, GOVERNMENT OFFICES, AND BUSINESSES IN  
15 REGARD TO THE FRAUD; AND

16 (IV) LOST WAGES FROM THE TIME AWAY FROM WORK  
17 REQUIRED TO OBTAIN NEW PERSONAL IDENTIFYING INFORMATION.

18 (3) "VICTIM" INCLUDES A BUSINESS THAT LOSES MONEY,  
19 MERCHANDISE, OR OTHER THINGS OF VALUE AS A RESULT OF THE OFFENSE.

20 (B) EXCEPT AS PROVIDED IN THIS SECTION, DISPOSITION OF PROPERTY  
21 AFTER FORFEITURE UNDER THIS SUBTITLE SHALL BE SUBJECT TO TITLE 12,  
22 SUBTITLE 4 OF THIS ARTICLE.

23 (C) THE COURT DETERMINATION UNDER § 12-402(C) OF THIS ARTICLE  
24 SHALL INCLUDE THAT THE PROPERTY WAS BEING USED OR WAS TO BE USED IN  
25 VIOLATION OF THE IDENTITY FRAUD LAW RATHER THAN THE CONTROLLED  
26 DANGEROUS SUBSTANCES LAW.

27 (D) ORDERS OF FORFEITURE OF PROPERTY UNDER THIS SUBTITLE  
28 SHALL BE SUBJECT TO THE PROCEDURES IN SUBSECTION (E) OF THIS SECTION  
29 AND NOT SUBJECT TO § 12-403 OF THIS ARTICLE.

30 (E) (1) DISPOSITION OF FORFEITED PROPERTY UNDER THIS  
31 SUBTITLE SHALL FOLLOW THE PROCEDURES IN THIS SUBSECTION.

5 (I) FIRST, TO PAY ALL PROPER EXPENSES OF THE  
6 PROCEEDINGS FOR FORFEITURE AND SALE, INCLUDING EXPENSES OF SEIZURE,  
7 MAINTENANCE OF CUSTODY, ADVERTISING, AND COURT COSTS;

14 (IV) FINALLY, TO THE GENERAL FUND OF THE STATE.

15 13-509.

16           **LIENHOLDERS OF PROPERTY SEIZED UNDER THIS SUBTITLE SHALL HAVE**  
17   **THE RIGHTS AND OBLIGATIONS SET FORTH IN TITLE 12, SUBTITLE 5 OF THIS**  
18   **ARTICLE.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
20 construed to apply only prospectively and may not be applied or interpreted to have  
21 any effect on or application to any offense committed before the effective date of this  
22 Act.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 June 1, 2009.