

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Seizure and Forfeiture Reporting Act.

6 Section 5. Applicability. This Act is applicable to  
7 property seized or forfeited under the following provisions of  
8 law:

9 (1) Section 3.23 of the Illinois Food, Drug and  
10 Cosmetic Act;

11 (2) Section 44.1 of the Environmental Protection Act;

12 (3) Section 105-55 of the Herptiles-Herps Act;

13 (4) Section 1-215 of the Fish and Aquatic Life Code;

14 (5) Section 1.25 of the Wildlife Code;

15 (6) Section 17-10.6 of the Criminal Code of 2012  
16 (financial institution fraud);

17 (7) Section 28-5 of the Criminal Code of 2012  
18 (gambling);

19 (8) Article 29B of the Criminal Code of 2012 (money  
20 laundering);

21 (9) Article 33G of the Criminal Code of 2012 (Illinois  
22 Street Gang and Racketeer Influenced And Corrupt  
23 Organizations Law);

1 (10) Article 36 of the Criminal Code of 2012 (seizure  
2 and forfeiture of vessels, vehicles, and aircraft);

3 (11) Section 47-15 of the Criminal Code of 2012  
4 (dumping garbage upon real property);

5 (12) Article 124B of the Code of Criminal procedure  
6 (forfeiture);

7 (13) Drug Asset Forfeiture Procedure Act;

8 (14) Narcotics Profit Forfeiture Act;

9 (15) Illinois Streetgang Terrorism Omnibus Prevention  
10 Act; and

11 (16) Illinois Securities Law of 1953.

12 Section 10. Reporting by law enforcement agency.

13 (a) Each law enforcement agency that seizes property  
14 subject to reporting under this Act shall report the following  
15 information about property seized or forfeited under State law:

16 (1) the name of the law enforcement agency that seized  
17 the property;

18 (2) the date of the seizure;

19 (3) the type of property seized, including a building,  
20 vehicle, boat, cash, negotiable security, or firearm,  
21 except reporting is not required for seizures of contraband  
22 including alcohol, gambling devices, drug paraphernalia,  
23 and controlled substances;

24 (4) a description of the property seized and the  
25 estimated value of the property and if the property is a

1 conveyance, the description shall include the make, model,  
2 year, and vehicle identification number or serial number;  
3 and

4 (5) the location where the seizure occurred.

5 The filing requirement shall be met upon filing the form  
6 4-64 with the State's Attorney's Office in the county where the  
7 forfeiture action is being commenced or with the Attorney  
8 General's Office if the forfeiture action is being commenced by  
9 that office, and the forwarding of the form 4-64 upon approval  
10 of the State's Attorney's Office or the Attorney General's  
11 Office to the Department of State Police Asset Forfeiture  
12 Section. With regard to seizures for which form 4-64 is not  
13 required to be filed, the filing requirement shall be met by  
14 the filing of an annual summary report with the Department of  
15 State Police no later than 60 days after December 31 of that  
16 year.

17 (b) Each law enforcement agency, including a drug task  
18 force or Metropolitan Enforcement Group (MEG) unit, that  
19 receives proceeds from forfeitures subject to reporting under  
20 this Act shall file an annual report with the Department of  
21 State Police no later than 60 days after December 31 of that  
22 year. The format of the report shall be developed by the  
23 Department of State Police and shall be completed by the law  
24 enforcement agency. The report shall include, at a minimum, the  
25 amount of funds and other property distributed to the law  
26 enforcement agency by the Department of State Police, the

1 amount of funds expended by the law enforcement agency, and the  
2 category of expenditure, including:

3 (1) crime, gang, or abuse prevention or intervention  
4 programs;

5 (2) compensation or services for crime victims;

6 (3) witness protection, informant fees, and controlled  
7 purchases of contraband;

8 (4) salaries, overtime, and benefits, as permitted by  
9 law;

10 (5) operating expenses, including but not limited to,  
11 capital expenditures for vehicles, firearms, equipment,  
12 computers, furniture, office supplies, postage, printing,  
13 membership fees paid to trade associations, and fees for  
14 professional services including auditing, court reporting,  
15 expert witnesses, and attorneys;

16 (6) travel, meals, entertainment, conferences,  
17 training, and continuing education seminars; and

18 (7) other expenditures of forfeiture proceeds.

19 (c) The Department of State Police shall establish and  
20 maintain on its official website a public database that  
21 includes annual aggregate data for each law enforcement agency  
22 that reports seizures of property under subsection (a) of this  
23 Section, that receives distributions of forfeiture proceeds  
24 subject to reporting under this Act, or reports expenditures  
25 under subsection (b) of this Section. This aggregate data shall  
26 include, for each law enforcement agency:

1           (1) the total number of asset seizures reported by each  
2 law enforcement agency during the calendar year;

3           (2) the monetary value of all currency or its  
4 equivalent seized by the law enforcement agency during the  
5 calendar year;

6           (3) the number of conveyances seized by the law  
7 enforcement agency during the calendar year, and the  
8 aggregate estimated value;

9           (4) the aggregate estimated value of all other property  
10 seized by the law enforcement agency during the calendar  
11 year;

12           (5) the monetary value of distributions by the  
13 Department of State Police of forfeited currency or auction  
14 proceeds from forfeited property to the law enforcement  
15 agency during the calendar year; and

16           (6) the total amount of the law enforcement agency's  
17 expenditures of forfeiture proceeds during the calendar  
18 year, categorized as provided under subsection (b) of this  
19 Section.

20           The database shall not provide names, addresses, phone  
21 numbers, or other personally identifying information of owners  
22 or interest holders, persons, business entities, covert office  
23 locations, or business entities involved in the forfeiture  
24 action and shall not disclose the vehicle identification number  
25 or serial number of any conveyance.

26           (d) The Department of State Police shall adopt rules to

1 administer the asset forfeiture program, including the  
2 categories of authorized expenditures consistent with the  
3 statutory guidelines for each of the included forfeiture  
4 statutes, the use of forfeited funds, other expenditure  
5 requirements, and the reporting of seizure and forfeiture  
6 information. The Department may adopt rules necessary to  
7 implement this Act through the use of emergency rulemaking  
8 under Section 5-45 of the Illinois Administrative Procedure Act  
9 for a period not to exceed 180 days after the effective date of  
10 this Act.

11 (e) The Department of State Police shall have authority and  
12 oversight over all law enforcement agencies receiving  
13 forfeited funds from the Department. This authority shall  
14 include enforcement of rules and regulations adopted by the  
15 Department and sanctions for violations of any rules and  
16 regulations, including the withholding of distributions of  
17 forfeiture proceeds from the law enforcement agency in  
18 violation.

19 (f) Upon application by a law enforcement agency to the  
20 Department of State Police, the reporting of a particular asset  
21 forfeited under this Section may be delayed if the asset in  
22 question was seized from a person who has become a confidential  
23 informant under the agency's confidential informant policy, or  
24 if the asset was seized as part of an ongoing investigation.  
25 This delayed reporting shall be granted by the Department of  
26 State Police for a maximum period of 6 months if the

1 confidential informant is still providing cooperation to law  
2 enforcement or the investigation is still ongoing, and at that  
3 time the asset shall be reported as required under this Act.

4 (g) The Department of State Police shall on or before  
5 January 1, 2019, establish and implement the requirements of  
6 this Act. In order to implement the reporting and public  
7 database requirements under this Act, the Department of State  
8 Police Asset Forfeiture Section requires a one-time upgrade of  
9 its information technology software and hardware. This  
10 one-time upgrade shall be funded by a temporary allocation of  
11 5% of all forfeited currency and 5% of the auction proceeds  
12 from each forfeited asset, which are to be distributed after  
13 the effective date of this Act. The Department of State Police  
14 shall transfer these funds at the time of distribution to a  
15 separate fund established by the Department of State Police.  
16 Monies deposited in this fund shall be accounted for and shall  
17 be used only to pay for the actual one-time cost of purchasing  
18 and installing the hardware and software required to comply  
19 with this new reporting and public database requirement. Monies  
20 deposited in the fund shall not be subject to re-appropriation,  
21 reallocation, or redistribution for any other purpose. After  
22 sufficient funds are transferred to the fund to cover the  
23 actual one-time cost of purchasing and installing the hardware  
24 and software required to comply with this new reporting and  
25 public database requirement, no additional funds shall be  
26 transferred to the fund for any purpose. At the completion of

1 the one-time upgrade of the information technology hardware and  
2 software to comply with this new reporting and public database  
3 requirement, any remaining funds in the fund shall be returned  
4 to the participating agencies under the distribution  
5 requirements of the statutes from which the funds were  
6 transferred, and the fund shall no longer exist.

7 (h) (1) The Department of State Police, in consultation with  
8 and subject to the approval of the Chief Procurement Officer,  
9 may procure a single contract or multiple contracts to  
10 implement the provisions of this Act.

11 (2) A contract or contracts under this subsection (h)  
12 are not subject to the Illinois Procurement Code, except  
13 for Sections 20-60, 20-65, 20-70, and 20-160 and Article 50  
14 of that Code, provided that the Chief Procurement Officer  
15 may, in writing with justification, waive any  
16 certification required under Article 50 of the Illinois  
17 Procurement Code. The provisions of this paragraph (2),  
18 other than this sentence, are inoperative on and after July  
19 1, 2019.

20 Section 15. Fund audits.

21 (a) The Auditor General shall conduct as a part of its 2  
22 year compliance audit, an audit of the State Asset Forfeiture  
23 Fund for compliance with the requirements of this Act. The  
24 audit shall include, but not be limited to, the following  
25 determinations:



1           (1) if detailed records of all receipts and  
2           disbursements from the State Asset Forfeiture Fund are  
3           being maintained;

4           (2) if administrative costs charged to the fund are  
5           adequately documented and are reasonable; and

6           (3) if the procedures for making disbursements under  
7           the Act are adequate.

8           (b) The Department of State Police, and any other entity or  
9           person that may have information relevant to the audit, shall  
10          cooperate fully and promptly with the Office of the Auditor  
11          General in conducting the audit. The Auditor General shall  
12          begin the audit during the next regular two year compliance  
13          audit of the Department of State Police and distribute the  
14          report upon completion under Section 3-14 of the Illinois State  
15          Auditing Act.

16          Section 105. The Freedom of Information Act is amended by  
17          changing Section 7.5 as follows:

18                 (5 ILCS 140/7.5)

19                 Sec. 7.5. Statutory exemptions. To the extent provided for  
20                 by the statutes referenced below, the following shall be exempt  
21                 from inspection and copying:

22                         (a) All information determined to be confidential  
23                         under Section 4002 of the Technology Advancement and  
24                         Development Act.

1           (b) Library circulation and order records identifying  
2 library users with specific materials under the Library  
3 Records Confidentiality Act.

4           (c) Applications, related documents, and medical  
5 records received by the Experimental Organ Transplantation  
6 Procedures Board and any and all documents or other records  
7 prepared by the Experimental Organ Transplantation  
8 Procedures Board or its staff relating to applications it  
9 has received.

10          (d) Information and records held by the Department of  
11 Public Health and its authorized representatives relating  
12 to known or suspected cases of sexually transmissible  
13 disease or any information the disclosure of which is  
14 restricted under the Illinois Sexually Transmissible  
15 Disease Control Act.

16          (e) Information the disclosure of which is exempted  
17 under Section 30 of the Radon Industry Licensing Act.

18          (f) Firm performance evaluations under Section 55 of  
19 the Architectural, Engineering, and Land Surveying  
20 Qualifications Based Selection Act.

21          (g) Information the disclosure of which is restricted  
22 and exempted under Section 50 of the Illinois Prepaid  
23 Tuition Act.

24          (h) Information the disclosure of which is exempted  
25 under the State Officials and Employees Ethics Act, and  
26 records of any lawfully created State or local inspector

1 general's office that would be exempt if created or  
2 obtained by an Executive Inspector General's office under  
3 that Act.

4 (i) Information contained in a local emergency energy  
5 plan submitted to a municipality in accordance with a local  
6 emergency energy plan ordinance that is adopted under  
7 Section 11-21.5-5 of the Illinois Municipal Code.

8 (j) Information and data concerning the distribution  
9 of surcharge moneys collected and remitted by wireless  
10 carriers under the Wireless Emergency Telephone Safety  
11 Act.

12 (k) Law enforcement officer identification information  
13 or driver identification information compiled by a law  
14 enforcement agency or the Department of Transportation  
15 under Section 11-212 of the Illinois Vehicle Code.

16 (l) Records and information provided to a residential  
17 health care facility resident sexual assault and death  
18 review team or the Executive Council under the Abuse  
19 Prevention Review Team Act.

20 (m) Information provided to the predatory lending  
21 database created pursuant to Article 3 of the Residential  
22 Real Property Disclosure Act, except to the extent  
23 authorized under that Article.

24 (n) Defense budgets and petitions for certification of  
25 compensation and expenses for court appointed trial  
26 counsel as provided under Sections 10 and 15 of the Capital

1 Crimes Litigation Act. This subsection (n) shall apply  
2 until the conclusion of the trial of the case, even if the  
3 prosecution chooses not to pursue the death penalty prior  
4 to trial or sentencing.

5 (o) Information that is prohibited from being  
6 disclosed under Section 4 of the Illinois Health and  
7 Hazardous Substances Registry Act.

8 (p) Security portions of system safety program plans,  
9 investigation reports, surveys, schedules, lists, data, or  
10 information compiled, collected, or prepared by or for the  
11 Regional Transportation Authority under Section 2.11 of  
12 the Regional Transportation Authority Act or the St. Clair  
13 County Transit District under the Bi-State Transit Safety  
14 Act.

15 (q) Information prohibited from being disclosed by the  
16 Personnel Records Review Act.

17 (r) Information prohibited from being disclosed by the  
18 Illinois School Student Records Act.

19 (s) Information the disclosure of which is restricted  
20 under Section 5-108 of the Public Utilities Act.

21 (t) All identified or deidentified health information  
22 in the form of health data or medical records contained in,  
23 stored in, submitted to, transferred by, or released from  
24 the Illinois Health Information Exchange, and identified  
25 or deidentified health information in the form of health  
26 data and medical records of the Illinois Health Information

1 Exchange in the possession of the Illinois Health  
2 Information Exchange Authority due to its administration  
3 of the Illinois Health Information Exchange. The terms  
4 "identified" and "deidentified" shall be given the same  
5 meaning as in the Health Insurance Portability and  
6 Accountability Act of 1996, Public Law 104-191, or any  
7 subsequent amendments thereto, and any regulations  
8 promulgated thereunder.

9 (u) Records and information provided to an independent  
10 team of experts under Brian's Law.

11 (v) Names and information of people who have applied  
12 for or received Firearm Owner's Identification Cards under  
13 the Firearm Owners Identification Card Act or applied for  
14 or received a concealed carry license under the Firearm  
15 Concealed Carry Act, unless otherwise authorized by the  
16 Firearm Concealed Carry Act; and databases under the  
17 Firearm Concealed Carry Act, records of the Concealed Carry  
18 Licensing Review Board under the Firearm Concealed Carry  
19 Act, and law enforcement agency objections under the  
20 Firearm Concealed Carry Act.

21 (w) Personally identifiable information which is  
22 exempted from disclosure under subsection (g) of Section  
23 19.1 of the Toll Highway Act.

24 (x) Information which is exempted from disclosure  
25 under Section 5-1014.3 of the Counties Code or Section  
26 8-11-21 of the Illinois Municipal Code.

1           (y) Confidential information under the Adult  
2 Protective Services Act and its predecessor enabling  
3 statute, the Elder Abuse and Neglect Act, including  
4 information about the identity and administrative finding  
5 against any caregiver of a verified and substantiated  
6 decision of abuse, neglect, or financial exploitation of an  
7 eligible adult maintained in the Registry established  
8 under Section 7.5 of the Adult Protective Services Act.

9           (z) Records and information provided to a fatality  
10 review team or the Illinois Fatality Review Team Advisory  
11 Council under Section 15 of the Adult Protective Services  
12 Act.

13           (aa) Information which is exempted from disclosure  
14 under Section 2.37 of the Wildlife Code.

15           (bb) Information which is or was prohibited from  
16 disclosure by the Juvenile Court Act of 1987.

17           (cc) Recordings made under the Law Enforcement  
18 Officer-Worn Body Camera Act, except to the extent  
19 authorized under that Act.

20           (dd) Information that is prohibited from being  
21 disclosed under Section 45 of the Condominium and Common  
22 Interest Community Ombudsperson Act.

23           ~~(dd)~~ (ee) Information that is exempted from disclosure  
24 under Section 30.1 of the Pharmacy Practice Act.

25           (ff) Information prohibited from disclosure under the  
26 Seizure and Forfeiture Reporting Act.

1 (Source: P.A. 98-49, eff. 7-1-13; 98-63, eff. 7-9-13; 98-756,  
2 eff. 7-16-14; 98-1039, eff. 8-25-14; 98-1045, eff. 8-25-14;  
3 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352, eff. 1-1-16;  
4 99-642, eff. 7-28-16; 99-776, eff. 8-12-16; 99-863, eff.  
5 8-19-16; revised 9-1-16.)

6 Section 110. The Illinois Food, Drug and Cosmetic Act is  
7 amended by changing Section 3.23 as follows:

8 (410 ILCS 620/3.23)

9 Sec. 3.23. Legend drug prohibition.

10 (a) In this Section:

11 "Legend drug" means a drug limited by the Federal Food,  
12 Drug and Cosmetic Act to being dispensed by or upon a medical  
13 practitioner's prescription because the drug is:

14 (1) habit forming;

15 (2) toxic or having potential for harm; or

16 (3) limited in use by the new drug application for the  
17 drug to use only under a medical practitioner's  
18 supervision.

19 "Medical practitioner" means any person licensed to  
20 practice medicine in all its branches in the State.

21 "Deliver" or "delivery" means the actual, constructive, or  
22 attempted transfer of possession of a legend drug, with or  
23 without consideration, whether or not there is an agency  
24 relationship.

1 "Manufacture" means the production, preparation,  
2 propagation, compounding, conversion, or processing of a  
3 legend drug, either directly or indirectly, by extraction from  
4 substances of natural origin, or independently by means of  
5 chemical synthesis, or by a combination of extraction and  
6 chemical synthesis, and includes any packaging or repackaging  
7 of the substance or labeling of its container. "Manufacture"  
8 does not include:

9 (1) by an ultimate user, the preparation or compounding  
10 of a legend drug for his own use; or

11 (2) by a medical practitioner, or his authorized agent  
12 under his supervision, the preparation, compounding,  
13 packaging, or labeling of a legend drug:

14 (A) as an incident to his administering or  
15 dispensing of a legend drug in the course of his  
16 professional practice; or

17 (B) as an incident to lawful research, teaching, or  
18 chemical analysis and not for sale.

19 "Prescription" has the same meaning ascribed to it in  
20 Section 3 of the Pharmacy Practice Act.

21 (b) It is unlawful for any person to knowingly manufacture  
22 or deliver or possess with the intent to manufacture or deliver  
23 a legend drug of 6 or more pills, tablets, capsules, or caplets  
24 or 30 ml or more of a legend drug in liquid form who is not  
25 licensed by applicable law to prescribe or dispense legend  
26 drugs or is not an employee of the licensee operating in the



1 normal course of business under the supervision of the  
2 licensee. Any person who violates this Section is guilty of a  
3 Class 3 felony, the fine for which shall not exceed \$100,000. A  
4 person convicted of a second or subsequent violation of this  
5 Section is guilty of a Class 1 felony, the fine for which shall  
6 not exceed \$250,000.

7 (c) The following are subject to forfeiture:

8 (1) (blank); ~~all substances that have been~~  
9 ~~manufactured, distributed, dispensed, or possessed in~~  
10 ~~violation of this Act;~~

11 (2) all raw materials, products, and equipment of any  
12 kind which are used, or intended for use in manufacturing,  
13 distributing, dispensing, administering, or possessing any  
14 substance in violation of this Section ~~Act~~;

15 (3) all conveyances, including aircraft, vehicles, or  
16 vessels, which are used, or intended for use, to transport,  
17 or in any manner to facilitate the transportation, sale,  
18 receipt, possession, or concealment of any substance  
19 manufactured, distributed, dispensed, or possessed in  
20 violation of this Section or property described in  
21 paragraph ~~items (1) and~~ (2) of this subsection (c), but:

22 (A) no conveyance used by any person as a common  
23 carrier in the transaction of business as a common  
24 carrier is subject to forfeiture under this Section  
25 unless it appears that the owner or other person in  
26 charge of the conveyance is a consenting party or privy

1 to the ~~a~~ violation ~~of this Act~~;

2 (B) no conveyance is subject to forfeiture under  
3 this Section by reason of any act or omission which the  
4 owner proves to have been committed or omitted without  
5 his knowledge or consent; and

6 (C) a forfeiture of a conveyance encumbered by a  
7 bona fide security interest is subject to the interest  
8 of the secured party if he neither had knowledge of nor  
9 consented to the act or omission;

10 (4) all money, things of value, books, records, and  
11 research products and materials including formulas,  
12 microfilm, tapes, and data that are used, or intended to be  
13 used in violation of this Section Act;

14 (5) everything of value furnished, or intended to be  
15 furnished, in exchange for a substance in violation of this  
16 Section Act, all proceeds traceable to such an exchange,  
17 and all moneys, negotiable instruments, and securities  
18 used, or intended to be used, to commit or in any manner to  
19 facilitate any violation of this Section Act; and

20 (6) all real property, including any right, title, and  
21 interest, including, but not limited to, any leasehold  
22 interest or the beneficial interest in a land trust, in the  
23 whole of any lot or tract of land and any appurtenances or  
24 improvements, which is used or intended to be used, in any  
25 manner or part, to commit, or in any manner to facilitate  
26 the commission of, any violation or act that constitutes a

1 violation of this Section ~~33.1 of this Act~~ or that is the  
2 proceeds of any violation or act that constitutes a  
3 violation of this Section ~~33.1 of this Act~~.

4 (d) Property subject to forfeiture under this Act may be  
5 seized under the Drug Asset Forfeiture Procedure Act. In the  
6 event of seizure, forfeiture proceedings shall be instituted  
7 under the Drug Asset Forfeiture Procedure Act. ~~by the Director~~  
8 ~~of the Department of State Police or any peace officer upon~~  
9 ~~process or seizure warrant issued by any court having~~  
10 ~~jurisdiction over the property. Seizure by the Director of the~~  
11 ~~Department of State Police or any peace officer without process~~  
12 ~~may be made:~~

13 ~~(1) if the seizure is incident to inspection under an~~  
14 ~~administrative inspection warrant;~~

15 ~~(2) if the property subject to seizure has been the~~  
16 ~~subject of a prior judgment in favor of the State in a~~  
17 ~~criminal proceeding, or in an injunction or forfeiture~~  
18 ~~proceeding based upon this Act or the Drug Asset Forfeiture~~  
19 ~~Procedure Act;~~

20 ~~(3) if there is probable cause to believe that the~~  
21 ~~property is directly or indirectly dangerous to health or~~  
22 ~~safety;~~

23 ~~(4) if there is probable cause to believe that the~~  
24 ~~property is subject to forfeiture under this Act and the~~  
25 ~~property is seized under circumstances in which a~~  
26 ~~warrantless seizure or arrest would be reasonable; or~~

1 ~~(5) in accordance with the Code of Criminal Procedure~~  
2 ~~of 1963.~~

3 (e) Forfeiture under this Act is subject to an 8th  
4 amendment to the United States Constitution disproportionate  
5 penalties analysis as provided under Section 9.5 of the Drug  
6 Asset Forfeiture Procedure Act. ~~In the event of seizure~~  
7 ~~pursuant to subsection (c) of this Section, forfeiture~~  
8 ~~proceedings shall be instituted in accordance with the Drug~~  
9 ~~Asset Forfeiture Procedure Act.~~

10 (f) With regard to possession of legend drug offenses only,  
11 a sum of currency with a value of less than \$500 shall not be  
12 subject to forfeiture under this Act. For all other offenses  
13 under this Act, currency with a value of under \$100 shall not  
14 be subject to forfeiture under this Act. ~~Property taken or~~  
15 ~~detained under this Section shall not be subject to replevin,~~  
16 ~~but is deemed to be in the custody of the Director of the~~  
17 ~~Department of State Police subject only to the order and~~  
18 ~~judgments of the circuit court having jurisdiction over the~~  
19 ~~forfeiture proceedings and the decisions of the State's~~  
20 ~~Attorney under the Drug Asset Forfeiture Procedure Act. If~~  
21 ~~property is seized under this Act, then the seizing agency~~  
22 ~~shall promptly conduct an inventory of the seized property and~~  
23 ~~estimate the property's value, and shall forward a copy of the~~  
24 ~~inventory of seized property and the estimate of the property's~~  
25 ~~value to the Director of the Department of State Police. Upon~~  
26 ~~receiving notice of seizure, the Secretary may:~~

- 1           ~~(1) place the property under seal;~~  
2           ~~(2) remove the property to a place designated by the~~  
3           ~~Secretary;~~  
4           ~~(3) keep the property in the possession of the seizing~~  
5           ~~agency;~~  
6           ~~(4) remove the property to a storage area for~~  
7           ~~safekeeping or, if the property is a negotiable instrument~~  
8           ~~or money and is not needed for evidentiary purposes,~~  
9           ~~deposit it in an interest bearing account;~~  
10          ~~(5) place the property under constructive seizure by~~  
11          ~~posting notice of pending forfeiture on it, by giving~~  
12          ~~notice of pending forfeiture to its owners and interest~~  
13          ~~holders, or by filing notice of pending forfeiture in any~~  
14          ~~appropriate public record relating to the property; or~~  
15          ~~(6) provide for another agency or custodian, including~~  
16          ~~an owner, secured party, or lienholder, to take custody of~~  
17          ~~the property upon the terms and conditions set by the~~  
18          ~~Director of the Department of State Police.~~

19          (f-5) For felony offenses involving possession of legend  
20          drug only, no property shall be subject to forfeiture under  
21          this Act because of the possession of less than 2 single unit  
22          doses of a controlled substance. This exemption shall not apply  
23          in instances when the possessor, or another person at the  
24          direction of the possessor, is engaged in the destruction of  
25          any amount of a legend drug. The amount of a single unit dose  
26          shall be the State's burden to prove in their case in chief.

1 (g) If the Department suspends or revokes a registration,  
2 all legend drugs owned or possessed by the registrant at the  
3 time of suspension or the effective date of the revocation  
4 order may be placed under seal. No disposition may be made of  
5 substances under seal until the time for taking an appeal has  
6 elapsed or until all appeals have been concluded unless a  
7 court, upon application therefor, orders the sale of perishable  
8 substances and the deposit of the proceeds of the sale with the  
9 court. Upon a revocation rule becoming final, all substances  
10 are subject to seizure and forfeiture under the Drug Asset  
11 Forfeiture Procedure Act ~~may be forfeited to the Department.~~

12 (h) (Blank). ~~If property is forfeited under this Act, then~~  
13 ~~the Director of the Department of State Police must sell all~~  
14 ~~such property unless such property is required by law to be~~  
15 ~~destroyed or is harmful to the public, and shall distribute the~~  
16 ~~proceeds of the sale, together with any moneys forfeited or~~  
17 ~~seized, in accordance with subsection (i) of this Section. Upon~~  
18 ~~the application of the seizing agency or prosecutor who was~~  
19 ~~responsible for the investigation, arrest or arrests, and~~  
20 ~~prosecution that led to the forfeiture, the Director of the~~  
21 ~~Department of State Police may return any item of forfeited~~  
22 ~~property to the seizing agency or prosecutor for official use~~  
23 ~~in the enforcement of laws if the agency or prosecutor can~~  
24 ~~demonstrate that the item requested would be useful to the~~  
25 ~~agency or prosecutor in their enforcement efforts. If any~~  
26 ~~forfeited conveyance, including an aircraft, vehicle, or~~

1 ~~vessel, is returned to the seizing agency or prosecutor, then~~  
2 ~~the conveyance may be used immediately in the enforcement of~~  
3 ~~the criminal laws of the State. Upon disposal, all proceeds~~  
4 ~~from the sale of the conveyance must be used for drug~~  
5 ~~enforcement purposes. If any real property returned to the~~  
6 ~~seizing agency is sold by the agency or its unit of government,~~  
7 ~~then the proceeds of the sale shall be delivered to the~~  
8 ~~Director of the Department of State Police and distributed in~~  
9 ~~accordance with subsection (i) of this Section.~~

10 (i) (Blank). ~~All moneys and the sale proceeds of all other~~  
11 ~~property forfeited and seized under this Act shall be~~  
12 ~~distributed as follows:~~

13 ~~(1) 65% shall be distributed to the metropolitan~~  
14 ~~enforcement group, local, municipal, county, or State law~~  
15 ~~enforcement agency or agencies which conducted or~~  
16 ~~participated in the investigation resulting in the~~  
17 ~~forfeiture. The distribution shall bear a reasonable~~  
18 ~~relationship to the degree of direct participation of the~~  
19 ~~law enforcement agency in the effort resulting in the~~  
20 ~~forfeiture, taking into account the total value of the~~  
21 ~~property forfeited and the total law enforcement effort~~  
22 ~~with respect to the violation of the law upon which the~~  
23 ~~forfeiture is based. Amounts distributed to the agency or~~  
24 ~~agencies shall be used for the enforcement of laws.~~

25 ~~(2) 12.5% shall be distributed to the Office of the~~  
26 ~~State's Attorney of the county in which the prosecution~~

1 ~~resulting in the forfeiture was instituted, deposited in a~~  
2 ~~special fund in the county treasury and appropriated to the~~  
3 ~~State's Attorney for use in the enforcement of laws. In~~  
4 ~~counties over 3,000,000 population, 25% will be~~  
5 ~~distributed to the Office of the State's Attorney for use~~  
6 ~~in the enforcement of laws governing cannabis and~~  
7 ~~controlled substances. If the prosecution is undertaken~~  
8 ~~solely by the Attorney General, the portion provided~~  
9 ~~hereunder shall be distributed to the Attorney General for~~  
10 ~~use in the enforcement of laws.~~

11 ~~(3) 12.5% shall be distributed to the Office of the~~  
12 ~~State's Attorneys Appellate Prosecutor and deposited in a~~  
13 ~~separate fund of that office to be used for additional~~  
14 ~~expenses incurred in the investigation, prosecution and~~  
15 ~~appeal of cases. The Office of the State's Attorneys~~  
16 ~~Appellate Prosecutor shall not receive distribution from~~  
17 ~~cases brought in counties with over 3,000,000 population.~~

18 ~~(4) 10% shall be retained by the Department of State~~  
19 ~~Police for expenses related to the administration and sale~~  
20 ~~of seized and forfeited property.~~

21 (j) Contraband, including legend drugs possessed without a  
22 prescription or other authorization under State or federal law,  
23 is not subject to forfeiture. No property right exists in  
24 contraband. Contraband is subject to seizure and shall be  
25 disposed of according to State law.

26 (Source: P.A. 96-573, eff. 8-18-09.)



1 Section 115. The Environmental Protection Act is amended by  
2 changing Section 44.1 as follows:

3 (415 ILCS 5/44.1) (from Ch. 111 1/2, par. 1044.1)

4 Sec. 44.1. (a) In addition to all other civil and criminal  
5 penalties provided by law, any person convicted of a criminal  
6 violation of this Act or the regulations adopted thereunder  
7 shall forfeit to the State (1) an amount equal to the value of  
8 all profits earned, savings realized, and benefits incurred as  
9 a direct or indirect result of such violation, and (2) any  
10 vehicle or conveyance used in the perpetration of such  
11 violation, except as provided in subsection (b).

12 (b) Forfeiture of conveyances shall be subject to the  
13 following exceptions:

14 (1) No conveyance used by any person as a common  
15 carrier in the transaction of business as a common carrier  
16 is subject to forfeiture under this Section unless it is  
17 proven that the owner or other person in charge of the  
18 conveyance consented to or was privy to the covered  
19 violation.

20 (2) No conveyance is subject to forfeiture under this  
21 Section by reason of any covered violation which the owner  
22 proves to have been committed without his knowledge or  
23 consent.

24 (3) A forfeiture of a conveyance encumbered by a bona

1           fide security interest is subject to the interest of the  
2           secured party if he neither had knowledge of nor consented  
3           to the covered violation.

4           (c) Except as provided in subsection (d), all property  
5           subject to forfeiture under this Section shall be seized  
6           pursuant to the order of a circuit court.

7           (d) Property subject to forfeiture under this Section may  
8           be seized by the Director or any peace officer without process:

9                   (1) if the seizure is incident to an inspection under  
10                   an administrative inspection warrant, or incident to the  
11                   execution of a criminal search or arrest warrant;

12                   (2) if the property subject to seizure has been the  
13                   subject of a prior judgment in favor of the State in a  
14                   criminal proceeding, or in an injunction or forfeiture  
15                   proceeding based upon this Act; or

16                   (3) if there is probable cause to believe that the  
17                   property is directly or indirectly dangerous to health or  
18                   safety.

19           (e) Property taken or detained under this Section shall not  
20           be subject to forcible entry and detainer or replevin, but is  
21           deemed to be in the custody of the Director subject only to the  
22           order and judgments of the circuit court having jurisdiction  
23           over the forfeiture proceedings. When property is seized under  
24           this Act, the Director may:

25                   (1) place the property under seal;

26                   (2) secure the property or remove the property to a

1 place designated by him; or

2 (3) require the sheriff of the county in which the  
3 seizure occurs to take custody of the property and secure  
4 or remove it to an appropriate location for disposition in  
5 accordance with law.

6 (f) All amounts forfeited under item (1) of subsection (a)  
7 shall be apportioned in the following manner:

8 (1) 40% shall be deposited in the Hazardous Waste Fund  
9 created in Section 22.2;

10 (2) 30% shall be paid to the office of the Attorney  
11 General or the State's Attorney of the county in which the  
12 violation occurred, whichever brought and prosecuted the  
13 action; and

14 (3) 30% shall be paid to the law enforcement agency  
15 which investigated the violation.

16 Any funds received under this subsection (f) shall be used  
17 solely for the enforcement of the environmental protection laws  
18 of this State.

19 (g) When property is forfeited under this Section the court  
20 may order:

21 (1) that the property shall be made available for the  
22 official use of the Agency, the Office of the Attorney  
23 General, the State's Attorney of the county in which the  
24 violation occurred, or the law enforcement agency which  
25 investigated the violation, to be used solely for the  
26 enforcement of the environmental protection laws of this

1 State;

2 (2) the sheriff of the county in which the forfeiture  
3 occurs to take custody of the property and remove it for  
4 disposition in accordance with law; or

5 (3) the sheriff of the county in which the forfeiture  
6 occurs to sell that which is not required to be destroyed  
7 by law and which is not harmful to the public. The proceeds  
8 of such sale shall be used for payment of all proper  
9 expenses of the proceedings for forfeiture and sale,  
10 including expenses of seizure, maintenance of custody,  
11 advertising and court costs, and the balance, if any, shall  
12 be apportioned pursuant to subsection (f).

13 (h) Property seized or forfeited under this Section is  
14 subject to reporting under the Seizure and Forfeiture Reporting  
15 Act.

16 (Source: P.A. 85-487.)

17 Section 120. The Herptiles-Herps Act is amended by changing  
18 Section 105-55 as follows:

19 (510 ILCS 68/105-55)

20 Sec. 105-55. Illegal collecting devices; public nuisance.  
21 Every collecting device, including seines, nets, traps,  
22 pillowcases, bags, snake hooks or tongs, or any electrical  
23 device or any other devices including vehicles or conveyance,  
24 watercraft, or aircraft used or operated illegally or attempted

1 to be used or operated illegally by any person in taking,  
2 transporting, holding, or conveying any reptile or amphibian  
3 life or any part of reptile or amphibian life, contrary to this  
4 Act, including administrative rules, shall be deemed a public  
5 nuisance and therefore illegal and subject to seizure and  
6 confiscation by any authorized employee of the Department. Upon  
7 the seizure of this item, the Department shall take and hold  
8 the item until disposed of as provided in this Act.

9       Upon the seizure of any device because of its illegal use,  
10 the officer or authorized employee of the Department making the  
11 seizure shall, as soon as reasonably possible, cause a  
12 complaint to be filed before the circuit court and a summons to  
13 be issued requiring the owner or person in possession of the  
14 property to appear in court and show cause why the device  
15 seized should not be forfeited to the State. Upon the return of  
16 the summons duly served or upon posting or publication of  
17 notice as provided in this Act, the court shall proceed to  
18 determine the question of the illegality of the use of the  
19 seized property. Upon judgment being entered that the property  
20 was illegally used, an order shall be entered providing for the  
21 forfeiture of the seized property to the State. The owner of  
22 the property may have a jury determine the illegality of its  
23 use and shall have the right of an appeal as in other civil  
24 cases. Confiscation or forfeiture shall not preclude or  
25 mitigate against prosecution and assessment of penalties  
26 provided in Article 90 of this Act.

1       Upon seizure of any property under circumstances  
2 supporting a reasonable belief that the property was abandoned,  
3 lost, stolen, or otherwise illegally possessed or used contrary  
4 to this Act, except property seized during a search or arrest,  
5 and ultimately returned, destroyed, or otherwise disposed of  
6 under order of a court in accordance with this Act, the  
7 authorized employee of the Department shall make reasonable  
8 inquiry and efforts to identify and notify the owner or other  
9 person entitled to possession of the property and shall return  
10 the property after the person provides reasonable and  
11 satisfactory proof of his or her ownership or right to  
12 possession and reimburses the Department for all reasonable  
13 expenses of custody. If the identity or location of the owner  
14 or other person entitled to possession of the property has not  
15 been ascertained within 6 months after the Department obtains  
16 possession, the Department shall effectuate the sale of the  
17 property for cash to the highest bidder at a public auction.  
18 The owner or other person entitled to possession of the  
19 property may claim and recover possession of the property at  
20 any time before its sale at public auction upon providing  
21 reasonable and satisfactory proof of ownership or right of  
22 possession and reimbursing the Department for all reasonable  
23 expenses of custody.

24       Any property forfeited to the State by court order under  
25 this Section may be disposed of by public auction, except that  
26 any property that is the subject of a court order shall not be

1 disposed of pending appeal of the order. The proceeds of the  
2 sales at auction shall be deposited in the Wildlife and Fish  
3 Fund.

4 The Department shall pay all costs of posting or  
5 publication of notices required by this Section.

6 Property seized or forfeited under this Section is subject  
7 to reporting under the Seizure and Forfeiture Reporting Act.

8 (Source: P.A. 98-752, eff. 1-1-15.)

9 Section 125. The Fish and Aquatic Life Code is amended by  
10 changing Section 1-215 as follows:

11 (515 ILCS 5/1-215) (from Ch. 56, par. 1-215)

12 Sec. 1-215. Illegal fishing devices; public nuisance.  
13 Every fishing device, including seines, nets, or traps, or any  
14 electrical device or any other devices, including vehicles,  
15 watercraft, or aircraft, used or operated illegally or  
16 attempted to be used or operated illegally by any person in  
17 taking, transporting, holding, or conveying any aquatic life  
18 contrary to this Code, including administrative rules, shall be  
19 deemed a public nuisance and therefore illegal and subject to  
20 seizure and confiscation by any authorized employee of the  
21 Department. Upon the seizure of such an item the Department  
22 shall take and hold the item until disposed of as provided in  
23 this Code.

24 Upon the seizure of any device because of its illegal use,

1 the officer or authorized employee of the Department making the  
2 seizure shall, as soon as reasonably possible, cause a  
3 complaint to be filed before the Circuit Court and a summons to  
4 be issued requiring the owner or person in possession of the  
5 property to appear in court and show cause why the device  
6 seized should not be forfeited to the State. Upon the return of  
7 the summons duly served or upon posting or publication of  
8 notice as provided in this Code, the court shall proceed to  
9 determine the question of the illegality of the use of the  
10 seized property. Upon judgment being entered to the effect that  
11 the property was illegally used, an order shall be entered  
12 providing for the forfeiture of the seized property to the  
13 State. The owner of the property, however, may have a jury  
14 determine the illegality of its use, and shall have the right  
15 of an appeal as in other civil cases. Confiscation or  
16 forfeiture shall not preclude or mitigate against prosecution  
17 and assessment of penalties provided in Section 20-35 of this  
18 Code.

19 Upon seizure of any property under circumstances  
20 supporting a reasonable belief that the property was abandoned,  
21 lost, stolen, or otherwise illegally possessed or used contrary  
22 to this Code, except property seized during a search or arrest,  
23 and ultimately returned, destroyed, or otherwise disposed of  
24 under order of a court in accordance with this Code, the  
25 authorized employee of the Department shall make reasonable  
26 inquiry and efforts to identify and notify the owner or other



1 person entitled to possession of the property and shall return  
2 the property after the person provides reasonable and  
3 satisfactory proof of his or her ownership or right to  
4 possession and reimburses the Department for all reasonable  
5 expenses of custody. If the identity or location of the owner  
6 or other person entitled to possession of the property has not  
7 been ascertained within 6 months after the Department obtains  
8 possession, the Department shall effectuate the sale of the  
9 property for cash to the highest bidder at a public auction.  
10 The owner or other person entitled to possession of the  
11 property may claim and recover possession of the property at  
12 any time before its sale at public auction upon providing  
13 reasonable and satisfactory proof of ownership or right of  
14 possession and reimbursing the Department for all reasonable  
15 expenses of custody.

16 Any property forfeited to the State by court order under  
17 this Section may be disposed of by public auction, except that  
18 any property that is the subject of a court order shall not be  
19 disposed of pending appeal of the order. The proceeds of the  
20 sales at auction shall be deposited in the Wildlife and Fish  
21 Fund.

22 The Department shall pay all costs of posting or  
23 publication of notices required by this Section.

24 Property seized or forfeited under this Section is subject  
25 to reporting under the Seizure and Forfeiture Reporting Act.

26 (Source: P.A. 87-833.)

1           Section 130. The Wildlife Code is amended by changing  
2 Section 1.25 as follows:

3           (520 ILCS 5/1.25) (from Ch. 61, par. 1.25)

4           Sec. 1.25. Every hunting or trapping device, vehicle or  
5 conveyance, when used or operated illegally, or attempted to be  
6 used or operated illegally by any person in taking,  
7 transporting, holding, or conveying any wild bird or wild  
8 mammal, contrary to the provisions of this Act, including  
9 administrative rules, is a public nuisance and subject to  
10 seizure and confiscation by any authorized employee of the  
11 Department; upon the seizure of such item the Department shall  
12 take and hold the same until disposed of as hereinafter  
13 provided.

14           Upon the seizure of any property as herein provided, the  
15 authorized employee of the Department making such seizure shall  
16 forthwith cause a complaint to be filed before the Circuit  
17 Court and a summons to be issued requiring the person who  
18 illegally used or operated or attempted to use or operate such  
19 property and the owner and person in possession of such  
20 property to appear in court and show cause why the property  
21 seized should not be forfeited to the State. Upon the return of  
22 the summons duly served or other notice as herein provided, the  
23 court shall proceed to determine the question of the illegality  
24 of the use of the seized property and upon judgment being

1 entered to the effect that such property was illegally used, an  
2 order may be entered providing for the forfeiture of such  
3 seized property to the Department and shall thereupon become  
4 the property of the Department; but the owner of such property  
5 may have a jury determine the illegality of its use, and shall  
6 have the right of an appeal, as in other cases. Such  
7 confiscation or forfeiture shall not preclude or mitigate  
8 against prosecution and assessment of penalties otherwise  
9 provided in this Act.

10 Upon seizure of any property under circumstances  
11 supporting a reasonable belief that such property was  
12 abandoned, lost or stolen or otherwise illegally possessed or  
13 used contrary to the provisions of this Act, except property  
14 seized during a search or arrest, and ultimately returned,  
15 destroyed, or otherwise disposed of pursuant to order of a  
16 court in accordance with this Act, the authorized employee of  
17 the Department shall make reasonable inquiry and efforts to  
18 identify and notify the owner or other person entitled to  
19 possession thereof, and shall return the property after such  
20 person provides reasonable and satisfactory proof of his  
21 ownership or right to possession and reimburses the Department  
22 for all reasonable expenses of such custody. If the identity or  
23 location of the owner or other person entitled to possession of  
24 the property has not been ascertained within 6 months after the  
25 Department obtains such possession, the Department shall  
26 effectuate the sale of the property for cash to the highest

1 bidder at a public auction. The owner or other person entitled  
2 to possession of such property may claim and recover possession  
3 of the property at any time before its sale at public auction,  
4 upon providing reasonable and satisfactory proof of ownership  
5 or right of possession and reimbursing the Department for all  
6 reasonable expenses of custody thereof.

7 Any property, including guns, forfeited to the State by  
8 court order pursuant to this Section, may be disposed of by  
9 public auction, except that any property which is the subject  
10 of such a court order shall not be disposed of pending appeal  
11 of the order. The proceeds of the sales at auction shall be  
12 deposited in the Wildlife and Fish Fund.

13 The Department shall pay all costs of notices required by  
14 this Section.

15 Property seized or forfeited under this Section is subject  
16 to reporting under the Seizure and Forfeiture Reporting Act.

17 (Source: P.A. 85-152.)

18 Section 135. The Criminal Code of 2012 is amended by  
19 changing Sections 17-10.6, 28-5, 29B-1, 33G-6, 36-1, 36-1.5,  
20 36-2, 36-3, and 47-15 and by adding Sections 36-1.1, 36-1.2,  
21 36-1.3, 36-1.4, 36-2.1, 36-2.2, 36-2.5, 36-2.7, 36-3.1, 36-6,  
22 36-7, and 36-9 as follows:

23 (720 ILCS 5/17-10.6)

24 Sec. 17-10.6. Financial institution fraud.

1           (a) Misappropriation of financial institution property. A  
2 person commits misappropriation of a financial institution's  
3 property whenever he or she knowingly obtains or exerts  
4 unauthorized control over any of the moneys, funds, credits,  
5 assets, securities, or other property owned by or under the  
6 custody or control of a financial institution, or under the  
7 custody or care of any agent, officer, director, or employee of  
8 such financial institution.

9           (b) Commercial bribery of a financial institution.

10           (1) A person commits commercial bribery of a financial  
11 institution when he or she knowingly confers or offers or  
12 agrees to confer any benefit upon any employee, agent, or  
13 fiduciary without the consent of the latter's employer or  
14 principal, with the intent to influence his or her conduct  
15 in relation to his or her employer's or principal's  
16 affairs.

17           (2) An employee, agent, or fiduciary of a financial  
18 institution commits commercial bribery of a financial  
19 institution when, without the consent of his or her  
20 employer or principal, he or she knowingly solicits,  
21 accepts, or agrees to accept any benefit from another  
22 person upon an agreement or understanding that such benefit  
23 will influence his or her conduct in relation to his or her  
24 employer's or principal's affairs.

25           (c) Financial institution fraud. A person commits  
26 financial institution fraud when he or she knowingly executes

1 or attempts to execute a scheme or artifice:

2 (1) to defraud a financial institution; or

3 (2) to obtain any of the moneys, funds, credits,  
4 assets, securities, or other property owned by or under the  
5 custody or control of a financial institution, by means of  
6 pretenses, representations, or promises he or she knows to  
7 be false.

8 (d) Loan fraud. A person commits loan fraud when he or she  
9 knowingly, with intent to defraud, makes any false statement or  
10 report, or overvalues any land, property, or security, with the  
11 intent to influence in any way the action of a financial  
12 institution to act upon any application, advance, discount,  
13 purchase, purchase agreement, repurchase agreement,  
14 commitment, or loan, or any change or extension of any of the  
15 same, by renewal, deferment of action, or otherwise, or the  
16 acceptance, release, or substitution of security.

17 (e) Concealment of collateral. A person commits  
18 concealment of collateral when he or she, with intent to  
19 defraud, knowingly conceals, removes, disposes of, or converts  
20 to the person's own use or to that of another any property  
21 mortgaged or pledged to or held by a financial institution.

22 (f) Financial institution robbery. A person commits  
23 robbery when he or she knowingly, by force or threat of force,  
24 or by intimidation, takes, or attempts to take, from the person  
25 or presence of another, or obtains or attempts to obtain by  
26 extortion, any property or money or any other thing of value

1 belonging to, or in the care, custody, control, management, or  
2 possession of, a financial institution.

3 (g) Conspiracy to commit a financial crime.

4 (1) A person commits conspiracy to commit a financial  
5 crime when, with the intent that any violation of this  
6 Section be committed, he or she agrees with another person  
7 to the commission of that offense.

8 (2) No person may be convicted of conspiracy to commit  
9 a financial crime unless an overt act or acts in  
10 furtherance of the agreement is alleged and proved to have  
11 been committed by that person or by a co-conspirator and  
12 the accused is a part of a common scheme or plan to engage  
13 in the unlawful activity.

14 (3) It shall not be a defense to conspiracy to commit a  
15 financial crime that the person or persons with whom the  
16 accused is alleged to have conspired:

17 (A) has not been prosecuted or convicted;

18 (B) has been convicted of a different offense;

19 (C) is not amenable to justice;

20 (D) has been acquitted; or

21 (E) lacked the capacity to commit the offense.

22 (h) Continuing financial crimes enterprise. A person  
23 commits a continuing financial crimes enterprise when he or she  
24 knowingly, within an 18-month period, commits 3 or more  
25 separate offenses constituting any combination of the  
26 following:

1 (1) an offense under this Section;

2 (2) a felony offense in violation of Section 16A-3 or  
3 subsection (a) of Section 16-25 or paragraph (4) or (5) of  
4 subsection (a) of Section 16-1 of this Code for the purpose  
5 of reselling or otherwise re-entering the merchandise in  
6 commerce, including conveying the merchandise to a  
7 merchant in exchange for anything of value; or

8 (3) if involving a financial institution, any other  
9 felony offense under this Code.

10 (i) Organizer of a continuing financial crimes enterprise.

11 (1) A person commits being an organizer of a continuing  
12 financial crimes enterprise when he or she:

13 (A) with the intent to commit any offense, agrees  
14 with another person to the commission of any  
15 combination of the following offenses on 3 or more  
16 separate occasions within an 18-month period:

17 (i) an offense under this Section;

18 (ii) a felony offense in violation of Section  
19 16A-3 or subsection (a) of Section 16-25 or  
20 paragraph (4) or (5) of subsection (a) of Section  
21 16-1 of this Code for the purpose of reselling or  
22 otherwise re-entering the merchandise in commerce,  
23 including conveying the merchandise to a merchant  
24 in exchange for anything of value; or

25 (iii) if involving a financial institution,  
26 any other felony offense under this Code; and



1 (B) with respect to the other persons within the  
2 conspiracy, occupies a position of organizer,  
3 supervisor, or financier or other position of  
4 management.

5 (2) The person with whom the accused agreed to commit  
6 the 3 or more offenses under this Section, or, if involving  
7 a financial institution, any other felony offenses under  
8 this Code, need not be the same person or persons for each  
9 offense, as long as the accused was a part of the common  
10 scheme or plan to engage in each of the 3 or more alleged  
11 offenses.

12 (j) Sentence.

13 (1) Except as otherwise provided in this subsection, a  
14 violation of this Section, the full value of which:

15 (A) does not exceed \$500, is a Class A misdemeanor;

16 (B) does not exceed \$500, and the person has been  
17 previously convicted of a financial crime or any type  
18 of theft, robbery, armed robbery, burglary,  
19 residential burglary, possession of burglary tools, or  
20 home invasion, is guilty of a Class 4 felony;

21 (C) exceeds \$500 but does not exceed \$10,000, is a  
22 Class 3 felony;

23 (D) exceeds \$10,000 but does not exceed \$100,000,  
24 is a Class 2 felony;

25 (E) exceeds \$100,000 but does not exceed \$500,000,  
26 is a Class 1 felony;

1 (F) exceeds \$500,000 but does not exceed  
2 \$1,000,000, is a Class 1 non-probationable felony;  
3 when a charge of financial crime, the full value of  
4 which exceeds \$500,000 but does not exceed \$1,000,000,  
5 is brought, the value of the financial crime involved  
6 is an element of the offense to be resolved by the  
7 trier of fact as either exceeding or not exceeding  
8 \$500,000;

9 (G) exceeds \$1,000,000, is a Class X felony; when a  
10 charge of financial crime, the full value of which  
11 exceeds \$1,000,000, is brought, the value of the  
12 financial crime involved is an element of the offense  
13 to be resolved by the trier of fact as either exceeding  
14 or not exceeding \$1,000,000.

15 (2) A violation of subsection (f) is a Class 1 felony.

16 (3) A violation of subsection (h) is a Class 1 felony.

17 (4) A violation for subsection (i) is a Class X felony.

18 (k) A "financial crime" means an offense described in this  
19 Section.

20 (l) Period of limitations. The period of limitations for  
21 prosecution of any offense defined in this Section begins at  
22 the time when the last act in furtherance of the offense is  
23 committed.

24 (m) Forfeiture. Any violation of subdivision (2) of  
25 subsection (h) or subdivision (i) (1) (A) (ii) shall be subject to  
26 the remedies, procedures, and forfeiture as set forth in

1 subsections (f) through (s) of Section 29B-1 of this Code.

2 Property seized or forfeited under this Section is subject  
3 to reporting under the Seizure and Forfeiture Reporting Act.

4 (Source: P.A. 96-1551, eff. 7-1-11; incorporates P.A. 96-1532,  
5 eff. 1-1-12, and 97-147, eff. 1-1-12; 97-1109, eff. 1-1-13.)

6 (720 ILCS 5/28-5) (from Ch. 38, par. 28-5)

7 Sec. 28-5. Seizure of gambling devices and gambling funds.

8 (a) Every device designed for gambling which is incapable  
9 of lawful use or every device used unlawfully for gambling  
10 shall be considered a "gambling device", and shall be subject  
11 to seizure, confiscation and destruction by the Department of  
12 State Police or by any municipal, or other local authority,  
13 within whose jurisdiction the same may be found. As used in  
14 this Section, a "gambling device" includes any slot machine,  
15 and includes any machine or device constructed for the  
16 reception of money or other thing of value and so constructed  
17 as to return, or to cause someone to return, on chance to the  
18 player thereof money, property or a right to receive money or  
19 property. With the exception of any device designed for  
20 gambling which is incapable of lawful use, no gambling device  
21 shall be forfeited or destroyed unless an individual with a  
22 property interest in said device knows of the unlawful use of  
23 the device.

24 (b) Every gambling device shall be seized and forfeited to  
25 the county wherein such seizure occurs. Any money or other

1 thing of value integrally related to acts of gambling shall be  
2 seized and forfeited to the county wherein such seizure occurs.

3 (c) If, within 60 days after any seizure pursuant to  
4 subparagraph (b) of this Section, a person having any property  
5 interest in the seized property is charged with an offense, the  
6 court which renders judgment upon such charge shall, within 30  
7 days after such judgment, conduct a forfeiture hearing to  
8 determine whether such property was a gambling device at the  
9 time of seizure. Such hearing shall be commenced by a written  
10 petition by the State, including material allegations of fact,  
11 the name and address of every person determined by the State to  
12 have any property interest in the seized property, a  
13 representation that written notice of the date, time and place  
14 of such hearing has been mailed to every such person by  
15 certified mail at least 10 days before such date, and a request  
16 for forfeiture. Every such person may appear as a party and  
17 present evidence at such hearing. The quantum of proof required  
18 shall be a preponderance of the evidence, and the burden of  
19 proof shall be on the State. If the court determines that the  
20 seized property was a gambling device at the time of seizure,  
21 an order of forfeiture and disposition of the seized property  
22 shall be entered: a gambling device shall be received by the  
23 State's Attorney, who shall effect its destruction, except that  
24 valuable parts thereof may be liquidated and the resultant  
25 money shall be deposited in the general fund of the county  
26 wherein such seizure occurred; money and other things of value

1 shall be received by the State's Attorney and, upon  
2 liquidation, shall be deposited in the general fund of the  
3 county wherein such seizure occurred. However, in the event  
4 that a defendant raises the defense that the seized slot  
5 machine is an antique slot machine described in subparagraph  
6 (b) (7) of Section 28-1 of this Code and therefore he is exempt  
7 from the charge of a gambling activity participant, the seized  
8 antique slot machine shall not be destroyed or otherwise  
9 altered until a final determination is made by the Court as to  
10 whether it is such an antique slot machine. Upon a final  
11 determination by the Court of this question in favor of the  
12 defendant, such slot machine shall be immediately returned to  
13 the defendant. Such order of forfeiture and disposition shall,  
14 for the purposes of appeal, be a final order and judgment in a  
15 civil proceeding.

16 (d) If a seizure pursuant to subparagraph (b) of this  
17 Section is not followed by a charge pursuant to subparagraph  
18 (c) of this Section, or if the prosecution of such charge is  
19 permanently terminated or indefinitely discontinued without  
20 any judgment of conviction or acquittal (1) the State's  
21 Attorney shall commence an in rem proceeding for the forfeiture  
22 and destruction of a gambling device, or for the forfeiture and  
23 deposit in the general fund of the county of any seized money  
24 or other things of value, or both, in the circuit court and (2)  
25 any person having any property interest in such seized gambling  
26 device, money or other thing of value may commence separate

1 civil proceedings in the manner provided by law.

2 (e) Any gambling device displayed for sale to a riverboat  
3 gambling operation or used to train occupational licensees of a  
4 riverboat gambling operation as authorized under the Riverboat  
5 Gambling Act is exempt from seizure under this Section.

6 (f) Any gambling equipment, devices and supplies provided  
7 by a licensed supplier in accordance with the Riverboat  
8 Gambling Act which are removed from the riverboat for repair  
9 are exempt from seizure under this Section.

10 (g) The following video gaming terminals are exempt from  
11 seizure under this Section:

12 (1) Video gaming terminals for sale to a licensed  
13 distributor or operator under the Video Gaming Act.

14 (2) Video gaming terminals used to train licensed  
15 technicians or licensed terminal handlers.

16 (3) Video gaming terminals that are removed from a  
17 licensed establishment, licensed truck stop establishment,  
18 licensed fraternal establishment, or licensed veterans  
19 establishment for repair.

20 (h) Property seized or forfeited under this Section is  
21 subject to reporting under the Seizure and Forfeiture Reporting  
22 Act.

23 (Source: P.A. 98-31, eff. 6-24-13.)

24 (720 ILCS 5/29B-1) (from Ch. 38, par. 29B-1)

25 Sec. 29B-1. (a) A person commits the offense of money

1     laundering:

2             (1) when, knowing that the property involved in a  
3     financial transaction represents the proceeds of some form  
4     of unlawful activity, he or she conducts or attempts to  
5     conduct such a financial transaction which in fact involves  
6     criminally derived property:

7             (A) with the intent to promote the carrying on of  
8     the unlawful activity from which the criminally  
9     derived property was obtained; or

10            (B) where he or she knows or reasonably should know  
11     that the financial transaction is designed in whole or  
12     in part:

13            (i) to conceal or disguise the nature, the  
14     location, the source, the ownership or the control  
15     of the criminally derived property; or

16            (ii) to avoid a transaction reporting  
17     requirement under State law; or

18            (1.5) when he or she transports, transmits, or  
19     transfers, or attempts to transport, transmit, or transfer  
20     a monetary instrument:

21            (A) with the intent to promote the carrying on of  
22     the unlawful activity from which the criminally  
23     derived property was obtained; or

24            (B) knowing, or having reason to know, that the  
25     financial transaction is designed in whole or in part:

26            (i) to conceal or disguise the nature, the

1 location, the source, the ownership or the control  
2 of the criminally derived property; or

3 (ii) to avoid a transaction reporting  
4 requirement under State law; or

5 (2) when, with the intent to:

6 (A) promote the carrying on of a specified criminal  
7 activity as defined in this Article; or

8 (B) conceal or disguise the nature, location,  
9 source, ownership, or control of property believed to  
10 be the proceeds of a specified criminal activity as  
11 defined by subdivision (b) (6); or

12 (C) avoid a transaction reporting requirement  
13 under State law,

14 he or she conducts or attempts to conduct a financial  
15 transaction involving property he or she believes to be the  
16 proceeds of specified criminal activity as defined by  
17 subdivision (b) (6) or property used to conduct or  
18 facilitate specified criminal activity as defined by  
19 subdivision (b) (6).

20 (b) As used in this Section:

21 (0.5) "Knowing that the property involved in a  
22 financial transaction represents the proceeds of some form  
23 of unlawful activity" means that the person knew the  
24 property involved in the transaction represented proceeds  
25 from some form, though not necessarily which form, of  
26 activity that constitutes a felony under State, federal, or



1 foreign law.

2 (1) "Financial transaction" means a purchase, sale,  
3 loan, pledge, gift, transfer, delivery or other  
4 disposition utilizing criminally derived property, and  
5 with respect to financial institutions, includes a  
6 deposit, withdrawal, transfer between accounts, exchange  
7 of currency, loan, extension of credit, purchase or sale of  
8 any stock, bond, certificate of deposit or other monetary  
9 instrument, use of safe deposit box, or any other payment,  
10 transfer or delivery by, through, or to a financial  
11 institution. For purposes of clause (a) (2) of this Section,  
12 the term "financial transaction" also means a transaction  
13 which without regard to whether the funds, monetary  
14 instruments, or real or personal property involved in the  
15 transaction are criminally derived, any transaction which  
16 in any way or degree: (1) involves the movement of funds by  
17 wire or any other means; (2) involves one or more monetary  
18 instruments; or (3) the transfer of title to any real or  
19 personal property. The receipt by an attorney of bona fide  
20 fees for the purpose of legal representation is not a  
21 financial transaction for purposes of this Section.

22 (2) "Financial institution" means any bank; saving and  
23 loan association; trust company; agency or branch of a  
24 foreign bank in the United States; currency exchange;  
25 credit union, mortgage banking institution; pawnbroker;  
26 loan or finance company; operator of a credit card system;

1 issuer, redeemer or cashier of travelers checks, checks or  
2 money orders; dealer in precious metals, stones or jewels;  
3 broker or dealer in securities or commodities; investment  
4 banker; or investment company.

5 (3) "Monetary instrument" means United States coins  
6 and currency; coins and currency of a foreign country;  
7 travelers checks; personal checks, bank checks, and money  
8 orders; investment securities; bearer negotiable  
9 instruments; bearer investment securities; or bearer  
10 securities and certificates of stock in such form that  
11 title thereto passes upon delivery.

12 (4) "Criminally derived property" means: (A) any  
13 property, real or personal, constituting or derived from  
14 proceeds obtained, directly or indirectly, from activity  
15 that constitutes a felony under State, federal, or foreign  
16 law; or (B) any property represented to be property  
17 constituting or derived from proceeds obtained, directly  
18 or indirectly, from activity that constitutes a felony  
19 under State, federal, or foreign law.

20 (5) "Conduct" or "conducts" includes, in addition to  
21 its ordinary meaning, initiating, concluding, or  
22 participating in initiating or concluding a transaction.

23 (6) "Specified criminal activity" means any violation  
24 of Section 29D-15.1 (720 ILCS 5/29D-15.1) and any violation  
25 of Article 29D of this Code.

26 (7) "Director" means the Director of State Police or

1 his or her designated agents.

2 (8) "Department" means the Department of State Police  
3 of the State of Illinois or its successor agency.

4 (9) "Transaction reporting requirement under State  
5 law" means any violation as defined under the Currency  
6 Reporting Act.

7 (c) Sentence.

8 (1) Laundering of criminally derived property of a  
9 value not exceeding \$10,000 is a Class 3 felony;

10 (2) Laundering of criminally derived property of a  
11 value exceeding \$10,000 but not exceeding \$100,000 is a  
12 Class 2 felony;

13 (3) Laundering of criminally derived property of a  
14 value exceeding \$100,000 but not exceeding \$500,000 is a  
15 Class 1 felony;

16 (4) Money laundering in violation of subsection (a) (2)  
17 of this Section is a Class X felony;

18 (5) Laundering of criminally derived property of a  
19 value exceeding \$500,000 is a Class 1 non-probationable  
20 felony;

21 (6) In a prosecution under clause (a) (1.5) (B) (ii) of  
22 this Section, the sentences are as follows:

23 (A) Laundering of property of a value not exceeding  
24 \$10,000 is a Class 3 felony;

25 (B) Laundering of property of a value exceeding  
26 \$10,000 but not exceeding \$100,000 is a Class 2 felony;

1           (C) Laundering of property of a value exceeding  
2           \$100,000 but not exceeding \$500,000 is a Class 1  
3           felony;

4           (D) Laundering of property of a value exceeding  
5           \$500,000 is a Class 1 non-probationable felony.

6           (d) Evidence. In a prosecution under this Article, either  
7           party may introduce the following evidence pertaining to the  
8           issue of whether the property or proceeds were known to be some  
9           form of criminally derived property or from some form of  
10          unlawful activity:

11          (1) A financial transaction was conducted or  
12          structured or attempted in violation of the reporting  
13          requirements of any State or federal law; or

14          (2) A financial transaction was conducted or attempted  
15          with the use of a false or fictitious name or a forged  
16          instrument; or

17          (3) A falsely altered or completed written instrument  
18          or a written instrument that contains any materially false  
19          personal identifying information was made, used, offered  
20          or presented, whether accepted or not, in connection with a  
21          financial transaction; or

22          (4) A financial transaction was structured or  
23          attempted to be structured so as to falsely report the  
24          actual consideration or value of the transaction; or

25          (5) A money transmitter, a person engaged in a trade or  
26          business or any employee of a money transmitter or a person

1 engaged in a trade or business, knows or reasonably should  
2 know that false personal identifying information has been  
3 presented and incorporates the false personal identifying  
4 information into any report or record; or

5 (6) The criminally derived property is transported or  
6 possessed in a fashion inconsistent with the ordinary or  
7 usual means of transportation or possession of such  
8 property and where the property is discovered in the  
9 absence of any documentation or other indicia of legitimate  
10 origin or right to such property; or

11 (7) A person pays or receives substantially less than  
12 face value for one or more monetary instruments; or

13 (8) A person engages in a transaction involving one or  
14 more monetary instruments, where the physical condition or  
15 form of the monetary instrument or instruments makes it  
16 apparent that they are not the product of bona fide  
17 business or financial transactions.

18 (e) Duty to enforce this Article.

19 (1) It is the duty of the Department of State Police,  
20 and its agents, officers, and investigators, to enforce all  
21 provisions of this Article, except those specifically  
22 delegated, and to cooperate with all agencies charged with  
23 the enforcement of the laws of the United States, or of any  
24 state, relating to money laundering. Only an agent,  
25 officer, or investigator designated by the Director may be  
26 authorized in accordance with this Section to serve seizure

1 notices, warrants, subpoenas, and summonses under the  
2 authority of this State.

3 (2) Any agent, officer, investigator, or peace officer  
4 designated by the Director may: (A) make seizure of  
5 property pursuant to the provisions of this Article; and  
6 (B) perform such other law enforcement duties as the  
7 Director designates. It is the duty of all State's  
8 Attorneys to prosecute violations of this Article and  
9 institute legal proceedings as authorized under this  
10 Article.

11 (f) Protective orders.

12 (1) Upon application of the State, the court may enter  
13 a restraining order or injunction, require the execution of  
14 a satisfactory performance bond, or take any other action  
15 to preserve the availability of property described in  
16 subsection (h) for forfeiture under this Article:

17 (A) upon the filing of an indictment, information,  
18 or complaint charging a violation of this Article for  
19 which forfeiture may be ordered under this Article and  
20 alleging that the property with respect to which the  
21 order is sought would be subject to forfeiture under  
22 this Article; or

23 (B) prior to the filing of such an indictment,  
24 information, or complaint, if, after notice to persons  
25 appearing to have an interest in the property and  
26 opportunity for a hearing, the court determines that:

1           (i) there is probable cause to believe that the  
2           State will prevail on the issue of forfeiture and  
3           that failure to enter the order will result in the  
4           property being destroyed, removed from the  
5           jurisdiction of the court, or otherwise made  
6           unavailable for forfeiture; and

7           (ii) the need to preserve the availability of  
8           the property through the entry of the requested  
9           order outweighs the hardship on any party against  
10          whom the order is to be entered.

11          Provided, however, that an order entered pursuant  
12          to subparagraph (B) shall be effective for not more  
13          than 90 days, unless extended by the court for good  
14          cause shown or unless an indictment, information,  
15          complaint, or administrative notice has been filed.

16          (2) A temporary restraining order under this  
17          subsection may be entered upon application of the State  
18          without notice or opportunity for a hearing when an  
19          indictment, information, complaint, or administrative  
20          notice has not yet been filed with respect to the property,  
21          if the State demonstrates that there is probable cause to  
22          believe that the property with respect to which the order  
23          is sought would be subject to forfeiture under this Section  
24          and that provision of notice will jeopardize the  
25          availability of the property for forfeiture. Such a  
26          temporary order shall expire not more than 30 days after

1 the date on which it is entered, unless extended for good  
2 cause shown or unless the party against whom it is entered  
3 consents to an extension for a longer period. A hearing  
4 requested concerning an order entered under this paragraph  
5 shall be held at the earliest possible time and prior to  
6 the expiration of the temporary order.

7 (3) The court may receive and consider, at a hearing  
8 held pursuant to this subsection (f), evidence and  
9 information that would be inadmissible under the Illinois  
10 rules of evidence.

11 (4) Order to repatriate and deposit.

12 (A) In general. Pursuant to its authority to enter  
13 a pretrial restraining order under this Section, the  
14 court may order a defendant to repatriate any property  
15 that may be seized and forfeited and to deposit that  
16 property pending trial with the Illinois State Police  
17 or another law enforcement agency designated by the  
18 Illinois State Police.

19 (B) Failure to comply. Failure to comply with an  
20 order under this subsection (f) is punishable as a  
21 civil or criminal contempt of court.

22 (g) Warrant of seizure. The State may request the issuance  
23 of a warrant authorizing the seizure of property described in  
24 subsection (h) in the same manner as provided for a search  
25 warrant. If the court determines that there is probable cause  
26 to believe that the property to be seized would be subject to



1 forfeiture, the court shall issue a warrant authorizing the  
2 seizure of such property.

3 (h) Forfeiture.

4 (1) The following are subject to forfeiture:

5 (A) any property, real or personal, constituting,  
6 derived from, or traceable to any proceeds the person  
7 obtained directly or indirectly, as a result of a  
8 violation of this Article;

9 (B) any of the person's property used, or intended  
10 to be used, in any manner or part, to commit, or to  
11 facilitate the commission of, a violation of this  
12 Article;

13 (C) all conveyances, including aircraft, vehicles  
14 or vessels, which are used, or intended for use, to  
15 transport, or in any manner to facilitate the  
16 transportation, sale, receipt, possession, or  
17 concealment of property described in subparagraphs (A)  
18 and (B), but:

19 (i) no conveyance used by any person as a  
20 common carrier in the transaction of business as a  
21 common carrier is subject to forfeiture under this  
22 Section unless it appears that the owner or other  
23 person in charge of the conveyance is a consenting  
24 party or privy to a violation of this Article;

25 (ii) no conveyance is subject to forfeiture  
26 under this Section by reason of any act or omission

1           which the owner proves to have been committed or  
2           omitted without his or her knowledge or consent;

3                   (iii) a forfeiture of a conveyance encumbered  
4           by a bona fide security interest is subject to the  
5           interest of the secured party if he or she neither  
6           had knowledge of nor consented to the act or  
7           omission;

8           (D) all real property, including any right, title,  
9           and interest (including, but not limited to, any  
10          leasehold interest or the beneficial interest in a land  
11          trust) in the whole of any lot or tract of land and any  
12          appurtenances or improvements, which is used or  
13          intended to be used, in any manner or part, to commit,  
14          or in any manner to facilitate the commission of, any  
15          violation of this Article or that is the proceeds of  
16          any violation or act that constitutes a violation of  
17          this Article.

18          (2) Property subject to forfeiture under this Article  
19          may be seized by the Director or any peace officer upon  
20          process or seizure warrant issued by any court having  
21          jurisdiction over the property. Seizure by the Director or  
22          any peace officer without process may be made:

23                   (A) if the seizure is incident to a seizure  
24                  warrant;

25                   (B) if the property subject to seizure has been the  
26                  subject of a prior judgment in favor of the State in a

1 criminal proceeding, or in an injunction or forfeiture  
2 proceeding based upon this Article;

3 (C) if there is probable cause to believe that the  
4 property is directly or indirectly dangerous to health  
5 or safety;

6 (D) if there is probable cause to believe that the  
7 property is subject to forfeiture under this Article  
8 and the property is seized under circumstances in which  
9 a warrantless seizure or arrest would be reasonable; or

10 (E) in accordance with the Code of Criminal  
11 Procedure of 1963.

12 (3) In the event of seizure pursuant to paragraph (2),  
13 forfeiture proceedings shall be instituted in accordance  
14 with subsections (i) through (r).

15 (4) Property taken or detained under this Section shall  
16 not be subject to replevin, but is deemed to be in the  
17 custody of the Director subject only to the order and  
18 judgments of the circuit court having jurisdiction over the  
19 forfeiture proceedings and the decisions of the State's  
20 Attorney under this Article. When property is seized under  
21 this Article, the seizing agency shall promptly conduct an  
22 inventory of the seized property and estimate the  
23 property's value and shall forward a copy of the inventory  
24 of seized property and the estimate of the property's value  
25 to the Director. Upon receiving notice of seizure, the  
26 Director may:

1 (A) place the property under seal;

2 (B) remove the property to a place designated by  
3 the Director;

4 (C) keep the property in the possession of the  
5 seizing agency;

6 (D) remove the property to a storage area for  
7 safekeeping or, if the property is a negotiable  
8 instrument or money and is not needed for evidentiary  
9 purposes, deposit it in an interest bearing account;

10 (E) place the property under constructive seizure  
11 by posting notice of pending forfeiture on it, by  
12 giving notice of pending forfeiture to its owners and  
13 interest holders, or by filing notice of pending  
14 forfeiture in any appropriate public record relating  
15 to the property; or

16 (F) provide for another agency or custodian,  
17 including an owner, secured party, or lienholder, to  
18 take custody of the property upon the terms and  
19 conditions set by the Director.

20 (5) When property is forfeited under this Article, the  
21 Director shall sell all such property unless such property  
22 is required by law to be destroyed or is harmful to the  
23 public, and shall distribute the proceeds of the sale,  
24 together with any moneys forfeited or seized, in accordance  
25 with paragraph (6). ~~However, upon the application of the~~  
26 ~~seizing agency or prosecutor who was responsible for the~~

1 ~~investigation, arrest or arrests and prosecution which~~  
2 ~~lead to the forfeiture, the Director may return any item of~~  
3 ~~forfeited property to the seizing agency or prosecutor for~~  
4 ~~official use in the enforcement of laws, if the agency or~~  
5 ~~prosecutor can demonstrate that the item requested would be~~  
6 ~~useful to the agency or prosecutor in its enforcement~~  
7 ~~efforts. When any real property returned to the seizing~~  
8 ~~agency is sold by the agency or its unit of government, the~~  
9 ~~proceeds of the sale shall be delivered to the Director and~~  
10 ~~distributed in accordance with paragraph (6).~~

11 (6) All monies and the sale proceeds of all other  
12 property forfeited and seized under this Article shall be  
13 distributed as follows:

14 (A) 65% shall be distributed to the metropolitan  
15 enforcement group, local, municipal, county, or State  
16 law enforcement agency or agencies which conducted or  
17 participated in the investigation resulting in the  
18 forfeiture. The distribution shall bear a reasonable  
19 relationship to the degree of direct participation of  
20 the law enforcement agency in the effort resulting in  
21 the forfeiture, taking into account the total value of  
22 the property forfeited and the total law enforcement  
23 effort with respect to the violation of the law upon  
24 which the forfeiture is based. Amounts distributed to  
25 the agency or agencies shall be used for the  
26 enforcement of laws.

1           (B) (i) 12.5% shall be distributed to the Office of  
2           the State's Attorney of the county in which the  
3           prosecution resulting in the forfeiture was  
4           instituted, deposited in a special fund in the county  
5           treasury and appropriated to the State's Attorney for  
6           use in the enforcement of laws. In counties over  
7           3,000,000 population, 25% shall be distributed to the  
8           Office of the State's Attorney for use in the  
9           enforcement of laws. If the prosecution is undertaken  
10          solely by the Attorney General, the portion provided  
11          hereunder shall be distributed to the Attorney General  
12          for use in the enforcement of laws.

13          (ii) 12.5% shall be distributed to the Office of  
14          the State's Attorneys Appellate Prosecutor and  
15          deposited in the Narcotics Profit Forfeiture Fund of  
16          that office to be used for additional expenses incurred  
17          in the investigation, prosecution and appeal of cases  
18          arising under laws. The Office of the State's Attorneys  
19          Appellate Prosecutor shall not receive distribution  
20          from cases brought in counties with over 3,000,000  
21          population.

22          (C) 10% shall be retained by the Department of  
23          State Police for expenses related to the  
24          administration and sale of seized and forfeited  
25          property.

26          Moneys and the sale proceeds distributed to the

1 Department of State Police under this Article shall be  
2 deposited in the Money Laundering Asset Recovery Fund  
3 created in the State treasury and shall be used by the  
4 Department of State Police for State law enforcement  
5 purposes.

6 (7) All moneys and sale proceeds of property forfeited  
7 and seized under this Article and distributed according to  
8 paragraph (6) may also be used to purchase opioid  
9 antagonists as defined in Section 5-23 of the Alcoholism  
10 and Other Drug Abuse and Dependency Act.

11 (7.5) Preliminary Review.

12 (A) Within 14 days of the seizure, the State shall  
13 seek a preliminary determination from the circuit  
14 court as to whether there is probable cause that the  
15 property may be subject to forfeiture.

16 (B) The rules of evidence shall not apply to any  
17 proceeding conducted under this Section.

18 (C) The court may conduct the review under  
19 subparagraph (A) of this paragraph (7.5)  
20 simultaneously with a proceeding under Section 109-1  
21 of the Code of Criminal Procedure of 1963 for a related  
22 criminal offense if a prosecution is commenced by  
23 information or complaint.

24 (D) The court may accept a finding of probable  
25 cause at a preliminary hearing following the filing of  
26 an information or complaint charging a related

1           criminal offense or following the return of indictment  
2           by a grand jury charging the related offense as  
3           sufficient evidence of probable cause as required  
4           under subparagraph (A) of this paragraph (7.5).

5           (E) Upon a finding of probable cause as required  
6           under this Section, the circuit court shall order the  
7           property subject to the applicable forfeiture Act held  
8           until the conclusion of any forfeiture proceeding.

9           (i) Notice to owner or interest holder.

10           (1) The first attempted service shall be commenced  
11           within 28 days of the latter of filing of the verified  
12           claim or the receipt of the notice from seizing agency by  
13           form 4-64. A complaint for forfeiture or a notice of  
14           pending forfeiture shall be served on a claimant if the  
15           owner's or interest holder's name and current address are  
16           known, then by either: (i) personal service or; (ii)  
17           mailing a copy of the notice by certified mail, return  
18           receipt requested and first class mail, to that address. If  
19           no signed return receipt is received by the State's  
20           Attorney within 28 days of mailing or no communication from  
21           the owner or interest holder is received by the State's  
22           Attorney documenting actual notice by the parties, the  
23           State's Attorney shall, within a reasonable period of time,  
24           mail a second copy of the notice by certified mail, return  
25           receipt requested and first class mail, to that address. If  
26           no signed return receipt is received by the State's



1 Attorney within 28 days of the second mailing, or no  
2 communication from the owner or interest holder is received  
3 by the State's Attorney documenting actual notice by the  
4 parties, the State's Attorney shall have 60 days to attempt  
5 to personally serve the notice by personal service,  
6 including substitute service by leaving a copy at the usual  
7 place of abode with some person of the family or a person  
8 residing there, of the age of 13 years or upwards. If after  
9 3 attempts at service in this manner, and no service of the  
10 notice is accomplished, the notice shall be posted in a  
11 conspicuous manner at this address and service shall be  
12 made by the posting. The attempts at service and the  
13 posting if required, shall be documented by the person  
14 attempting service and the documentation shall be made part  
15 of a return of service returned to the State's Attorney.  
16 The State's Attorney may utilize any Sheriff or Deputy  
17 Sheriff, a peace officer, a private process server or  
18 investigator, or an employee, agent, or investigator of the  
19 State's Attorney's Office to attempt service without  
20 seeking leave of court. After the procedures listed are  
21 followed, service shall be effective on the owner or  
22 interest holder on the date of receipt by the State's  
23 Attorney of a returned return receipt requested, or on the  
24 date of receipt of a communication from an owner or  
25 interest holder documenting actual notice, whichever is  
26 first in time, or on the date of the last act performed by

1 the State's Attorney in attempting personal service. For  
2 purposes of notice under this Section, if a person has been  
3 arrested for the conduct giving rise to the forfeiture, the  
4 address provided to the arresting agency at the time of  
5 arrest shall be deemed to be that person's known address.  
6 Provided, however, if an owner or interest holder's address  
7 changes prior to the effective date of the notice of  
8 pending forfeiture, the owner or interest holder shall  
9 promptly notify the seizing agency of the change in address  
10 or, if the owner or interest holder's address changes  
11 subsequent to the effective date of the notice of pending  
12 forfeiture, the owner or interest holder shall promptly  
13 notify the State's Attorney of the change in address. If  
14 the property seized is a conveyance, notice shall also be  
15 directed to the address reflected in the office of the  
16 agency or official in which title or interest to the  
17 conveyance is required by law to be recorded. Whenever  
18 notice of pending forfeiture or service of an in rem  
19 complaint is required under the provisions of this Article,  
20 such notice or service shall be given as follows:

21 (A) (Blank); If the owner's or interest holder's  
22 name and current address are known, then by either  
23 personal service or mailing a copy of the notice by  
24 certified mail, return receipt requested, to that  
25 address. For purposes of notice under this Section, if  
26 a person has been arrested for the conduct giving rise

1 ~~to the forfeiture, then the address provided to the~~  
2 ~~arresting agency at the time of arrest shall be deemed~~  
3 ~~to be that person's known address. Provided, however,~~  
4 ~~if an owner or interest holder's address changes prior~~  
5 ~~to the effective date of the notice of pending~~  
6 ~~forfeiture, the owner or interest holder shall~~  
7 ~~promptly notify the seizing agency of the change in~~  
8 ~~address or, if the owner or interest holder's address~~  
9 ~~changes subsequent to the effective date of the notice~~  
10 ~~of pending forfeiture, the owner or interest holder~~  
11 ~~shall promptly notify the State's Attorney of the~~  
12 ~~change in address; or~~

13 (A-5) If the owner's or interest holder's address  
14 is not known, and is not on record as provided in  
15 paragraph (1), service by publication for 3 successive  
16 weeks in a newspaper of general circulation in the  
17 county in which the seizure occurred shall suffice for  
18 service requirements.

19 (A-10) Notice to any business entity, corporation,  
20 LLC, LLP, or partnership shall be complete by a single  
21 mailing of a copy of the notice by certified mail,  
22 return receipt requested and first class mail, to that  
23 address. This notice is complete regardless of the  
24 return of a signed "return receipt requested".

25 (A-15) Notice to a person whose address is not  
26 within the State shall be completed by a single mailing

1       of a copy of the notice by certified mail, return  
2       receipt requested and first class mail to that address.  
3       This notice is complete regardless of the return of a  
4       signed "return receipt requested".

5           (A-20) Notice to a person whose address is not  
6       within the United States shall be completed by a single  
7       mailing of a copy of the notice by certified mail,  
8       return receipt requested and first class mail to that  
9       address. This notice is complete regardless of the  
10       return of a signed "return receipt requested". If  
11       certified mail is not available in the foreign country  
12       where the person has an address, notice shall proceed  
13       by paragraph (A-15) publication requirements.

14           (A-25) A person who the State's Attorney  
15       reasonably should know is incarcerated within this  
16       State, shall also include, mailing a copy of the notice  
17       by certified mail, return receipt requested and first  
18       class mail, to the address of the detention facility  
19       with the inmate's name clearly marked on the envelope.

20           After a claimant files a verified claim with the  
21       State's Attorney and provides an address at which they  
22       will accept service, the complaint shall be served and  
23       notice shall be complete upon the mailing of the  
24       complaint to the claimant at the address the claimant  
25       provided via certified mail, return receipt requested  
26       and first class mail. No return receipt card need be

1       received, or any other attempts at service need be made  
2       to comply with service and notice requirements under  
3       this Section. This certified mailing, return receipt  
4       requested shall be proof of service of the complaint on  
5       the claimant. If notice is to be shown by actual notice  
6       from communication with a claimant, then the State's  
7       Attorney shall file an affidavit as proof of service  
8       providing details of the communication which shall be  
9       accepted as proof of service by the court.

10       (B) If the property seized is a conveyance, to the  
11       address reflected in the office of the agency or  
12       official in which title or interest to the conveyance  
13       is required by law to be recorded, then by mailing a  
14       copy of the notice by certified mail, return receipt  
15       requested, to that address; or

16       (C) (Blank). ~~If the owner's or interest holder's~~  
17       ~~address is not known, and is not on record as provided~~  
18       ~~in paragraph (B), then by publication for 3 successive~~  
19       ~~weeks in a newspaper of general circulation in the~~  
20       ~~county in which the seizure occurred.~~

21       (2) Notice served under this Article is effective upon  
22       personal service, the last date of publication, or the  
23       mailing of written notice, whichever is earlier.

24       (j) Notice to State's Attorney. The law enforcement agency  
25       seizing property for forfeiture under this Article shall,  
26       within 60 ~~90~~ days after seizure, notify the State's Attorney

1 for the county, either where an act or omission giving rise to  
2 the forfeiture occurred or where the property was seized, of  
3 the seizure of the property and the facts and circumstances  
4 giving rise to the seizure and shall provide the State's  
5 Attorney with the inventory of the property and its estimated  
6 value. When the property seized for forfeiture is a vehicle,  
7 the law enforcement agency seizing the property shall  
8 immediately notify the Secretary of State that forfeiture  
9 proceedings are pending regarding such vehicle. This notice  
10 shall be by the form 4-64.

11 (k) Non-judicial forfeiture. If non-real property that  
12 exceeds \$20,000 in value excluding the value of any conveyance,  
13 or if real property is seized under the provisions of this  
14 Article, the State's Attorney shall institute judicial in rem  
15 forfeiture proceedings as described in subsection (l) of this  
16 Section within 28 ~~45~~ days from receipt of notice of seizure  
17 from the seizing agency under subsection (j) of this Section.  
18 However, if non-real property that does not exceed \$20,000 in  
19 value excluding the value of any conveyance is seized, the  
20 following procedure shall be used:

21 (1) If, after review of the facts surrounding the  
22 seizure, the State's Attorney is of the opinion that the  
23 seized property is subject to forfeiture, then within 45  
24 days after the receipt of notice of seizure from the  
25 seizing agency, the State's Attorney shall cause notice of  
26 pending forfeiture to be given to the owner of the property

1 and all known interest holders of the property in  
2 accordance with subsection (i) of this Section.

3 (2) The notice of pending forfeiture must include a  
4 description of the property, the estimated value of the  
5 property, the date and place of seizure, the conduct giving  
6 rise to forfeiture or the violation of law alleged, and a  
7 summary of procedures and procedural rights applicable to  
8 the forfeiture action.

9 (3) (A) Any person claiming an interest in property  
10 which is the subject of notice under paragraph (1) of this  
11 subsection (k), must, in order to preserve any rights or  
12 claims to the property, within 45 days after the effective  
13 date of notice as described in subsection (i) of this  
14 Section, file a verified claim with the State's Attorney  
15 expressing his or her interest in the property. The claim  
16 must set forth:

17 (i) the caption of the proceedings as set forth on  
18 the notice of pending forfeiture and the name of the  
19 claimant;

20 (ii) the address at which the claimant will accept  
21 mail;

22 (iii) the nature and extent of the claimant's  
23 interest in the property;

24 (iv) the date, identity of the transferor, and  
25 circumstances of the claimant's acquisition of the  
26 interest in the property;

1 (v) the name and address of all other persons known  
2 to have an interest in the property;

3 (vi) the specific provision of law relied on in  
4 asserting the property is not subject to forfeiture;

5 (vii) all essential facts supporting each  
6 assertion; and

7 (viii) the relief sought.

8 (B) If a claimant files the claim ~~and deposits with the~~  
9 ~~State's Attorney a cost bond, in the form of a cashier's~~  
10 ~~check payable to the clerk of the court, in the sum of 10%~~  
11 ~~of the reasonable value of the property as alleged by the~~  
12 ~~State's Attorney or the sum of \$100, whichever is greater,~~  
13 ~~upon condition that, in the case of forfeiture, the~~  
14 ~~claimant must pay all costs and expenses of forfeiture~~  
15 ~~proceedings,~~ then the State's Attorney shall institute  
16 judicial in rem forfeiture proceedings ~~and deposit the cost~~  
17 ~~bond~~ with the clerk of the court as described in subsection  
18 (1) of this Section within 45 days after receipt of the  
19 claim ~~and cost bond. In lieu of a cost bond, a person~~  
20 ~~claiming interest in the seized property may file, under~~  
21 ~~penalty of perjury, an indigency affidavit which has been~~  
22 ~~approved by a circuit court judge.~~

23 (C) (Blank). ~~If none of the seized property is~~  
24 ~~forfeited in the judicial in rem proceeding, the clerk of~~  
25 ~~the court shall return to the claimant, unless the court~~  
26 ~~orders otherwise, 90% of the sum which has been deposited~~



1 ~~and shall retain as costs 10% of the money deposited. If~~  
2 ~~any of the seized property is forfeited under the judicial~~  
3 ~~forfeiture proceeding, the clerk of the court shall~~  
4 ~~transfer 90% of the sum which has been deposited to the~~  
5 ~~State's Attorney prosecuting the civil forfeiture to be~~  
6 ~~applied to the costs of prosecution and the clerk shall~~  
7 ~~retain as costs 10% of the sum deposited.~~

8 (4) If no claim is filed ~~or bond given~~ within the 45  
9 day period as described in paragraph (3) of this subsection  
10 (k), the State's Attorney shall declare the property  
11 forfeited and shall promptly notify the owner and all known  
12 interest holders of the property and the Director of State  
13 Police of the declaration of forfeiture and the Director  
14 shall dispose of the property in accordance with law.

15 (1) Judicial in rem procedures. If property seized under  
16 the provisions of this Article is non-real property that  
17 exceeds \$20,000 in value excluding the value of any conveyance,  
18 or is real property, or a claimant has filed a claim ~~and a cost~~  
19 ~~bond~~ under paragraph (3) of subsection (k) of this Section, the  
20 following judicial in rem procedures shall apply:

21 (1) If, after a review of the facts surrounding the  
22 seizure, the State's Attorney is of the opinion that the  
23 seized property is subject to forfeiture, then within 28 ~~45~~  
24 days of the receipt of notice of seizure by the seizing  
25 agency or the filing of the claim ~~and cost bond~~, whichever  
26 is later, the State's Attorney shall institute judicial

1 forfeiture proceedings by filing a verified complaint for  
2 forfeiture ~~and, if the claimant has filed a claim and cost~~  
3 ~~bond, by depositing the cost bond with the clerk of the~~  
4 ~~court.~~ When authorized by law, a forfeiture must be ordered  
5 by a court on an action in rem brought by a State's  
6 Attorney under a verified complaint for forfeiture.

7 (1.5) A complaint of forfeiture shall include:

8 (i) a description of the property seized;

9 (ii) the date and place of seizure of the property;

10 (iii) the name and address of the law enforcement  
11 agency making the seizure; and

12 (iv) the specific statutory and factual grounds  
13 for the seizure.

14 (1.10) The complaint shall be served upon the person  
15 from whom the property was seized and all persons known or  
16 reasonably believed by the State to claim an interest in  
17 the property, as provided in subsection (i) of this  
18 Section. The complaint shall be accompanied by the  
19 following written notice:

20 "This is a civil court proceeding subject to the Code  
21 of Civil Procedure. You received this Complaint of  
22 Forfeiture because the State's Attorney's office has  
23 brought a legal action seeking forfeiture of your seized  
24 property. This complaint starts the court process where the  
25 State seeks to prove that your property should be forfeited  
26 and not returned to you. This process is also your

1 opportunity to try to prove to a judge that you should get  
2 your property back. The complaint lists the date, time, and  
3 location of your first court date. You must appear in court  
4 on that day, or you may lose the case automatically. You  
5 must also file an appearance and answer. If you are unable  
6 to pay the appearance fee, you may qualify to have the fee  
7 waived. If there is a criminal case related to the seizure  
8 of your property, your case may be set for trial after the  
9 criminal case has been resolved. Before trial, the judge  
10 may allow discovery, where the State can ask you to respond  
11 in writing to questions and give them certain documents,  
12 and you can make similar requests of the State. The trial  
13 is your opportunity to explain what happened when your  
14 property was seized and why you should get the property  
15 back."

16 (2) The laws of evidence relating to civil actions  
17 shall apply to proceedings under this Article with the  
18 following exception. The parties shall be allowed to use,  
19 and the court shall receive and consider all relevant  
20 hearsay evidence which relates to evidentiary foundation,  
21 chain of custody, business records, recordings, laboratory  
22 analysis, laboratory reports, and relevant hearsay related  
23 to the use of technology in the investigation which  
24 resulted in the seizure of property which is now subject to  
25 this forfeiture action. ~~During the probable cause portion~~  
26 of the judicial in rem proceeding wherein the State

1 ~~presents its case in chief, the court must receive and~~  
2 ~~consider, among other things, all relevant hearsay~~  
3 ~~evidence and information. The laws of evidence relating to~~  
4 ~~civil actions apply to all other portions of the judicial~~  
5 ~~in rem proceeding.~~

6 (3) Only an owner of or interest holder in the property  
7 may file an answer asserting a claim against the property  
8 in the action in rem. For purposes of this Section, the  
9 owner or interest holder shall be referred to as claimant.  
10 Upon motion of the State, the court shall first hold a  
11 hearing, wherein any claimant must establish by a  
12 preponderance of the evidence, that he or she has a lawful,  
13 legitimate ownership interest in the property and that it  
14 was obtained through a lawful source.

15 (4) The answer must be signed by the owner or interest  
16 holder under penalty of perjury and must set forth:

17 (A) the caption of the proceedings as set forth on  
18 the notice of pending forfeiture and the name of the  
19 claimant;

20 (B) the address at which the claimant will accept  
21 mail;

22 (C) the nature and extent of the claimant's  
23 interest in the property;

24 (D) the date, identity of transferor, and  
25 circumstances of the claimant's acquisition of the  
26 interest in the property;

1 (E) the name and address of all other persons known  
2 to have an interest in the property;

3 (F) all essential facts supporting each assertion;  
4 ~~and~~

5 (G) the precise relief sought; and -

6 (H) the answer shall follow the rules under the  
7 Code of Civil Procedure.

8 (5) The answer must be filed with the court within 45  
9 days after service of the civil in rem complaint.

10 (6) The hearing must be held within 60 days after  
11 filing of the answer unless continued for good cause.

12 (7) At the judicial in rem proceeding, in the State's  
13 case in chief, the State shall show by a preponderance of  
14 the evidence that the property is subject to forfeiture. If  
15 the State makes such a showing, the claimant shall have the  
16 burden of production to set forth evidence that the  
17 property is not related to the alleged factual basis of the  
18 forfeiture. After this production of evidence, the State  
19 shall maintain the burden of proof to overcome this  
20 assertion. A claimant shall provide the State notice of its  
21 intent to allege that the currency or its equivalent is not  
22 related to the alleged factual basis of the forfeiture and  
23 why. As to conveyances, at the judicial in rem proceeding,  
24 in their case in chief, the State shall show by a  
25 preponderance of the evidence, that (1) the property is  
26 subject to forfeiture; and (2) at least one of the

1       following:

2               (i) that the claimant was legally accountable for  
3       the conduct giving rise to the forfeiture;

4               (ii) that the claimant knew or reasonably should  
5       have known of the conduct giving rise to the  
6       forfeiture;

7               (iii) that the claimant knew or reasonable should  
8       have known that the conduct giving rise to the  
9       forfeiture was likely to occur;

10              (iv) that the claimant held the property for the  
11       benefit of, or as nominee for, any person whose conduct  
12       gave rise to its forfeiture;

13              (v) that if the claimant acquired their interest  
14       through any person engaging in any of the conduct  
15       described above or conduct giving rise to the  
16       forfeiture;

17              (1) the claimant did not acquire it as a bona  
18       fide purchaser for value; or

19              (2) the claimant acquired the interest under  
20       the circumstances that they reasonably should have  
21       known the property was derived from, or used in,  
22       the conduct giving rise to the forfeiture; or

23              (vii) that the claimant is not the true owner of  
24       the property that is subject to forfeiture. ~~The State~~  
25       ~~shall show the existence of probable cause for~~  
26       ~~forfeiture of the property. If the State shows probable~~

1 ~~cause, the claimant has the burden of showing by a~~  
2 ~~preponderance of the evidence that the claimant's~~  
3 ~~interest in the property is not subject to forfeiture.~~

4 (8) If the State does not meet its burden to show that  
5 the property is subject to forfeiture ~~show existence of~~  
6 ~~probable cause~~, the court shall order the interest in the  
7 property returned or conveyed to the claimant and shall  
8 order all other property forfeited to the State. If the  
9 State does meet its burden to show that the property is  
10 subject to forfeiture ~~If the State does show existence of~~  
11 ~~probable cause~~, the court shall order all property  
12 forfeited to the State.

13 (9) A defendant convicted in any criminal proceeding is  
14 precluded from later denying the essential allegations of  
15 the criminal offense of which the defendant was convicted  
16 in any proceeding under this Article regardless of the  
17 pendency of an appeal from that conviction. However,  
18 evidence of the pendency of an appeal is admissible.

19 (10) On ~~An acquittal or dismissal in a criminal~~  
20 ~~proceeding does not preclude civil proceedings under this~~  
21 ~~Article; however, for good cause shown, on~~ a motion by the  
22 the parties State's Attorney, the court may stay civil  
23 forfeiture proceedings during the criminal trial for a  
24 related criminal indictment or information alleging a  
25 money laundering violation. Such a stay shall not be  
26 available pending an appeal. Property subject to

1 forfeiture under this Article shall not be subject to  
2 return or release by a court exercising jurisdiction over a  
3 criminal case involving the seizure of such property unless  
4 such return or release is consented to by the State's  
5 Attorney.

6 Notwithstanding any other provision of this Section,  
7 the State's burden of proof at the trial of the forfeiture  
8 action shall be by clear and convincing evidence if: (1) a  
9 finding of not guilty is entered as to all counts and all  
10 defendants in a criminal proceeding relating to the conduct  
11 giving rise to the forfeiture action; or (2) the State  
12 receives an adverse finding at a preliminary hearing and  
13 fails to secure an indictment in a criminal proceeding  
14 relating to the factual allegations of the forfeiture  
15 action.

16 (11) All property declared forfeited under this  
17 Article vests in this State on the commission of the  
18 conduct giving rise to forfeiture together with the  
19 proceeds of the property after that time. Except as  
20 otherwise provided in this Article, title to any ~~Any~~ such  
21 property or proceeds subsequently transferred to any  
22 person remain subject to forfeiture and thereafter shall be  
23 ordered forfeited unless the person to whom the property  
24 was transferred makes an appropriate claim and has his or  
25 her claim adjudicated at the judicial in rem hearing.

26 (12) A civil action under this Article must be



1 commenced within 5 years after the last conduct giving rise  
2 to forfeiture became known or should have become known or 5  
3 years after the forfeitable property is discovered,  
4 whichever is later, excluding any time during which either  
5 the property or claimant is out of the State or in  
6 confinement or during which criminal proceedings relating  
7 to the same conduct are in progress.

8 (m) Stay of time periods. If property is seized for  
9 evidence and for forfeiture, the time periods for instituting  
10 judicial and non-judicial forfeiture proceedings shall not  
11 begin until the property is no longer necessary for evidence.

12 (n) Settlement of claims. Notwithstanding other provisions  
13 of this Article, the State's Attorney and a claimant of seized  
14 property may enter into an agreed-upon settlement concerning  
15 the seized property in such an amount and upon such terms as  
16 are set out in writing in a settlement agreement. All proceeds  
17 from a settlement agreement shall be tendered to the Department  
18 of State Police and distributed under paragraph (6) of  
19 subsection (h) of this Section.

20 (o) Property constituting attorney fees. Nothing in this  
21 Article applies to property which constitutes reasonable bona  
22 fide attorney's fees paid to an attorney for services rendered  
23 or to be rendered in the forfeiture proceeding or criminal  
24 proceeding relating directly thereto where such property was  
25 paid before its seizure, before the issuance of any seizure  
26 warrant or court order prohibiting transfer of the property and

1 where the attorney, at the time he or she received the property  
2 did not know that it was property subject to forfeiture under  
3 this Article.

4 (p) Construction. It is the intent of the General Assembly  
5 that the forfeiture provisions of this Article be liberally  
6 construed so as to effect their remedial purpose. The  
7 forfeiture of property and other remedies hereunder shall be  
8 considered to be in addition to, and not exclusive of, any  
9 sentence or other remedy provided by law.

10 (q) Judicial review. If property has been declared  
11 forfeited under subsection (k) of this Section, any person who  
12 has an interest in the property declared forfeited may, within  
13 30 days after the effective date of the notice of the  
14 declaration of forfeiture, file a claim ~~and cost bond~~ as  
15 described in paragraph (3) of subsection (k) of this Section.  
16 If a claim ~~and cost bond~~ is filed under this Section, then the  
17 procedures described in subsection (l) of this Section apply.

18 (r) (Blank). ~~Burden of proof of exemption or exception. It~~  
19 ~~is not necessary for the State to negate any exemption or~~  
20 ~~exception in this Article in any complaint, information,~~  
21 ~~indictment or other pleading or in any trial, hearing, or other~~  
22 ~~proceeding under this Article. The burden of proof of any~~  
23 ~~exemption or exception is upon the person claiming it.~~

24 (s) Review of administrative decisions. All administrative  
25 findings, rulings, final determinations, findings, and  
26 conclusions of the State's Attorney's Office under this Article

1 are final and conclusive decisions of the matters involved. Any  
2 person aggrieved by the decision may obtain review of the  
3 decision pursuant to the provisions of the Administrative  
4 Review Law and the rules adopted pursuant to that Law. Pending  
5 final decision on such review, the administrative acts, orders,  
6 and rulings of the State's Attorney's Office remain in full  
7 force and effect unless modified or suspended by order of court  
8 pending final judicial decision. Pending final decision on such  
9 review, the acts, orders, and rulings of the State's Attorney's  
10 Office remain in full force and effect, unless stayed by order  
11 of court. However, no stay of any decision of the  
12 administrative agency shall issue unless the person aggrieved  
13 by the decision establishes by a preponderance of the evidence  
14 that good cause exists for the stay. In determining good cause,  
15 the court shall find that the aggrieved party has established a  
16 substantial likelihood of prevailing on the merits and that  
17 granting the stay will not have an injurious effect on the  
18 general public.

19 (t) Actual physical seizure of real property subject to  
20 forfeiture under this Act requires the issuance of a seizure  
21 warrant. Nothing in this Section prohibits the constructive  
22 seizure of real property through the filing of a complaint for  
23 forfeiture in circuit court and the recording of a lis pendens  
24 against the real property which is subject to forfeiture  
25 without any hearing, warrant application, or judicial  
26 approval.

1       (u) Property which is forfeited shall be subject to an 8th  
2 amendment to the United States Constitution disproportionate  
3 penalties analysis and the property forfeiture may be denied in  
4 whole or in part if the court finds that the forfeiture would  
5 constitute an excessive fine in violation of the 8th amendment  
6 as interpreted by case law.

7       (v) If property is ordered forfeited under this Section  
8 from a claimant who held title to the property in joint tenancy  
9 or tenancy in common with another claimant, the court shall  
10 determine the amount of each owner's interest in the property  
11 according to principles of property law.

12       (w) A claimant or a party interested in personal property  
13 contained within a seized conveyance may file a request with  
14 the State's Attorney in a non-judicial forfeiture action, or a  
15 motion with the court in a judicial forfeiture action for the  
16 return of any personal property contained within a conveyance  
17 which is seized under this Article. The return of personal  
18 property shall not be unreasonably withheld if the personal  
19 property is not mechanically or electrically coupled to the  
20 conveyance, needed for evidentiary purposes, or otherwise  
21 contraband. Any law enforcement agency that returns property  
22 under a court order under this Section shall not be liable to  
23 any person who claims ownership to the property if it is  
24 returned to an improper party.

25       (x) Innocent owner hearing.

26       (1) After a complaint for forfeiture has been filed and

1 all claimants have appeared and answered, a claimant may  
2 file a motion with the court for an innocent owner hearing  
3 prior to trial. This motion shall be made and supported by  
4 sworn affidavit and shall assert the following along with  
5 specific facts which support each assertion:

6 (i) that the claimant filing the motion is the true  
7 owner of the conveyance as interpreted by case law;

8 (ii) that the claimant was not legally accountable  
9 for the conduct giving rise to the forfeiture or  
10 acquiesced in the conduct;

11 (iii) that the claimant did not solicit, conspire,  
12 or attempt to commit the conduct giving rise to the  
13 forfeiture;

14 (iv) that the claimant did not know or did not have  
15 reason to know that the conduct giving rise to the  
16 forfeiture was likely to occur; and

17 (v) that the claimant did not hold the property for  
18 the benefit of, or as nominee for any person whose  
19 conduct gave rise to its forfeiture or if the owner or  
20 interest holder acquired the interest through any  
21 person, the owner or interest holder did not acquire it  
22 as a bona fide purchaser for value or acquired the  
23 interest without knowledge of the seizure of the  
24 property for forfeiture.

25 (2) The claimant shall include specific facts which  
26 support these assertions in their motion.

1           (3) Upon this filing, a hearing may only be conducted  
2           after the parties have been given the opportunity to  
3           conduct limited discovery as to the ownership and control  
4           of the property, the claimant's knowledge, or any matter  
5           relevant to the issues raised or facts alleged in the  
6           claimant's motion. Discovery shall be limited to the  
7           People's requests in these areas but may proceed by any  
8           means allowed in the Code of Civil Procedure.

9           (i) After discovery is complete and the court has  
10           allowed for sufficient time to review and investigate  
11           the discovery responses, the court shall conduct a  
12           hearing. At the hearing, the fact that the conveyance  
13           is subject to forfeiture shall not be at issue. The  
14           court shall only hear evidence relating to the issue of  
15           innocent ownership.

16           (ii) At the hearing on the motion, it shall be the  
17           burden of the claimant to prove each of the assertions  
18           listed in paragraph (1) of this subsection (x) by a  
19           preponderance of the evidence.

20           (iii) If a claimant meets his burden of proof, the  
21           court shall grant the motion and order the property  
22           returned to the claimant. If the claimant fails to meet  
23           his or her burden of proof then the court shall deny  
24           the motion.

25           (y) No property shall be forfeited under this Section from  
26           a person who, without actual or constructive notice that the

1 property was the subject of forfeiture proceedings, obtained  
2 possession of the property as a bona fide purchaser for value.  
3 A person who purports to affect transfer of property after  
4 receiving actual or constructive notice that the property is  
5 subject to seizure or forfeiture is guilty of contempt of  
6 court, and shall be liable to the State for a penalty in the  
7 amount of the fair market value of the property.

8 (z) Forfeiture proceedings under this Section shall be  
9 subject to the Code of Civil Procedure and the rules of  
10 evidence relating to civil actions.

11 (aa) Return of property, damages, and costs.

12 (1) The law enforcement agency that holds custody of  
13 property seized for forfeiture shall deliver property  
14 ordered by the court to be returned or conveyed to the  
15 claimant within a reasonable time not to exceed 7 days,  
16 unless the order is stayed by the trial court or a  
17 reviewing court pending an appeal, motion to reconsider, or  
18 other reason.

19 (2) The law enforcement agency that holds custody of  
20 property is responsible for any damages, storage fees, and  
21 related costs applicable to property returned. The  
22 claimant shall not be subject to any charges by the State  
23 for storage of the property or expenses incurred in the  
24 preservation of the property. Charges for the towing of a  
25 conveyance shall be borne by the claimant unless the  
26 conveyance was towed for the sole reason of seizure for

1 forfeiture. This Section does not prohibit the imposition  
2 of any fees or costs by a home rule unit of local  
3 government related to the impoundment of a conveyance under  
4 an ordinance enacted by the unit of government.

5 (3) A law enforcement agency shall not retain forfeited  
6 property for its own use or transfer the property to any  
7 person or entity, except as provided under this Section. A  
8 law enforcement agency may apply in writing to the Director  
9 of State Police to request that a forfeited property be  
10 awarded to the agency for a specifically articulated  
11 official law enforcement use in an investigation. The  
12 Director of State Police shall provide a written  
13 justification in each instance detailing the reasons why  
14 the forfeited property was placed into official use and the  
15 justification shall be retained for a period of not less  
16 than 3 years.

17 (bb) The changes made to this Section by this amendatory  
18 Act of the 100th General Assembly are subject to Sections 2 and  
19 4 of the Statute on Statutes.

20 (Source: P.A. 99-480, eff. 9-9-15.)

21 (720 ILCS 5/33G-6)

22 (Section scheduled to be repealed on June 11, 2017)

23 Sec. 33G-6. Remedial proceedings, procedures, and  
24 forfeiture. Under this Article:

25 (a) The circuit court shall have jurisdiction to prevent



1 and restrain violations of this Article by issuing appropriate  
2 orders, including:

3 (1) ordering any person to disgorge illicit proceeds  
4 obtained by a violation of this Article or divest himself  
5 or herself of any interest, direct or indirect, in any  
6 enterprise or real or personal property of any character,  
7 including money, obtained, directly or indirectly, by a  
8 violation of this Article;

9 (2) imposing reasonable restrictions on the future  
10 activities or investments of any person or enterprise,  
11 including prohibiting any person or enterprise from  
12 engaging in the same type of endeavor as the person or  
13 enterprise engaged in, that violated this Article; or

14 (3) ordering dissolution or reorganization of any  
15 enterprise, making due provision for the rights of innocent  
16 persons.

17 (b) Any violation of this Article is subject to the  
18 remedies, procedures, and forfeiture as set forth in  
19 subsections (f) through (s) of Section 29B-1 of this Code.

20 (c) Property seized or forfeited under this Article is  
21 subject to reporting under the Seizure and Forfeiture Reporting  
22 Act.

23 (Source: P.A. 97-686, eff. 6-11-12.)

24 (720 ILCS 5/36-1) (from Ch. 38, par. 36-1)

25 Sec. 36-1. Property subject to forfeiture ~~Seizure~~.

1           (a) Any vessel or watercraft, vehicle, or aircraft is  
2 subject to forfeiture under this Article ~~may be seized and~~  
3 ~~impounded by the law enforcement agency~~ if the vessel or  
4 watercraft, vehicle, or aircraft is used with the knowledge and  
5 consent of the owner in the commission of or in the attempt to  
6 commit as defined in Section 8-4 of this Code:

7           (1) an offense prohibited by Section 9-1 (first degree  
8 murder), Section 9-3 (involuntary manslaughter and  
9 reckless homicide), Section 10-2 (aggravated kidnaping),  
10 Section 11-1.20 (criminal sexual assault), Section 11-1.30  
11 (aggravated criminal sexual assault), Section 11-1.40  
12 (predatory criminal sexual assault of a child), subsection  
13 (a) of Section 11-1.50 (criminal sexual abuse), subsection  
14 (a), (c), or (d) of Section 11-1.60 (aggravated criminal  
15 sexual abuse), Section 11-6 (indecent solicitation of a  
16 child), Section 11-14.4 (promoting juvenile prostitution  
17 except for keeping a place of juvenile prostitution),  
18 Section 11-20.1 (child pornography), paragraph (a)(1),  
19 (a)(2), (a)(4), (b)(1), (b)(2), (e)(1), (e)(2), (e)(3),  
20 (e)(4), (e)(5), (e)(6), or (e)(7) of Section 12-3.05  
21 (aggravated battery), Section 12-7.3 (stalking), Section  
22 12-7.4 (aggravated stalking), Section 16-1 (theft if the  
23 theft is of precious metal or of scrap metal), subdivision  
24 (f)(2) or (f)(3) of Section 16-25 (retail theft), Section  
25 18-2 (armed robbery), Section 19-1 (burglary), Section  
26 19-2 (possession of burglary tools), Section 19-3

1 (residential burglary), Section 20-1 (arson; residential  
2 arson; place of worship arson), Section 20-2 (possession of  
3 explosives or explosive or incendiary devices),  
4 subdivision (a) (6) or (a) (7) of Section 24-1 (unlawful use  
5 of weapons), Section 24-1.2 (aggravated discharge of a  
6 firearm), Section 24-1.2-5 (aggravated discharge of a  
7 machine gun or a firearm equipped with a device designed or  
8 used for silencing the report of a firearm), Section 24-1.5  
9 (reckless discharge of a firearm), Section 28-1  
10 (gambling), or Section 29D-15.2 (possession of a deadly  
11 substance) of this Code;

12 (2) an offense prohibited by Section 21, 22, 23, 24 or  
13 26 of the Cigarette Tax Act if the vessel or watercraft,  
14 vehicle, or aircraft contains more than 10 cartons of such  
15 cigarettes;

16 (3) an offense prohibited by Section 28, 29, or 30 of  
17 the Cigarette Use Tax Act if the vessel or watercraft,  
18 vehicle, or aircraft contains more than 10 cartons of such  
19 cigarettes;

20 (4) an offense prohibited by Section 44 of the  
21 Environmental Protection Act;

22 (5) an offense prohibited by Section 11-204.1 of the  
23 Illinois Vehicle Code (aggravated fleeing or attempting to  
24 elude a peace officer);

25 (6) an offense prohibited by Section 11-501 of the  
26 Illinois Vehicle Code (driving while under the influence of

1 alcohol or other drug or drugs, intoxicating compound or  
2 compounds or any combination thereof) or a similar  
3 provision of a local ordinance, and:

4 (A) during a period in which his or her driving  
5 privileges are revoked or suspended if the revocation  
6 or suspension was for:

7 (i) Section 11-501 (driving under the  
8 influence of alcohol or other drug or drugs,  
9 intoxicating compound or compounds or any  
10 combination thereof),

11 (ii) Section 11-501.1 (statutory summary  
12 suspension or revocation),

13 (iii) paragraph (b) of Section 11-401 (motor  
14 vehicle accidents involving death or personal  
15 injuries), or

16 (iv) reckless homicide as defined in Section  
17 9-3 of this Code;

18 (B) has been previously convicted of reckless  
19 homicide or a similar provision of a law of another  
20 state relating to reckless homicide in which the person  
21 was determined to have been under the influence of  
22 alcohol, other drug or drugs, or intoxicating compound  
23 or compounds as an element of the offense or the person  
24 has previously been convicted of committing a  
25 violation of driving under the influence of alcohol or  
26 other drug or drugs, intoxicating compound or

1 compounds or any combination thereof and was involved  
2 in a motor vehicle accident that resulted in death,  
3 great bodily harm, or permanent disability or  
4 disfigurement to another, when the violation was a  
5 proximate cause of the death or injuries;

6 (C) the person committed a violation of driving  
7 under the influence of alcohol or other drug or drugs,  
8 intoxicating compound or compounds or any combination  
9 thereof under Section 11-501 of the Illinois Vehicle  
10 Code or a similar provision for the third or subsequent  
11 time;

12 (D) he or she did not possess a valid driver's  
13 license or permit or a valid restricted driving permit  
14 or a valid judicial driving permit or a valid  
15 monitoring device driving permit; or

16 (E) he or she knew or should have known that the  
17 vehicle he or she was driving was not covered by a  
18 liability insurance policy;

19 (7) an offense described in subsection (g) of Section  
20 6-303 of the Illinois Vehicle Code;

21 (8) an offense described in subsection (e) of Section  
22 6-101 of the Illinois Vehicle Code; or

23 (9) (A) operating a watercraft under the influence of  
24 alcohol, other drug or drugs, intoxicating compound or  
25 compounds, or combination thereof under Section 5-16 of the  
26 Boat Registration and Safety Act during a period in which

1 his or her privileges to operate a watercraft are revoked  
2 or suspended and the revocation or suspension was for  
3 operating a watercraft under the influence of alcohol,  
4 other drug or drugs, intoxicating compound or compounds, or  
5 combination thereof; (B) operating a watercraft under the  
6 influence of alcohol, other drug or drugs, intoxicating  
7 compound or compounds, or combination thereof and has been  
8 previously convicted of reckless homicide or a similar  
9 provision of a law in another state relating to reckless  
10 homicide in which the person was determined to have been  
11 under the influence of alcohol, other drug or drugs,  
12 intoxicating compound or compounds, or combination thereof  
13 as an element of the offense or the person has previously  
14 been convicted of committing a violation of operating a  
15 watercraft under the influence of alcohol, other drug or  
16 drugs, intoxicating compound or compounds, or combination  
17 thereof and was involved in an accident that resulted in  
18 death, great bodily harm, or permanent disability or  
19 disfigurement to another, when the violation was a  
20 proximate cause of the death or injuries; or (C) the person  
21 committed a violation of operating a watercraft under the  
22 influence of alcohol, other drug or drugs, intoxicating  
23 compound or compounds, or combination thereof under  
24 Section 5-16 of the Boat Registration and Safety Act or a  
25 similar provision for the third or subsequent time.

26 (b) In addition, any mobile or portable equipment used in

1 the commission of an act which is in violation of Section 7g of  
2 the Metropolitan Water Reclamation District Act shall be  
3 subject to seizure and forfeiture under the same procedures  
4 provided in this Article for the seizure and forfeiture of  
5 vessels or watercraft, vehicles, and aircraft, and any such  
6 equipment shall be deemed a vessel or watercraft, vehicle, or  
7 aircraft for purposes of this Article.

8 (c) In addition, when a person discharges a firearm at  
9 another individual from a vehicle with the knowledge and  
10 consent of the owner of the vehicle and with the intent to  
11 cause death or great bodily harm to that individual and as a  
12 result causes death or great bodily harm to that individual,  
13 the vehicle shall be subject to seizure and forfeiture under  
14 the same procedures provided in this Article for the seizure  
15 and forfeiture of vehicles used in violations of clauses (1),  
16 (2), (3), or (4) of subsection (a) of this Section.

17 (d) If the spouse of the owner of a vehicle seized for an  
18 offense described in subsection (g) of Section 6-303 of the  
19 Illinois Vehicle Code, a violation of subdivision (d)(1)(A),  
20 (d)(1)(D), (d)(1)(G), (d)(1)(H), or (d)(1)(I) of Section  
21 11-501 of the Illinois Vehicle Code, or Section 9-3 of this  
22 Code makes a showing that the seized vehicle is the only source  
23 of transportation and it is determined that the financial  
24 hardship to the family as a result of the seizure outweighs the  
25 benefit to the State from the seizure, the vehicle may be  
26 forfeited to the spouse or family member and the title to the

1 vehicle shall be transferred to the spouse or family member who  
2 is properly licensed and who requires the use of the vehicle  
3 for employment or family transportation purposes. A written  
4 declaration of forfeiture of a vehicle under this Section shall  
5 be sufficient cause for the title to be transferred to the  
6 spouse or family member. The provisions of this paragraph shall  
7 apply only to one forfeiture per vehicle. If the vehicle is the  
8 subject of a subsequent forfeiture proceeding by virtue of a  
9 subsequent conviction of either spouse or the family member,  
10 the spouse or family member to whom the vehicle was forfeited  
11 under the first forfeiture proceeding may not utilize the  
12 provisions of this paragraph in another forfeiture proceeding.  
13 If the owner of the vehicle seized owns more than one vehicle,  
14 the procedure set out in this paragraph may be used for only  
15 one vehicle.

16 (e) In addition, property subject to forfeiture ~~declared~~  
17 ~~contraband~~ under Section 40 of the Illinois Streetgang  
18 Terrorism Omnibus Prevention Act may be seized and forfeited  
19 under this Article.

20 (Source: P.A. 98-699, eff. 1-1-15; 98-1020, eff. 8-22-14;  
21 99-78, eff. 7-20-15.)

22 (720 ILCS 5/36-1.1 new)

23 Sec. 36-1.1. Seizure.

24 (a) Any property subject to forfeiture under this Article  
25 may be seized and impounded by the Director of State Police or



1 any peace officer upon process or seizure warrant issued by any  
2 court having jurisdiction over the property.

3 (b) Any property subject to forfeiture under this Article  
4 may be seized and impounded by the Director of State Police or  
5 any peace officer without process if there is probable cause to  
6 believe that the property is subject to forfeiture under  
7 Section 36-1 of this Article and the property is seized under  
8 circumstances in which a warrantless seizure or arrest would be  
9 reasonable.

10 (c) If the seized property is a conveyance, an  
11 investigation shall be made by the law enforcement agency as to  
12 any person whose right, title, interest, or lien is of record  
13 in the office of the agency or official in which title or  
14 interest to the conveyance is required by law to be recorded.

15 (d) After seizure under this Section, notice shall be given  
16 to all known interest holders that forfeiture proceedings,  
17 including a preliminary review, may be instituted and the  
18 proceedings may be instituted under this Article.

19 (720 ILCS 5/36-1.2 new)

20 Sec. 36-1.2. Receipt for seized property. If a law  
21 enforcement officer seizes property for forfeiture under this  
22 Article, the officer shall provide an itemized receipt to the  
23 person possessing the property or, in the absence of a person  
24 to whom the receipt could be given, shall leave the receipt in  
25 the place where the property was found, if possible.

1 (720 ILCS 5/36-1.3 new)

2 Sec. 36-1.3. Safekeeping of seized property pending  
3 disposition.

4 (a) Property seized under this Article is deemed to be in  
5 the custody of the Director of State Police subject only to the  
6 order and judgments of the circuit court having jurisdiction  
7 over the forfeiture proceedings and the decisions of the  
8 State's Attorney under this Article.

9 (b) If property is seized under this Article, the seizing  
10 agency shall promptly conduct an inventory of the seized  
11 property and estimate the property's value, and shall forward a  
12 copy of the inventory of seized property and the estimate of  
13 the property's value to the Director of State Police. Upon  
14 receiving notice of seizure, the Director of State Police may:

15 (1) place the property under seal;

16 (2) remove the property to a place designated by the  
17 Director of State Police;

18 (3) keep the property in the possession of the seizing  
19 agency;

20 (4) remove the property to a storage area for  
21 safekeeping; or

22 (5) place the property under constructive seizure by  
23 posting notice of pending forfeiture on it, by giving  
24 notice of pending forfeiture to its owners and interest  
25 holders, or by filing notice of pending forfeiture in any

1 appropriate public record relating to the property; or

2 (6) provide for another agency or custodian, including  
3 an owner, secured party, or lienholder, to take custody of  
4 the property upon the terms and conditions set by the  
5 seizing agency.

6 (c) The seizing agency shall exercise ordinary care to  
7 protect the subject of the forfeiture from negligent loss,  
8 damage, or destruction.

9 (d) Property seized or forfeited under this Article is  
10 subject to reporting under the Seizure and Forfeiture Reporting  
11 Act.

12 (720 ILCS 5/36-1.4 new)

13 Sec. 36-1.4. Notice to State's Attorney. The law  
14 enforcement agency seizing property for forfeiture under this  
15 Article shall, as soon as practicable but not later than 28  
16 days after the seizure, notify the State's Attorney for the  
17 county in which an act or omission giving rise to the seizure  
18 occurred or in which the property was seized and the facts and  
19 circumstances giving rise to the seizure, and shall provide the  
20 State's Attorney with the inventory of the property and its  
21 estimated value. The notice shall be by the delivery of the  
22 form 4-64. If the property seized for forfeiture is a vehicle,  
23 the law enforcement agency seizing the property shall  
24 immediately notify the Secretary of State that forfeiture  
25 proceedings are pending regarding the vehicle.

1 (720 ILCS 5/36-1.5)

2 Sec. 36-1.5. Preliminary review.

3 (a) Within 14 days of the seizure, the State's Attorney in  
4 the county in which the seizure occurred shall seek a  
5 preliminary determination from the circuit court as to whether  
6 there is probable cause that the property may be subject to  
7 forfeiture.

8 (b) The rules of evidence shall not apply to any proceeding  
9 conducted under this Section.

10 (c) The court may conduct the review under subsection (a)  
11 simultaneously with a proceeding pursuant to Section 109-1 of  
12 the Code of Criminal Procedure of 1963 for a related criminal  
13 offense if a prosecution is commenced by information or  
14 complaint.

15 (d) The court may accept a finding of probable cause at a  
16 preliminary hearing following the filing of an information or  
17 complaint charging a related criminal offense or following the  
18 return of indictment by a grand jury charging the related  
19 offense as sufficient evidence of probable cause as required  
20 under subsection (a).

21 (e) Upon making a finding of probable cause as required  
22 under this Section, the circuit court shall order the property  
23 subject to the provisions of the applicable forfeiture Act held  
24 until the conclusion of any forfeiture proceeding.

25 For seizures of conveyances, within 28 7 days of a finding

1 of probable cause under subsection (a), the registered owner or  
2 other claimant may file a motion in writing supported by sworn  
3 affidavits claiming that denial of the use of the conveyance  
4 during the pendency of the forfeiture proceedings creates a  
5 substantial hardship and alleges facts showing that the delay  
6 was not due to his or her culpable negligence. The court shall  
7 consider the following factors in determining whether a  
8 substantial hardship has been proven:

9 (1) the nature of the claimed hardship;

10 (2) the availability of public transportation or other  
11 available means of transportation; and

12 (3) any available alternatives to alleviate the  
13 hardship other than the return of the seized conveyance.

14 If the court determines that a substantial hardship has  
15 been proven, the court shall then balance the nature of the  
16 hardship against the State's interest in safeguarding the  
17 conveyance. If the court determines that the hardship outweighs  
18 the State's interest in safeguarding the conveyance, the court  
19 may temporarily release the conveyance to the registered owner  
20 or the registered owner's authorized designee, or both, until  
21 the conclusion of the forfeiture proceedings or for such  
22 shorter period as ordered by the court provided that the person  
23 to whom the conveyance is released provides proof of insurance  
24 and a valid driver's license and all State and local  
25 registrations for operation of the conveyance are current. The  
26 court shall place conditions on the conveyance limiting its use

1 to the stated hardship and providing transportation for  
2 employment, religious purposes, medical needs, child care, and  
3 restricting the conveyance's use to only those individuals  
4 authorized to use the conveyance by the registered owner. The  
5 use of the vehicle shall be further restricted to exclude all  
6 recreational and entertainment purposes. The court may order  
7 additional restrictions it deems reasonable and just on its own  
8 motion or on motion of the People. The court shall revoke the  
9 order releasing the conveyance and order that the conveyance be  
10 resealed by law enforcement if the conditions of release are  
11 violated or if the conveyance is used in the commission of any  
12 offense identified in subsection (a) of Section 6-205 of the  
13 Illinois Vehicle Code.

14 If the court orders the release of the conveyance during  
15 the pendency of the forfeiture proceedings, the court may order  
16 the registered owner or his or her authorized designee to shall  
17 post a cash security with the Clerk of the Court as ordered by  
18 the court. If cash security is ordered, the ~~The~~ court shall  
19 consider the following factors in determining the amount of the  
20 cash security:

21 (A) the full market value of the conveyance;

22 (B) the nature of the hardship;

23 (C) the extent and length of the usage of the  
24 conveyance; ~~and~~

25 (D) the ability of the owner or designee to pay; and  
26 ~~such other conditions as the court deems necessary to~~

1 ~~safeguard the conveyance.~~

2 (E) other conditions as the court deems necessary to  
3 safeguard the conveyance.

4 If the conveyance is released, the court shall order that  
5 the registered owner or his or her designee safeguard the  
6 conveyance, not remove the conveyance from the jurisdiction,  
7 not conceal, destroy, or otherwise dispose of the conveyance,  
8 not encumber the conveyance, and not diminish the value of the  
9 conveyance in any way. The court shall also make a  
10 determination of the full market value of the conveyance prior  
11 to it being released based on a source or sources defined in 50  
12 Ill. Adm. Code 919.80(c) (2) (A) or 919.80(c) (2) (B).

13 If the conveyance subject to forfeiture is released under  
14 this Section and is subsequently forfeited, the person to whom  
15 the conveyance was released shall return the conveyance to the  
16 law enforcement agency that seized the conveyance within 7 days  
17 from the date of the declaration of forfeiture or order of  
18 forfeiture. If the conveyance is not returned within 7 days,  
19 the cash security shall be forfeited in the same manner as the  
20 conveyance subject to forfeiture. If the cash security was less  
21 than the full market value, a judgment shall be entered against  
22 the parties to whom the conveyance was released and the  
23 registered owner, jointly and severally, for the difference  
24 between the full market value and the amount of the cash  
25 security. If the conveyance is returned in a condition other  
26 than the condition in which it was released, the cash security

1 shall be returned to the surety who posted the security minus  
2 the amount of the diminished value, and that amount shall be  
3 forfeited in the same manner as the conveyance subject to  
4 forfeiture. Additionally, the court may enter an order allowing  
5 any law enforcement agency in the State of Illinois to seize  
6 the conveyance wherever it may be found in the State to satisfy  
7 the judgment if the cash security was less than the full market  
8 value of the conveyance.

9 (Source: P.A. 97-544, eff. 1-1-12; 97-680, eff. 3-16-12;  
10 98-1020, eff. 8-22-14.)

11 (720 ILCS 5/36-2) (from Ch. 38, par. 36-2)

12 Sec. 36-2. Complaint ~~Action~~ for forfeiture.

13 (a) If the ~~The~~ State's Attorney in the county in which such  
14 seizure occurs ~~if he or she~~ finds that the alleged violation of  
15 law giving rise to the seizure ~~forfeiture~~ was incurred without  
16 willful negligence or without any intention on the part of the  
17 owner of the vessel or watercraft, vehicle or aircraft or any  
18 person whose right, title or interest is of record as described  
19 in Section 36-1 of this Article, to violate the law, or finds  
20 the existence of such mitigating circumstances as to justify  
21 remission of the forfeiture, he or she may cause the law  
22 enforcement agency having custody of the property to return the  
23 property to the owner within a reasonable time not to exceed 7  
24 days ~~to remit the same upon such terms and conditions as the~~  
25 ~~State's Attorney deems reasonable and just.~~ The State's



1 Attorney shall exercise his or her discretion under this  
2 subsection (a) ~~the foregoing provision of this Section 36-2(a)~~  
3 prior to or promptly after the preliminary review under Section  
4 36-1.5.

5 (b) If, after review of the facts surrounding the seizure,  
6 the State's Attorney is of the opinion that the seized property  
7 is subject to forfeiture and the State's Attorney does not  
8 cause the forfeiture to be remitted under subsection (a) of  
9 this Section, he or she shall forthwith bring an action for  
10 forfeiture in the Circuit Court within whose jurisdiction the  
11 seizure and confiscation has taken place by filing a verified  
12 complaint of forfeiture in the circuit court within whose  
13 jurisdiction the seizure occurred, or within whose  
14 jurisdiction an act or omission giving rise to the seizure  
15 occurred, subject to Supreme Court Rule 187. The complaint  
16 shall be filed as soon as practicable but not less than 28 days  
17 after a finding of probable cause at a preliminary review under  
18 Section 36-1.5 of this Article. A complaint of forfeiture shall  
19 include:

20 (1) a description of the property seized;

21 (2) the date and place of seizure of the property;

22 (3) the name and address of the law enforcement agency  
23 making the seizure; and

24 (4) the specific statutory and factual grounds for the  
25 seizure.

26 The complaint shall be served upon each person whose right,

1 title, or interest is of record in the office of the Secretary  
2 of State, the Secretary of Transportation, the Administrator of  
3 the Federal Aviation Agency, or any other department of this  
4 State, or any other state of the United States if the vessel or  
5 watercraft, vehicle, or aircraft is required to be so  
6 registered, as the case may be, the person from whom the  
7 property was seized, and all persons known or reasonably  
8 believed by the State to claim an interest in the property, as  
9 provided in this Article. The complaint shall be accompanied by  
10 the following written notice:

11 "This is a civil court proceeding subject to the Code of  
12 Civil Procedure. You received this Complaint of Forfeiture  
13 because the State's Attorney's office has brought a legal  
14 action seeking forfeiture of your seized property. This  
15 complaint starts the court process where the State seeks to  
16 prove that your property should be forfeited and not returned  
17 to you. This process is also your opportunity to try to prove  
18 to a judge that you should get your property back. The  
19 complaint lists the date, time, and location of your first  
20 court date. You must appear in court on that day, or you may  
21 lose the case automatically. You must also file an appearance  
22 and answer. If you are unable to pay the appearance fee, you  
23 may qualify to have the fee waived. If there is a criminal case  
24 related to the seizure of your property, your case may be set  
25 for trial after the criminal case has been resolved. Before  
26 trial, the judge may allow discovery, where the State can ask

1 you to respond in writing to questions and give them certain  
2 documents, and you can make similar requests of the State. The  
3 trial is your opportunity to explain what happened when your  
4 property was seized and why you should get the property back."

5 ~~The State's Attorney shall give notice of seizure and the~~  
6 ~~forfeiture proceeding to each person according to the following~~  
7 ~~method: upon each person whose right, title, or interest is of~~  
8 ~~record in the office of the Secretary of State, the Secretary~~  
9 ~~of Transportation, the Administrator of the Federal Aviation~~  
10 ~~Agency, or any other department of this State, or any other~~  
11 ~~state of the United States if the vessel or watercraft,~~  
12 ~~vehicle, or aircraft is required to be so registered, as the~~  
13 ~~ease may be, by delivering the notice and complaint in open~~  
14 ~~court or by certified mail to the address as given upon the~~  
15 ~~records of the Secretary of State, the Division of Aeronautics~~  
16 ~~of the Department of Transportation, the Capital Development~~  
17 ~~Board, or any other department of this State or the United~~  
18 ~~States if the vessel or watercraft, vehicle, or aircraft is~~  
19 ~~required to be so registered.~~

20 (c) (Blank). ~~The owner of the seized vessel or watercraft,~~  
21 ~~vehicle, or aircraft or any person whose right, title, or~~  
22 ~~interest is of record as described in Section 36-1, may within~~  
23 ~~20 days after delivery in open court or the mailing of such~~  
24 ~~notice file a verified answer to the Complaint and may appear~~  
25 ~~at the hearing on the action for forfeiture.~~

26 (d) (Blank). ~~The State shall show at such hearing by a~~

1 ~~preponderance of the evidence, that such vessel or watercraft,~~  
2 ~~vehicle, or aircraft was used in the commission of an offense~~  
3 ~~described in Section 36-1.~~

4 (e) (Blank). ~~The owner of such vessel or watercraft,~~  
5 ~~vehicle, or aircraft or any person whose right, title, or~~  
6 ~~interest is of record as described in Section 36-1, may show by~~  
7 ~~a preponderance of the evidence that he did not know, and did~~  
8 ~~not have reason to know, that the vessel or watercraft,~~  
9 ~~vehicle, or aircraft was to be used in the commission of such~~  
10 ~~an offense or that any of the exceptions set forth in Section~~  
11 ~~36-3 are applicable.~~

12 (f) (Blank). ~~Unless the State shall make such showing, the~~  
13 ~~Court shall order such vessel or watercraft, vehicle, or~~  
14 ~~aircraft released to the owner. Where the State has made such~~  
15 ~~showing, the Court may order the vessel or watercraft, vehicle,~~  
16 ~~or aircraft destroyed or may order it forfeited to any local,~~  
17 ~~municipal or county law enforcement agency, or the Department~~  
18 ~~of State Police or the Department of Revenue of the State of~~  
19 ~~Illinois.~~

20 (g) (Blank). ~~A copy of the order shall be filed with the~~  
21 ~~law enforcement agency, and with each Federal or State office~~  
22 ~~or agency with which such vessel or watercraft, vehicle, or~~  
23 ~~aircraft is required to be registered. Such order, when filed,~~  
24 ~~constitutes authority for the issuance of clear title to such~~  
25 ~~vessel or watercraft, vehicle, or aircraft, to the department~~  
26 ~~or agency to whom it is delivered or any purchaser thereof. The~~

1 ~~law enforcement agency shall comply promptly with instructions~~  
2 ~~to remit received from the State's Attorney or Attorney General~~  
3 ~~in accordance with Sections 36-2(a) or 36-3.~~

4 (h) (Blank). ~~The proceeds of any sale at public auction~~  
5 ~~pursuant to Section 36-2 of this Act, after payment of all~~  
6 ~~liens and deduction of the reasonable charges and expenses~~  
7 ~~incurred by the State's Attorney's Office shall be paid to the~~  
8 ~~law enforcement agency having seized the vehicle for~~  
9 ~~forfeiture.~~

10 (Source: P.A. 98-699, eff. 1-1-15; 98-1020, eff. 8-22-14;  
11 99-78, eff. 7-20-15.)

12 (720 ILCS 5/36-2.1 new)

13 Sec. 36-2.1. Notice to Owner or Interest Holder. The first  
14 attempted service shall be commenced within 28 days of the  
15 receipt of the notice from the seizing agency by the form 4-64.  
16 If the property seized is a conveyance, notice shall also be  
17 directed to the address reflected in the office of the agency  
18 or official in which title or interest to the conveyance is  
19 required by law to be recorded. A complaint for forfeiture  
20 shall be served upon the property owner or interest holder in  
21 the following manner:

22 (1) If the owner's or interest holder's name and  
23 current address are known, then by either:

24 (A) personal service; or

25 (B) mailing a copy of the notice by certified mail,

1           return receipt requested and first class mail, to that  
2           address.

3           (i) If notice is sent by certified mail and no  
4           signed return receipt is received by the State's  
5           Attorney within 28 days of mailing, and no  
6           communication from the owner or interest holder is  
7           received by the State's Attorney documenting  
8           actual notice by said parties, the State's  
9           Attorney shall, within a reasonable period of  
10           time, mail a second copy of the notice by certified  
11           mail, return receipt requested and first class  
12           mail, to that address.

13           (ii) If no signed return receipt is received by  
14           the State's Attorney within 28 days of the second  
15           attempt at service by certified mail, and no  
16           communication from the owner or interest holder is  
17           received by the State's Attorney documenting  
18           actual notice by said parties, the State's  
19           Attorney shall have 60 days to attempt to serve the  
20           notice by personal service, which also includes  
21           substitute service by leaving a copy at the usual  
22           place of abode, with some person of the family or a  
23           person residing there, of the age of 13 years or  
24           upwards. If after 3 attempts at service in this  
25           manner, no service of the notice is accomplished,  
26           then the notice shall be posted in a conspicuous

1           manner at this address and service shall be made by  
2           the posting.

3           The attempts at service and the posting if  
4           required, shall be documented by the person attempting  
5           service and said documentation shall be made part of a  
6           return of service returned to the State's Attorney.

7           The State's Attorney may utilize a Sheriff or  
8           Deputy Sheriff, any peace officer, a private process  
9           server or investigator, or any employee, agent, or  
10          investigator of the State's Attorney's office to  
11          attempt service without seeking leave of court.

12          After the procedures are followed, service shall  
13          be effective on an owner or interest holder on the date  
14          of receipt by the State's Attorney of a returned return  
15          receipt requested, or on the date of receipt of a  
16          communication from an owner or interest holder  
17          documenting actual notice, whichever is first in time,  
18          or on the date of the last act performed by the State's  
19          Attorney in attempting personal service under item  
20          (ii) of this paragraph (1). If notice is to be shown by  
21          actual notice from communication with a claimant, then  
22          the State's Attorney shall file an affidavit providing  
23          details of the communication, which shall be accepted  
24          as sufficient proof of service by the court.

25          For purposes of notice under this Section, if a  
26          person has been arrested for the conduct giving rise to

1           the forfeiture, the address provided to the arresting  
2           agency at the time of arrest shall be deemed to be that  
3           person's known address. Provided, however, if an owner  
4           or interest holder's address changes prior to the  
5           effective date of the complaint for forfeiture, the  
6           owner or interest holder shall promptly notify the  
7           seizing agency of the change in address or, if the  
8           owner or interest holder's address changes subsequent  
9           to the effective date of the notice of pending  
10           forfeiture, the owner or interest holder shall  
11           promptly notify the State's Attorney of the change in  
12           address; or if the property seized is a conveyance, to  
13           the address reflected in the office of the agency or  
14           official in which title or interest to the conveyance  
15           is required by law to be recorded.

16           (2) If the owner's or interest holder's address is not  
17           known, and is not on record, then notice shall be served by  
18           publication for 3 successive weeks in a newspaper of  
19           general circulation in the county in which the seizure  
20           occurred.

21           (3) Notice to any business entity, corporation, LLC,  
22           LLP, or partnership shall be complete by a single mailing  
23           of a copy of the notice by certified mail, return receipt  
24           requested and first class mail, to that address. This  
25           notice is complete regardless of the return of a signed  
26           "return receipt requested".



1           (4) Notice to a person whose address is not within the  
2           State shall be complete by a single mailing of a copy of  
3           the notice by certified mail, return receipt requested and  
4           first class mail, to that address. This notice is complete  
5           regardless of the return of a signed "return receipt  
6           requested".

7           (5) Notice to a person whose address is not within the  
8           United States shall be complete by a single mailing of a  
9           copy of the notice by certified mail, return receipt  
10           requested and first class mail, to that address. This  
11           notice shall be complete regardless of the return of a  
12           signed "return receipt requested". If certified mail is not  
13           available in the foreign country where the person has an  
14           address, then notice shall proceed by publication under  
15           paragraph (2) of this Section.

16           (6) Notice to any person whom the State's Attorney  
17           reasonably should know is incarcerated within the State  
18           shall also include the mailing a copy of the notice by  
19           certified mail, return receipt requested and first class  
20           mail, to the address of the detention facility with the  
21           inmate's name clearly marked on the envelope.

22           (720 ILCS 5/36-2.2 new)

23           Sec. 36-2.2. Replevin prohibited; return of personal  
24           property inside seized conveyance.

25           (a) Property seized under this Article shall not be subject

1 to replevin, but is deemed to be in the custody of the Director  
2 of State Police subject only to the order and judgments of the  
3 circuit court having jurisdiction over the forfeiture  
4 proceedings and the decisions of the State's Attorney.

5 (b) A claimant or a party interested in personal property  
6 contained within a seized conveyance may file a motion with the  
7 court in a judicial forfeiture action for the return of any  
8 personal property contained within a conveyance seized under  
9 this Article. The return of personal property shall not be  
10 unreasonably withheld if the personal property is not  
11 mechanically or electrically coupled to the conveyance, needed  
12 for evidentiary purposes, or otherwise contraband. A law  
13 enforcement agency that returns property under a court order  
14 under this Section shall not be liable to any person who claims  
15 ownership to the property if the property is returned to an  
16 improper party.

17 (720 ILCS 5/36-2.5 new)

18 Sec. 36-2.5. Judicial in rem procedures.

19 (a) The laws of evidence relating to civil actions shall  
20 apply to judicial in rem proceedings under this Article.

21 (b) Only an owner of or interest holder in the property may  
22 file an answer asserting a claim against the property in the  
23 action in rem. For purposes of this Section, the owner or  
24 interest holder shall be referred to as claimant. A person not  
25 named in the forfeiture complaint who claims to have an

1 interest in the property may petition to intervene as a  
2 claimant under Section 2-408 of the Code of Civil Procedure.

3 (c) The answer shall be filed with the court within 45 days  
4 after service of the civil in rem complaint.

5 (d) The trial shall be held within 60 days after filing of  
6 the answer unless continued for good cause.

7 (e) In its case in chief, the State shall show by a  
8 preponderance of the evidence that:

9 (1) the property is subject to forfeiture; and

10 (2) at least one of the following:

11 (i) the claimant knew or should have known that the  
12 conduct was likely to occur; or

13 (ii) the claimant is not the true owner of the  
14 property that is subject to forfeiture.

15 In any forfeiture case under this Article, a claimant may  
16 present evidence to overcome evidence presented by the State  
17 that the property is subject to forfeiture.

18 (f) Notwithstanding any other provision of this Section,  
19 the State's burden of proof at the trial of the forfeiture  
20 action shall be by clear and convincing evidence if:

21 (1) a finding of not guilty is entered as to all counts  
22 and all defendants in a criminal proceeding relating to the  
23 conduct giving rise to the forfeiture action; or

24 (2) the State receives an adverse finding at a  
25 preliminary hearing and fails to secure an indictment in a  
26 criminal proceeding related to the factual allegations of

1 the forfeiture action.

2 (g) If the State does not meet its burden of proof, the  
3 court shall order the interest in the property returned or  
4 conveyed to the claimant and shall order all other property in  
5 which the State does meet its burden of proof forfeited to the  
6 State. If the State does meet its burden of proof, the court  
7 shall order all property forfeited to the State.

8 (h) A defendant convicted in any criminal proceeding is  
9 precluded from later denying the essential allegations of the  
10 criminal offense of which the defendant was convicted in any  
11 proceeding under this Article regardless of the pendency of an  
12 appeal from that conviction. However, evidence of the pendency  
13 of an appeal is admissible.

14 (i) An acquittal or dismissal in a criminal proceeding  
15 shall not preclude civil proceedings under this Act; however,  
16 for good cause shown, on a motion by either party, the court  
17 may stay civil forfeiture proceedings during the criminal trial  
18 for a related criminal indictment or information alleging a  
19 violation of law authorizing forfeiture under Section 36-1 of  
20 this Article.

21 (j) Title to all property declared forfeited under this Act  
22 vests in this State on the commission of the conduct giving  
23 rise to forfeiture together with the proceeds of the property  
24 after that time. Except as otherwise provided in this Article,  
25 any property or proceeds subsequently transferred to any person  
26 remain subject to forfeiture unless a person to whom the

1 property was transferred makes an appropriate claim under or  
2 has their claim adjudicated at the judicial in rem hearing.

3 (k) No property shall be forfeited under this Article from  
4 a person who, without actual or constructive notice that the  
5 property was the subject of forfeiture proceedings, obtained  
6 possession of the property as a bona fide purchaser for value.  
7 A person who purports to transfer property after receiving  
8 actual or constructive notice that the property is subject to  
9 seizure or forfeiture is guilty of contempt of court, and shall  
10 be liable to the State for a penalty in the amount of the fair  
11 market value of the property.

12 (l) A civil action under this Article shall be commenced  
13 within 5 years after the last conduct giving rise to forfeiture  
14 became known or should have become known or 5 years after the  
15 forfeitable property is discovered, whichever is later,  
16 excluding any time during which either the property or claimant  
17 is out of the State or in confinement or during which criminal  
18 proceedings relating to the same conduct are in progress.

19 (m) If property is ordered forfeited under this Article  
20 from a claimant who held title to the property in joint tenancy  
21 or tenancy in common with another claimant, the court shall  
22 determine the amount of each owner's interest in the property  
23 according to principles of property law.

24 (720 ILCS 5/36-2.7 new)

25 Sec. 36-2.7. Innocent owner hearing.

1       (a) After a complaint for forfeiture has been filed and all  
2 claimants have appeared and answered, a claimant may file a  
3 motion with the court for an innocent owner hearing prior to  
4 trial. This motion shall be made and supported by sworn  
5 affidavit and shall assert the following along with specific  
6 facts which support each assertion:

7           (1) that the claimant filing the motion is the true  
8 owner of the conveyance as interpreted by case law; and

9           (2) that the claimant did not know or did not have  
10 reason to know the conduct giving rise to the forfeiture  
11 was likely to occur.

12       (b) The claimant shall include specific facts which support  
13 these assertions in their motion.

14       (c) Upon the filing, a hearing may only be conducted after  
15 the parties have been given the opportunity to conduct limited  
16 discovery as to the ownership and control of the property, the  
17 claimant's knowledge, or any matter relevant to the issues  
18 raised or facts alleged in the claimant's motion. Discovery  
19 shall be limited to the People's requests in these areas but  
20 may proceed by any means allowed in the Code of Civil  
21 Procedure.

22       (d) After discovery is complete and the court has allowed  
23 for sufficient time to review and investigate the discovery  
24 responses, the court shall conduct a hearing. At the hearing,  
25 the fact that the conveyance is subject to forfeiture shall not  
26 be at issue. The court shall only hear evidence relating to the

1 issue of innocent ownership.

2 (e) At the hearing on the motion, the claimant shall bear  
3 the burden of proving each of the assertions listed in  
4 subsection (a) of this Section by a preponderance of the  
5 evidence.

6 (f) If a claimant meets their burden of proof, the court  
7 shall grant the motion and order the conveyance returned to the  
8 claimant. If the claimant fails to meet their burden of proof,  
9 the court shall deny the motion and the forfeiture case shall  
10 proceed according to the Rules of Civil Procedure.

11 (720 ILCS 5/36-3) (from Ch. 38, par. 36-3)

12 Sec. 36-3. Exemptions from ~~Exceptions to~~ forfeiture.

13 (a) No vessel or watercraft, vehicle, or aircraft used by  
14 any person as a common carrier in the transaction of business  
15 as such common carrier may be forfeited under the provisions of  
16 Section 36-2 unless the State proves by a preponderance of the  
17 evidence ~~it appears~~ that (1) in the case of a railway car or  
18 engine, the owner, or (2) in the case of any other such vessel  
19 or watercraft, vehicle or aircraft, the owner or the master of  
20 such vessel or watercraft or the owner or conductor, driver,  
21 pilot, or other person in charge of such vehicle or aircraft  
22 was at the time of the alleged illegal act a consenting party  
23 or privy thereto.

24 (b) No vessel or watercraft, vehicle, or aircraft shall be  
25 forfeited under the provisions of Section 36-2 of this Article

1 by reason of any act or omission ~~established by the owner~~  
2 ~~thereof to have been~~ committed or omitted by any person other  
3 than such owner while such vessel or watercraft, vehicle, or  
4 aircraft was unlawfully in the possession of a person who  
5 acquired possession thereof in violation of the criminal laws  
6 of the United States, or of any state.

7 (Source: P.A. 98-699, eff. 1-1-15.)

8 (720 ILCS 5/36-3.1 new)

9 Sec. 36-3.1. Proportionality. Property forfeited under  
10 this Article shall be subject to an 8th Amendment to the United  
11 States Constitution disproportionate penalties analysis, and  
12 the property forfeiture may be denied in whole or in part if  
13 the court finds that the forfeiture would constitute an  
14 excessive fine in violation of the 8th Amendment to the United  
15 States Constitution, as interpreted by case law.

16 (720 ILCS 5/36-6 new)

17 Sec. 36-6. Return of property, damages and costs.

18 (a) The law enforcement agency that holds custody of  
19 property seized for forfeiture shall return to the claimant,  
20 within a reasonable period of time not to exceed 7 days unless  
21 the order is stayed by the trial court or a reviewing court  
22 pending an appeal, motion to reconsider, or other reason after  
23 the court orders the property to be returned or conveyed to the  
24 claimant:



1           (1) property ordered by the court to be conveyed or  
2           returned to the claimant; and

3           (2) property ordered by the court to be conveyed or  
4           returned to the claimant under subsection (d) of Section  
5           36-3.1 of this Article.

6           (b) The law enforcement agency that holds custody of  
7           property seized under this Article is responsible for any  
8           damages, storage fees, and related costs applicable to property  
9           returned to a claimant under this Article. The claimant shall  
10           not be subject to any charges by the State for storage of the  
11           property or expenses incurred in the preservation of the  
12           property. Charges for the towing of a conveyance shall be borne  
13           by the claimant unless the conveyance was towed for the sole  
14           reason of seizure for forfeiture. This subsection does not  
15           prohibit the imposition of any fees or costs by a home rule  
16           unit of local government related to the impoundment of a  
17           conveyance under an ordinance enacted by the unit of  
18           government.

19           (720 ILCS 5/36-7 new)

20           Sec. 36-7. Distribution of proceeds; selling or retaining  
21           seized property prohibited.

22           (a) Except as otherwise provided in this Section, the court  
23           shall order that property forfeited under this Article be  
24           delivered to the Department of State Police within 60 days.

25           (b) The Department of State Police or its designee shall

1 dispose of all property at public auction and shall distribute  
2 the proceeds of the sale, together with any moneys forfeited or  
3 seized, under subsection (c) of this Section.

4 (c) All monies and the sale proceeds of all other property  
5 forfeited and seized under this Act shall be distributed as  
6 follows:

7 (1) 65% shall be distributed to the drug task force,  
8 metropolitan enforcement group, local, municipal, county,  
9 or state law enforcement agency or agencies which conducted  
10 or participated in the investigation resulting in the  
11 forfeiture. The distribution shall bear a reasonable  
12 relationship to the degree of direct participation of the  
13 law enforcement agency in the effort resulting in the  
14 forfeiture, taking into account the total value of the  
15 property forfeited and the total law enforcement effort  
16 with respect to the violation of the law upon which the  
17 forfeiture is based. Amounts distributed to the agency or  
18 agencies shall be used, at the discretion of the agency,  
19 for the enforcement of criminal laws; or for public  
20 education in the community or schools in the prevention or  
21 detection of the abuse of drugs or alcohol; or for security  
22 cameras used for the prevention or detection of violence,  
23 except that amounts distributed to the Secretary of State  
24 shall be deposited into the Secretary of State Evidence  
25 Fund to be used as provided in Section 2-115 of the  
26 Illinois Vehicle Code.

1           Any local, municipal, or county law enforcement agency  
2           entitled to receive a monetary distribution of forfeiture  
3           proceeds may share those forfeiture proceeds pursuant to  
4           the terms of an intergovernmental agreement with a  
5           municipality that has a population in excess of 20,000 if:

6                   (A) the receiving agency has entered into an  
7                   intergovernmental agreement with the municipality to  
8                   provide police services;

9                   (B) the intergovernmental agreement for police  
10                  services provides for consideration in an amount of not  
11                  less than \$1,000,000 per year;

12                  (C) the seizure took place within the geographical  
13                  limits of the municipality; and

14                  (D) the funds are used only for the enforcement of  
15                  criminal laws; for public education in the community or  
16                  schools in the prevention or detection of the abuse of  
17                  drugs or alcohol; or for security cameras used for the  
18                  prevention or detection of violence or the  
19                  establishment of a municipal police force, including  
20                  the training of officers, construction of a police  
21                  station, the purchase of law enforcement equipment, or  
22                  vehicles.

23           (2) 12.5% shall be distributed to the Office of the  
24           State's Attorney of the county in which the prosecution  
25           resulting in the forfeiture was instituted, deposited in a  
26           special fund in the county treasury and appropriated to the

1 State's Attorney for use, at the discretion of the State's  
2 Attorney, in the enforcement of criminal laws; or for  
3 public education in the community or schools in the  
4 prevention or detection of the abuse of drugs or alcohol;  
5 or at the discretion of the State's Attorney, in addition  
6 to other authorized purposes, to make grants to local  
7 substance abuse treatment facilities and half-way houses.  
8 In counties over 3,000,000 population, 25% will be  
9 distributed to the Office of the State's Attorney for use,  
10 at the discretion of the State's Attorney, in the  
11 enforcement of criminal laws; or for public education in  
12 the community or schools in the prevention or detection of  
13 the abuse of drugs or alcohol; or at the discretion of the  
14 State's Attorney, in addition to other authorized  
15 purposes, to make grants to local substance abuse treatment  
16 facilities and half-way houses. If the prosecution is  
17 undertaken solely by the Attorney General, the portion  
18 provided shall be distributed to the Attorney General for  
19 use in the enforcement of criminal laws governing cannabis  
20 and controlled substances or for public education in the  
21 community or schools in the prevention or detection of the  
22 abuse of drugs or alcohol.

23 12.5% shall be distributed to the Office of the State's  
24 Attorneys Appellate Prosecutor and shall be used at the  
25 discretion of the State's Attorneys Appellate Prosecutor  
26 for additional expenses incurred in the investigation,

1 prosecution and appeal of cases arising in the enforcement  
2 of criminal laws; or for public education in the community  
3 or schools in the prevention or detection of the abuse of  
4 drugs or alcohol. The Office of the State's Attorneys  
5 Appellate Prosecutor shall not receive distribution from  
6 cases brought in counties with over 3,000,000 population.

7 (3) 10% shall be retained by the Department of State  
8 Police for expenses related to the administration and sale  
9 of seized and forfeited property.

10 (d) A law enforcement agency shall not retain forfeited  
11 property for its own use or transfer the property to any person  
12 or entity, except as provided under this Section. A law  
13 enforcement agency may apply in writing to the Director of  
14 State Police to request that a forfeited property be awarded to  
15 the agency for a specifically articulated official law  
16 enforcement use in an investigation. The Director of State  
17 Police shall provide a written justification in each instance  
18 detailing the reasons why the forfeited property was placed  
19 into official use, and the justification shall be retained for  
20 a period of not less than 3 years.

21 (720 ILCS 5/36-9 new)

22 Sec. 36-9. Reporting. Property seized or forfeited under  
23 this Article is subject to reporting under the Seizure and  
24 Forfeiture Reporting Act.

1 (720 ILCS 5/47-15)

2 Sec. 47-15. Dumping garbage upon real property.

3 (a) It is unlawful for a person to dump, deposit, or place  
4 garbage, rubbish, trash, or refuse upon real property not owned  
5 by that person without the consent of the owner or person in  
6 possession of the real property.

7 (b) A person who violates this Section is liable to the  
8 owner or person in possession of the real property on which the  
9 garbage, rubbish, trash, or refuse is dumped, deposited, or  
10 placed for the reasonable costs incurred by the owner or person  
11 in possession for cleaning up and properly disposing of the  
12 garbage, rubbish, trash, or refuse, and for reasonable  
13 attorneys' fees.

14 (c) A person violating this Section is guilty of a Class B  
15 misdemeanor for which the court must impose a minimum fine of  
16 \$500. A second conviction for an offense committed after the  
17 first conviction is a Class A misdemeanor for which the court  
18 must impose a minimum fine of \$500. A third or subsequent  
19 violation, committed after a second conviction, is a Class 4  
20 felony for which the court must impose a minimum fine of \$500.  
21 A person who violates this Section and who has an equity  
22 interest in a motor vehicle used in violation of this Section  
23 is presumed to have the financial resources to pay the minimum  
24 fine not exceeding his or her equity interest in the vehicle.  
25 Personal property used by a person in violation of this Section  
26 shall on the third or subsequent conviction of the person be

1 forfeited to the county where the violation occurred and  
2 disposed of at a public sale. Before the forfeiture, the court  
3 shall conduct a hearing to determine whether property is  
4 subject to forfeiture under this Section. At the forfeiture  
5 hearing the State has the burden of establishing by a  
6 preponderance of the evidence that property is subject to  
7 forfeiture under this Section. Property seized or forfeited  
8 under this Section is subject to reporting under the Seizure  
9 and Forfeiture Reporting Act.

10 (d) The statutory minimum fine required by subsection (c)  
11 is not subject to reduction or suspension unless the defendant  
12 is indigent. If the defendant files a motion with the court  
13 asserting his or her inability to pay the mandatory fine  
14 required by this Section, the court must set a hearing on the  
15 motion before sentencing. The court must require an affidavit  
16 signed by the defendant containing sufficient information to  
17 ascertain the assets and liabilities of the defendant. If the  
18 court determines that the defendant is indigent, the court must  
19 require that the defendant choose either to pay the minimum  
20 fine of \$500 or to perform 100 hours of community service.

21 (Source: P.A. 90-655, eff. 7-30-98; 91-409, eff. 1-1-00.)

22 (720 ILCS 5/36-1a rep.)

23 (720 ILCS 5/36-5 rep.)

24 Section 140. The Criminal Code of 2012 is amended by  
25 repealing Sections 36-1a and 36-5.

1 Section 145. The Cannabis Control Act is amended by  
2 changing Section 12 as follows:

3 (720 ILCS 550/12) (from Ch. 56 1/2, par. 712)

4 Sec. 12. (a) The following are subject to forfeiture:

5 (1) (blank); ~~all substances containing cannabis which~~  
6 ~~have been produced, manufactured, delivered, or possessed~~  
7 ~~in violation of this Act;~~

8 (2) all raw materials, products and equipment of any  
9 kind which are produced, delivered, or possessed in  
10 connection with any substance containing cannabis in a  
11 felony violation of this Act;

12 (3) all conveyances, including aircraft, vehicles or  
13 vessels, which are used, or intended for use, to transport,  
14 or in any manner to facilitate the transportation, sale,  
15 receipt, possession, or concealment of any substance  
16 containing cannabis or property described in paragraph ~~(1)~~  
17 ~~or~~ (2) of this subsection (a) that constitutes a felony  
18 violation of the Act, but:

19 (i) no conveyance used by any person as a common  
20 carrier in the transaction of business as a common  
21 carrier is subject to forfeiture under this Section  
22 unless it appears that the owner or other person in  
23 charge of the conveyance is a consenting party or privy  
24 to the ~~a~~ violation ~~of this Act;~~



1           (ii) no conveyance is subject to forfeiture under  
2           this Section by reason of any act or omission which the  
3           owner proves to have been committed or omitted without  
4           his knowledge or consent;

5           (iii) a forfeiture of a conveyance encumbered by a  
6           bona fide security interest is subject to the interest  
7           of the secured party if he neither had knowledge of nor  
8           consented to the act or omission;

9           (4) all money, things of value, books, records, and  
10          research products and materials including formulas,  
11          microfilm, tapes, and data which are used, or intended for  
12          use in a felony violation of this Act;

13          (5) everything of value furnished or intended to be  
14          furnished by any person in exchange for a substance in  
15          violation of this Act, all proceeds traceable to such an  
16          exchange, and all moneys, negotiable instruments, and  
17          securities used, or intended to be used, to commit or in  
18          any manner to facilitate any felony violation of this Act;

19          (6) all real property, including any right, title, and  
20          interest including, but not limited to, any leasehold  
21          interest or the beneficial interest to a land trust, in the  
22          whole of any lot or tract of land and any appurtenances or  
23          improvements, that is used or intended to be used to  
24          facilitate the manufacture, distribution, sale, receipt,  
25          or concealment of a substance containing cannabis or  
26          property described in paragraph ~~(1)~~ or (2) of this

1 subsection (a) that constitutes a felony violation of this  
2 Act involving more than 2,000 grams of a substance  
3 containing cannabis or that is the proceeds of any felony  
4 violation of this Act.

5 (b) Property subject to forfeiture under this Act may be  
6 seized under the Drug Asset Forfeiture Procedure Act. In the  
7 event of seizure, forfeiture proceedings shall be instituted  
8 under the Drug Asset Forfeiture Procedure Act. ~~by the Director~~  
9 ~~or any peace officer upon process or seizure warrant issued by~~  
10 ~~any court having jurisdiction over the property. Seizure by the~~  
11 ~~Director or any peace officer without process may be made:~~

12 ~~(1) if the property subject to seizure has been the~~  
13 ~~subject of a prior judgment in favor of the State in a~~  
14 ~~criminal proceeding or in an injunction or forfeiture~~  
15 ~~proceeding based upon this Act or the Drug Asset Forfeiture~~  
16 ~~Procedure Act;~~

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

20 ~~(3) if there is probable cause to believe that the~~  
21 ~~property is subject to forfeiture under this Act and the~~  
22 ~~property is seized under circumstances in which a~~  
23 ~~warrantless seizure or arrest would be reasonable; or~~

24 ~~(4) in accordance with the Code of Criminal Procedure~~  
25 ~~of 1963.~~

26 (c) Forfeiture under this Act is subject to subject to an

1 8th amendment to the United States Constitution  
2 disproportionate penalties analysis as provided under Section  
3 9.5 of the Drug Asset Forfeiture Procedure Act. ~~In the event of~~  
4 ~~seizure pursuant to subsection (b), notice shall be given~~  
5 ~~forthwith to all known interest holders that forfeiture~~  
6 ~~proceedings, including a preliminary review, shall be~~  
7 ~~instituted in accordance with the Drug Asset Forfeiture~~  
8 ~~Procedure Act and such proceedings shall thereafter be~~  
9 ~~instituted in accordance with that Act. Upon a showing of good~~  
10 ~~cause, the notice required for a preliminary review under this~~  
11 ~~Section may be postponed.~~

12 (c-1) With regard to possession of cannabis offenses only,  
13 a sum of currency with a value of less than \$500 shall not be  
14 subject to forfeiture under this Act. For all other offenses  
15 under this Act, a sum of currency with a value of less than  
16 \$100 shall not be subject to forfeiture under this Act. In  
17 seizures of currency in excess of these amounts, this Section  
18 shall not create an exemption for these amounts. ~~In the event~~  
19 ~~the State's Attorney is of the opinion that real property is~~  
20 ~~subject to forfeiture under this Act, forfeiture proceedings~~  
21 ~~shall be instituted in accordance with the Drug Asset~~  
22 ~~Forfeiture Procedure Act. The exemptions from forfeiture~~  
23 ~~provisions of Section 8 of the Drug Asset Forfeiture Procedure~~  
24 ~~Act are applicable.~~

25 (d) (Blank). ~~Property taken or detained under this Section~~  
26 ~~shall not be subject to replevin, but is deemed to be in the~~

1 ~~eustody of the Director subject only to the order and judgments~~  
2 ~~of the circuit court having jurisdiction over the forfeiture~~  
3 ~~proceedings and the decisions of the State's Attorney under the~~  
4 ~~Drug Asset Forfeiture Procedure Act. When property is seized~~  
5 ~~under this Act, the seizing agency shall promptly conduct an~~  
6 ~~inventory of the seized property, estimate the property's~~  
7 ~~value, and shall forward a copy of the inventory of seized~~  
8 ~~property and the estimate of the property's value to the~~  
9 ~~Director. Upon receiving notice of seizure, the Director may:~~

10 ~~(1) place the property under seal;~~

11 ~~(2) remove the property to a place designated by him;~~

12 ~~(3) keep the property in the possession of the seizing~~  
13 ~~agency;~~

14 ~~(4) remove the property to a storage area for~~  
15 ~~safekeeping or, if the property is a negotiable instrument~~  
16 ~~or money and is not needed for evidentiary purposes,~~  
17 ~~deposit it in an interest bearing account;~~

18 ~~(5) place the property under constructive seizure by~~  
19 ~~posting notice of pending forfeiture on it, by giving~~  
20 ~~notice of pending forfeiture to its owners and interest~~  
21 ~~holders, or by filing notice of pending forfeiture in any~~  
22 ~~appropriate public record relating to the property; or~~

23 ~~(6) provide for another agency or custodian, including~~  
24 ~~an owner, secured party, or lienholder, to take custody of~~  
25 ~~the property upon the terms and conditions set by the~~  
26 ~~Director.~~

1           (e) (Blank). ~~No disposition may be made of property under~~  
2 ~~seal until the time for taking an appeal has elapsed or until~~  
3 ~~all appeals have been concluded unless a court, upon~~  
4 ~~application therefor, orders the sale of perishable substances~~  
5 ~~and the deposit of the proceeds of the sale with the court.~~

6           (f) (Blank). ~~When property is forfeited under this Act the~~  
7 ~~Director shall sell all such property unless such property is~~  
8 ~~required by law to be destroyed or is harmful to the public,~~  
9 ~~and shall distribute the proceeds of the sale, together with~~  
10 ~~any moneys forfeited or seized, in accordance with subsection~~  
11 ~~(g). However, upon the application of the seizing agency or~~  
12 ~~prosecutor who was responsible for the investigation, arrest or~~  
13 ~~arrests and prosecution which lead to the forfeiture, the~~  
14 ~~Director may return any item of forfeited property to the~~  
15 ~~seizing agency or prosecutor for official use in the~~  
16 ~~enforcement of laws relating to cannabis or controlled~~  
17 ~~substances, if the agency or prosecutor can demonstrate that~~  
18 ~~the item requested would be useful to the agency or prosecutor~~  
19 ~~in their enforcement efforts. When any forfeited conveyance,~~  
20 ~~including an aircraft, vehicle, or vessel, is returned to the~~  
21 ~~seizing agency or prosecutor, the conveyance may be used~~  
22 ~~immediately in the enforcement of the criminal laws of this~~  
23 ~~State. Upon disposal, all proceeds from the sale of the~~  
24 ~~conveyance must be used for drug enforcement purposes. When any~~  
25 ~~real property returned to the seizing agency is sold by the~~  
26 ~~agency or its unit of government, the proceeds of the sale~~

1 ~~shall be delivered to the Director and distributed in~~  
2 ~~accordance with subsection (g).~~

3 (g) (Blank). ~~All monies and the sale proceeds of all other~~  
4 ~~property forfeited and seized under this Act shall be~~  
5 ~~distributed as follows:~~

6 ~~(1) (i) 65% shall be distributed to the metropolitan~~  
7 ~~enforcement group, local, municipal, county, or state law~~  
8 ~~enforcement agency or agencies which conducted or~~  
9 ~~participated in the investigation resulting in the~~  
10 ~~forfeiture. The distribution shall bear a reasonable~~  
11 ~~relationship to the degree of direct participation of the~~  
12 ~~law enforcement agency in the effort resulting in the~~  
13 ~~forfeiture, taking into account the total value of the~~  
14 ~~property forfeited and the total law enforcement effort~~  
15 ~~with respect to the violation of the law upon which the~~  
16 ~~forfeiture is based. Amounts distributed to the agency or~~  
17 ~~agencies shall be used for the enforcement of laws~~  
18 ~~governing cannabis and controlled substances; for public~~  
19 ~~education in the community or schools in the prevention or~~  
20 ~~detection of the abuse of drugs or alcohol; or for security~~  
21 ~~cameras used for the prevention or detection of violence,~~  
22 ~~except that amounts distributed to the Secretary of State~~  
23 ~~shall be deposited into the Secretary of State Evidence~~  
24 ~~Fund to be used as provided in Section 2-115 of the~~  
25 ~~Illinois Vehicle Code.~~

26 ~~(ii) Any local, municipal, or county law enforcement~~

1 ~~agency entitled to receive a monetary distribution of~~  
2 ~~forfeiture proceeds may share those forfeiture proceeds~~  
3 ~~pursuant to the terms of an intergovernmental agreement~~  
4 ~~with a municipality that has a population in excess of~~  
5 ~~20,000 if:~~

6 ~~(I) the receiving agency has entered into an~~  
7 ~~intergovernmental agreement with the municipality to~~  
8 ~~provide police services;~~

9 ~~(II) the intergovernmental agreement for police~~  
10 ~~services provides for consideration in an amount of not~~  
11 ~~less than \$1,000,000 per year;~~

12 ~~(III) the seizure took place within the~~  
13 ~~geographical limits of the municipality; and~~

14 ~~(IV) the funds are used only for the enforcement of~~  
15 ~~laws governing cannabis and controlled substances; for~~  
16 ~~public education in the community or schools in the~~  
17 ~~prevention or detection of the abuse of drugs or~~  
18 ~~alcohol; or for security cameras used for the~~  
19 ~~prevention or detection of violence or the~~  
20 ~~establishment of a municipal police force, including~~  
21 ~~the training of officers, construction of a police~~  
22 ~~station, the purchase of law enforcement equipment, or~~  
23 ~~vehicles.~~

24 ~~(2) (i) 12.5% shall be distributed to the Office of the~~  
25 ~~State's Attorney of the county in which the prosecution~~  
26 ~~resulting in the forfeiture was instituted, deposited in a~~

1 ~~special fund in the county treasury and appropriated to the~~  
2 ~~State's Attorney for use in the enforcement of laws~~  
3 ~~governing cannabis and controlled substances; for public~~  
4 ~~education in the community or schools in the prevention or~~  
5 ~~detection of the abuse of drugs or alcohol; or at the~~  
6 ~~discretion of the State's Attorney, in addition to other~~  
7 ~~authorized purposes, to make grants to local substance~~  
8 ~~abuse treatment facilities and half way houses. In~~  
9 ~~counties over 3,000,000 population, 25% will be~~  
10 ~~distributed to the Office of the State's Attorney for use~~  
11 ~~in the enforcement of laws governing cannabis and~~  
12 ~~controlled substances; for public education in the~~  
13 ~~community or schools in the prevention or detection of the~~  
14 ~~abuse of drugs or alcohol; or at the discretion of the~~  
15 ~~State's Attorney, in addition to other authorized~~  
16 ~~purposes, to make grants to local substance abuse treatment~~  
17 ~~facilities and half way houses. If the prosecution is~~  
18 ~~undertaken solely by the Attorney General, the portion~~  
19 ~~provided hereunder shall be distributed to the Attorney~~  
20 ~~General for use in the enforcement of laws governing~~  
21 ~~cannabis and controlled substances.~~

22 ~~(ii) 12.5% shall be distributed to the Office of the~~  
23 ~~State's Attorneys Appellate Prosecutor and deposited in~~  
24 ~~the Narcotics Profit Forfeiture Fund of that Office to be~~  
25 ~~used for additional expenses incurred in the~~  
26 ~~investigation, prosecution and appeal of cases arising~~



1 ~~under laws governing cannabis and controlled substances or~~  
2 ~~for public education in the community or schools in the~~  
3 ~~prevention or detection of the abuse of drugs or alcohol.~~  
4 ~~The Office of the State's Attorneys Appellate Prosecutor~~  
5 ~~shall not receive distribution from cases brought in~~  
6 ~~counties with over 3,000,000 population.~~

7 ~~(3) 10% shall be retained by the Department of State~~  
8 ~~Police for expenses related to the administration and sale~~  
9 ~~of seized and forfeited property.~~

10 (h) Contraband, including cannabis possessed without  
11 authorization under State or federal law, is not subject to  
12 forfeiture. No property right exists in contraband. Contraband  
13 is subject to seizure and shall be disposed of according to  
14 State law.

15 (Source: P.A. 99-686, eff. 7-29-16.)

16 Section 150. The Illinois Controlled Substances Act is  
17 amended by changing Section 505 as follows:

18 (720 ILCS 570/505) (from Ch. 56 1/2, par. 1505)

19 Sec. 505. (a) The following are subject to forfeiture:

20 (1) (blank); ~~all substances which have been~~  
21 ~~manufactured, distributed, dispensed, or possessed in~~  
22 ~~violation of this Act;~~

23 (2) all raw materials, products and equipment of any  
24 kind which are used, or intended for use in manufacturing,

1 distributing, dispensing, administering or possessing any  
2 substance in violation of this Act;

3 (3) all conveyances, including aircraft, vehicles or  
4 vessels, which are used, or intended for use, to transport,  
5 or in any manner to facilitate the transportation, sale,  
6 receipt, possession, or concealment of substances  
7 manufactured, distributed, dispensed, or possessed in  
8 violation of this Act, or property described in paragraphs  
9 ~~(1) and (2)~~ of this subsection (a), but:

10 (i) no conveyance used by any person as a common  
11 carrier in the transaction of business as a common  
12 carrier is subject to forfeiture under this Section  
13 unless it appears that the owner or other person in  
14 charge of the conveyance is a consenting party or privy  
15 to a violation of this Act;

16 (ii) no conveyance is subject to forfeiture under  
17 this Section by reason of any act or omission which the  
18 owner proves to have been committed or omitted without  
19 his or her knowledge or consent;

20 (iii) a forfeiture of a conveyance encumbered by a  
21 bona fide security interest is subject to the interest  
22 of the secured party if he or she neither had knowledge  
23 of nor consented to the act or omission;

24 (4) all money, things of value, books, records, and  
25 research products and materials including formulas,  
26 microfilm, tapes, and data which are used, or intended to

1 be used in violation of this Act;

2 (5) everything of value furnished, or intended to be  
3 furnished, in exchange for a substance in violation of this  
4 Act, all proceeds traceable to such an exchange, and all  
5 moneys, negotiable instruments, and securities used, or  
6 intended to be used, to commit or in any manner to  
7 facilitate any violation of this Act;

8 (6) all real property, including any right, title, and  
9 interest (including, but not limited to, any leasehold  
10 interest or the beneficial interest in a land trust) in the  
11 whole of any lot or tract of land and any appurtenances or  
12 improvements, which is used or intended to be used, in any  
13 manner or part, to commit, or in any manner to facilitate  
14 the commission of, any violation or act that constitutes a  
15 violation of Section 401 or 405 of this Act or that is the  
16 proceeds of any violation or act that constitutes a  
17 violation of Section 401 or 405 of this Act.

18 (b) Property subject to forfeiture under this Act may be  
19 seized under the Drug Asset Forfeiture Procedure Act. In the  
20 event of seizure, forfeiture proceedings shall be instituted  
21 under the Drug Asset Forfeiture Procedure Act. ~~seized by the~~  
22 ~~Director or any peace officer upon process or seizure warrant~~  
23 ~~issued by any court having jurisdiction over the property.~~  
24 ~~Seizure by the Director or any peace officer without process~~  
25 ~~may be made:~~

26 ~~(1) if the seizure is incident to inspection under an~~

1 ~~administrative inspection warrant;~~

2 ~~(2) if the property subject to seizure has been the~~  
3 ~~subject of a prior judgment in favor of the State in a~~  
4 ~~criminal proceeding, or in an injunction or forfeiture~~  
5 ~~proceeding based upon this Act or the Drug Asset Forfeiture~~  
6 ~~Procedure Act;~~

7 ~~(3) if there is probable cause to believe that the~~  
8 ~~property is directly or indirectly dangerous to health or~~  
9 ~~safety;~~

10 ~~(4) if there is probable cause to believe that the~~  
11 ~~property is subject to forfeiture under this Act and the~~  
12 ~~property is seized under circumstances in which a~~  
13 ~~warrantless seizure or arrest would be reasonable; or~~

14 ~~(5) in accordance with the Code of Criminal Procedure~~  
15 ~~of 1963.~~

16 (c) Forfeiture under this Act is subject to subject to an  
17 8th amendment to the United States Constitution  
18 disproportionate penalties analysis as provided under Section  
19 9.5 of the Drug Asset Forfeiture Procedure Act. ~~In the event of~~  
20 ~~seizure pursuant to subsection (b), notice shall be given~~  
21 ~~forthwith to all known interest holders that forfeiture~~  
22 ~~proceedings, including a preliminary review, shall be~~  
23 ~~instituted in accordance with the Drug Asset Forfeiture~~  
24 ~~Procedure Act and such proceedings shall thereafter be~~  
25 ~~instituted in accordance with that Act. Upon a showing of good~~  
26 ~~cause, the notice required for a preliminary review under this~~

1 ~~Section may be postponed.~~

2 (d) With regard to possession of controlled substances  
3 offenses only, a sum of currency with a value of less than \$500  
4 shall not be subject to forfeiture under this Act. For all  
5 other offenses under this Act, currency with a value of under  
6 \$100 shall not be subject to forfeiture under this Act.  
7 ~~Property taken or detained under this Section shall not be~~  
8 ~~subject to replevin, but is deemed to be in the custody of the~~  
9 ~~Director subject only to the order and judgments of the circuit~~  
10 ~~court having jurisdiction over the forfeiture proceedings and~~  
11 ~~the decisions of the State's Attorney under the Drug Asset~~  
12 ~~Forfeiture Procedure Act. When property is seized under this~~  
13 ~~Act, the seizing agency shall promptly conduct an inventory of~~  
14 ~~the seized property and estimate the property's value, and~~  
15 ~~shall forward a copy of the inventory of seized property and~~  
16 ~~the estimate of the property's value to the Director. Upon~~  
17 ~~receiving notice of seizure, the Director may:~~

18 ~~(1) place the property under seal;~~

19 ~~(2) remove the property to a place designated by the~~  
20 ~~Director;~~

21 ~~(3) keep the property in the possession of the seizing~~  
22 ~~agency;~~

23 ~~(4) remove the property to a storage area for~~  
24 ~~safekeeping or, if the property is a negotiable instrument~~  
25 ~~or money and is not needed for evidentiary purposes,~~  
26 ~~deposit it in an interest bearing account;~~

1           ~~(5) place the property under constructive seizure by~~  
2           ~~posting notice of pending forfeiture on it, by giving~~  
3           ~~notice of pending forfeiture to its owners and interest~~  
4           ~~holders, or by filing notice of pending forfeiture in any~~  
5           ~~appropriate public record relating to the property; or~~

6           ~~(6) provide for another agency or custodian, including~~  
7           ~~an owner, secured party, or lienholder, to take custody of~~  
8           ~~the property upon the terms and conditions set by the~~  
9           ~~Director.~~

10           (d-5) For felony offenses involving possession of  
11           controlled substances only, no property shall be subject to  
12           forfeiture under this Act because of the possession of less  
13           than 2 single unit doses of a controlled substance. This  
14           exemption shall not apply in instances when the possessor, or  
15           another person at the direction of the possessor, engaged in  
16           the destruction of any amount of a controlled substance. The  
17           amount of a single unit dose shall be the State's burden to  
18           prove in their case in chief.

19           (e) If the Department of Financial and Professional  
20           Regulation suspends or revokes a registration, all controlled  
21           substances owned or possessed by the registrant at the time of  
22           suspension or the effective date of the revocation order may be  
23           placed under seal by the Director. No disposition may be made  
24           of substances under seal until the time for taking an appeal  
25           has elapsed or until all appeals have been concluded unless a  
26           court, upon application therefor, orders the sale of perishable

1 substances and the deposit of the proceeds of the sale with the  
2 court. Upon a suspension or revocation order becoming final,  
3 all substances are subject to seizure and forfeiture under the  
4 Drug Asset Forfeiture Procedure Act ~~may be forfeited to the~~  
5 ~~Illinois State Police.~~

6 (f) (Blank). ~~When property is forfeited under this Act the~~  
7 ~~Director shall sell all such property unless such property is~~  
8 ~~required by law to be destroyed or is harmful to the public,~~  
9 ~~and shall distribute the proceeds of the sale, together with~~  
10 ~~any moneys forfeited or seized, in accordance with subsection~~  
11 ~~(g). However, upon the application of the seizing agency or~~  
12 ~~prosecutor who was responsible for the investigation, arrest or~~  
13 ~~arrests and prosecution which lead to the forfeiture, the~~  
14 ~~Director may return any item of forfeited property to the~~  
15 ~~seizing agency or prosecutor for official use in the~~  
16 ~~enforcement of laws relating to cannabis or controlled~~  
17 ~~substances, if the agency or prosecutor can demonstrate that~~  
18 ~~the item requested would be useful to the agency or prosecutor~~  
19 ~~in their enforcement efforts. When any forfeited conveyance,~~  
20 ~~including an aircraft, vehicle, or vessel, is returned to the~~  
21 ~~seizing agency or prosecutor, the conveyance may be used~~  
22 ~~immediately in the enforcement of the criminal laws of this~~  
23 ~~State. Upon disposal, all proceeds from the sale of the~~  
24 ~~conveyance must be used for drug enforcement purposes. When any~~  
25 ~~real property returned to the seizing agency is sold by the~~  
26 ~~agency or its unit of government, the proceeds of the sale~~

1 ~~shall be delivered to the Director and distributed in~~  
2 ~~accordance with subsection (g).~~

3 (g) (Blank). ~~All monies and the sale proceeds of all other~~  
4 ~~property forfeited and seized under this Act shall be~~  
5 ~~distributed as follows:~~

6 ~~(1) (i) 65% shall be distributed to the metropolitan~~  
7 ~~enforcement group, local, municipal, county, or state law~~  
8 ~~enforcement agency or agencies which conducted or~~  
9 ~~participated in the investigation resulting in the~~  
10 ~~forfeiture. The distribution shall bear a reasonable~~  
11 ~~relationship to the degree of direct participation of the~~  
12 ~~law enforcement agency in the effort resulting in the~~  
13 ~~forfeiture, taking into account the total value of the~~  
14 ~~property forfeited and the total law enforcement effort~~  
15 ~~with respect to the violation of the law upon which the~~  
16 ~~forfeiture is based. Amounts distributed to the agency or~~  
17 ~~agencies shall be used for the enforcement of laws~~  
18 ~~governing cannabis and controlled substances; for public~~  
19 ~~education in the community or schools in the prevention or~~  
20 ~~detection of the abuse of drugs or alcohol; or for security~~  
21 ~~cameras used for the prevention or detection of violence,~~  
22 ~~except that amounts distributed to the Secretary of State~~  
23 ~~shall be deposited into the Secretary of State Evidence~~  
24 ~~Fund to be used as provided in Section 2-115 of the~~  
25 ~~Illinois Vehicle Code.~~

26 ~~(ii) Any local, municipal, or county law enforcement~~



1 ~~agency entitled to receive a monetary distribution of~~  
2 ~~forfeiture proceeds may share those forfeiture proceeds~~  
3 ~~pursuant to the terms of an intergovernmental agreement~~  
4 ~~with a municipality that has a population in excess of~~  
5 ~~20,000 if:~~

6 ~~(I) the receiving agency has entered into an~~  
7 ~~intergovernmental agreement with the municipality to~~  
8 ~~provide police services;~~

9 ~~(II) the intergovernmental agreement for police~~  
10 ~~services provides for consideration in an amount of not~~  
11 ~~less than \$1,000,000 per year;~~

12 ~~(III) the seizure took place within the~~  
13 ~~geographical limits of the municipality; and~~

14 ~~(IV) the funds are used only for the enforcement of~~  
15 ~~laws governing cannabis and controlled substances; for~~  
16 ~~public education in the community or schools in the~~  
17 ~~prevention or detection of the abuse of drugs or~~  
18 ~~alcohol; or for security cameras used for the~~  
19 ~~prevention or detection of violence or the~~  
20 ~~establishment of a municipal police force, including~~  
21 ~~the training of officers, construction of a police~~  
22 ~~station, the purchase of law enforcement equipment, or~~  
23 ~~vehicles.~~

24 ~~(2) (i) 12.5% shall be distributed to the Office of the~~  
25 ~~State's Attorney of the county in which the prosecution~~  
26 ~~resulting in the forfeiture was instituted, deposited in a~~

1 ~~special fund in the county treasury and appropriated to the~~  
2 ~~State's Attorney for use in the enforcement of laws~~  
3 ~~governing cannabis and controlled substances; for public~~  
4 ~~education in the community or schools in the prevention or~~  
5 ~~detection of the abuse of drugs or alcohol; or at the~~  
6 ~~discretion of the State's Attorney, in addition to other~~  
7 ~~authorized purposes, to make grants to local substance~~  
8 ~~abuse treatment facilities and half way houses. In~~  
9 ~~counties over 3,000,000 population, 25% will be~~  
10 ~~distributed to the Office of the State's Attorney for use~~  
11 ~~in the enforcement of laws governing cannabis and~~  
12 ~~controlled substances; for public education in the~~  
13 ~~community or schools in the prevention or detection of the~~  
14 ~~abuse of drugs or alcohol; or at the discretion of the~~  
15 ~~State's Attorney, in addition to other authorized~~  
16 ~~purposes, to make grants to local substance abuse treatment~~  
17 ~~facilities and half way houses. If the prosecution is~~  
18 ~~undertaken solely by the Attorney General, the portion~~  
19 ~~provided hereunder shall be distributed to the Attorney~~  
20 ~~General for use in the enforcement of laws governing~~  
21 ~~cannabis and controlled substances or for public education~~  
22 ~~in the community or schools in the prevention or detection~~  
23 ~~of the abuse of drugs or alcohol.~~

24 ~~(ii) 12.5% shall be distributed to the Office of the~~  
25 ~~State's Attorneys Appellate Prosecutor and deposited in~~  
26 ~~the Narcotics Profit Forfeiture Fund of that office to be~~

1 ~~used for additional expenses incurred in the~~  
2 ~~investigation, prosecution and appeal of cases arising~~  
3 ~~under laws governing cannabis and controlled substances or~~  
4 ~~for public education in the community or schools in the~~  
5 ~~prevention or detection of the abuse of drugs or alcohol.~~  
6 ~~The Office of the State's Attorneys Appellate Prosecutor~~  
7 ~~shall not receive distribution from cases brought in~~  
8 ~~counties with over 3,000,000 population.~~

9 ~~(3) 10% shall be retained by the Department of State~~  
10 ~~Police for expenses related to the administration and sale~~  
11 ~~of seized and forfeited property.~~

12 (h) (Blank). ~~Species of plants from which controlled~~  
13 ~~substances in Schedules I and II may be derived which have been~~  
14 ~~planted or cultivated in violation of this Act, or of which the~~  
15 ~~owners or cultivators are unknown, or which are wild growths,~~  
16 ~~may be seized and summarily forfeited to the State. The~~  
17 ~~failure, upon demand by the Director or any peace officer, of~~  
18 ~~the person in occupancy or in control of land or premises upon~~  
19 ~~which the species of plants are growing or being stored, to~~  
20 ~~produce registration, or proof that he or she is the holder~~  
21 ~~thereof, constitutes authority for the seizure and forfeiture~~  
22 ~~of the plants.~~

23 (i) Contraband, including controlled substances possessed  
24 without authorization under State or federal law, is not  
25 subject to forfeiture. No property right exists in contraband.  
26 Contraband is subject to seizure and shall be disposed of

1 according to State law.

2 (Source: P.A. 99-686, eff. 7-29-16.)

3 Section 155. The Methamphetamine Control and Community  
4 Protection Act is amended by changing Section 85 as follows:

5 (720 ILCS 646/85)

6 Sec. 85. Forfeiture.

7 (a) The following are subject to forfeiture:

8 (1) (blank); ~~all substances containing methamphetamine~~  
9 ~~which have been produced, manufactured, delivered, or~~  
10 ~~possessed in violation of this Act;~~

11 (2) all methamphetamine manufacturing materials which  
12 have been produced, delivered, or possessed in connection  
13 with any substance containing methamphetamine in violation  
14 of this Act;

15 (3) all conveyances, including aircraft, vehicles or  
16 vessels, which are used, or intended for use, to transport,  
17 or in any manner to facilitate the transportation, sale,  
18 receipt, possession, or concealment of any substance  
19 containing methamphetamine or property described in  
20 paragraph ~~(1) or~~ (2) of this subsection (a) that  
21 constitutes a felony violation of the Act, but:

22 (i) no conveyance used by any person as a common  
23 carrier in the transaction of business as a common  
24 carrier is subject to forfeiture under this Section

1 unless it appears that the owner or other person in  
2 charge of the conveyance is a consenting party or privy  
3 to the ~~a~~ violation ~~of this Act~~;

4 (ii) no conveyance is subject to forfeiture under  
5 this Section by reason of any act or omission which the  
6 owner proves to have been committed or omitted without  
7 his or her knowledge or consent;

8 (iii) a forfeiture of a conveyance encumbered by a  
9 bona fide security interest is subject to the interest  
10 of the secured party if he or she neither had knowledge  
11 of nor consented to the act or omission;

12 (4) all money, things of value, books, records, and  
13 research products and materials including formulas,  
14 microfilm, tapes, and data which are used, or intended for  
15 use in a felony violation of this Act;

16 (5) everything of value furnished or intended to be  
17 furnished by any person in exchange for a substance in  
18 violation of this Act, all proceeds traceable to such an  
19 exchange, and all moneys, negotiable instruments, and  
20 securities used, or intended to be used, to commit or in  
21 any manner to facilitate any felony violation of this Act.

22 (6) all real property, including any right, title, and  
23 interest (including, but not limited to, any leasehold  
24 interest or the beneficial interest in a land trust) in the  
25 whole of any lot or tract of land and any appurtenances or  
26 improvements, which is used, or intended to be used, in any

1 manner or part, to commit, or in any manner to facilitate  
2 the commission of, any violation or act that constitutes a  
3 violation of this Act or that is the proceeds of any  
4 violation or act that constitutes a violation of this Act.

5 (b) Property subject to forfeiture under this Act may be  
6 seized under the Drug Asset Forfeiture Procedure Act. In the  
7 event of seizure, forfeiture proceedings shall be instituted  
8 under the Drug Asset Forfeiture Procedure Act. ~~by the Director~~  
9 ~~or any peace officer upon process or seizure warrant issued by~~  
10 ~~any court having jurisdiction over the property. Seizure by the~~  
11 ~~Director or any peace officer without process may be made:~~

12 ~~(1) if the property subject to seizure has been the~~  
13 ~~subject of a prior judgment in favor of the State in a~~  
14 ~~criminal proceeding or in an injunction or forfeiture~~  
15 ~~proceeding based upon this Act or the Drug Asset Forfeiture~~  
16 ~~Procedure Act;~~

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

20 ~~(3) if there is probable cause to believe that the~~  
21 ~~property is subject to forfeiture under this Act and the~~  
22 ~~property is seized under circumstances in which a~~  
23 ~~warrantless seizure or arrest would be reasonable; or~~

24 ~~(4) in accordance with the Code of Criminal Procedure~~  
25 ~~of 1963.~~

26 (c) Forfeiture under this Act is subject to subject to an

1 8th amendment to the United States Constitution  
2 disproportionate penalties analysis as provided under Section  
3 9.5 of the Drug Asset Forfeiture Procedure Act. ~~In the event of~~  
4 ~~seizure pursuant to subsection (b), notice shall be given~~  
5 ~~forthwith to all known interest holders that forfeiture~~  
6 ~~proceedings, including a preliminary review, shall be~~  
7 ~~instituted in accordance with the Drug Asset Forfeiture~~  
8 ~~Procedure Act and such proceedings shall thereafter be~~  
9 ~~instituted in accordance with that Act. Upon a showing of good~~  
10 ~~cause, the notice required for a preliminary review under this~~  
11 ~~Section may be postponed.~~

12 (d) With regard to possession of methamphetamine offenses  
13 only, a sum of currency with a value of less than \$500 shall  
14 not be subject to forfeiture under this Act. For all other  
15 offenses under this Act, currency with a value of under \$100  
16 shall not be subject to forfeiture under this Act. ~~Property~~  
17 ~~taken or detained under this Section is not subject to~~  
18 ~~replevin, but is deemed to be in the custody of the Director~~  
19 ~~subject only to the order and judgments of the circuit court~~  
20 ~~having jurisdiction over the forfeiture proceedings and the~~  
21 ~~decisions of the State's Attorney under the Drug Asset~~  
22 ~~Forfeiture Procedure Act. When property is seized under this~~  
23 ~~Act, the seizing agency shall promptly conduct an inventory of~~  
24 ~~the seized property, estimate the property's value, and forward~~  
25 ~~a copy of the inventory of seized property and the estimate of~~  
26 ~~the property's value to the Director. Upon receiving notice of~~

1 ~~seizure, the Director may:~~

2 ~~(1) place the property under seal;~~

3 ~~(2) remove the property to a place designated by him or~~  
4 ~~her;~~

5 ~~(3) keep the property in the possession of the seizing~~  
6 ~~agency;~~

7 ~~(4) remove the property to a storage area for~~  
8 ~~safekeeping or, if the property is a negotiable instrument~~  
9 ~~or money and is not needed for evidentiary purposes,~~  
10 ~~deposit it in an interest bearing account;~~

11 ~~(5) place the property under constructive seizure by~~  
12 ~~posting notice of pending forfeiture on it, by giving~~  
13 ~~notice of pending forfeiture to its owners and interest~~  
14 ~~holders, or by filing notice of pending forfeiture in any~~  
15 ~~appropriate public record relating to the property; or~~

16 ~~(6) provide for another agency or custodian, including~~  
17 ~~an owner, secured party, or lienholder, to take custody of~~  
18 ~~the property upon the terms and conditions set by the~~  
19 ~~Director.~~

20 (e) For felony offenses involving possession of a substance  
21 containing methamphetamine only, no property shall be subject  
22 to forfeiture under this Act because of the possession of less  
23 than 2 single unit doses of a substance. This exemption shall  
24 not apply in instances when the possessor, or another person at  
25 the direction of the possessor, is engaged in the destruction  
26 of any amount of a substance containing methamphetamine. The



1 amount of a single unit dose shall be the State's burden to  
2 prove in their case in chief. ~~No disposition may be made of~~  
3 ~~property under seal until the time for taking an appeal has~~  
4 ~~elapsed or until all appeals have been concluded unless a~~  
5 ~~court, upon application therefor, orders the sale of perishable~~  
6 ~~substances and the deposit of the proceeds of the sale with the~~  
7 ~~court.~~

8 (f) (Blank). ~~When property is forfeited under this Act, the~~  
9 ~~Director shall sell the property unless the property is~~  
10 ~~required by law to be destroyed or is harmful to the public,~~  
11 ~~and shall distribute the proceeds of the sale, together with~~  
12 ~~any moneys forfeited or seized, in accordance with subsection~~  
13 ~~(g). However, upon the application of the seizing agency or~~  
14 ~~prosecutor who was responsible for the investigation, arrest or~~  
15 ~~arrests and prosecution which lead to the forfeiture, the~~  
16 ~~Director may return any item of forfeited property to the~~  
17 ~~seizing agency or prosecutor for official use in the~~  
18 ~~enforcement of laws relating to methamphetamine, cannabis, or~~  
19 ~~controlled substances, if the agency or prosecutor~~  
20 ~~demonstrates that the item requested would be useful to the~~  
21 ~~agency or prosecutor in their enforcement efforts. When any~~  
22 ~~forfeited conveyance, including an aircraft, vehicle, or~~  
23 ~~vessel, is returned to the seizing agency or prosecutor, the~~  
24 ~~conveyance may be used immediately in the enforcement of the~~  
25 ~~criminal laws of this State. Upon disposal, all proceeds from~~  
26 ~~the sale of the conveyance must be used for drug enforcement~~

1 ~~purposes. When any real property returned to the seizing agency~~  
2 ~~is sold by the agency or its unit of government, the proceeds~~  
3 ~~of the sale shall be delivered to the Director and distributed~~  
4 ~~in accordance with subsection (g).~~

5 (g) (Blank). ~~All moneys and the sale proceeds of all other~~  
6 ~~property forfeited and seized under this Act shall be~~  
7 ~~distributed as follows:~~

8 ~~(1) (i) 65% shall be distributed to the metropolitan~~  
9 ~~enforcement group, local, municipal, county, or State law~~  
10 ~~enforcement agency or agencies which conducted or~~  
11 ~~participated in the investigation resulting in the~~  
12 ~~forfeiture. The distribution shall bear a reasonable~~  
13 ~~relationship to the degree of direct participation of the~~  
14 ~~law enforcement agency in the effort resulting in the~~  
15 ~~forfeiture, taking into account the total value of the~~  
16 ~~property forfeited and the total law enforcement effort~~  
17 ~~with respect to the violation of the law upon which the~~  
18 ~~forfeiture is based. Amounts distributed to the agency or~~  
19 ~~agencies shall be used for the enforcement of laws~~  
20 ~~governing methamphetamine, cannabis, and controlled~~  
21 ~~substances; for public education in the community or~~  
22 ~~schools in the prevention or detection of the abuse of~~  
23 ~~drugs or alcohol; or for security cameras used for the~~  
24 ~~prevention or detection of violence, except that amounts~~  
25 ~~distributed to the Secretary of State shall be deposited~~  
26 ~~into the Secretary of State Evidence Fund to be used as~~

1 ~~provided in Section 2-115 of the Illinois Vehicle Code.~~

2 ~~(ii) Any local, municipal, or county law enforcement~~  
3 ~~agency entitled to receive a monetary distribution of~~  
4 ~~forfeiture proceeds may share those forfeiture proceeds~~  
5 ~~pursuant to the terms of an intergovernmental agreement~~  
6 ~~with a municipality that has a population in excess of~~  
7 ~~20,000 if:~~

8 ~~(I) the receiving agency has entered into an~~  
9 ~~intergovernmental agreement with the municipality to~~  
10 ~~provide police services;~~

11 ~~(II) the intergovernmental agreement for police~~  
12 ~~services provides for consideration in an amount of not~~  
13 ~~less than \$1,000,000 per year;~~

14 ~~(III) the seizure took place within the~~  
15 ~~geographical limits of the municipality; and~~

16 ~~(IV) the funds are used only for the enforcement of~~  
17 ~~laws governing cannabis and controlled substances; for~~  
18 ~~public education in the community or schools in the~~  
19 ~~prevention or detection of the abuse of drugs or~~  
20 ~~alcohol; or for security cameras used for the~~  
21 ~~prevention or detection of violence or the~~  
22 ~~establishment of a municipal police force, including~~  
23 ~~the training of officers, construction of a police~~  
24 ~~station, the purchase of law enforcement equipment, or~~  
25 ~~vehicles.~~

26 ~~(2) (i) 12.5% shall be distributed to the Office of the~~

1 ~~State's Attorney of the county in which the prosecution~~  
2 ~~resulting in the forfeiture was instituted, deposited in a~~  
3 ~~special fund in the county treasury and appropriated to the~~  
4 ~~State's Attorney for use in the enforcement of laws~~  
5 ~~governing methamphetamine, cannabis, and controlled~~  
6 ~~substances; for public education in the community or~~  
7 ~~schools in the prevention or detection of the abuse of~~  
8 ~~drugs or alcohol; or at the discretion of the State's~~  
9 ~~Attorney, in addition to other authorized purposes, to make~~  
10 ~~grants to local substance abuse treatment facilities and~~  
11 ~~half-way houses. In counties with a population over~~  
12 ~~3,000,000, 25% shall be distributed to the Office of the~~  
13 ~~State's Attorney for use in the enforcement of laws~~  
14 ~~governing methamphetamine, cannabis, and controlled~~  
15 ~~substances; for public education in the community or~~  
16 ~~schools in the prevention or detection of the abuse of~~  
17 ~~drugs or alcohol; or at the discretion of the State's~~  
18 ~~Attorney, in addition to other authorized purposes, to make~~  
19 ~~grants to local substance abuse treatment facilities and~~  
20 ~~half-way houses. If the prosecution is undertaken solely by~~  
21 ~~the Attorney General, the portion provided hereunder shall~~  
22 ~~be distributed to the Attorney General for use in the~~  
23 ~~enforcement of laws governing methamphetamine, cannabis,~~  
24 ~~and controlled substances or for public education in the~~  
25 ~~community or schools in the prevention or detection of the~~  
26 ~~abuse of drugs or alcohol.~~

1           ~~(ii) 12.5% shall be distributed to the Office of the~~  
2           ~~State's Attorneys Appellate Prosecutor and deposited in~~  
3           ~~the Narcotics Profit Forfeiture Fund of that Office to be~~  
4           ~~used for additional expenses incurred in the~~  
5           ~~investigation, prosecution and appeal of cases arising~~  
6           ~~under laws governing methamphetamine, cannabis, and~~  
7           ~~controlled substances or for public education in the~~  
8           ~~community or schools in the prevention or detection of the~~  
9           ~~abuse of drugs or alcohol. The Office of the State's~~  
10           ~~Attorneys Appellate Prosecutor shall not receive~~  
11           ~~distribution from cases brought in counties with a~~  
12           ~~population over 3,000,000.~~

13           ~~(3) 10% shall be retained by the Department of State~~  
14           ~~Police for expenses related to the administration and sale~~  
15           ~~of seized and forfeited property.~~

16           (h) Contraband, including methamphetamine or any  
17           controlled substance possessed without authorization under  
18           State or federal law, is not subject to forfeiture. No property  
19           right exists in contraband. Contraband is subject to seizure  
20           and shall be disposed of according to State law.

21           (Source: P.A. 99-686, eff. 7-29-16.)

22           Section 160. The Code of Criminal Procedure of 1963 is  
23           amended by changing Sections 124B-710 and 124B-715 and by  
24           adding Section 124B-195 as follows:

1 (725 ILCS 5/124B-195 new)

2 Sec. 124B-195. Reporting. Property seized or forfeited  
3 under this Article is subject to reporting under the Seizure  
4 and Forfeiture Reporting Act.

5 (725 ILCS 5/124B-710)

6 Sec. 124B-710. Sale of forfeited property by Director of  
7 State Police; ~~return to seizing agency or prosecutor.~~

8 (a) The court shall authorize the Director of State Police  
9 to seize any property declared forfeited under this Article on  
10 terms and conditions the court deems proper.

11 (b) When property is forfeited under this Part 700, the  
12 Director of State Police shall sell the property unless the  
13 property is required by law to be destroyed or is harmful to  
14 the public. The Director shall distribute the proceeds of the  
15 sale, together with any moneys forfeited or seized, in  
16 accordance with Section 124B-715.

17 (c) (Blank). ~~On the application of the seizing agency or~~  
18 ~~prosecutor who was responsible for the investigation, arrest,~~  
19 ~~and prosecution that lead to the forfeiture, however, the~~  
20 ~~Director may return any item of forfeited property to the~~  
21 ~~seizing agency or prosecutor for official use in the~~  
22 ~~enforcement of laws relating to Article 17B or Section 17-6.3~~  
23 ~~of the Criminal Code of 1961 or the Criminal Code of 2012 if~~  
24 ~~the agency or prosecutor can demonstrate that the item~~  
25 ~~requested would be useful to the agency or prosecutor in their~~

1 ~~enforcement efforts. When any real property returned to the~~  
2 ~~seizing agency is sold by the agency or its unit of government,~~  
3 ~~the proceeds of the sale shall be delivered to the Director and~~  
4 ~~distributed in accordance with Section 124B-715.~~

5 (Source: P.A. 96-712, eff. 1-1-10; 97-1108, eff. 1-1-13;  
6 97-1150, eff. 1-25-13.)

7 (725 ILCS 5/124B-715)

8 Sec. 124B-715. Distribution of all other property and sale  
9 proceeds. All moneys and the sale proceeds of all property  
10 forfeited and seized under this Part 700 ~~and not returned to a~~  
11 ~~seizing agency or prosecutor under subsection (c) of Section~~  
12 ~~124B-705~~ shall be distributed to the Special Supplemental Food  
13 Program for Women, Infants and Children (WIC) program  
14 administered by the Illinois Department of Human Services.

15 (Source: P.A. 96-712, eff. 1-1-10.)

16 (725 ILCS 5/124B-1030 rep.)

17 Section 165. The Code of Criminal Procedure of 1963 is  
18 amended by repealing Section 124B-1030.

19 Section 170. The Drug Asset Forfeiture Procedure Act is  
20 amended by changing Sections 3.5, 4, 5, 6, 7, 8, 9, 11, and 14  
21 and by adding Sections 3.1, 3.2, 3.3, 5.1, 9.1, 9.5, 15, 17,  
22 and 20 as follows:

1 (725 ILCS 150/3.1 new)

2 Sec. 3.1. Seizure.

3 (a) Actual physical seizure of real property subject to  
4 forfeiture under this Act requires the issuance of a seizure  
5 warrant. Nothing in this Section prohibits the constructive  
6 seizure of real property through the filing of a complaint for  
7 forfeiture in circuit court and the recording of a lis pendens  
8 against the real property without a hearing, warrant  
9 application, or judicial approval.

10 (b) Personal property subject to forfeiture under the  
11 Illinois Controlled Substances Act, the Cannabis Control Act,  
12 the Illinois Food, Drug and Cosmetic Act, or the  
13 Methamphetamine Control and Community Protection Act may be  
14 seized by the Director of State Police or any peace officer  
15 upon process or seizure warrant issued by any court having  
16 jurisdiction over the property.

17 (c) Personal property subject to forfeiture under the  
18 Illinois Controlled Substances Act, the Cannabis Control Act,  
19 the Illinois Food, Drug and Cosmetic Act, or the  
20 Methamphetamine Control and Community Protection Act may be  
21 seized by the Director of State Police or any peace officer  
22 without process:

23 (1) if the seizure is incident to inspection under an  
24 administrative inspection warrant;

25 (2) if the property subject to seizure has been the  
26 subject of a prior judgment in favor of the State in a



1 criminal proceeding or in an injunction or forfeiture  
2 proceeding based upon this Act;

3 (3) if there is probable cause to believe that the  
4 property is directly or indirectly dangerous to health or  
5 safety;

6 (4) if there is probable cause to believe that the  
7 property is subject to forfeiture under the Illinois  
8 Controlled Substances Act, the Cannabis Control Act, the  
9 Illinois Food, Drug and Cosmetic Act, or the  
10 Methamphetamine Control and Community Protection Act, and  
11 the property is seized under circumstances in which a  
12 warrantless seizure or arrest would be reasonable; or

13 (5) under the Code of Criminal Procedure of 1963.

14 (d) If a conveyance is seized under this Act, an  
15 investigation shall be made by the law enforcement agency as to  
16 any person whose right, title, interest, or lien is of record  
17 in the office of the agency or official in which title or  
18 interest to the conveyance is required by law to be recorded.

19 (e) After seizure under this Section, notice shall be given  
20 to all known interest holders that forfeiture proceedings,  
21 including a preliminary review, may be instituted and the  
22 proceedings may be instituted under this Act. Upon a showing of  
23 good cause related to an ongoing investigation, the notice  
24 required for a preliminary review under this Section may be  
25 postponed.

1 (725 ILCS 150/3.2 new)

2 Sec. 3.2. Receipt for seized property. If a law enforcement  
3 officer seizes property that is subject to forfeiture, the  
4 officer shall provide an itemized receipt to the person  
5 possessing the property or, in the absence of a person to whom  
6 the receipt could be given, shall leave the receipt in the  
7 place where the property was found, if possible.

8 (725 ILCS 150/3.3 new)

9 Sec. 3.3. Safekeeping of seized property pending  
10 disposition.

11 (a) Property seized under this Act is deemed to be in the  
12 custody of the Director of State Police subject only to the  
13 order and judgments of the circuit court having jurisdiction  
14 over the forfeiture proceedings and the decisions of the  
15 State's Attorney under this Act.

16 (b) If property is seized under this Act, the seizing  
17 agency shall promptly conduct an inventory of the seized  
18 property and estimate the property's value, and shall forward a  
19 copy of the inventory of seized property and the estimate of  
20 the property's value to the Director of State Police. Upon  
21 receiving notice of seizure, the Director of State Police may:

22 (1) place the property under seal;

23 (2) remove the property to a place designated by the  
24 seizing agency;

25 (3) keep the property in the possession of the Director

1 of State Police;

2 (4) remove the property to a storage area for  
3 safekeeping; or

4 (5) place the property under constructive seizure by  
5 posting notice of pending forfeiture on it, by giving  
6 notice of pending forfeiture to its owners and interest  
7 holders, or by filing notice of pending forfeiture in any  
8 appropriate public record relating to the property; or

9 (6) provide for another agency or custodian, including  
10 an owner, secured party, or lienholder, to take custody of  
11 the property upon the terms and conditions set by the  
12 seizing agency.

13 (c) The seizing agency is required to exercise ordinary  
14 care to protect the seized property from negligent loss,  
15 damage, or destruction.

16 (725 ILCS 150/3.5)

17 Sec. 3.5. Preliminary Review.

18 (a) Within 14 days of the seizure, the State shall seek a  
19 preliminary determination from the circuit court as to whether  
20 there is probable cause that the property may be subject to  
21 forfeiture.

22 (b) The rules of evidence shall not apply to any proceeding  
23 conducted under this Section.

24 (c) The court may conduct the review under subsection (a)  
25 simultaneously with a proceeding pursuant to Section 109-1 of

1 the Code of Criminal Procedure of 1963 for a related criminal  
2 offense if a prosecution is commenced by information or  
3 complaint.

4 (d) The court may accept a finding of probable cause at a  
5 preliminary hearing following the filing of an information or  
6 complaint charging a related criminal offense or following the  
7 return of indictment by a grand jury charging the related  
8 offense as sufficient evidence of probable cause as required  
9 under subsection (a).

10 (e) Upon making a finding of probable cause as required  
11 under this Section, the circuit court shall order the property  
12 subject to the provisions of the applicable forfeiture Act held  
13 until the conclusion of any forfeiture proceeding.

14 For seizures of conveyances, within 28 days after ~~within 7~~  
15 ~~days of~~ a finding of probable cause under subsection (a), the  
16 registered owner or other claimant may file a motion in writing  
17 supported by sworn affidavits claiming that denial of the use  
18 of the conveyance during the pendency of the forfeiture  
19 proceedings creates a substantial hardship and alleges facts  
20 showing that the delay was not due to his or her culpable  
21 negligence. The court shall consider the following factors in  
22 determining whether a substantial hardship has been proven:

23 (1) the nature of the claimed hardship;

24 (2) the availability of public transportation or other  
25 available means of transportation; and

26 (3) any available alternatives to alleviate the

1 hardship other than the return of the seized conveyance.

2 If the court determines that a substantial hardship has  
3 been proven, the court shall then balance the nature of the  
4 hardship against the State's interest in safeguarding the  
5 conveyance. If the court determines that the hardship outweighs  
6 the State's interest in safeguarding the conveyance, the court  
7 may temporarily release the conveyance to the registered owner  
8 or the registered owner's authorized designee, or both, until  
9 the conclusion of the forfeiture proceedings or for such  
10 shorter period as ordered by the court provided that the person  
11 to whom the conveyance is released provides proof of insurance  
12 and a valid driver's license and all State and local  
13 registrations for operation of the conveyance are current. The  
14 court shall place conditions on the conveyance limiting its use  
15 to the stated hardship and providing transportation for  
16 employment, religious purposes, medical needs, child care, and  
17 obtaining food, and restricting the conveyance's use to only  
18 those individuals authorized to use the conveyance by the  
19 registered owner. The use of the vehicle shall be further  
20 restricted to exclude all recreational and entertainment  
21 purposes. The court may order any additional restrictions it  
22 deems reasonable and just on its own motion or on motion of the  
23 People. The court shall revoke the order releasing the  
24 conveyance and order that the conveyance be resealed by law  
25 enforcement if the conditions of release are violated or if the  
26 conveyance is used in the commission of any offense identified

1 in subsection (a) of Section 6-205 of the Illinois Vehicle  
2 Code.

3 If the court orders the release of the conveyance during  
4 the pendency of the forfeiture proceedings, the court may order  
5 the registered owner or his or her authorized designee to ~~shall~~  
6 post a cash security with the Clerk of the Court as ordered by  
7 the court. If cash security is ordered, the ~~The~~ court shall  
8 consider the following factors in determining the amount of the  
9 cash security:

10 (A) the full market value of the conveyance;

11 (B) the nature of the hardship;

12 (C) the extent and length of the usage of the  
13 conveyance; ~~and~~

14 (D) the ability of the owner or designee to pay; and  
15 ~~such other conditions as the court deems necessary to~~  
16 ~~safeguard the conveyance.~~

17 (E) other conditions as the court deems necessary to  
18 safeguard the conveyance.

19 If the conveyance is released, the court shall order that  
20 the registered owner or his or her designee safeguard the  
21 conveyance, not remove the conveyance from the jurisdiction,  
22 not conceal, destroy, or otherwise dispose of the conveyance,  
23 not encumber the conveyance, and not diminish the value of the  
24 conveyance in any way. The court shall also make a  
25 determination of the full market value of the conveyance prior  
26 to it being released based on a source or sources defined in 50

1 Ill. Adm. Code 919.80(c)(2)(A) or 919.80(c)(2)(B).

2 If the conveyance subject to forfeiture is released under  
3 this Section and is subsequently forfeited, the person to whom  
4 the conveyance was released shall return the conveyance to the  
5 law enforcement agency that seized the conveyance within 7 days  
6 from the date of the declaration of forfeiture or order of  
7 forfeiture. If the conveyance is not returned within 7 days,  
8 the cash security shall be forfeited in the same manner as the  
9 conveyance subject to forfeiture. If the cash security was less  
10 than the full market value, a judgment shall be entered against  
11 the parties to whom the conveyance was released and the  
12 registered owner, jointly and severally, for the difference  
13 between the full market value and the amount of the cash  
14 security. If the conveyance is returned in a condition other  
15 than the condition in which it was released, the cash security  
16 shall be returned to the surety who posted the security minus  
17 the amount of the diminished value, and that amount shall be  
18 forfeited in the same manner as the conveyance subject to  
19 forfeiture. Additionally, the court may enter an order allowing  
20 any law enforcement agency in the State of Illinois to seize  
21 the conveyance wherever it may be found in the State to satisfy  
22 the judgment if the cash security was less than the full market  
23 value of the conveyance.

24 (Source: P.A. 97-544, eff. 1-1-12; 97-680, eff. 3-16-12.)

25 (725 ILCS 150/4) (from Ch. 56 1/2, par. 1674)

1           Sec. 4. Notice to Owner or Interest Holder. The first  
2 attempted service shall be commenced within 28 days of the  
3 filing of the verified claim or the receipt of the notice from  
4 seizing agency by the form 4-64, whichever occurs sooner. A  
5 complaint for forfeiture or a notice of pending forfeiture  
6 shall be served upon the property owner or interest holder in  
7 the following manner:

8           (1) If the owner's or interest holder's name and  
9 current address are known, then by either:

10                   (A) personal service; or

11                   (B) mailing a copy of the notice by certified mail,  
12 return receipt requested and first class mail, to that  
13 address.

14                   (i) If notice is sent by certified mail and no  
15 signed return receipt is received by the State's  
16 Attorney within 28 days of mailing, and no  
17 communication from the owner or interest holder is  
18 received by the State's Attorney documenting  
19 actual notice by said parties, then the State's  
20 Attorney shall, within a reasonable period of  
21 time, mail a second copy of the notice by certified  
22 mail, return receipt requested and first class  
23 mail, to that address.

24                   (ii) If no signed return receipt is received by  
25 the State's Attorney within 28 days of the second  
26 attempt at service by certified mail, and no



1           communication from the owner or interest holder is  
2           received by the State's Attorney documenting  
3           actual notice by said parties, then the State's  
4           Attorney shall have 60 days to attempt to serve the  
5           notice by personal service, which also includes  
6           substitute service by leaving a copy at the usual  
7           place of abode, with some person of the family or a  
8           person residing there, of the age of 13 years or  
9           upwards. If after 3 attempts at service in this  
10          manner, no service of the notice is accomplished,  
11          then the notice shall be posted in a conspicuous  
12          manner at this address and service shall be made by  
13          posting.

14           The attempts at service and the posting if  
15          required, shall be documented by the person  
16          attempting service and said documentation shall be  
17          made part of a return of service returned to the  
18          State's Attorney.

19           The State's Attorney may utilize any Sheriff  
20          or Deputy Sheriff any peace officer, a private  
21          process server or investigator, or any employee,  
22          agent, or investigator of the State's Attorney's  
23          Office to attempt service without seeking leave of  
24          court.

25           After the procedures set forth are followed,  
26          service shall be effective on an owner or interest

1           holder on the date of receipt by the State's  
2           Attorney of a returned return receipt requested,  
3           or on the date of receipt of a communication from  
4           an owner or interest holder documenting actual  
5           notice, whichever is first in time, or on the date  
6           of the last act performed by the State's Attorney  
7           in attempting personal service under subparagraph  
8           (ii) above. If notice is to be shown by actual  
9           notice from communication with a claimant, then  
10           the State's Attorney shall file an affidavit  
11           providing details of the communication, which may  
12           be accepted as sufficient proof of service by the  
13           court.

14           After a claimant files a verified claim with  
15           the State's Attorney and provide an address at  
16           which they will accept service, the complaint  
17           shall be served and notice shall be perfected upon  
18           mailing of the complaint to the claimant at the  
19           address the claimant provided via certified mail,  
20           return receipt requested and first class mail. No  
21           return receipt card need be received, or any other  
22           attempts at service need be made to comply with  
23           service and notice requirements under this Act.  
24           This certified mailing, return receipt requested  
25           shall be proof of service of the complaint on the  
26           claimant.

1           For purposes of notice under this Section, if a  
2           person has been arrested for the conduct giving  
3           rise to the forfeiture, then the address provided  
4           to the arresting agency at the time of arrest shall  
5           be deemed to be that person's known address.  
6           Provided, however, if an owner or interest  
7           holder's address changes prior to the effective  
8           date of the notice of pending forfeiture, the owner  
9           or interest holder shall promptly notify the  
10           seizing agency of the change in address or, if the  
11           owner or interest holder's address changes  
12           subsequent to the effective date of the notice of  
13           pending forfeiture, the owner or interest holder  
14           shall promptly notify the State's Attorney of the  
15           change in address; or if the property seized is a  
16           conveyance, to the address reflected in the office  
17           of the agency or official in which title or  
18           interest to the conveyance is required by law to be  
19           recorded.

20           (2) If the owner's or interest holder's address is not  
21           known, and is not on record, then notice shall be served by  
22           publication for 3 successive weeks in a newspaper of  
23           general circulation in the county in which the seizure  
24           occurred.

25           (3) After a claimant files a verified claim with the  
26           State's Attorney and provides an address at which they will

1 accept service, the complaint shall be served and notice  
2 shall be perfected upon mailing of the complaint to the  
3 claimant at the address the claimant provided via certified  
4 mail, return receipt requested and first class mail. No  
5 return receipt card need be received or any other attempts  
6 at service need be made to comply with service and notice  
7 requirements under this Act. This certified mailing,  
8 return receipt requested shall be proof of service of the  
9 complaint on the claimant.

10 (4) Notice to any business entity, corporation, LLC,  
11 LLP, or partnership shall be complete by a single mailing  
12 of a copy of the notice by certified mail, return receipt  
13 requested and first class mail, to that address. This  
14 notice is complete regardless of the return of a signed  
15 "return receipt requested".

16 (5) Notice to a person whose address is not within the  
17 State shall be complete by a single mailing of a copy of  
18 the notice by certified mail, return receipt requested and  
19 first class mail, to that address. This notice is complete  
20 regardless of the return of a signed "return receipt  
21 requested".

22 (6) Notice to a person whose address is not within the  
23 United States shall be complete by a single mailing of a  
24 copy of the notice by certified mail, return receipt  
25 requested and first class mail, to that address. This  
26 notice shall be complete regardless of the return of a

1 signed "return receipt requested". If certified mail is not  
2 available in the foreign country where the person has an  
3 address, then notice shall proceed by publication under  
4 paragraph (2) of this Section.

5 (7) Notice to any person whom the State's Attorney  
6 reasonably should know is incarcerated within the State  
7 shall also include the mailing a copy of the notice by  
8 certified mail, return receipt requested and first class  
9 mail, to the address of the detention facility with the  
10 inmate's name clearly marked on the envelope.

11 (A) (Blank). ~~Whenever notice of pending forfeiture or~~  
12 ~~service of an in rem complaint is required under the provisions~~  
13 ~~of this Act, such notice or service shall be given as follows:~~

14 ~~(1) If the owner's or interest holder's name and~~  
15 ~~current address are known, then by either personal service~~  
16 ~~or mailing a copy of the notice by certified mail, return~~  
17 ~~receipt requested, to that address. For purposes of notice~~  
18 ~~under this Section, if a person has been arrested for the~~  
19 ~~conduct giving rise to the forfeiture, then the address~~  
20 ~~provided to the arresting agency at the time of arrest~~  
21 ~~shall be deemed to be that person's known address.~~  
22 ~~Provided, however, if an owner or interest holder's address~~  
23 ~~changes prior to the effective date of the notice of~~  
24 ~~pending forfeiture, the owner or interest holder shall~~  
25 ~~promptly notify the seizing agency of the change in address~~  
26 ~~or, if the owner or interest holder's address changes~~

1 ~~subsequent to the effective date of the notice of pending~~  
2 ~~forfeiture, the owner or interest holder shall promptly~~  
3 ~~notify the State's Attorney of the change in address; or~~

4 ~~(2) If the property seized is a conveyance, to the~~  
5 ~~address reflected in the office of the agency or official~~  
6 ~~in which title or interest to the conveyance is required by~~  
7 ~~law to be recorded, then by mailing a copy of the notice by~~  
8 ~~certified mail, return receipt requested, to that address;~~  
9 ~~or~~

10 ~~(3) If the owner's or interest holder's address is not~~  
11 ~~known, and is not on record as provided in paragraph (2),~~  
12 ~~then by publication for 3 successive weeks in a newspaper~~  
13 ~~of general circulation in the county in which the seizure~~  
14 ~~occurred.~~

15 (B) (Blank). ~~Notice served under this Act is effective upon~~  
16 ~~personal service, the last date of publication, or the mailing~~  
17 ~~of written notice, whichever is earlier.~~

18 (Source: P.A. 86-1382; 87-614.)

19 (725 ILCS 150/5) (from Ch. 56 1/2, par. 1675)

20 Sec. 5. Notice to State's Attorney. The law enforcement  
21 agency seizing property for forfeiture under the Illinois  
22 Controlled Substances Act, the Cannabis Control Act, or the  
23 Methamphetamine Control and Community Protection Act, or the  
24 Illinois Food, Drug, and Cosmetic Act shall, as soon as  
25 practicable but not later than 28 days after the shall, within

1 ~~52 days of~~ seizure, notify the State's Attorney for the county  
2 in which an act or omission giving rise to the seizure  
3 ~~forfeiture~~ occurred or in which the property was seized of the  
4 seizure of the property and the facts and circumstances giving  
5 rise to the seizure and shall provide the State's Attorney with  
6 the inventory of the property and its estimated value. Said  
7 notice shall be by the delivery of the form 4-64. When the  
8 property seized for forfeiture is a vehicle, the law  
9 enforcement agency seizing the property shall immediately  
10 notify the Secretary of State that forfeiture proceedings are  
11 pending regarding such vehicle.

12 (Source: P.A. 94-556, eff. 9-11-05.)

13 (725 ILCS 150/5.1 new)

14 Sec. 5.1. Replevin prohibited; return of personal property  
15 inside seized conveyance.

16 (a) Property seized under this Act shall not be subject to  
17 replevin, but is deemed to be in the custody of the Director of  
18 State Police subject only to the order and judgments of the  
19 circuit court having jurisdiction over the forfeiture  
20 proceedings and the decisions of the State's Attorney.

21 (b) A claimant or a party interested in personal property  
22 contained within a seized conveyance may file a request with  
23 the State's Attorney in an administrative forfeiture action, or  
24 a motion with the court in a judicial forfeiture action, for  
25 the return of any personal property contained within a

1 conveyance seized under this Act. The return of personal  
2 property shall not be unreasonably withheld if the personal  
3 property is not mechanically or electrically coupled to the  
4 conveyance, needed for evidentiary purposes, or otherwise  
5 contraband. A law enforcement agency that returns property  
6 under a court order under this Section shall not be liable to  
7 any person who claims ownership to the property if the property  
8 is returned to an improper party.

9 (725 ILCS 150/6) (from Ch. 56 1/2, par. 1676)

10 Sec. 6. Non-Judicial Forfeiture. If non-real property that  
11 exceeds \$150,000 in value excluding the value of any  
12 conveyance, or if real property is seized under the provisions  
13 of the Illinois Controlled Substances Act, the Cannabis Control  
14 Act, or the Methamphetamine Control and Community Protection  
15 Act, the State's Attorney shall institute judicial in rem  
16 forfeiture proceedings as described in Section 9 of this Act  
17 within 45 days from receipt of notice of seizure from the  
18 seizing agency under Section 5 of this Act. However, if  
19 non-real property that does not exceed \$150,000 in value  
20 excluding the value of any conveyance is seized, the following  
21 procedure shall be used:

22 (A) If, after review of the facts surrounding the seizure,  
23 the State's Attorney is of the opinion that the seized property  
24 is subject to forfeiture, then within 45 days of the receipt of  
25 notice of seizure from the seizing agency, the State's Attorney



1 shall cause notice of pending forfeiture to be given to the  
2 owner of the property and all known interest holders of the  
3 property in accordance with Section 4 of this Act.

4 (B) The notice of pending forfeiture must include a  
5 description of the property, the estimated value of the  
6 property, the date and place of seizure, the conduct giving  
7 rise to forfeiture or the violation of law alleged, and a  
8 summary of procedures and procedural rights applicable to the  
9 forfeiture action.

10 (C) (1) Any person claiming an interest in property which  
11 is the subject of notice under subsection (A) of Section 6  
12 of this Act, may, within 45 days after the effective date  
13 of notice as described in Section 4 of this Act, file a  
14 verified claim with the State's Attorney expressing his or  
15 her interest in the property. The claim must set forth:

16 (i) the caption of the proceedings as set forth on  
17 the notice of pending forfeiture and the name of the  
18 claimant;

19 (ii) the address at which the claimant will accept  
20 mail;

21 (iii) the nature and extent of the claimant's  
22 interest in the property;

23 (iv) the date, identity of the transferor, and  
24 circumstances of the claimant's acquisition of the  
25 interest in the property;

26 (v) the name and address of all other persons known

1 to have an interest in the property;

2 (vi) the specific provision of law relied on in  
3 asserting the property is not subject to forfeiture;

4 (vii) all essential facts supporting each  
5 assertion; and

6 (viii) the relief sought.

7 (2) If a claimant files the claim ~~and deposits with the~~  
8 ~~State's Attorney a cost bond, in the form of a cashier's~~  
9 ~~check payable to the clerk of the court, in the sum of 10~~  
10 ~~percent of the reasonable value of the property as alleged~~  
11 ~~by the State's Attorney or the sum of \$100, whichever is~~  
12 ~~greater, upon condition that, in the case of forfeiture,~~  
13 ~~the claimant must pay all costs and expenses of forfeiture~~  
14 ~~proceedings,~~ then the State's Attorney shall institute  
15 judicial in rem forfeiture proceedings ~~and deposit the cost~~  
16 ~~bond with the clerk of the court as described in Section 9~~  
17 ~~of this Act~~ within 30 ~~45~~ days after receipt of the claim  
18 and cost bond. ~~In lieu of a cost bond, a person claiming~~  
19 ~~interest in the seized property may file, under penalty of~~  
20 ~~perjury, an indigency affidavit.~~

21 ~~(3) If none of the seized property is forfeited in the~~  
22 ~~judicial in rem proceeding, the clerk of the court shall~~  
23 ~~return to the claimant, unless the court orders otherwise,~~  
24 ~~90% of the sum which has been deposited and shall retain as~~  
25 ~~costs 10% of the money deposited. If any of the seized~~  
26 ~~property is forfeited under the judicial forfeiture~~

~~proceeding, the clerk of the court shall transfer 90% of the sum which has been deposited to the State's Attorney prosecuting the civil forfeiture to be applied to the costs of prosecution and the clerk shall retain as costs 10% of the sum deposited.~~

(D) If no claim is filed ~~or bond given~~ within the 45 day period as described in subsection (C) of Section 6 of this Act, the State's Attorney shall declare the property forfeited and shall promptly notify the owner and all known interest holders of the property and the Director of the Illinois Department of State Police of the declaration of forfeiture and the Director shall dispose of the property in accordance with law.

(Source: P.A. 97-544, eff. 1-1-12.)

(725 ILCS 150/7) (from Ch. 56 1/2, par. 1677)

Sec. 7. Presumptions and inferences.

(1) The following situation ~~situations~~ shall give rise to a presumption that the property described therein was furnished or intended to be furnished in exchange for a substance in violation of the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act, or is the proceeds of such an exchange, and therefore forfeitable under this Act, such presumptions being rebuttable by a preponderance of the evidence:

~~(1)~~ All moneys, coin, or currency found in close proximity

1 to forfeitable substances, to forfeitable drug manufacturing  
2 or distributing paraphernalia, or to forfeitable records of the  
3 importation, manufacture or distribution of substances.~~†~~

4 (2) In the following situation, the trier of fact may infer  
5 that the property described therein was furnished or intended  
6 to be furnished in exchange for a substance in violation of the  
7 Illinois Controlled Substances Act, the Cannabis Control Act,  
8 or the Methamphetamine Control and Community Protection Act, or  
9 is the proceeds of such an exchange, and therefore forfeitable  
10 under this Act:

11 ~~(2)~~ All property acquired or caused to be acquired by a  
12 person either between the dates of occurrence of two or more  
13 acts in felony violation of the Illinois Controlled Substances  
14 Act, the Cannabis Control Act, or the Methamphetamine Control  
15 and Community Protection Act, or an act committed in another  
16 state, territory or country which would be punishable as a  
17 felony under the Illinois Controlled Substances Act, the  
18 Cannabis Control Act, or the Methamphetamine Control and  
19 Community Protection Act, committed by that person within 5  
20 years of each other, or all property acquired by such person  
21 within a reasonable amount of time after the commission of such  
22 acts if:

23 (a) At least one of the above acts was committed after  
24 the effective date of this Act; and

25 (b) Both ~~At least one~~ of the acts are or were ~~is or was~~  
26 punishable as a Class X, Class 1, or Class 2 felony; and

1 (c) There was no likely source for such property other  
2 than a violation of the above Acts.

3 (3) Presumptions and permissive inferences set forth in  
4 this Section shall apply to all portions of all phases of the  
5 judicial in rem forfeiture proceedings under this Act.

6 (Source: P.A. 94-556, eff. 9-11-05.)

7 (725 ILCS 150/8) (from Ch. 56 1/2, par. 1678)

8 Sec. 8. Exemptions from forfeiture.

9 (a) No vessel or watercraft, vehicle, or aircraft used by  
10 any person as a common carrier in the transaction of business  
11 as a common carrier may be forfeited under this Act unless the  
12 State proves by a preponderance of the evidence that:

13 (1) in the case of a railway car or engine, the owner,  
14 or

15 (2) in the case of any other such vessel or watercraft,  
16 vehicle or aircraft, the owner or the master of such vessel  
17 or watercraft or the owner or conductor, driver, pilot, or  
18 other person in charge of that vehicle or aircraft was at  
19 the time of the alleged illegal act a consenting party or  
20 privy to that knowledge.

21 (b) No vessel or watercraft, vehicle, or aircraft shall be  
22 forfeited under this Act by reason of any act or omission  
23 committed or omitted by any person other than such owner while  
24 a vessel or watercraft, vehicle, or aircraft was unlawfully in  
25 the possession of a person who acquired possession in violation

1 ~~of the criminal laws of the United States, or of any state. A~~  
2 ~~property interest is exempt from forfeiture under this Section~~  
3 ~~if its owner or interest holder establishes by a preponderance~~  
4 ~~of evidence that the owner or interest holder:~~

5 (A) (blank); and ~~(i) in the case of personal property, is~~  
6 ~~not legally accountable for the conduct giving rise to the~~  
7 ~~forfeiture, did not acquiesce in it, and did not know and could~~  
8 ~~not reasonably have known of the conduct or that the conduct~~  
9 ~~was likely to occur, or~~

10 ~~(ii) in the case of real property, is not legally~~  
11 ~~accountable for the conduct giving rise to the forfeiture, or~~  
12 ~~did not solicit, conspire, or attempt to commit the conduct~~  
13 ~~giving rise to the forfeiture; and~~

14 (B) (blank); and ~~had not acquired and did not stand to~~  
15 ~~acquire substantial proceeds from the conduct giving rise to~~  
16 ~~its forfeiture other than as an interest holder in an arms~~  
17 ~~length commercial transaction; and~~

18 (C) (blank); and ~~with respect to conveyances, did not hold~~  
19 ~~the property jointly or in common with a person whose conduct~~  
20 ~~gave rise to the forfeiture; and~~

21 (D) (blank); and ~~does not hold the property for the benefit~~  
22 ~~of or as nominee for any person whose conduct gave rise to its~~  
23 ~~forfeiture, and, if the owner or interest holder acquired the~~  
24 ~~interest through any such person, the owner or interest holder~~  
25 ~~acquired it as a bona fide purchaser for value without~~  
26 ~~knowingly taking part in the conduct giving rise to the~~

1 ~~forfeiture; and~~

2 (E) (blank); and ~~that the owner or interest holder acquired~~  
3 ~~the interest:~~

4 ~~(i) before the commencement of the conduct giving rise to~~  
5 ~~its forfeiture and the person whose conduct gave rise to its~~  
6 ~~forfeiture did not have the authority to convey the interest to~~  
7 ~~a bona fide purchaser for value at the time of the conduct; or~~

8 ~~(ii) after the commencement of the conduct giving rise to~~  
9 ~~its forfeiture, and the owner or interest holder acquired the~~  
10 ~~interest as a mortgagee, secured creditor, lienholder, or bona~~  
11 ~~fide purchaser for value without knowledge of the conduct which~~  
12 ~~gave rise to the forfeiture; and~~

13 ~~(a) in the case of personal property, without knowledge of~~  
14 ~~the seizure of the property for forfeiture; or~~

15 ~~(b) in the case of real estate, before the filing in the~~  
16 ~~office of the Recorder of Deeds of the county in which the real~~  
17 ~~estate is located of a notice of seizure for forfeiture or a~~  
18 ~~lis pendens notice.~~

19 (Source: P.A. 86-1382.)

20 (725 ILCS 150/9) (from Ch. 56 1/2, par. 1679)

21 Sec. 9. Judicial in rem procedures. If property seized  
22 under the provisions of the Illinois Controlled Substances Act,  
23 the Cannabis Control Act, or the Methamphetamine Control and  
24 Community Protection Act is non-real property that exceeds  
25 \$150,000 ~~\$20,000~~ in value excluding the value of any

1 conveyance, or is real property, or a claimant has filed a  
2 claim and a cost bond under subsection (C) of Section 6 of this  
3 Act, the following judicial in rem procedures shall apply:

4 (A) If, after a review of the facts surrounding the  
5 seizure, the State's Attorney is of the opinion that the seized  
6 property is subject to forfeiture, ~~then within 45 days of the~~  
7 ~~receipt of notice of seizure by the seizing agency or the~~  
8 ~~filing of the claim and cost bond, whichever is later,~~ the  
9 State's Attorney shall institute judicial forfeiture  
10 proceedings by filing a verified complaint for forfeiture in  
11 the circuit court within whose jurisdiction the seizure  
12 occurred, or within whose jurisdiction an act or omission  
13 giving rise to the seizure occurred, subject to Supreme Court  
14 Rule 187 and, if the claimant has filed a claim and cost bond,  
15 by depositing the cost bond with the clerk of the court. The  
16 complaint of forfeiture shall be filed as soon as practicable,  
17 but not later than 28 days after the filing of a verified claim  
18 by a claimant if the property was acted upon under a  
19 non-judicial forfeiture action, or 28 days after the State's  
20 Attorney receives notice from the seizing agency as provided  
21 under Section 5 of this Act, whichever occurs later. When  
22 authorized by law, a forfeiture must be ordered by a court on  
23 an action in rem brought by a State's Attorney under a verified  
24 complaint for forfeiture.

25 (A-5) If the State's Attorney finds that the alleged  
26 violation of law giving rise to the seizure was incurred



1 without willful negligence or without any intention on the part  
2 of the owner of the property to violate the law or finds the  
3 existence of those mitigating circumstances to justify  
4 remission of the forfeiture, may cause the law enforcement  
5 agency having custody of the property to return the property to  
6 the owner within a reasonable time not to exceed 7 days. The  
7 State's Attorney shall exercise his or her discretion prior to  
8 or promptly after the preliminary review under Section 3.5 of  
9 this Act. Judicial in rem forfeiture proceedings under this Act  
10 shall be subject to the Code of Civil Procedure and the rules  
11 of evidence relating to civil actions.

12 (A-10) A complaint of forfeiture shall include:

13 (1) a description of the property seized;

14 (2) the date and place of seizure of the property;

15 (3) the name and address of the law enforcement agency  
16 making the seizure; and

17 (4) the specific statutory and factual grounds for the  
18 seizure.

19 The complaint shall be served upon the person from whom the  
20 property was seized and all persons known or reasonably  
21 believed by the State to claim an interest in the property, as  
22 provided in Section 4 of this Act. The complaint shall be  
23 accompanied by the following written notice:

24 "This is a civil court proceeding subject to the Code of  
25 Civil Procedure. You received this Complaint of Forfeiture  
26 because the State's Attorney's office has brought a legal

1 action seeking forfeiture of your seized property. This  
2 complaint starts the court process where the state seeks to  
3 prove that your property should be forfeited and not  
4 returned to you. This process is also your opportunity to  
5 try to prove to a judge that you should get your property  
6 back. The complaint lists the date, time, and location of  
7 your first court date. You must appear in court on that  
8 day, or you may lose the case automatically. You must also  
9 file an appearance and answer. If you are unable to pay the  
10 appearance fee, you may qualify to have the fee waived. If  
11 there is a criminal case related to the seizure of your  
12 property, your case may be set for trial after the criminal  
13 case has been resolved. Before trial, the judge may allow  
14 discovery, where the State can ask you to respond in  
15 writing to questions and give them certain documents, and  
16 you can make similar requests of the State. The trial is  
17 your opportunity to explain what happened when your  
18 property was seized and why you should get the property  
19 back."

20 (B) ~~During the probable cause portion of the judicial in~~  
21 ~~rem proceeding wherein the State presents its case in chief,~~  
22 ~~the court must receive and consider, among other things, all~~  
23 ~~relevant hearsay evidence and information.~~ The laws of evidence  
24 relating to civil actions shall apply to all other proceedings  
25 under this Act except that the parties shall be allowed to use,  
26 and the court must receive and consider, all relevant hearsay

1 evidence which relates to evidentiary foundation, chain of  
2 custody, business records, recordings, laboratory analysis,  
3 laboratory reports, and the use of technology in the  
4 investigation that resulted in the seizure of the property  
5 which is subject to this forfeiture action ~~portions of the~~  
6 ~~judicial in rem proceeding.~~

7 (C) Only an owner of or interest holder in the property may  
8 file an answer asserting a claim against the property in the  
9 action in rem. For purposes of this Section, the owner or  
10 interest holder shall be referred to as claimant. A person not  
11 named in the forfeiture complaint who claims to have an  
12 interest in the property may petition to intervene as a  
13 claimant under Section 2-408 of the Code of Civil Procedure.

14 (D) The answer must be signed by the owner or interest  
15 holder under penalty of perjury and must set forth:

16 (i) the caption of the proceedings as set forth on the  
17 notice of pending forfeiture and the name of the claimant;

18 (ii) the address at which the claimant will accept  
19 mail;

20 (iii) the nature and extent of the claimant's interest  
21 in the property;

22 (iv) the date, identity of transferor, and  
23 circumstances of the claimant's acquisition of the  
24 interest in the property;

25 (v) the name and address of all other persons known to  
26 have an interest in the property;

1 (vi) the specific provisions of Section 8 of this Act  
2 relied on in asserting it is exempt from ~~not subject to~~  
3 forfeiture, if applicable;

4 (vii) all essential facts supporting each assertion;  
5 ~~and~~

6 (viii) the precise relief sought; ~~and-~~

7 (ix) in a forfeiture action involving currency or its  
8 equivalent, a claimant shall provide the State with notice  
9 of their intent to allege that the currency or its  
10 equivalent is not related to the alleged factual basis for  
11 the forfeiture, and why.

12 (E) The answer must be filed with the court within 45 days  
13 after service of the civil in rem complaint.

14 (F) The trial shall ~~hearing must~~ be held within 60 days  
15 after filing of the answer unless continued for good cause.

16 (G) The State, in its case in chief shall show ~~the~~  
17 ~~existence of probable cause for forfeiture of the property. If~~  
18 ~~the State shows probable cause, the claimant has the burden of~~  
19 ~~showing~~ by a preponderance of the evidence the property is  
20 subject to forfeiture; and at least one of the following: that  
21 ~~the claimant's interest in the property is not subject to~~  
22 ~~forfeiture.~~

23 (i) In the case of personal property, including  
24 conveyances:

25 (a) that the claimant was legally accountable for  
26 the conduct giving rise to the forfeiture;

1           (b) that the claimant knew or reasonably should  
2           have known of the conduct giving rise to the  
3           forfeiture;

4           (c) that the claimant knew or reasonably should  
5           have known that the conduct giving rise to the  
6           forfeiture was likely to occur;

7           (d) that the claimant held the property for the  
8           benefit of, or as nominee for, any person whose conduct  
9           gave rise to its forfeiture;

10           (e) that if the claimant acquired their interest  
11           through any person engaging in any of the conduct  
12           described above or conduct giving rise to the  
13           forfeiture:

14                   (1) the claimant did not acquire it as a bona  
15                   fide purchaser for value, or

16                   (2) the claimant acquired the interest under  
17                   such circumstances that they reasonably should  
18                   have known the property was derived from, or used  
19                   in, the conduct giving rise to the forfeiture; or

20           (f) that the claimant is not the true owner of the  
21           property;

22           (g) that the claimant acquired the interest:

23                   (1) before the commencement of the conduct  
24                   giving rise to the forfeiture and the person whose  
25                   conduct gave rise to the forfeiture did not have  
26                   authority to convey the interest to a bona fide

1           purchaser for value at the time of the conduct; or  
2           (2) after the commencement of the conduct  
3           giving rise to the forfeiture and the owner or  
4           interest holder acquired the interest as a  
5           mortgagee, secured creditor, lienholder, or bona  
6           fide purchaser for value without knowledge of the  
7           conduct which gave rise to the forfeiture, and  
8           without the knowledge of the seizure of the  
9           property for forfeiture.

10          (ii) In the case of real property:

11           (a) that the claimant was legally accountable for  
12          the conduct giving rise to the forfeiture;

13           (b) that the claimant solicited, conspired, or  
14          attempted to commit the conduct giving rise to the  
15          forfeiture; or

16           (c) that the claimant had acquired or stood to  
17          acquire substantial proceeds from the conduct giving  
18          rise to its forfeiture other than as an interest holder  
19          in an arm's length transaction;

20           (d) that the claimant is not the true owner of the  
21          property;

22           (e) that the claimant acquired the interest:

23           (1) before the commencement of the conduct  
24          giving rise to the forfeiture and the person whose  
25          conduct gave rise to the forfeiture did not have  
26          authority to convey the interest to a bona fide

1           purchaser for value at the time of the conduct; or  
2           (2) after the commencement of the conduct  
3           giving rise to the forfeiture and the owner or  
4           interest holder acquired the interest as a  
5           mortgagee, secured creditor, lienholder, or bona  
6           fide purchaser for value without knowledge of the  
7           conduct which gave rise to the forfeiture, and  
8           before the filing in the office of the recorder of  
9           deeds of the county in which the real estate is  
10           located a notice of seizure for forfeiture or a lis  
11           pendens notice.

12           (G-5) If the property that is the subject of the forfeiture  
13           proceeding is currency or its equivalent, the State, in its  
14           case in chief, shall show by a preponderance of the evidence  
15           that the property is subject to forfeiture. If the State makes  
16           that showing, the claimant shall have the burden of production  
17           to set forth evidence that the currency or its equivalent is  
18           not related to the alleged factual basis of the forfeiture.  
19           After the production of evidence, the State shall maintain the  
20           burden of proof to overcome this assertion.

21           (G-10) Notwithstanding any other provision of this  
22           Section, the State's burden of proof at the trial of the  
23           forfeiture action shall be by clear and convincing evidence if:

24           (1) a finding of not guilty is entered as to all counts  
25           and all defendants in a criminal proceeding relating to the  
26           conduct giving rise to the forfeiture action; or

1           (2) the State receives an adverse finding at a  
2           preliminary hearing and fails to secure an indictment in a  
3           criminal proceeding related to the factual allegations of  
4           the forfeiture action.

5           (H) If the State does not meet its burden of proof ~~show~~  
6           ~~existence of probable cause or a claimant has established by a~~  
7           ~~preponderance of evidence that the claimant has an interest~~  
8           ~~that is exempt under Section 8 of this Act,~~ the court shall  
9           order the interest in the property returned or conveyed to the  
10          claimant and shall order all other property as to which the  
11          State does meet its burden of proof forfeited to the State. If  
12          the State does meet its burden of proof ~~show existence of~~  
13          ~~probable cause and the claimant does not establish by a~~  
14          ~~preponderance of evidence that the claimant has an interest~~  
15          ~~that is exempt under Section 8 of this Act,~~ the court shall  
16          order all property forfeited to the State.

17          (I) A defendant convicted in any criminal proceeding is  
18          precluded from later denying the essential allegations of the  
19          criminal offense of which the defendant was convicted in any  
20          proceeding under this Act regardless of the pendency of an  
21          appeal from that conviction. However, evidence of the pendency  
22          of an appeal is admissible.

23          (J) An acquittal or dismissal in a criminal proceeding  
24          shall not preclude civil proceedings under this Act; however,  
25          for good cause shown, on a motion by the State's Attorney, the  
26          court may stay civil forfeiture proceedings during the criminal



1 trial for a related criminal indictment or information alleging  
2 a violation of the Illinois Controlled Substances Act, the  
3 Cannabis Control Act, or the Methamphetamine Control and  
4 Community Protection Act. Such a stay shall not be available  
5 pending an appeal. Property subject to forfeiture under the  
6 Illinois Controlled Substances Act, the Cannabis Control Act,  
7 or the Methamphetamine Control and Community Protection Act  
8 shall not be subject to return or release by a court exercising  
9 jurisdiction over a criminal case involving the seizure of such  
10 property unless such return or release is consented to by the  
11 State's Attorney.

12 (K) Title to all ~~All~~ property declared forfeited under this  
13 Act vests in this State on the commission of the conduct giving  
14 rise to forfeiture together with the proceeds of the property  
15 after that time. Except as otherwise provided in this Act, any  
16 ~~Any~~ such property or proceeds subsequently transferred to any  
17 person remain subject to forfeiture unless a person to whom the  
18 property was transferred makes an appropriate claim under this  
19 Act and has their claim adjudicated in the judicial in rem  
20 proceeding and thereafter shall be ordered forfeited unless the  
21 transferee claims and establishes in a hearing under the  
22 provisions of this Act that the transferee's interest is exempt  
23 under Section 8 of this Act.

24 (L) A civil action under this Act must be commenced within  
25 5 years after the last conduct giving rise to forfeiture became  
26 known or should have become known or 5 years after the

1 forfeitable property is discovered, whichever is later,  
2 excluding any time during which either the property or claimant  
3 is out of the State or in confinement or during which criminal  
4 proceedings relating to the same conduct are in progress.

5 (M) No property shall be forfeited under this Act from a  
6 person who, without actual or constructive notice that the  
7 property was the subject of forfeiture proceedings, obtained  
8 possession of the property as a bona fide purchaser for value.  
9 A person who purports to transfer property after receiving  
10 actual or constructive notice that the property is subject to  
11 seizure or forfeiture is guilty of contempt of court and shall  
12 be liable to the State for a penalty in the amount of the fair  
13 market value of the property.

14 (N) If property is ordered forfeited under this Act from a  
15 claimant who held title to the property in joint tenancy or  
16 tenancy in common with another claimant, the court shall  
17 determine the amount of each owner's interest in the property  
18 according to principles of property law.

19 (Source: P.A. 94-556, eff. 9-11-05.)

20 (725 ILCS 150/9.1 new)

21 Sec. 9.1. Innocent owner hearing.

22 (a) After a complaint for forfeiture is filed and all  
23 claimants have appeared and answered, a claimant may file a  
24 motion with the court for an innocent owner hearing prior to  
25 trial. This motion shall be made and supported by sworn

1 affidavit and shall assert the following along with specific  
2 facts which support each assertion:

3 (1) that the claimant filing the motion is the true  
4 owner of the conveyance as interpreted by case law;

5 (2) that the claimant was not legally accountable for  
6 the conduct giving rise to the forfeiture or acquiesced in  
7 the conduct;

8 (3) that the claimant did not solicit, conspire, or  
9 attempt to commit the conduct giving rise to the  
10 forfeiture;

11 (4) that the claimant did not know or did they have  
12 reason to know that the conduct giving rise to the  
13 forfeiture was likely to occur; and

14 (5) that the claimant did not hold the property for the  
15 benefit of, or as nominee for any person whose conduct gave  
16 rise to its forfeiture, or if the owner or interest holder  
17 acquired the interest through any such person, the owner or  
18 interest holder did not acquire it as a bona fide purchaser  
19 for value, or acquired the interest without knowledge of  
20 the seizure of the property for forfeiture.

21 (b) The claimant's motion shall include specific facts  
22 supporting these assertions.

23 (c) Upon this filing, a hearing may only be held after the  
24 parties have been given the opportunity to conduct limited  
25 discovery as to the ownership and control of the property, the  
26 claimant's knowledge, or any matter relevant to the issues

1 raised or facts alleged in the claimant's motion. Discovery  
2 shall be limited to the People's requests in these areas but  
3 may proceed by any means allowed in the Code of Civil  
4 Procedure.

5 (d) After discovery is complete and the court has allowed  
6 for sufficient time to review and investigate the discovery  
7 responses, the court shall conduct a hearing. At the hearing,  
8 the fact that the property is subject to forfeiture shall not  
9 be at issue. The court shall only hear evidence relating to the  
10 issue of innocent ownership.

11 (e) At the hearing on the motion, the claimant shall bear  
12 the burden of proving by a preponderance of the evidence each  
13 of the assertions set forth in subsection (a) of this Section.

14 (f) If a claimant meets their burden of proof, the court  
15 shall grant the motion and order the property returned to the  
16 claimant. If the claimant fails to meet their burden of proof,  
17 then the court shall deny the motion and the forfeiture case  
18 shall proceed according to the Rules of Civil Procedure.

19 (725 ILCS 150/9.5 new)

20 Sec. 9.5. Proportionality. Property forfeited under this  
21 Act shall be subject to an 8th Amendment to the United States  
22 Constitution disproportionate penalties analysis and the  
23 property forfeiture may be denied in whole or in part if the  
24 court finds that the forfeiture would constitute an excessive  
25 fine in violation of the 8th Amendment to the United States

1 Constitution, as interpreted by case law.

2 (725 ILCS 150/11) (from Ch. 56 1/2, par. 1681)

3 Sec. 11. Settlement of Claims. Notwithstanding other  
4 provisions of this Act, the State's Attorney and a claimant of  
5 seized property may enter into an agreed-upon settlement  
6 concerning the seized property in such an amount and upon such  
7 terms as are set out in writing in a settlement agreement. All  
8 proceeds from a settlement agreement shall be tendered to the  
9 Department of State Police and distributed in accordance with  
10 the provisions of Section 17 of this Act.

11 (Source: P.A. 86-1382.)

12 (725 ILCS 150/14) (from Ch. 56 1/2, par. 1684)

13 Sec. 14. Judicial Review. If property has been declared  
14 forfeited under Section 6 of this Act, any person who has an  
15 interest in the property declared forfeited may, within 30 days  
16 of the effective date of the notice of the declaration of  
17 forfeiture, file a claim ~~and cost bond~~ as described in  
18 subsection (C) of Section 6 of this Act. If a claim ~~and cost~~  
19 ~~bond~~ is filed under this Section, then the procedures described  
20 in Section 9 of this Act shall apply.

21 (Source: P.A. 87-614.)

22 (725 ILCS 150/15 new)

23 Sec. 15. Return of property, damages, and costs.

1       (a) The law enforcement agency that holds custody of  
2 property seized for forfeiture shall deliver property ordered  
3 by the court to be returned or conveyed to the claimant within  
4 a reasonable time not to exceed 7 days, unless the order is  
5 stayed by the trial court or a reviewing court pending an  
6 appeal, motion to reconsider, or other reason.

7       (b) The law enforcement agency that holds custody of  
8 property described in subsection (a) of this Section is  
9 responsible for any damages, storage fees, and related costs  
10 applicable to property returned. The claimant shall not be  
11 subject to any charges by the State for storage of the property  
12 or expenses incurred in the preservation of the property.  
13 Charges for the towing of a conveyance shall be borne by the  
14 claimant unless the conveyance was towed for the sole reason of  
15 seizure for forfeiture. This Section does not prohibit the  
16 imposition of any fees or costs by a home rule unit of local  
17 government related to the impoundment of a conveyance pursuant  
18 to an ordinance enacted by the unit of government.

19       (c) A law enforcement agency shall not retain forfeited  
20 property for its own use or transfer the property to any person  
21 or entity, except as provided under this Section. A law  
22 enforcement agency may apply in writing to the Director of  
23 State Police to request that a forfeited property be awarded to  
24 the agency for a specifically articulated official law  
25 enforcement use in an investigation. The Director of State  
26 Police shall provide a written justification in each instance

1 detailing the reasons why the forfeited property was placed  
2 into official use and the justification shall be retained for a  
3 period of not less than 3 years.

4 (725 ILCS 150/17 new)

5 Sec. 17. Distribution of proceeds; selling or retaining  
6 seized property prohibited.

7 (a) Except as otherwise provided in this Section, the court  
8 shall order that property forfeited under this Act be delivered  
9 to the Department of State Police within 60 days.

10 (b) All monies and the sale proceeds of all other property  
11 forfeited and seized under this Act shall be distributed as  
12 follows:

13 (1) (i) 65% shall be distributed to the metropolitan  
14 enforcement group, local, municipal, county, or state law  
15 enforcement agency or agencies which conducted or participated  
16 in the investigation resulting in the forfeiture. The  
17 distribution shall bear a reasonable relationship to the degree  
18 of direct participation of the law enforcement agency in the  
19 effort resulting in the forfeiture, taking into account the  
20 total value of the property forfeited and the total law  
21 enforcement effort with respect to the violation of the law  
22 upon which the forfeiture is based. Amounts distributed to the  
23 agency or agencies shall be used for the enforcement of laws  
24 governing cannabis and controlled substances; for public  
25 education in the community or schools in the prevention or

1 detection of the abuse of drugs or alcohol; or for security  
2 cameras used for the prevention or detection of violence,  
3 except that amounts distributed to the Secretary of State shall  
4 be deposited into the Secretary of State Evidence Fund to be  
5 used as provided in Section 2-115 of the Illinois Vehicle Code.

6 (ii) Any local, municipal, or county law enforcement agency  
7 entitled to receive a monetary distribution of forfeiture  
8 proceeds may share those forfeiture proceeds pursuant to the  
9 terms of an intergovernmental agreement with a municipality  
10 that has a population in excess of 20,000 if:

11 (A) the receiving agency has entered into an  
12 intergovernmental agreement with the municipality to  
13 provide police services;

14 (B) the intergovernmental agreement for police  
15 services provides for consideration in an amount of not  
16 less than \$1,000,000 per year;

17 (C) the seizure took place within the geographical  
18 limits of the municipality; and

19 (D) the funds are used only for the enforcement of laws  
20 governing cannabis and controlled substances; for public  
21 education in the community or schools in the prevention or  
22 detection of the abuse of drugs or alcohol; or for security  
23 cameras used for the prevention or detection of violence or  
24 the establishment of a municipal police force, including  
25 the training of officers, construction of a police station,  
26 or the purchase of law enforcement equipment or vehicles.



1       (2) (i) 12.5% shall be distributed to the Office of the  
2       State's Attorney of the county in which the prosecution  
3       resulting in the forfeiture was instituted, deposited in a  
4       special fund in the county treasury and appropriated to the  
5       State's Attorney for use in the enforcement of laws governing  
6       cannabis and controlled substances; for public education in the  
7       community or schools in the prevention or detection of the  
8       abuse of drugs or alcohol; or at the discretion of the State's  
9       Attorney, in addition to other authorized purposes, to make  
10       grants to local substance abuse treatment facilities and  
11       half-way houses. In counties over 3,000,000 population, 25%  
12       shall be distributed to the Office of the State's Attorney for  
13       use in the enforcement of laws governing cannabis and  
14       controlled substances; for public education in the community or  
15       schools in the prevention or detection of the abuse of drugs or  
16       alcohol; or at the discretion of the State's Attorney, in  
17       addition to other authorized purposes, to make grants to local  
18       substance abuse treatment facilities and half-way houses. If  
19       the prosecution is undertaken solely by the Attorney General,  
20       the portion provided shall be distributed to the Attorney  
21       General for use in the enforcement of laws governing cannabis  
22       and controlled substances or for public education in the  
23       community or schools in the prevention or detection of the  
24       abuse of drugs or alcohol.

25       (ii) 12.5% shall be distributed to the Office of the  
26       State's Attorneys Appellate Prosecutor and deposited in the

1 Narcotics Profit Forfeiture Fund of that office to be used for  
2 additional expenses incurred in the investigation, prosecution  
3 and appeal of cases arising under laws governing cannabis and  
4 controlled substances or for public education in the community  
5 or schools in the prevention or detection of the abuse of drugs  
6 or alcohol. The Office of the State's Attorneys Appellate  
7 Prosecutor shall not receive distribution from cases brought in  
8 counties with over 3,000,000 population.

9 (3) 10% shall be retained by the Department of State Police  
10 for expenses related to the administration and sale of seized  
11 and forfeited property.

12 (725 ILCS 150/20 new)

13 Sec. 20. Reporting. Property seized or forfeited under this  
14 Act is subject to reporting under the Seizure and Forfeiture  
15 Reporting Act.

16 Section 175. The Narcotics Profit Forfeiture Act is amended  
17 by adding Section 6.5 as follows:

18 (725 ILCS 175/6.5 new)

19 Sec. 6.5. Reporting. Property seized or forfeited under  
20 this Act is subject to reporting under the Seizure and  
21 Forfeiture Reporting Act.

22 Section 180. The Illinois Streetgang Terrorism Omnibus

1 Prevention Act is amended by changing Section 40 as follows:

2 (740 ILCS 147/40)

3 Sec. 40. Forfeiture ~~Contraband~~.

4 (a) The following are subject to seizure and forfeiture  
5 ~~declared to be contraband and no person shall have a property~~  
6 ~~interest in them:~~

7 (1) any property that is directly or indirectly used or  
8 intended for use in any manner to facilitate streetgang  
9 related activity; and

10 (2) any property constituting or derived from gross  
11 profits or other proceeds obtained from streetgang related  
12 activity.

13 (b) Property subject to forfeiture under this Section may  
14 be seized under the procedures set forth under Section 36-2.1  
15 of the Criminal Code of 2012, except that actual physical  
16 seizure of real property subject to forfeiture under this Act  
17 requires the issuance of a seizure warrant. Nothing in this  
18 Section prohibits the constructive seizure of real property  
19 through the filing of a complaint for forfeiture in circuit  
20 court and the recording of a lis pendens against the real  
21 property without a hearing, warrant application, or judicial  
22 approval.

23 (c) The State's Attorney may initiate forfeiture  
24 proceedings under the procedures in Article 36 of the Criminal  
25 Code of 2012. The State shall bear the burden of proving by a

1 preponderance of the evidence that the property was acquired  
2 through a pattern of streetgang related activity.

3 (d) Property forfeited under this Section shall be disposed  
4 of in accordance with Section 36-7 of Article 36 of the  
5 Criminal Code of 2012 for the forfeiture of vehicles, vessels,  
6 and aircraft.

7 (e) Within 60 days of the date of the seizure of contraband  
8 under this Section, the State's Attorney shall initiate  
9 forfeiture proceedings as provided in Article 36 of the  
10 Criminal Code of 2012. An owner or person who has a lien on the  
11 property may establish as a defense to the forfeiture of  
12 property that is subject to forfeiture under this Section that  
13 the owner or lienholder had no knowledge that the property was  
14 acquired through a pattern of streetgang related activity.  
15 Property that is forfeited under this Section shall be disposed  
16 of as provided in Article 36 of the Criminal Code of 2012 for  
17 the forfeiture of vehicles, vessels, and aircraft. The proceeds  
18 of the disposition shall be paid to the Gang Violence Victims  
19 and Witnesses Fund to be used to assist in the prosecution of  
20 gang crimes.

21 (f) Property seized or forfeited under this Section is  
22 subject to reporting under the Seizure and Forfeiture Reporting  
23 Act.

24 (Source: P.A. 97-1150, eff. 1-25-13.)

25 Section 185. The Illinois Securities Law of 1953 is amended

1 by changing Section 11 as follows:

2 (815 ILCS 5/11) (from Ch. 121 1/2, par. 137.11)

3 Sec. 11. Duties and powers of the Secretary of State.

4 A. (1) The administration of this Act is vested in the  
5 Secretary of State, who may from time to time make, amend and  
6 rescind such rules and regulations as may be necessary to carry  
7 out this Act, including rules and regulations governing  
8 procedures of registration, statements, applications and  
9 reports for various classes of securities, persons and matters  
10 within his or her jurisdiction and defining any terms, whether  
11 or not used in this Act, insofar as the definitions are not  
12 inconsistent with this Act. The rules and regulations adopted  
13 by the Secretary of State under this Act shall be effective in  
14 the manner provided for in the Illinois Administrative  
15 Procedure Act.

16 (2) Among other things, the Secretary of State shall have  
17 authority, for the purposes of this Act, to prescribe the form  
18 or forms in which required information shall be set forth,  
19 accounting practices, the items or details to be shown in  
20 balance sheets and earning statements, and the methods to be  
21 followed in the preparation of accounts, in the appraisal or  
22 valuation of assets and liabilities, in the determination of  
23 depreciation and depletion, in the differentiation of  
24 recurring and non-recurring income, in the differentiation of  
25 investment and operating income, and in the preparation of

1 consolidated balance sheets or income accounts of any person,  
2 directly or indirectly, controlling or controlled by the  
3 issuer, or any person under direct or indirect common control  
4 with the issuer.

5 (3) No provision of this Act imposing any liability shall  
6 apply to any act done or omitted in good faith in conformity  
7 with any rule or regulation of the Secretary of State under  
8 this Act, notwithstanding that the rule or regulation may,  
9 after the act or omission, be amended or rescinded or be  
10 determined by judicial or other authority to be invalid for any  
11 reason.

12 (4) The Securities Department of the Office of the  
13 Secretary of State shall be deemed a criminal justice agency  
14 for purposes of all federal and state laws and regulations and,  
15 in that capacity, shall be entitled to access to any  
16 information available to criminal justice agencies and has the  
17 power to appoint special agents to conduct all investigations,  
18 searches, seizures, arrests, and other duties imposed under the  
19 provisions of any law administered by the Department. The  
20 special agents have and may exercise all the powers of peace  
21 officers solely for the purpose of enforcing provisions of this  
22 Act.

23 The Director must authorize to each special agent employed  
24 under this Section a distinct badge that, on its face, (i)  
25 clearly states that the badge is authorized by the Department  
26 and (ii) contains a unique and identifying number.

1 Special agents shall comply with all training requirements  
2 established for law enforcement officers by provisions of the  
3 Illinois Police Training Act.

4 (5) The Secretary of State, by rule, may conditionally or  
5 unconditionally exempt any person, security, or transaction,  
6 or any class or classes of persons, securities, or transactions  
7 from any provision of Section 5, 6, 7, 8, 8a, or 9 of this Act  
8 or of any rule promulgated under these Sections, to the extent  
9 that such exemption is necessary or appropriate in the public  
10 interest, and is consistent with the protection of investors.

11 B. The Secretary of State may, anything in this Act to the  
12 contrary notwithstanding, require financial statements and  
13 reports of the issuer, dealer, Internet portal, salesperson,  
14 investment adviser, or investment adviser representative as  
15 often as circumstances may warrant. In addition, the Secretary  
16 of State may secure information or books and records from or  
17 through others and may make or cause to be made investigations  
18 respecting the business, affairs, and property of the issuer of  
19 securities, any person involved in the sale or offer for sale,  
20 purchase or offer to purchase of any mineral investment  
21 contract, mineral deferred delivery contract, or security and  
22 of dealers, Internet portals, salespersons, investment  
23 advisers, and investment adviser representatives that are  
24 registered or are the subject of an application for  
25 registration under this Act. The costs of an investigation  
26 shall be borne by the registrant or the applicant, provided

1 that the registrant or applicant shall not be obligated to pay  
2 the costs without his, her or its consent in advance.

3 C. Whenever it shall appear to the Secretary of State,  
4 either upon complaint or otherwise, that this Act, or any rule  
5 or regulation prescribed under authority thereof, has been or  
6 is about to be violated, he or she may, in his or her  
7 discretion, do one or more of the following:

8 (1) require or permit the person to file with the  
9 Secretary of State a statement in writing under oath, or  
10 otherwise, as to all the facts and circumstances concerning  
11 the subject matter which the Secretary of State believes to  
12 be in the public interest to investigate, audit, examine,  
13 or inspect;

14 (2) conduct an investigation, audit, examination, or  
15 inspection as necessary or advisable for the protection of  
16 the interests of the public; and

17 (3) appoint investigators to conduct all  
18 investigations, searches, seizures, arrests, and other  
19 duties imposed under the provisions of any law administered  
20 by the Department. The Director must authorize to each  
21 investigator employed under this Section a distinct badge  
22 that, on its face, (i) clearly states that the badge is  
23 authorized by the Department and (ii) contains a unique and  
24 identifying number.

25 D. (1) For the purpose of all investigations, audits,  
26 examinations, or inspections which in the opinion of the



1 Secretary of State are necessary and proper for the enforcement  
2 of this Act, the Secretary of State or a person designated by  
3 him or her is empowered to administer oaths and affirmations,  
4 subpoena witnesses, take evidence, and require, by subpoena or  
5 other lawful means provided by this Act or the rules adopted by  
6 the Secretary of State, the production of any books and  
7 records, papers, or other documents which the Secretary of  
8 State or a person designated by him or her deems relevant or  
9 material to the inquiry.

10 (2) The Secretary of State or a person designated by him or  
11 her is further empowered to administer oaths and affirmations,  
12 subpoena witnesses, take evidence, and require the production  
13 of any books and records, papers, or other documents in this  
14 State at the request of a securities agency of another state,  
15 if the activities constituting the alleged violation for which  
16 the information is sought would be in violation of Section 12  
17 of this Act if the activities had occurred in this State.

18 (3) The Circuit Court of any County of this State, upon  
19 application of the Secretary of State or a person designated by  
20 him or her may order the attendance of witnesses, the  
21 production of books and records, papers, accounts and documents  
22 and the giving of testimony before the Secretary of State or a  
23 person designated by him or her; and any failure to obey the  
24 order may be punished by the Circuit Court as a contempt  
25 thereof.

26 (4) The fees of subpoenaed witnesses under this Act for

1 attendance and travel shall be the same as fees of witnesses  
2 before the Circuit Courts of this State, to be paid when the  
3 witness is excused from further attendance, provided, the  
4 witness is subpoenaed at the instance of the Secretary of  
5 State; and payment of the fees shall be made and audited in the  
6 same manner as other expenses of the Secretary of State.

7 (5) Whenever a subpoena is issued at the request of a  
8 complainant or respondent as the case may be, the Secretary of  
9 State may require that the cost of service and the fee of the  
10 witness shall be borne by the party at whose instance the  
11 witness is summoned.

12 (6) The Secretary of State shall have power at his or her  
13 discretion, to require a deposit to cover the cost of the  
14 service and witness fees and the payment of the legal witness  
15 fee and mileage to the witness served with subpoena.

16 (7) A subpoena issued under this Act shall be served in the  
17 same manner as a subpoena issued out of a circuit court.

18 (8) The Secretary of State may in any investigation,  
19 audits, examinations, or inspections cause the taking of  
20 depositions of persons residing within or without this State in  
21 the manner provided in civil actions under the laws of this  
22 State.

23 E. Anything in this Act to the contrary notwithstanding:

24 (1) If the Secretary of State shall find that the offer  
25 or sale or proposed offer or sale or method of offer or  
26 sale of any securities by any person, whether exempt or

1 not, in this State, is fraudulent, or would work or tend to  
2 work a fraud or deceit, or is being offered or sold in  
3 violation of Section 12, or there has been a failure or  
4 refusal to submit any notification filing or fee required  
5 under this Act, the Secretary of State may by written order  
6 prohibit or suspend the offer or sale of securities by that  
7 person or deny or revoke the registration of the securities  
8 or the exemption from registration for the securities.

9 (2) If the Secretary of State shall find that any  
10 person has violated subsection C, D, E, F, G, H, I, J, or K  
11 of Section 12 of this Act, the Secretary of State may by  
12 written order temporarily or permanently prohibit or  
13 suspend the person from offering or selling any securities,  
14 any mineral investment contract, or any mineral deferred  
15 delivery contract in this State, provided that any person  
16 who is the subject of an order of permanent prohibition may  
17 petition the Secretary of State for a hearing to present  
18 evidence of rehabilitation or change in circumstances  
19 justifying the amendment or termination of the order of  
20 permanent prohibition.

21 (3) If the Secretary of State shall find that any  
22 person is engaging or has engaged in the business of  
23 selling or offering for sale securities as a dealer,  
24 Internet portal, or salesperson or is acting or has acted  
25 as an investment adviser, investment adviser  
26 representative, or federal covered investment adviser,

1 without prior thereto and at the time thereof having  
2 complied with the registration or notice filing  
3 requirements of this Act, the Secretary of State may by  
4 written order prohibit or suspend the person from engaging  
5 in the business of selling or offering for sale securities,  
6 or acting as an investment adviser, investment adviser  
7 representative, or federal covered investment adviser, in  
8 this State.

9 (4) In addition to any other sanction or remedy  
10 contained in this subsection E, the Secretary of State,  
11 after finding that any provision of this Act has been  
12 violated, may impose a fine as provided by rule, regulation  
13 or order not to exceed \$10,000 for each violation of this  
14 Act, may issue an order of public censure against the  
15 violator, and may charge as costs of investigation all  
16 reasonable expenses, including attorney's fees and witness  
17 fees.

18 F. (1) The Secretary of State shall not deny, suspend or  
19 revoke the registration of securities, suspend or revoke the  
20 registration of a dealer, Internet portal, salesperson,  
21 investment adviser, or investment adviser representative,  
22 prohibit or suspend the offer or sale of any securities,  
23 prohibit or suspend any person from offering or selling any  
24 securities in this State, prohibit or suspend a dealer or  
25 salesperson from engaging in the business of selling or  
26 offering for sale securities, prohibit or suspend a person from

1 acting as an investment adviser or federal covered investment  
2 adviser, or investment adviser representative, impose any fine  
3 for violation of this Act, issue an order of public censure, or  
4 enter into an agreed settlement except after an opportunity for  
5 hearing upon not less than 10 days notice given by personal  
6 service or registered mail or certified mail, return receipt  
7 requested, to the person or persons concerned. Such notice  
8 shall state the date and time and place of the hearing and  
9 shall contain a brief statement of the proposed action of the  
10 Secretary of State and the grounds for the proposed action. A  
11 failure to appear at the hearing or otherwise respond to the  
12 allegations set forth in the notice of hearing shall constitute  
13 an admission of any facts alleged therein and shall constitute  
14 sufficient basis to enter an order.

15 (2) Anything herein contained to the contrary  
16 notwithstanding, the Secretary of State may temporarily  
17 prohibit or suspend, for a maximum period of 90 days, by an  
18 order effective immediately, the offer or sale or registration  
19 of securities, the registration of a dealer, Internet portal,  
20 salesperson, investment adviser, or investment adviser  
21 representative, or the offer or sale of securities by any  
22 person, or the business of rendering investment advice, without  
23 the notice and prior hearing in this subsection prescribed, if  
24 the Secretary of State shall in his or her opinion, based on  
25 credible evidence, deem it necessary to prevent an imminent  
26 violation of this Act or to prevent losses to investors which

1 the Secretary of State reasonably believes will occur as a  
2 result of a prior violation of this Act. Immediately after  
3 taking action without such notice and hearing, the Secretary of  
4 State shall deliver a copy of the temporary order to the  
5 respondent named therein by personal service or registered mail  
6 or certified mail, return receipt requested. The temporary  
7 order shall set forth the grounds for the action and shall  
8 advise that the respondent may request a hearing, that the  
9 request for a hearing will not stop the effectiveness of the  
10 temporary order and that respondent's failure to request a  
11 hearing within 30 days after the date of the entry of the  
12 temporary order shall constitute an admission of any facts  
13 alleged therein and shall constitute sufficient basis to make  
14 the temporary order final. Any provision of this paragraph (2)  
15 to the contrary notwithstanding, the Secretary of State may not  
16 pursuant to the provisions of this paragraph (2) suspend the  
17 registration of a dealer, limited Canadian dealer,  
18 salesperson, investment adviser, or investment adviser  
19 representative based upon sub-paragraph (n) of paragraph (1) of  
20 subsection E of Section 8 of this Act or revoke the  
21 registration of securities or revoke the registration of any  
22 dealer, salesperson, investment adviser representative, or  
23 investment adviser.

24 (3) The Secretary of State may issue a temporary order  
25 suspending or delaying the effectiveness of any registration of  
26 securities under subsection A or B of Section 5, 6 or 7 of this

1 Act subsequent to and upon the basis of the issuance of any  
2 stop, suspension or similar order by the Securities and  
3 Exchange Commission with respect to the securities which are  
4 the subject of the registration under subsection A or B of  
5 Section 5, 6 or 7 of this Act, and the order shall become  
6 effective as of the date and time of effectiveness of the  
7 Securities and Exchange Commission order and shall be vacated  
8 automatically at such time as the order of the Securities and  
9 Exchange Commission is no longer in effect.

10 (4) When the Secretary of State finds that an application  
11 for registration as a dealer, Internet portal, salesperson,  
12 investment adviser, or investment adviser representative  
13 should be denied, the Secretary of State may enter an order  
14 denying the registration. Immediately after taking such  
15 action, the Secretary of State shall deliver a copy of the  
16 order to the respondent named therein by personal service or  
17 registered mail or certified mail, return receipt requested.  
18 The order shall state the grounds for the action and that the  
19 matter will be set for hearing upon written request filed with  
20 the Secretary of State within 30 days after the receipt of the  
21 request by the respondent. The respondent's failure to request  
22 a hearing within 30 days after receipt of the order shall  
23 constitute an admission of any facts alleged therein and shall  
24 make the order final. If a hearing is held, the Secretary of  
25 State shall affirm, vacate, or modify the order.

26 (5) The findings and decision of the Secretary of State

1 upon the conclusion of each final hearing held pursuant to this  
2 subsection shall be set forth in a written order signed on  
3 behalf of the Secretary of State by his or her designee and  
4 shall be filed as a public record. All hearings shall be held  
5 before a person designated by the Secretary of State, and  
6 appropriate records thereof shall be kept.

7 (6) Notwithstanding the foregoing, the Secretary of State,  
8 after notice and opportunity for hearing, may at his or her  
9 discretion enter into an agreed settlement, stipulation or  
10 consent order with a respondent in accordance with the  
11 provisions of the Illinois Administrative Procedure Act. The  
12 provisions of the agreed settlement, stipulation or consent  
13 order shall have the full force and effect of an order issued  
14 by the Secretary of State.

15 (7) Anything in this Act to the contrary notwithstanding,  
16 whenever the Secretary of State finds that a person is  
17 currently expelled from, refused membership in or association  
18 with, or limited in any material capacity by a self-regulatory  
19 organization registered under the Federal 1934 Act or the  
20 Federal 1974 Act because of a fraudulent or deceptive act or a  
21 practice in violation of a rule, regulation, or standard duly  
22 promulgated by the self-regulatory organization, the Secretary  
23 of State may, at his or her discretion, enter a Summary Order  
24 of Prohibition, which shall prohibit the offer or sale of any  
25 securities, mineral investment contract, or mineral deferred  
26 delivery contract by the person in this State. The order shall



1 take effect immediately upon its entry. Immediately after  
2 taking the action the Secretary of State shall deliver a copy  
3 of the order to the named Respondent by personal service or  
4 registered mail or certified mail, return receipt requested. A  
5 person who is the subject of an Order of Prohibition may  
6 petition the Secretary of State for a hearing to present  
7 evidence of rehabilitation or change in circumstances  
8 justifying the amendment or termination of the Order of  
9 Prohibition.

10 G. No administrative action shall be brought by the  
11 Secretary of State for relief under this Act or upon or because  
12 of any of the matters for which relief is granted by this Act  
13 after the earlier to occur of (i) 3 years from the date upon  
14 which the Secretary of State had notice of facts which in the  
15 exercise of reasonable diligence would lead to actual knowledge  
16 of the alleged violation of the Act, or (ii) 5 years from the  
17 date on which the alleged violation occurred.

18 H. The action of the Secretary of State in denying,  
19 suspending, or revoking the registration of a dealer, Internet  
20 portal, limited Canadian dealer, salesperson, investment  
21 adviser, or investment adviser representative, in prohibiting  
22 any person from engaging in the business of offering or selling  
23 securities as a dealer, limited Canadian dealer, or  
24 salesperson, in prohibiting or suspending the offer or sale of  
25 securities by any person, in prohibiting a person from acting  
26 as an investment adviser, federal covered investment adviser,

1 or investment adviser representative, in denying, suspending,  
2 or revoking the registration of securities, in prohibiting or  
3 suspending the offer or sale or proposed offer or sale of  
4 securities, in imposing any fine for violation of this Act, or  
5 in issuing any order shall be subject to judicial review in the  
6 Circuit Courts of Cook or Sangamon Counties in this State. The  
7 Administrative Review Law shall apply to and govern every  
8 action for the judicial review of final actions or decisions of  
9 the Secretary of State under this Act.

10 I. Notwithstanding any other provisions of this Act to the  
11 contrary, whenever it shall appear to the Secretary of State  
12 that any person is engaged or about to engage in any acts or  
13 practices which constitute or will constitute a violation of  
14 this Act or of any rule or regulation prescribed under  
15 authority of this Act, the Secretary of State may at his or her  
16 discretion, through the Attorney General take any of the  
17 following actions:

18 (1) File a complaint and apply for a temporary  
19 restraining order without notice, and upon a proper showing  
20 the court may enter a temporary restraining order without  
21 bond, to enforce this Act.

22 (2) File a complaint and apply for a preliminary or  
23 permanent injunction, and, after notice and a hearing and  
24 upon a proper showing, the court may grant a preliminary or  
25 permanent injunction and may order the defendant to make an  
26 offer of rescission with respect to any sales or purchases

1 of securities, mineral investment contracts, or mineral  
2 deferred delivery contracts determined by the court to be  
3 unlawful under this Act.

4 (3) Seek the seizure of assets when probable cause  
5 exists that the assets were obtained by a defendant through  
6 conduct in violation of Section 12, paragraph F, G, I, J,  
7 K, or L of this Act, and thereby subject to a judicial  
8 forfeiture hearing as required under this Act.

9 (a) In the event that such probable cause exists  
10 that the subject of an investigation who is alleged to  
11 have committed one of the relevant violations of this  
12 Act has in his possession assets obtained as a result  
13 of the conduct giving rise to the violation, the  
14 Secretary of State may seek a seizure warrant in any  
15 circuit court in Illinois.

16 (b) In seeking a seizure warrant, the Secretary of  
17 State, or his or her designee, shall submit to the  
18 court a sworn affidavit detailing the probable cause  
19 evidence for the seizure, the location of the assets to  
20 be seized, the relevant violation under Section 12 of  
21 this Act, and a statement detailing any known owners or  
22 interest holders in the assets.

23 (c) Seizure of the assets shall be made by any  
24 peace officer upon process of the seizure warrant  
25 issued by the court. Following the seizure of assets  
26 under this Act and pursuant to a seizure warrant,

1 notice of seizure, including a description of the  
2 seized assets, shall immediately be returned to the  
3 issuing court. Seized assets shall be maintained  
4 pending a judicial forfeiture hearing in accordance  
5 with the instructions of the court.

6 (d) In the event that management of seized assets  
7 becomes necessary to prevent the devaluation,  
8 dissipation, or otherwise to preserve the property,  
9 the court shall have jurisdiction to appoint a  
10 receiver, conservator, ancillary receiver, or  
11 ancillary conservator for that purpose, as provided in  
12 item (2) of this subsection.

13 (4) Seek the forfeiture of assets obtained through  
14 conduct in violation of Section 12, paragraph F, G, H, I,  
15 J, K, or L when authorized by law. A forfeiture must be  
16 ordered by a circuit court or an action brought by the  
17 Secretary of State as provided for in this Act, under a  
18 verified complaint for forfeiture.

19 (a) In the event assets have been seized pursuant  
20 to this Act, forfeiture proceedings shall be  
21 instituted by the Attorney General within 45 days of  
22 seizure.

23 (b) Service of the complaint filed under the  
24 provisions of this Act shall be made in the manner as  
25 provided in civil actions in this State.

26 (c) Only an owner of or interest holder in the

1 property may file an answer asserting a claim against  
2 the property. For purposes of this Section, the owner  
3 or interest holder shall be referred to as claimant.

4 (d) The answer must be signed by the owner or  
5 interest holder under penalty of perjury and must set  
6 forth:

7 (i) the caption of the proceedings as set forth  
8 on the notice of pending forfeiture and the name of  
9 the claimant;

10 (ii) the address at which the claimant will  
11 accept mail;

12 (iii) the nature and extent of the claimant's  
13 interest in the property;

14 (iv) the date, identity of the transferor, and  
15 circumstances of the claimant's acquisition of the  
16 interest in the property;

17 (v) the name and address of all other persons  
18 known to have an interest in the property;

19 (vi) the specific provisions of this Act  
20 relied on in asserting that the property is not  
21 subject to forfeiture;

22 (vii) all essential facts supporting each  
23 assertion; and

24 (viii) the precise relief sought.

25 (e) The answer must be filed with the court within  
26 45 days after service of the complaint.

1           (f) A property interest is exempt from forfeiture  
2           under this Act if its owner or interest holder  
3           establishes by a preponderance of evidence that the  
4           owner or interest holder:

5                   (i) is not legally accountable for the conduct  
6                   giving rise to the forfeiture, did not acquiesce in  
7                   it, and did not know and could not reasonably have  
8                   known of the conduct or that the conduct was likely  
9                   to occur;

10                   (ii) with respect to conveyances, did not hold  
11                   the property jointly or in common with a person  
12                   whose conduct gave rise to the forfeiture;

13                   (iii) does not hold the property for the  
14                   benefit of or as a nominee for any person whose  
15                   conduct gave rise to its forfeiture and the owner  
16                   or interest holder acquires it as a bona fide  
17                   purchaser for value without knowingly taking part  
18                   in the conduct giving rise to the forfeiture; or

19                   (iv) acquired the interest after the  
20                   commencement of the conduct giving rise to its  
21                   forfeiture and the owner or interest holder  
22                   acquired the interest as a mortgagee, secured  
23                   creditor, lienholder, or bona fide purchaser for  
24                   value without knowledge of the conduct that gave  
25                   rise to the forfeiture.

26           (g) The hearing must be held within 60 days after

1 the answer is filed unless continued for good cause.

2 (h) During the probable cause portion of the  
3 judicial in rem proceeding wherein the Secretary of  
4 State presents its case-in-chief, the court must  
5 receive and consider, among other things, any relevant  
6 hearsay evidence and information. The laws of evidence  
7 relating to civil actions shall apply to all other  
8 portions of the judicial in rem proceeding.

9 (i) The Secretary of State shall show the existence  
10 of probable cause for forfeiture of the property. If  
11 the Secretary of State shows probable cause, the  
12 claimant has the burden of showing by a preponderance  
13 of the evidence that the claimant's interest in the  
14 property is not subject to forfeiture.

15 (j) If the Secretary of State does not show the  
16 existence of probable cause or a claimant has an  
17 interest that is exempt under subdivision I (4)(d) of  
18 this Section, the court shall order the interest in the  
19 property returned or conveyed to the claimant and shall  
20 order all other property forfeited to the Secretary of  
21 State pursuant to all provisions of this Act. If the  
22 Secretary of State does show the existence of probable  
23 cause and the claimant does not establish by a  
24 preponderance of the evidence that the claimant has an  
25 interest that is exempt under subsection D herein, the  
26 court shall order all the property forfeited to the

1 Secretary of State pursuant to the provisions of the  
2 Section.

3 (k) A defendant convicted in any criminal  
4 proceeding is precluded from later denying the  
5 essential allegations of the criminal offense of which  
6 the defendant was convicted in any proceeding for  
7 violations of the Act giving rise to forfeiture of  
8 property herein regardless of the pendency of an appeal  
9 from that conviction. However, evidence of the  
10 pendency of an appeal is admissible.

11 (l) An acquittal or dismissal in a criminal  
12 proceeding for violations of the Act giving rise to the  
13 forfeiture of property herein shall not preclude civil  
14 proceedings under this provision; however, for good  
15 cause shown, on a motion by the Secretary of State, the  
16 court may stay civil forfeiture proceedings during the  
17 criminal trial for a related criminal indictment or  
18 information alleging violation of the provisions of  
19 Section 12 of the Illinois Securities Law of 1953.  
20 Property subject to forfeiture under this Section  
21 shall not be subject to return or release by a court  
22 exercising jurisdiction over a criminal case involving  
23 the seizure of the property unless the return or  
24 release is consented to by the Secretary of State.

25 (m) All property declared forfeited under this Act  
26 vests in the State on the commission of the conduct



1 giving rise to forfeiture together with the proceeds of  
2 the property after that time. Any such property or  
3 proceeds subsequently transferred to any person remain  
4 subject to forfeiture and thereafter shall be ordered  
5 forfeited unless the transferee claims and establishes  
6 in a hearing under the provisions of this Act that the  
7 transferee's interest is exempt under the Act. Any  
8 assets forfeited to the State shall be disposed of in  
9 following manner:

10 (i) all forfeited property and assets shall be  
11 liquidated by the Secretary of State in accordance  
12 with all laws and rules governing the disposition  
13 of such property;

14 (ii) the Secretary of State shall provide the  
15 court at the time the property and assets are  
16 declared forfeited a verified statement of  
17 investors subject to the conduct giving rise to the  
18 forfeiture;

19 (iii) after payment of any costs of sale,  
20 receivership, storage, or expenses for  
21 preservation of the property seized, other costs  
22 to the State, and payment to claimants for any  
23 amount deemed exempt from forfeiture, the proceeds  
24 from liquidation shall be distributed pro rata to  
25 investors subject to the conduct giving rise to the  
26 forfeiture; and

1 (iv) any proceeds remaining after all verified  
2 investors have been made whole shall be  
3 distributed 25% to the Securities Investors  
4 Education Fund, 25% to the Securities Audit and  
5 Enforcement Fund, 25% to the Attorney General or  
6 any State's Attorney bringing criminal charges for  
7 the conduct giving rise to the forfeiture, and 25%  
8 to other law enforcement agencies participating in  
9 the investigation of the criminal charges for the  
10 conduct giving rise to the forfeiture. In the event  
11 that no other law enforcement agencies are  
12 involved in the investigation of the conduct  
13 giving rise to the forfeiture, then the portion to  
14 other law enforcement agencies shall be  
15 distributed to the Securities Investors Education  
16 Fund.

17 (n) The Secretary of State shall notify by  
18 certified mail, return receipt requested, all known  
19 investors in the matter giving rise to the forfeiture  
20 of the forfeiture proceeding and sale of assets  
21 forfeited arising from the violations of this Act, and  
22 shall further publish notice in a paper of general  
23 circulation in the district in which the violations  
24 were prosecuted. The notice to investors shall  
25 identify the name, address, and other identifying  
26 information about any defendant prosecuted for

1 violations of this Act that resulted in forfeiture and  
2 sale of property, the offense for which the defendant  
3 was convicted, and that the court has ordered  
4 forfeiture and sale of property for claims of investors  
5 who incurred losses or damages as a result of the  
6 violations. Investors may then file a claim in a form  
7 prescribed by the Secretary of State in order to share  
8 in disbursement of the proceeds from sale of the  
9 forfeited property. Investor claims must be filed with  
10 the Secretary of State within 30 days after receipt of  
11 the certified mail return receipt, or within 30 days  
12 after the last date of publication of the general  
13 notice in a paper of general circulation in the  
14 district in which the violations were prosecuted,  
15 whichever occurs last.

16 (o) A civil action under this subsection must be  
17 commenced within 5 years after the last conduct giving  
18 rise to the forfeiture became known or should have  
19 become known or 5 years after the forfeitable property  
20 is discovered, whichever is later, excluding time  
21 during which either the property or claimant is out of  
22 this State or in confinement or during which criminal  
23 proceedings relating to the same conduct are in  
24 progress.

25 (p) If property is seized for evidence and for  
26 forfeiture, the time periods for instituting judicial

1 forfeiture proceedings shall not begin until the  
2 property is no longer necessary for evidence.

3 (q) Notwithstanding other provisions of this Act,  
4 the Secretary of State and a claimant of forfeitable  
5 property may enter into an agreed-upon settlement  
6 concerning the forfeitable property in such an amount  
7 and upon such terms as are set out in writing in a  
8 settlement agreement.

9 (r) Nothing in this Act shall apply to property  
10 that constitutes reasonable bona fide attorney's fees  
11 paid to an attorney for services rendered or to be  
12 rendered in the forfeiture proceeding or criminal  
13 proceeding relating directly thereto when the property  
14 was paid before its seizure and before the issuance of  
15 any seizure warrant or court order prohibiting  
16 transfer of the property and when the attorney, at the  
17 time he or she received the property, did not know that  
18 it was property subject to forfeiture under this Act.

19 The court shall further have jurisdiction and authority, in  
20 addition to the penalties and other remedies in this Act  
21 provided, to enter an order for the appointment of the court or  
22 a person as a receiver, conservator, ancillary receiver or  
23 ancillary conservator for the defendant or the defendant's  
24 assets located in this State, or to require restitution,  
25 damages or disgorgement of profits on behalf of the person or  
26 persons injured by the act or practice constituting the subject

1 matter of the action, and may assess costs against the  
2 defendant for the use of the State; provided, however, that the  
3 civil remedies of rescission and appointment of a receiver,  
4 conservator, ancillary receiver or ancillary conservator shall  
5 not be available against any person by reason of the failure to  
6 file with the Secretary of State, or on account of the contents  
7 of, any report of sale provided for in subsection G or P of  
8 Section 4, paragraph (2) of subsection D of Sections 5 and 6,  
9 or paragraph (2) of subsection F of Section 7 of this Act.  
10 Appeals may be taken as in other civil cases.

11 I-5. Property forfeited under this Section is subject to  
12 reporting under the Seizure and Forfeiture Reporting Act.

13 J. In no case shall the Secretary of State, or any of his  
14 or her employees or agents, in the administration of this Act,  
15 incur any official or personal liability by instituting an  
16 injunction or other proceeding or by denying, suspending or  
17 revoking the registration of a dealer or salesperson, or by  
18 denying, suspending or revoking the registration of securities  
19 or prohibiting the offer or sale of securities, or by  
20 suspending or prohibiting any person from acting as a dealer,  
21 limited Canadian dealer, salesperson, investment adviser, or  
22 investment adviser representative or from offering or selling  
23 securities.

24 K. No provision of this Act shall be construed to require  
25 or to authorize the Secretary of State to require any  
26 investment adviser or federal covered investment adviser

1 engaged in rendering investment supervisory services to  
2 disclose the identity, investments, or affairs of any client of  
3 the investment adviser or federal covered investment adviser,  
4 except insofar as the disclosure may be necessary or  
5 appropriate in a particular proceeding or investigation having  
6 as its object the enforcement of this Act.

7 L. Whenever, after an examination, investigation or  
8 hearing, the Secretary of State deems it of public interest or  
9 advantage, he or she may certify a record to the State's  
10 Attorney of the county in which the act complained of, examined  
11 or investigated occurred. The State's Attorney of that county  
12 within 90 days after receipt of the record shall file a written  
13 statement at the Office of the Secretary of State, which  
14 statement shall set forth the action taken upon the record, or  
15 if no action has been taken upon the record that fact, together  
16 with the reasons therefor, shall be stated.

17 M. The Secretary of State may initiate, take, pursue, or  
18 prosecute any action authorized or permitted under Section 6d  
19 of the Federal 1974 Act.

20 N. (1) Notwithstanding any provision of this Act to the  
21 contrary, to encourage uniform interpretation, administration,  
22 and enforcement of the provisions of this Act, the Secretary of  
23 State may cooperate with the securities agencies or  
24 administrators of one or more states, Canadian provinces or  
25 territories, or another country, the Securities and Exchange  
26 Commission, the Commodity Futures Trading Commission, the

1 Securities Investor Protection Corporation, any  
2 self-regulatory organization, and any governmental law  
3 enforcement or regulatory agency.

4 (2) The cooperation authorized by paragraph (1) of this  
5 subsection includes, but is not limited to, the following:

6 (a) establishing or participating in a central  
7 depository or depositories for registration under this Act  
8 and for documents or records required under this Act;

9 (b) making a joint audit, inspection, examination, or  
10 investigation;

11 (c) holding a joint administrative hearing;

12 (d) filing and prosecuting a joint civil or criminal  
13 proceeding;

14 (e) sharing and exchanging personnel;

15 (f) sharing and exchanging information and documents;

16 or

17 (g) issuing any joint statement or policy.

18 (Source: P.A. 99-182, eff. 1-1-16.)

19 Section 190. The Consumer Fraud and Deceptive Business  
20 Practices Act is amended by changing Section 2L as follows:

21 (815 ILCS 505/2L) (from Ch. 121 1/2, par. 262L)

22 (Text of Section before amendment by P.A. 99-768)

23 Sec. 2L. Any retail sale of a motor vehicle made after  
24 January 1, 1968 to a consumer by a new motor vehicle dealer or

1 used motor vehicle dealer within the meaning of Chapter 5 of  
2 the Illinois Vehicle Code is made subject to this Section.

3 (a) The dealer is liable to the purchasing consumer for the  
4 following share of the cost of the repair of Power Train  
5 components for a period of 30 days from date of delivery,  
6 unless the repairs have become necessary by abuse, negligence,  
7 or collision. The burden of establishing that a claim for  
8 repairs is not within this Section shall be on the selling  
9 dealer. The dealer's share of such repair costs is:

10 (1) in the case of a motor vehicle which is not more than 2  
11 years old, 50%;

12 (2) in the case of a motor vehicle which is 2 or more, but  
13 less than 3 years old, 25%;

14 (3) in the case of a motor vehicle which is 3 or more, but  
15 less than 4 years old, 10%; and

16 (4) in the case of a motor vehicle which is 4 or more years  
17 old, none.

18 (b) Notwithstanding the foregoing, such a dealer and a  
19 purchasing consumer may negotiate a sale and purchase that is  
20 not subject to this Section if there is stamped on any purchase  
21 order, contract, agreement, or other instrument to be signed by  
22 the consumer as a part of that transaction, in at least  
23 10-point bold type immediately above the signature line, the  
24 following:

25 "THIS VEHICLE IS SOLD AS IS WITH NO WARRANTY

26 AS TO MECHANICAL CONDITION"



1           (c) As used in this Section, "Power Train components" means  
2 the engine block, head, all internal engine parts, oil pan and  
3 gaskets, water pump, intake manifold, transmission, and all  
4 internal transmission parts, torque converter, drive shaft,  
5 universal joints, rear axle and all rear axle internal parts,  
6 and rear wheel bearings.

7           (d) The repair liability means that the dealer will make  
8 necessary Power Train component repairs in his shop, or in the  
9 shop of his service affiliate, on the basis of his regular list  
10 price charge for parts and labor, where the flat rate list  
11 price does not exceed 50% of the selling price of the vehicle  
12 at the time repairs are requested.

13           (e) The age of the vehicle shall be measured according to  
14 the manufacturer's model year designation as shown on the  
15 Certificate of Title or Registration Certificate. Vehicles  
16 shall be designated as current year models, one year old, 2  
17 year old, and so forth according to the time that has elapsed  
18 since January 1 of the appropriate model year so designated.

19           (f) This Section does not preclude the issuance of a  
20 warranty or guarantee by a motor vehicle dealer or motor car  
21 manufacturer that meets or exceeds the basic provisions of  
22 paragraph (a).

23           (g) After the effective date of this amendatory Act of  
24 1989, executives' and officials' cars when so advertised shall  
25 have been used exclusively by executives of the parent motor  
26 car manufacturer's personnel or by an executive of an

1 authorized dealer in the same make of car. These cars, so  
2 advertised, shall not have been sold to a member of the public  
3 prior to the appearance of the advertisement.

4 Any person who violates this Section commits an unlawful  
5 practice within the meaning of this Act.

6 (Source: P.A. 86-351; 87-1140.)

7 (Text of Section after amendment by P.A. 99-768)

8 Sec. 2L. Used motor vehicles; modification or disclaimer of  
9 implied warranty of merchantability limited.

10 (a) Any retail sale of a used motor vehicle made after the  
11 effective date of this amendatory Act of the 99th General  
12 Assembly to a consumer by a licensed vehicle dealer within the  
13 meaning of Chapter 5 of the Illinois Vehicle Code or by an  
14 auction company at an auction that is open to the general  
15 public is made subject to this Section.

16 (b) This Section does not apply to vehicles with more than  
17 150,000 miles at the time of sale. In addition, this Section  
18 does not apply to vehicles with titles that have been branded  
19 "rebuilt" or "flood".

20 (b-5) This Section does not apply to forfeited vehicles  
21 sold at auction by or on behalf of the Department of State  
22 Police.

23 (c) Any sale of a used motor vehicle as described in  
24 subsection (a) may not exclude, modify, or disclaim the implied  
25 warranty of merchantability prescribed in Section 2-314 of the

1 Uniform Commercial Code or limit the remedies for a breach of  
2 the warranty before midnight of the 15th calendar day after  
3 delivery of a used motor vehicle or until a used motor vehicle  
4 is driven 500 miles after delivery, whichever is earlier. In  
5 calculating time under this Section, a day on which the  
6 warranty is breached and all subsequent days in which the used  
7 motor vehicle fails to conform with the implied warranty of  
8 merchantability are excluded. In calculating distance under  
9 this Section, the miles driven to obtain or in connection with  
10 the repair, servicing, or testing of a used motor vehicle that  
11 fails to conform with the implied warranty of merchantability  
12 are excluded. An attempt to exclude, modify, or disclaim the  
13 implied warranty of merchantability or to limit the remedies  
14 for a breach of the warranty in violation of this Section  
15 renders a purchase agreement voidable at the option of the  
16 purchaser.

17 (d) An implied warranty of merchantability is met if a used  
18 motor vehicle functions free of a defect in a power train  
19 component. As used in this Section, "power train component"  
20 means the engine block, head, all internal engine parts, oil  
21 pan and gaskets, water pump, intake manifold, transmission, and  
22 all internal transmission parts, torque converter, drive  
23 shaft, universal joints, rear axle and all rear axle internal  
24 parts, and rear wheel bearings.

25 (e) The implied warranty of merchantability expires at  
26 midnight of the 15th calendar day after delivery of a used

1 motor vehicle or when a used motor vehicle is driven 500 miles  
2 after delivery, whichever is earlier. In calculating time, a  
3 day on which the implied warranty of merchantability is  
4 breached is excluded and all subsequent days in which the used  
5 motor vehicle fails to conform with the warranty are also  
6 excluded. In calculating distance, the miles driven to or by  
7 the seller to obtain or in connection with the repair,  
8 servicing, or testing of a used motor vehicle that fails to  
9 conform with the implied warranty of merchantability are  
10 excluded. An implied warranty of merchantability does not  
11 extend to damage that occurs after the sale of the used motor  
12 vehicle that results from:

- 13 (1) off-road use;
- 14 (2) racing;
- 15 (3) towing;
- 16 (4) abuse;
- 17 (5) misuse;
- 18 (6) neglect;
- 19 (7) failure to perform regular maintenance; and
- 20 (8) failure to maintain adequate oil, coolant, and  
21 other required fluids or lubricants.

22 (f) If the implied warranty of merchantability described in  
23 this Section is breached, the consumer shall give reasonable  
24 notice to the seller no later than 2 business days after the  
25 end of the statutory warranty period. Before the consumer  
26 exercises another remedy pursuant to Article 2 of the Uniform

1 Commercial Code, the seller shall have a reasonable opportunity  
2 to repair the used motor vehicle. The consumer shall pay  
3 one-half of the cost of the first 2 repairs necessary to bring  
4 the used motor vehicle into compliance with the warranty. The  
5 payments by the consumer are limited to a maximum payment of  
6 \$100 for each repair; however, the consumer shall only be  
7 responsible for a maximum payment of \$100 if the consumer  
8 brings in the vehicle for a second repair for the same defect.  
9 Reasonable notice as defined in this Section shall include, but  
10 not be limited to:

11 (1) text, provided the seller has provided the consumer  
12 with a cell phone number;

13 (2) phone call or message to the seller's business  
14 phone number provided on the seller's bill of sale for the  
15 purchase of the motor vehicle;

16 (3) in writing to the seller's address provided on the  
17 seller's bill of sale for the purchase of the motor  
18 vehicle;

19 (4) in person at the seller's address provided on the  
20 seller's bill of sale for the purchase of the motor  
21 vehicle.

22 (g) The maximum liability of a seller for repairs pursuant  
23 to this Section is limited to the purchase price paid for the  
24 used motor vehicle, to be refunded to the consumer or lender,  
25 as applicable, in exchange for return of the vehicle.

26 (h) An agreement for the sale of a used motor vehicle

1 subject to this Section is voidable at the option of the  
2 consumer, unless it contains on its face the following  
3 conspicuous statement printed in boldface 10-point or larger  
4 type set off from the body of the agreement:

5 "Illinois law requires that this vehicle will be free of a  
6 defect in a power train component for 15 days or 500 miles  
7 after delivery, whichever is earlier, except with regard to  
8 particular defects disclosed on the first page of this  
9 agreement. "Power train component" means the engine block,  
10 head, all internal engine parts, oil pan and gaskets, water  
11 pump, intake manifold, transmission, and all internal  
12 transmission parts, torque converter, drive shaft, universal  
13 joints, rear axle and all rear axle internal parts, and rear  
14 wheel bearings. You (the consumer) will have to pay up to \$100  
15 for each of the first 2 repairs if the warranty is violated."

16 (i) The inclusion in the agreement of the statement  
17 prescribed in subsection (h) of this Section does not create an  
18 express warranty.

19 (j) A consumer of a used motor vehicle may waive the  
20 implied warranty of merchantability only for a particular  
21 defect in the vehicle including, but not limited to, a rebuilt  
22 or flood-branded title and only if all of the following  
23 conditions are satisfied:

24 (1) the seller subject to this Section fully and  
25 accurately discloses to the consumer that because of  
26 circumstances unusual to the business, the used motor

1 vehicle has a particular defect;

2 (2) the consumer agrees to buy the used motor vehicle  
3 after disclosure of the defect; and

4 (3) before the sale, the consumer indicates agreement  
5 to the waiver by signing and dating the following  
6 conspicuous statement that is printed on the first page of  
7 the sales agreement or on a separate document in boldface  
8 10-point or larger type and that is written in the language  
9 in which the presentation was made:

10 "Attention consumer: sign here only if the seller has  
11 told you that this vehicle has the following problem or  
12 problems and you agree to buy the vehicle on those terms:

- 13 1. ....
- 14 2. ....
- 15 3. .... "

16 (k) It shall be an affirmative defense to any claim under  
17 this Section that:

18 (1) an alleged nonconformity does not substantially  
19 impair the use and market value of the motor vehicle;

20 (2) a nonconformity is the result of abuse, neglect, or  
21 unauthorized modifications or alterations of the motor  
22 vehicle;

23 (3) a claim by a consumer was not filed in good faith;  
24 or

25 (4) any other affirmative defense allowed by law.

26 (1) Other than the 15-day, 500-mile implied warranty of

1 merchantability identified herein, a seller subject to this  
2 Section is not required to provide any further express or  
3 implied warranties to a purchasing consumer unless:

4 (1) the seller is required by federal or State law to  
5 provide a further express or implied warranty; or

6 (2) the seller fails to fully inform and disclose to  
7 the consumer that the vehicle is being sold without any  
8 further express or implied warranties, other than the 15  
9 day, 500 mile implied warranty of merchantability  
10 identified in this Section.

11 (m) This Section does not apply to the sale of antique  
12 vehicles, as defined in the Illinois Vehicle Code, or to  
13 collector motor vehicles.

14 Any person who violates this Section commits an unlawful  
15 practice within the meaning of this Act.

16 (Source: P.A. 99-768, eff. 7-1-17.)

17 Section 995. No acceleration or delay. Where this Act makes  
18 changes in a statute that is represented in this Act by text  
19 that is not yet or no longer in effect (for example, a Section  
20 represented by multiple versions), the use of that text does  
21 not accelerate or delay the taking effect of (i) the changes  
22 made by this Act or (ii) provisions derived from any other  
23 Public Act.

24 Section 996. No revival or extension. This Act does not



1 revive or extend any Section or Act otherwise repealed.

2 Section 999. Effective date. This Act takes effect July 1,  
3 2018.