

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 5. The Seizure and Forfeiture Reporting Act is  
5 amended by changing Sections 10 and 15 and by adding Section 20  
6 as follows:

7 (5 ILCS 810/10)

8 (This Section may contain text from a Public Act with a  
9 delayed effective date)

10 Sec. 10. Reporting by law enforcement agency.

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

14 (1) the name of the law enforcement agency that seized  
15 the property;

16 (2) the date of the seizure;

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

22 (4) a description of the property seized and the  
23 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 Illinois  
6 State Police Notice/Inventory of Seized Property (Form 4-64)  
7 ~~the form 4-64~~ with the State's Attorney's Office in the county  
8 where the forfeiture action is being commenced or with the  
9 Attorney General's Office if the forfeiture action is being  
10 commenced by that office, and the forwarding of Form ~~the form~~  
11 4-64 upon approval of the State's Attorney's Office or the  
12 Attorney General's Office to the Department of State Police  
13 Asset Forfeiture Section. With regard to seizures for which  
14 Form ~~form~~ 4-64 is not required to be filed, the filing  
15 requirement shall be met by the filing of an annual summary  
16 report with the Department of State Police no later than 60  
17 days after December 31 of that year.

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

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

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

6 (2) compensation or services for crime victims;

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

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

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

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

19 (7) other expenditures of forfeiture proceeds.

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

1 include, for each law enforcement agency:

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

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

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

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

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

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

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

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

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

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

1 State Police for a maximum period of 6 months if the  
2 confidential informant is still providing cooperation to law  
3 enforcement or the investigation is still ongoing, after which  
4 ~~and at that time~~ the asset shall be reported as required under  
5 this Act.

6 (g) The Department of State Police shall, on or before  
7 January 1, 2019, establish and implement the requirements of  
8 this Act. In order to implement the reporting and public  
9 database requirements under this Act, the Department of State  
10 Police Asset Forfeiture Section requires a one-time upgrade of  
11 its information technology software and hardware. This  
12 one-time upgrade shall be funded by a temporary allocation of  
13 5% of all forfeited currency and 5% of the auction proceeds  
14 from each forfeited asset, which are to be distributed after  
15 the effective date of this Act. The Department of State Police  
16 shall transfer these funds at the time of distribution to a  
17 separate fund established by the Department of State Police.  
18 Moneys ~~Monies~~ deposited in this fund shall be accounted for and  
19 shall be used only to pay for the actual one-time cost of  
20 purchasing and installing the hardware and software required to  
21 comply with this new reporting and public database requirement.  
22 Moneys ~~Monies~~ deposited in the fund shall not be subject to  
23 reappropriation ~~re-appropriation~~, reallocation, or  
24 redistribution for any other purpose. After sufficient funds  
25 are transferred to the fund to cover the actual one-time cost  
26 of purchasing and installing the hardware and software required

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

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

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

22 (Source: P.A. 100-512, eff. 7-1-18.)

23 (5 ILCS 810/15)

24 (This Section may contain text from a Public Act with a  
25 delayed effective date)

1           Sec. 15. Fund audits.

2           (a) The Auditor General shall conduct, as a part of its  
3 2-year ~~2-year~~ compliance audit, an audit of the State Asset  
4 Forfeiture Fund for compliance with the requirements of this  
5 Act. The audit shall include, but not be limited to, the  
6 following determinations:

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

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

12           (3) if the procedures for making disbursements under  
13 the Act are adequate.

14           (b) The Department of State Police, and any other entity or  
15 person that may have information relevant to the audit, shall  
16 cooperate fully and promptly with the Office of the Auditor  
17 General in conducting the audit. The Auditor General shall  
18 begin the audit during the next regular 2-year ~~two-year~~  
19 compliance audit of the Department of State Police and  
20 distribute the report upon completion under Section 3-14 of the  
21 Illinois State Auditing Act.

22           (Source: P.A. 100-512, eff. 7-1-18.)

23           (5 ILCS 810/20 new)

24           Sec. 20. Applicability. This Act and the changes made to  
25 this Act by this amendatory Act of the 100th General Assembly



1 only apply to property seized on and after July 1, 2018.

2 Section 10. The Department of State Police Law of the Civil  
3 Administrative Code of Illinois is amended by changing Section  
4 2605-585 as follows:

5 (20 ILCS 2605/2605-585)

6 Sec. 2605-585. Money Laundering Asset Recovery Fund.  
7 Moneys and the sale proceeds distributed to the Department of  
8 State Police under paragraph (3) of Section 29B-26 ~~pursuant to~~  
9 ~~clause (h)(6)(C) of Section 29B-1 of the Criminal Code of 1961~~  
10 ~~or the~~ Criminal Code of 2012 shall be deposited in a special  
11 fund in the State treasury to be known as the Money Laundering  
12 Asset Recovery Fund. The moneys deposited in the Money  
13 Laundering Asset Recovery Fund shall be appropriated to and  
14 administered by the Department of State Police for State law  
15 enforcement purposes.

16 (Source: P.A. 96-1234, eff. 7-23-10; 97-1150, eff. 1-25-13.)

17 Section 15. The Illinois Food, Drug and Cosmetic Act is  
18 amended by changing Section 3.23 as follows:

19 (410 ILCS 620/3.23)

20 (Text of Section before amendment by P.A. 100-512)

21 Sec. 3.23. Legend drug prohibition.

22 (a) In this Section:

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

4 (1) habit forming;

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

6 (3) limited in use by the new drug application for the  
7 drug to use only under a medical practitioner's  
8 supervision.

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

11 "Deliver" or "delivery" means the actual, constructive, or  
12 attempted transfer of possession of a legend drug, with or  
13 without consideration, whether or not there is an agency  
14 relationship.

15 "Manufacture" means the production, preparation,  
16 propagation, compounding, conversion, or processing of a  
17 legend drug, either directly or indirectly, by extraction from  
18 substances of natural origin, or independently by means of  
19 chemical synthesis, or by a combination of extraction and  
20 chemical synthesis, and includes any packaging or repackaging  
21 of the substance or labeling of its container. "Manufacture"  
22 does not include:

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

25 (2) by a medical practitioner, or his authorized agent  
26 under his supervision, the preparation, compounding,

1 packaging, or labeling of a legend drug:

2 (A) as an incident to his administering or  
3 dispensing of a legend drug in the course of his  
4 professional practice; or

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

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

9 (b) It is unlawful for any person to knowingly manufacture  
10 or deliver or possess with the intent to manufacture or deliver  
11 a legend drug of 6 or more pills, tablets, capsules, or caplets  
12 or 30 ml or more of a legend drug in liquid form who is not  
13 licensed by applicable law to prescribe or dispense legend  
14 drugs or is not an employee of the licensee operating in the  
15 normal course of business under the supervision of the  
16 licensee. Any person who violates this Section is guilty of a  
17 Class 3 felony, the fine for which shall not exceed \$100,000. A  
18 person convicted of a second or subsequent violation of this  
19 Section is guilty of a Class 1 felony, the fine for which shall  
20 not exceed \$250,000.

21 (c) The following are subject to forfeiture:

22 (1) all substances that have been manufactured,  
23 distributed, dispensed, or possessed in violation of this  
24 Act;

25 (2) all raw materials, products, and equipment of any  
26 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 property described  
7 in items (1) and (2) of this subsection (c), but:

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

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

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

22 (4) all money, things of value, books, records, and  
23 research products and materials including formulas,  
24 microfilm, tapes, and data that are used, or intended to be  
25 used in violation of this Act;

26 (5) everything of value furnished, or intended to be

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

6 (6) all real property, including any right, title, and  
7 interest, including, but not limited to, any leasehold  
8 interest or the beneficial interest in a land trust, in the  
9 whole of any lot or tract of land and any appurtenances or  
10 improvements, which is used or intended to be used, in any  
11 manner or part, to commit, or in any manner to facilitate  
12 the commission of, any violation or act that constitutes a  
13 violation of Section 33.1 of this Act or that is the  
14 proceeds of any violation or act that constitutes a  
15 violation of Section 33.1 of this Act.

16 (d) Property subject to forfeiture under this Act may be  
17 seized by the Director of the Department of State Police or any  
18 peace officer upon process or seizure warrant issued by any  
19 court having jurisdiction over the property. Seizure by the  
20 Director of the Department of State Police or any peace officer  
21 without process may be made:

22 (1) if the seizure is incident to inspection under an  
23 administrative inspection warrant;

24 (2) if the property subject to seizure has been the  
25 subject of a prior judgment in favor of the State in a  
26 criminal proceeding, or in an injunction or forfeiture

1 proceeding based upon this Act or the Drug Asset Forfeiture  
2 Procedure 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 this Act and the  
8 property is seized under circumstances in which a  
9 warrantless seizure or arrest would be reasonable; or

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

12 (e) In the event of seizure pursuant to subsection (c) of  
13 this Section, forfeiture proceedings shall be instituted in  
14 accordance with the Drug Asset Forfeiture Procedure Act.

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

1 the Secretary may:

2 (1) place the property under seal;

3 (2) remove the property to a place designated by the  
4 Secretary;

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 of the Department of State Police.

20 (g) If the Department suspends or revokes a registration,  
21 all legend drugs owned or possessed by the registrant at the  
22 time of suspension or the effective date of the revocation  
23 order may be placed under seal. No disposition may be made of  
24 substances under seal until the time for taking an appeal has  
25 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 revocation rule becoming final, all substances  
3 may be forfeited to the Department.

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



1 accordance with subsection (i) of this Section.

2 (i) All moneys and the sale proceeds of all other property  
3 forfeited and seized under this Act shall be distributed as  
4 follows:

5 (1) 65% shall be distributed to the metropolitan  
6 enforcement group, local, municipal, county, or State law  
7 enforcement agency or agencies which conducted or  
8 participated in the investigation resulting in the  
9 forfeiture. The distribution shall bear a reasonable  
10 relationship to the degree of direct participation of the  
11 law enforcement agency in the effort resulting in the  
12 forfeiture, taking into account the total value of the  
13 property forfeited and the total law enforcement effort  
14 with respect to the violation of the law upon which the  
15 forfeiture is based. Amounts distributed to the agency or  
16 agencies shall be used for the enforcement of laws.

17 (2) 12.5% shall be distributed to the Office of the  
18 State's Attorney of the county in which the prosecution  
19 resulting in the forfeiture was instituted, deposited in a  
20 special fund in the county treasury and appropriated to the  
21 State's Attorney for use in the enforcement of laws. In  
22 counties over 3,000,000 population, 25% will be  
23 distributed to the Office of the State's Attorney for use  
24 in the enforcement of laws governing cannabis and  
25 controlled substances. If the prosecution is undertaken  
26 solely by the Attorney General, the portion provided

1 hereunder shall be distributed to the Attorney General for  
2 use in the enforcement of laws.

3 (3) 12.5% shall be distributed to the Office of the  
4 State's Attorneys Appellate Prosecutor and deposited in a  
5 separate fund of that office to be used for additional  
6 expenses incurred in the investigation, prosecution and  
7 appeal of cases. The Office of the State's Attorneys  
8 Appellate Prosecutor shall not receive distribution from  
9 cases brought in counties with over 3,000,000 population.

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

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

14 (Text of Section after amendment by P.A. 100-512)

15 Sec. 3.23. Legend drug prohibition.

16 (a) In this Section:

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

20 (1) habit forming;

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

22 (3) limited in use by the new drug application for the  
23 drug to use only under a medical practitioner's  
24 supervision.

25 "Medical practitioner" means any person licensed to

1 practice medicine in all its branches in the State.

2 "Deliver" or "delivery" means the actual, constructive, or  
3 attempted transfer of possession of a legend drug, with or  
4 without consideration, whether or not there is an agency  
5 relationship.

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

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

16 (2) by a medical practitioner, or his authorized agent  
17 under his supervision, the preparation, compounding,  
18 packaging, or labeling of a legend drug:

19 (A) as an incident to his administering or  
20 dispensing of a legend drug in the course of his  
21 professional practice; or

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

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

26 (b) It is unlawful for any person to knowingly manufacture

1 or deliver or possess with the intent to manufacture or deliver  
2 a legend drug of 6 or more pills, tablets, capsules, or caplets  
3 or 30 ml or more of a legend drug in liquid form who is not  
4 licensed by applicable law to prescribe or dispense legend  
5 drugs or is not an employee of the licensee operating in the  
6 normal course of business under the supervision of the  
7 licensee. Any person who violates this Section is guilty of a  
8 Class 3 felony, the fine for which shall not exceed \$100,000. A  
9 person convicted of a second or subsequent violation of this  
10 Section is guilty of a Class 1 felony, the fine for which shall  
11 not exceed \$250,000.

12 (c) The following are subject to forfeiture:

13 (1) (blank);

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

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

25 (A) no conveyance used by any person as a common  
26 carrier in the transaction of business as a common

1 carrier is subject to forfeiture under this Section  
2 unless it appears that the owner or other person in  
3 charge of the conveyance is a consenting party or privy  
4 to the violation;

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

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

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

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

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

1 improvements, which is used or intended to be used, in any  
2 manner or part, to commit, or in any manner to facilitate  
3 the commission of, any violation or act that constitutes a  
4 violation of this Section or that is the proceeds of any  
5 violation or act that constitutes a violation of this  
6 Section.

7 (d) Property subject to forfeiture under this Act may be  
8 seized under the Drug Asset Forfeiture Procedure Act. In the  
9 event of seizure, forfeiture proceedings shall be instituted  
10 under the Drug Asset Forfeiture Procedure Act.

11 (e) Forfeiture under this Act is subject to an 8th  
12 Amendment ~~amendment~~ to the United States Constitution  
13 disproportionate penalties analysis as provided under Section  
14 9.5 of the Drug Asset Forfeiture Procedure Act.

15 (f) With regard to possession of legend drug offenses only,  
16 a sum of currency with a value of less than \$500 shall not be  
17 subject to forfeiture under this Act. For all other offenses  
18 under this Act, a sum of currency with a value of less than  
19 ~~currency with a value of under~~ \$100 shall not be subject to  
20 forfeiture under this Act. In seizures of currency in excess of  
21 these amounts, this Section shall not create an exemption for  
22 these amounts.

23 (f-5) For felony offenses involving possession of legend  
24 drug only, no property shall be subject to forfeiture under  
25 this Act because of the possession of less than 2 single unit  
26 doses of a legend drug ~~controlled substance~~. This exemption

1 shall not apply in instances when the possessor, or another  
2 person at the direction of the possessor, is engaged in the  
3 destruction of any amount of a legend drug. The amount of a  
4 single unit dose shall be the State's burden to prove in its  
5 ~~their~~ case in chief.

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

17 (h) (Blank).

18 (i) (Blank).

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

24 (k) The changes made to this Section by Public Act 100-0512  
25 and this amendatory Act of the 100th General Assembly only  
26 apply to property seized on and after July 1, 2018.

1 (Source: P.A. 100-512, eff. 7-1-18.)

2 Section 20. The Criminal Code of 2012 is amended by  
3 changing Sections 17-10.6, 29B-1, 33G-6, 36-1.1, 36-1.3,  
4 36-1.4, 36-1.5, 36-2, 36-2.1, 36-2.2, 36-2.5, 36-2.7, and 36-7  
5 and by adding Sections 29B-0.5, 29B-2, 29B-3, 29B-4, 29B-5,  
6 29B-6, 29B-7, 29B-8, 29B-9, 29B-10, 29B-11, 29B-12, 29B-13,  
7 29B-14, 29B-15, 29B-16, 29B-17, 29B-18, 29B-19, 29B-20,  
8 29B-21, 29B-22, 29B-23, 29B-24, 29B-25, 29B-26, 29B-27, and  
9 36-10 as follows:

10 (720 ILCS 5/17-10.6)

11 (Text of Section before amendment by P.A. 100-512)

12 Sec. 17-10.6. Financial institution fraud.

13 (a) Misappropriation of financial institution property. A  
14 person commits misappropriation of a financial institution's  
15 property whenever he or she knowingly obtains or exerts  
16 unauthorized control over any of the moneys, funds, credits,  
17 assets, securities, or other property owned by or under the  
18 custody or control of a financial institution, or under the  
19 custody or care of any agent, officer, director, or employee of  
20 such financial institution.

21 (b) Commercial bribery of a financial institution.

22 (1) A person commits commercial bribery of a financial  
23 institution when he or she knowingly confers or offers or  
24 agrees to confer any benefit upon any employee, agent, or



1           fiduciary without the consent of the latter's employer or  
2           principal, with the intent to influence his or her conduct  
3           in relation to his or her employer's or principal's  
4           affairs.

5           (2) An employee, agent, or fiduciary of a financial  
6           institution commits commercial bribery of a financial  
7           institution when, without the consent of his or her  
8           employer or principal, he or she knowingly solicits,  
9           accepts, or agrees to accept any benefit from another  
10          person upon an agreement or understanding that such benefit  
11          will influence his or her conduct in relation to his or her  
12          employer's or principal's affairs.

13          (c) Financial institution fraud. A person commits  
14          financial institution fraud when he or she knowingly executes  
15          or attempts to execute a scheme or artifice:

16                 (1) to defraud a financial institution; or

17                 (2) to obtain any of the moneys, funds, credits,  
18                 assets, securities, or other property owned by or under the  
19                 custody or control of a financial institution, by means of  
20                 pretenses, representations, or promises he or she knows to  
21                 be false.

22          (d) Loan fraud. A person commits loan fraud when he or she  
23          knowingly, with intent to defraud, makes any false statement or  
24          report, or overvalues any land, property, or security, with the  
25          intent to influence in any way the action of a financial  
26          institution to act upon any application, advance, discount,

1 purchase, purchase agreement, repurchase agreement,  
2 commitment, or loan, or any change or extension of any of the  
3 same, by renewal, deferment of action, or otherwise, or the  
4 acceptance, release, or substitution of security.

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

10 (f) Financial institution robbery. A person commits  
11 robbery when he or she knowingly, by force or threat of force,  
12 or by intimidation, takes, or attempts to take, from the person  
13 or presence of another, or obtains or attempts to obtain by  
14 extortion, any property or money or any other thing of value  
15 belonging to, or in the care, custody, control, management, or  
16 possession of, a financial institution.

17 (g) Conspiracy to commit a financial crime.

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

22 (2) No person may be convicted of conspiracy to commit  
23 a financial crime unless an overt act or acts in  
24 furtherance of the agreement is alleged and proved to have  
25 been committed by that person or by a co-conspirator and  
26 the accused is a part of a common scheme or plan to engage

1 in the unlawful activity.

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

5 (A) has not been prosecuted or convicted;

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

7 (C) is not amenable to justice;

8 (D) has been acquitted; or

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

10 (h) Continuing financial crimes enterprise. A person  
11 commits a continuing financial crimes enterprise when he or she  
12 knowingly, within an 18-month period, commits 3 or more  
13 separate offenses constituting any combination of the  
14 following:

15 (1) an offense under this Section;

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

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

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

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

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

5 (i) an offense under this Section;

6 (ii) a felony offense in violation of Section  
7 16A-3 or subsection (a) of Section 16-25 or  
8 paragraph (4) or (5) of subsection (a) of Section  
9 16-1 of this Code for the purpose of reselling or  
10 otherwise re-entering the merchandise in commerce,  
11 including conveying the merchandise to a merchant  
12 in exchange for anything of value; or

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

15 (B) with respect to the other persons within the  
16 conspiracy, occupies a position of organizer,  
17 supervisor, or financier or other position of  
18 management.

19 (2) The person with whom the accused agreed to commit  
20 the 3 or more offenses under this Section, or, if involving  
21 a financial institution, any other felony offenses under  
22 this Code, need not be the same person or persons for each  
23 offense, as long as the accused was a part of the common  
24 scheme or plan to engage in each of the 3 or more alleged  
25 offenses.

26 (j) Sentence.

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

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

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

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

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

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

15                   (F) exceeds \$500,000 but does not exceed  
16 \$1,000,000, is a Class 1 non-probationable felony;  
17 when a charge of financial crime, the full value of  
18 which exceeds \$500,000 but does not exceed \$1,000,000,  
19 is brought, the value of the financial crime involved  
20 is an element of the offense to be resolved by the  
21 trier of fact as either exceeding or not exceeding  
22 \$500,000;

23                   (G) exceeds \$1,000,000, is a Class X felony; when a  
24 charge of financial crime, the full value of which  
25 exceeds \$1,000,000, is brought, the value of the  
26 financial crime involved is an element of the offense

1 to be resolved by the trier of fact as either exceeding  
2 or not exceeding \$1,000,000.

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

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

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

6 (k) A "financial crime" means an offense described in this  
7 Section.

8 (l) Period of limitations. The period of limitations for  
9 prosecution of any offense defined in this Section begins at  
10 the time when the last act in furtherance of the offense is  
11 committed.

12 (m) Forfeiture. Any violation of subdivision (2) of  
13 subsection (h) or subdivision (i) (1) (A) (ii) shall be subject to  
14 the remedies, procedures, and forfeiture as set forth in  
15 subsections (f) through (s) of Section 29B-1 of this Code.

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

18 (Text of Section after amendment by P.A. 100-512)

19 Sec. 17-10.6. Financial institution fraud.

20 (a) Misappropriation of financial institution property. A  
21 person commits misappropriation of a financial institution's  
22 property whenever he or she knowingly obtains or exerts  
23 unauthorized control over any of the moneys, funds, credits,  
24 assets, securities, or other property owned by or under the  
25 custody or control of a financial institution, or under the

1 custody or care of any agent, officer, director, or employee of  
2 such financial institution.

3 (b) Commercial bribery of a financial institution.

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

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

19 (c) Financial institution fraud. A person commits  
20 financial institution fraud when he or she knowingly executes  
21 or attempts to execute a scheme or artifice:

22 (1) to defraud a financial institution; or

23 (2) to obtain any of the moneys, funds, credits,  
24 assets, securities, or other property owned by or under the  
25 custody or control of a financial institution, by means of  
26 pretenses, representations, or promises he or she knows to

1 be false.

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

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

16 (f) Financial institution robbery. A person commits  
17 robbery when he or she knowingly, by force or threat of force,  
18 or by intimidation, takes, or attempts to take, from the person  
19 or presence of another, or obtains or attempts to obtain by  
20 extortion, any property or money or any other thing of value  
21 belonging to, or in the care, custody, control, management, or  
22 possession of, a financial institution.

23 (g) Conspiracy to commit a financial crime.

24 (1) A person commits conspiracy to commit a financial  
25 crime when, with the intent that any violation of this  
26 Section be committed, he or she agrees with another person



1 to the commission of that offense.

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

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

11 (A) has not been prosecuted or convicted;

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

13 (C) is not amenable to justice;

14 (D) has been acquitted; or

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

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

21 (1) an offense under this Section;

22 (2) a felony offense in violation of Section 16A-3 or  
23 subsection (a) of Section 16-25 or paragraph (4) or (5) of  
24 subsection (a) of Section 16-1 of this Code for the purpose  
25 of reselling or otherwise re-entering the merchandise in  
26 commerce, including conveying the merchandise to a

1 merchant in exchange for anything of value; or

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

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

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

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

11 (i) an offense under this Section;

12 (ii) a felony offense in violation of Section  
13 16A-3 or subsection (a) of Section 16-25 or  
14 paragraph (4) or (5) of subsection (a) of Section  
15 16-1 of this Code for the purpose of reselling or  
16 otherwise re-entering the merchandise in commerce,  
17 including conveying the merchandise to a merchant  
18 in exchange for anything of value; or

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

21 (B) with respect to the other persons within the  
22 conspiracy, occupies a position of organizer,  
23 supervisor, or financier or other position of  
24 management.

25 (2) The person with whom the accused agreed to commit  
26 the 3 or more offenses under this Section, or, if involving

1 a financial institution, any other felony offenses under  
2 this Code, need not be the same person or persons for each  
3 offense, as long as the accused was a part of the common  
4 scheme or plan to engage in each of the 3 or more alleged  
5 offenses.

6 (j) Sentence.

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

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

10 (B) does not exceed \$500, and the person has been  
11 previously convicted of a financial crime or any type  
12 of theft, robbery, armed robbery, burglary,  
13 residential burglary, possession of burglary tools, or  
14 home invasion, is guilty of a Class 4 felony;

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

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

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

21 (F) exceeds \$500,000 but does not exceed  
22 \$1,000,000, is a Class 1 non-probationable felony;  
23 when a charge of financial crime, the full value of  
24 which exceeds \$500,000 but does not exceed \$1,000,000,  
25 is brought, the value of the financial crime involved  
26 is an element of the offense to be resolved by the

1           trier of fact as either exceeding or not exceeding  
2           \$500,000;

3           (G) exceeds \$1,000,000, is a Class X felony; when a  
4           charge of financial crime, the full value of which  
5           exceeds \$1,000,000, is brought, the value of the  
6           financial crime involved is an element of the offense  
7           to be resolved by the trier of fact as either exceeding  
8           or not exceeding \$1,000,000.

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

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

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

12          (k) A "financial crime" means an offense described in this  
13          Section.

14          (l) Period of limitations. The period of limitations for  
15          prosecution of any offense defined in this Section begins at  
16          the time when the last act in furtherance of the offense is  
17          committed.

18          (m) Forfeiture. Any violation of subdivision (2) of  
19          subsection (h) or subdivision (i) (1) (A) (ii) shall be subject to  
20          the remedies, procedures, and forfeiture as set forth in  
21          Article 29B ~~subsections (f) through (s) of Section 29B-1~~ of  
22          this Code.

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

25          (Source: P.A. 100-512, eff. 7-1-18.)

1 (720 ILCS 5/29B-0.5 new)

2 Sec. 29B-0.5. Definitions. In this Article:

3 "Conduct" or "conducts" includes, in addition to its  
4 ordinary meaning, initiating, concluding, or participating in  
5 initiating or concluding a transaction.

6 "Criminally derived property" means: (1) any property,  
7 real or personal, constituting or derived from proceeds  
8 obtained, directly or indirectly, from activity that  
9 constitutes a felony under State, federal, or foreign law; or  
10 (2) any property represented to be property constituting or  
11 derived from proceeds obtained, directly or indirectly, from  
12 activity that constitutes a felony under State, federal, or  
13 foreign law.

14 "Department" means the Department of State Police of this  
15 State or its successor agency.

16 "Director" means the Director of State Police or his or her  
17 designated agents.

18 "Financial institution" means any bank; saving and loan  
19 association; trust company; agency or branch of a foreign bank  
20 in the United States; currency exchange; credit union; mortgage  
21 banking institution; pawnbroker; loan or finance company;  
22 operator of a credit card system; issuer, redeemer, or cashier  
23 of travelers checks, checks, or money orders; dealer in  
24 precious metals, stones, or jewels; broker or dealer in  
25 securities or commodities; investment banker; or investment  
26 company.

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

19       "Form 4-64" means the Illinois State Police  
20 Notice/Inventory of Seized Property (Form 4-64).

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

1       "Monetary instrument" means United States coins and  
2 currency; coins and currency of a foreign country; travelers  
3 checks; personal checks, bank checks, and money orders;  
4 investment securities; bearer negotiable instruments; bearer  
5 investment securities; or bearer securities and certificates  
6 of stock in a form that title passes upon delivery.

7       "Specified criminal activity" means any violation of  
8 Section 29D-15.1 and any violation of Article 29D of this Code.

9       "Transaction reporting requirement under State law" means  
10 any violation as defined under the Currency Reporting Act.

11       (720 ILCS 5/29B-1) (from Ch. 38, par. 29B-1)

12       (Text of Section before amendment by P.A. 100-512)

13       Sec. 29B-1. (a) A person commits the offense of money  
14 laundering:

15           (1) when, knowing that the property involved in a  
16 financial transaction represents the proceeds of some form  
17 of unlawful activity, he or she conducts or attempts to  
18 conduct such a financial transaction which in fact involves  
19 criminally derived property:

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

23           (B) where he or she knows or reasonably should know  
24 that the financial transaction is designed in whole or  
25 in part:

1 (i) to conceal or disguise the nature, the  
2 location, the source, the ownership or the control  
3 of the criminally derived property; or

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

6 (1.5) when he or she transports, transmits, or  
7 transfers, or attempts to transport, transmit, or transfer  
8 a monetary instrument:

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

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

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

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

19 (2) when, with the intent to:

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

22 (B) conceal or disguise the nature, location,  
23 source, ownership, or control of property believed to  
24 be the proceeds of a specified criminal activity as  
25 defined by subdivision (b) (6); or

26 (C) avoid a transaction reporting requirement



1           under State law,  
2           he or she conducts or attempts to conduct a financial  
3           transaction involving property he or she believes to be the  
4           proceeds of specified criminal activity as defined by  
5           subdivision (b) (6) or property used to conduct or  
6           facilitate specified criminal activity as defined by  
7           subdivision (b) (6).

8           (b) As used in this Section:

9           (0.5) "Knowing that the property involved in a  
10          financial transaction represents the proceeds of some form  
11          of unlawful activity" means that the person knew the  
12          property involved in the transaction represented proceeds  
13          from some form, though not necessarily which form, of  
14          activity that constitutes a felony under State, federal, or  
15          foreign law.

16          (1) "Financial transaction" means a purchase, sale,  
17          loan, pledge, gift, transfer, delivery or other  
18          disposition utilizing criminally derived property, and  
19          with respect to financial institutions, includes a  
20          deposit, withdrawal, transfer between accounts, exchange  
21          of currency, loan, extension of credit, purchase or sale of  
22          any stock, bond, certificate of deposit or other monetary  
23          instrument, use of safe deposit box, or any other payment,  
24          transfer or delivery by, through, or to a financial  
25          institution. For purposes of clause (a) (2) of this Section,  
26          the term "financial transaction" also means a transaction

1           which without regard to whether the funds, monetary  
2           instruments, or real or personal property involved in the  
3           transaction are criminally derived, any transaction which  
4           in any way or degree: (1) involves the movement of funds by  
5           wire or any other means; (2) involves one or more monetary  
6           instruments; or (3) the transfer of title to any real or  
7           personal property. The receipt by an attorney of bona fide  
8           fees for the purpose of legal representation is not a  
9           financial transaction for purposes of this Section.

10           (2) "Financial institution" means any bank; saving and  
11           loan association; trust company; agency or branch of a  
12           foreign bank in the United States; currency exchange;  
13           credit union, mortgage banking institution; pawnbroker;  
14           loan or finance company; operator of a credit card system;  
15           issuer, redeemer or cashier of travelers checks, checks or  
16           money orders; dealer in precious metals, stones or jewels;  
17           broker or dealer in securities or commodities; investment  
18           banker; or investment company.

19           (3) "Monetary instrument" means United States coins  
20           and currency; coins and currency of a foreign country;  
21           travelers checks; personal checks, bank checks, and money  
22           orders; investment securities; bearer negotiable  
23           instruments; bearer investment securities; or bearer  
24           securities and certificates of stock in such form that  
25           title thereto passes upon delivery.

26           (4) "Criminally derived property" means: (A) any

1 property, real or personal, constituting or derived from  
2 proceeds obtained, directly or indirectly, from activity  
3 that constitutes a felony under State, federal, or foreign  
4 law; or (B) any property represented to be property  
5 constituting or derived from proceeds obtained, directly  
6 or indirectly, from activity that constitutes a felony  
7 under State, federal, or foreign law.

8 (5) "Conduct" or "conducts" includes, in addition to  
9 its ordinary meaning, initiating, concluding, or  
10 participating in initiating or concluding a transaction.

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

14 (7) "Director" means the Director of State Police or  
15 his or her designated agents.

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

18 (9) "Transaction reporting requirement under State  
19 law" means any violation as defined under the Currency  
20 Reporting Act.

21 (c) Sentence.

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

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

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

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

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

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

11           (A) Laundering of property of a value not exceeding  
12 \$10,000 is a Class 3 felony;

13           (B) Laundering of property of a value exceeding  
14 \$10,000 but not exceeding \$100,000 is a Class 2 felony;

15           (C) Laundering of property of a value exceeding  
16 \$100,000 but not exceeding \$500,000 is a Class 1  
17 felony;

18           (D) Laundering of property of a value exceeding  
19 \$500,000 is a Class 1 non-probationable felony.

20           (d) Evidence. In a prosecution under this Article, either  
21 party may introduce the following evidence pertaining to the  
22 issue of whether the property or proceeds were known to be some  
23 form of criminally derived property or from some form of  
24 unlawful activity:

25           (1) A financial transaction was conducted or  
26 structured or attempted in violation of the reporting

1 requirements of any State or federal law; or

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

5 (3) A falsely altered or completed written instrument  
6 or a written instrument that contains any materially false  
7 personal identifying information was made, used, offered  
8 or presented, whether accepted or not, in connection with a  
9 financial transaction; or

10 (4) A financial transaction was structured or  
11 attempted to be structured so as to falsely report the  
12 actual consideration or value of the transaction; or

13 (5) A money transmitter, a person engaged in a trade or  
14 business or any employee of a money transmitter or a person  
15 engaged in a trade or business, knows or reasonably should  
16 know that false personal identifying information has been  
17 presented and incorporates the false personal identifying  
18 information into any report or record; or

19 (6) The criminally derived property is transported or  
20 possessed in a fashion inconsistent with the ordinary or  
21 usual means of transportation or possession of such  
22 property and where the property is discovered in the  
23 absence of any documentation or other indicia of legitimate  
24 origin or right to such property; or

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

1           (8) A person engages in a transaction involving one or  
2 more monetary instruments, where the physical condition or  
3 form of the monetary instrument or instruments makes it  
4 apparent that they are not the product of bona fide  
5 business or financial transactions.

6           (e) Duty to enforce this Article.

7           (1) It is the duty of the Department of State Police,  
8 and its agents, officers, and investigators, to enforce all  
9 provisions of this Article, except those specifically  
10 delegated, and to cooperate with all agencies charged with  
11 the enforcement of the laws of the United States, or of any  
12 state, relating to money laundering. Only an agent,  
13 officer, or investigator designated by the Director may be  
14 authorized in accordance with this Section to serve seizure  
15 notices, warrants, subpoenas, and summonses under the  
16 authority of this State.

17           (2) Any agent, officer, investigator, or peace officer  
18 designated by the Director may: (A) make seizure of  
19 property pursuant to the provisions of this Article; and  
20 (B) perform such other law enforcement duties as the  
21 Director designates. It is the duty of all State's  
22 Attorneys to prosecute violations of this Article and  
23 institute legal proceedings as authorized under this  
24 Article.

25           (f) Protective orders.

26           (1) Upon application of the State, the court may enter

1 a restraining order or injunction, require the execution of  
2 a satisfactory performance bond, or take any other action  
3 to preserve the availability of property described in  
4 subsection (h) for forfeiture under this Article:

5 (A) upon the filing of an indictment, information,  
6 or complaint charging a violation of this Article for  
7 which forfeiture may be ordered under this Article and  
8 alleging that the property with respect to which the  
9 order is sought would be subject to forfeiture under  
10 this Article; or

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

15 (i) there is probable cause to believe that the  
16 State will prevail on the issue of forfeiture and  
17 that failure to enter the order will result in the  
18 property being destroyed, removed from the  
19 jurisdiction of the court, or otherwise made  
20 unavailable for forfeiture; and

21 (ii) the need to preserve the availability of  
22 the property through the entry of the requested  
23 order outweighs the hardship on any party against  
24 whom the order is to be entered.

25 Provided, however, that an order entered pursuant  
26 to subparagraph (B) shall be effective for not more

1           than 90 days, unless extended by the court for good  
2           cause shown or unless an indictment, information,  
3           complaint, or administrative notice has been filed.

4           (2) A temporary restraining order under this  
5           subsection may be entered upon application of the State  
6           without notice or opportunity for a hearing when an  
7           indictment, information, complaint, or administrative  
8           notice has not yet been filed with respect to the property,  
9           if the State demonstrates that there is probable cause to  
10          believe that the property with respect to which the order  
11          is sought would be subject to forfeiture under this Section  
12          and that provision of notice will jeopardize the  
13          availability of the property for forfeiture. Such a  
14          temporary order shall expire not more than 30 days after  
15          the date on which it is entered, unless extended for good  
16          cause shown or unless the party against whom it is entered  
17          consents to an extension for a longer period. A hearing  
18          requested concerning an order entered under this paragraph  
19          shall be held at the earliest possible time and prior to  
20          the expiration of the temporary order.

21          (3) The court may receive and consider, at a hearing  
22          held pursuant to this subsection (f), evidence and  
23          information that would be inadmissible under the Illinois  
24          rules of evidence.

25          (4) Order to repatriate and deposit.

26                 (A) In general. Pursuant to its authority to enter



1 a pretrial restraining order under this Section, the  
2 court may order a defendant to repatriate any property  
3 that may be seized and forfeited and to deposit that  
4 property pending trial with the Illinois State Police  
5 or another law enforcement agency designated by the  
6 Illinois State Police.

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

10 (g) Warrant of seizure. The State may request the issuance  
11 of a warrant authorizing the seizure of property described in  
12 subsection (h) in the same manner as provided for a search  
13 warrant. If the court determines that there is probable cause  
14 to believe that the property to be seized would be subject to  
15 forfeiture, the court shall issue a warrant authorizing the  
16 seizure of such property.

17 (h) Forfeiture.

18 (1) The following are subject to forfeiture:

19 (A) any property, real or personal, constituting,  
20 derived from, or traceable to any proceeds the person  
21 obtained directly or indirectly, as a result of a  
22 violation of this Article;

23 (B) any of the person's property used, or intended  
24 to be used, in any manner or part, to commit, or to  
25 facilitate the commission of, a violation of this  
26 Article;

1           (C) all conveyances, including aircraft, vehicles  
2           or vessels, which are used, or intended for use, to  
3           transport, or in any manner to facilitate the  
4           transportation, sale, receipt, possession, or  
5           concealment of property described in subparagraphs (A)  
6           and (B), but:

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

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

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

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

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

6 (2) Property subject to forfeiture under this Article  
7 may be seized by the Director or any peace officer upon  
8 process or seizure warrant issued by any court having  
9 jurisdiction over the property. Seizure by the Director or  
10 any peace officer without process may be made:

11 (A) if the seizure is incident to a seizure  
12 warrant;

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

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

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

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

26 (3) In the event of seizure pursuant to paragraph (2),

1 forfeiture proceedings shall be instituted in accordance  
2 with subsections (i) through (r).

3 (4) Property taken or detained under this Section shall  
4 not be subject to replevin, but is deemed to be in the  
5 custody of the Director subject only to the order and  
6 judgments of the circuit court having jurisdiction over the  
7 forfeiture proceedings and the decisions of the State's  
8 Attorney under this Article. When property is seized under  
9 this Article, the seizing agency shall promptly conduct an  
10 inventory of the seized property and estimate the  
11 property's value and shall forward a copy of the inventory  
12 of seized property and the estimate of the property's value  
13 to the Director. Upon receiving notice of seizure, the  
14 Director may:

15 (A) place the property under seal;

16 (B) remove the property to a place designated by  
17 the Director;

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

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

24 (E) place the property under constructive seizure  
25 by posting notice of pending forfeiture on it, by  
26 giving notice of pending forfeiture to its owners and

1 interest holders, or by filing notice of pending  
2 forfeiture in any appropriate public record relating  
3 to the property; or

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

8 (5) When property is forfeited under this Article, the  
9 Director shall sell all such property unless such property  
10 is required by law to be destroyed or is harmful to the  
11 public, and shall distribute the proceeds of the sale,  
12 together with any moneys forfeited or seized, in accordance  
13 with paragraph (6). However, upon the application of the  
14 seizing agency or prosecutor who was responsible for the  
15 investigation, arrest or arrests and prosecution which  
16 lead to the forfeiture, the Director may return any item of  
17 forfeited property to the seizing agency or prosecutor for  
18 official use in the enforcement of laws, if the agency or  
19 prosecutor can demonstrate that the item requested would be  
20 useful to the agency or prosecutor in its enforcement  
21 efforts. When any real property returned to the seizing  
22 agency is sold by the agency or its unit of government, the  
23 proceeds of the sale shall be delivered to the Director and  
24 distributed in accordance with paragraph (6).

25 (6) All monies and the sale proceeds of all other  
26 property forfeited and seized under this Article shall be

1 distributed as follows:

2 (A) 65% shall be distributed to the metropolitan  
3 enforcement group, local, municipal, county, or State  
4 law enforcement agency or agencies which conducted or  
5 participated in the investigation resulting in the  
6 forfeiture. The distribution shall bear a reasonable  
7 relationship to the degree of direct participation of  
8 the law enforcement agency in the effort resulting in  
9 the forfeiture, taking into account the total value of  
10 the property forfeited and the total law enforcement  
11 effort with respect to the violation of the law upon  
12 which the forfeiture is based. Amounts distributed to  
13 the agency or agencies shall be used for the  
14 enforcement of laws.

15 (B) (i) 12.5% shall be distributed to the Office of  
16 the State's Attorney of the county in which the  
17 prosecution resulting in the forfeiture was  
18 instituted, deposited in a special fund in the county  
19 treasury and appropriated to the State's Attorney for  
20 use in the enforcement of laws. In counties over  
21 3,000,000 population, 25% shall be distributed to the  
22 Office of the State's Attorney for use in the  
23 enforcement of laws. If the prosecution is undertaken  
24 solely by the Attorney General, the portion provided  
25 hereunder shall be distributed to the Attorney General  
26 for use in the enforcement of laws.

1           (ii) 12.5% shall be distributed to the Office of  
2           the State's Attorneys Appellate Prosecutor and  
3           deposited in the Narcotics Profit Forfeiture Fund of  
4           that office to be used for additional expenses incurred  
5           in the investigation, prosecution and appeal of cases  
6           arising under laws. The Office of the State's Attorneys  
7           Appellate Prosecutor shall not receive distribution  
8           from cases brought in counties with over 3,000,000  
9           population.

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

14           Moneys and the sale proceeds distributed to the  
15           Department of State Police under this Article shall be  
16           deposited in the Money Laundering Asset Recovery Fund  
17           created in the State treasury and shall be used by the  
18           Department of State Police for State law enforcement  
19           purposes.

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

25           (i) Notice to owner or interest holder.

26           (1) Whenever notice of pending forfeiture or service of

1 an in rem complaint is required under the provisions of  
2 this Article, such notice or service shall be given as  
3 follows:

4 (A) If the owner's or interest holder's name and  
5 current address are known, then by either personal  
6 service or mailing a copy of the notice by certified  
7 mail, return receipt requested, to that address. For  
8 purposes of notice under this Section, if a person has  
9 been arrested for the conduct giving rise to the  
10 forfeiture, then the address provided to the arresting  
11 agency at the time of arrest shall be deemed to be that  
12 person's known address. Provided, however, if an owner  
13 or interest holder's address changes prior to the  
14 effective date of the notice of pending forfeiture, the  
15 owner or interest holder shall promptly notify the  
16 seizing agency of the change in address or, if the  
17 owner or interest holder's address changes subsequent  
18 to the effective date of the notice of pending  
19 forfeiture, the owner or interest holder shall  
20 promptly notify the State's Attorney of the change in  
21 address; or

22 (B) If the property seized is a conveyance, to the  
23 address reflected in the office of the agency or  
24 official in which title or interest to the conveyance  
25 is required by law to be recorded, then by mailing a  
26 copy of the notice by certified mail, return receipt



1 requested, to that address; or

2 (C) If the owner's or interest holder's address is  
3 not known, and is not on record as provided in  
4 paragraph (B), then by publication for 3 successive  
5 weeks in a newspaper of general circulation in the  
6 county in which the seizure occurred.

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

10 (j) Notice to State's Attorney. The law enforcement agency  
11 seizing property for forfeiture under this Article shall,  
12 within 90 days after seizure, notify the State's Attorney for  
13 the county, either where an act or omission giving rise to the  
14 forfeiture occurred or where the property was seized, of the  
15 seizure of the property and the facts and circumstances giving  
16 rise to the seizure and shall provide the State's Attorney with  
17 the inventory of the property and its estimated value. When the  
18 property seized for forfeiture is a vehicle, the law  
19 enforcement agency seizing the property shall immediately  
20 notify the Secretary of State that forfeiture proceedings are  
21 pending regarding such vehicle.

22 (k) Non-judicial forfeiture. If non-real property that  
23 exceeds \$20,000 in value excluding the value of any conveyance,  
24 or if real property is seized under the provisions of this  
25 Article, the State's Attorney shall institute judicial in rem  
26 forfeiture proceedings as described in subsection (l) of this

1 Section within 45 days from receipt of notice of seizure from  
2 the seizing agency under subsection (j) of this Section.  
3 However, if non-real property that does not exceed \$20,000 in  
4 value excluding the value of any conveyance is seized, the  
5 following procedure shall be used:

6 (1) If, after review of the facts surrounding the  
7 seizure, the State's Attorney is of the opinion that the  
8 seized property is subject to forfeiture, then within 45  
9 days after the receipt of notice of seizure from the  
10 seizing agency, the State's Attorney shall cause notice of  
11 pending forfeiture to be given to the owner of the property  
12 and all known interest holders of the property in  
13 accordance with subsection (i) of this Section.

14 (2) The notice of pending forfeiture must include a  
15 description of the property, the estimated value of the  
16 property, the date and place of seizure, the conduct giving  
17 rise to forfeiture or the violation of law alleged, and a  
18 summary of procedures and procedural rights applicable to  
19 the forfeiture action.

20 (3) (A) Any person claiming an interest in property  
21 which is the subject of notice under paragraph (1) of this  
22 subsection (k), must, in order to preserve any rights or  
23 claims to the property, within 45 days after the effective  
24 date of notice as described in subsection (i) of this  
25 Section, file a verified claim with the State's Attorney  
26 expressing his or her interest in the property. The claim

1 must set forth:

2 (i) the caption of the proceedings as set forth on  
3 the notice of pending forfeiture and the name of the  
4 claimant;

5 (ii) the address at which the claimant will accept  
6 mail;

7 (iii) the nature and extent of the claimant's  
8 interest in the property;

9 (iv) the date, identity of the transferor, and  
10 circumstances of the claimant's acquisition of the  
11 interest in the property;

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

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

16 (vii) all essential facts supporting each  
17 assertion; and

18 (viii) the relief sought.

19 (B) If a claimant files the claim and deposits with the  
20 State's Attorney a cost bond, in the form of a cashier's  
21 check payable to the clerk of the court, in the sum of 10%  
22 of the reasonable value of the property as alleged by the  
23 State's Attorney or the sum of \$100, whichever is greater,  
24 upon condition that, in the case of forfeiture, the  
25 claimant must pay all costs and expenses of forfeiture  
26 proceedings, then the State's Attorney shall institute

1           judicial in rem forfeiture proceedings and deposit the cost  
2           bond with the clerk of the court as described in subsection  
3           (1) of this Section within 45 days after receipt of the  
4           claim and cost bond. In lieu of a cost bond, a person  
5           claiming interest in the seized property may file, under  
6           penalty of perjury, an indigency affidavit which has been  
7           approved by a circuit court judge.

8           (C) If none of the seized property is forfeited in the  
9           judicial in rem proceeding, the clerk of the court shall  
10          return to the claimant, unless the court orders otherwise,  
11          90% of the sum which has been deposited and shall retain as  
12          costs 10% of the money deposited. If any of the seized  
13          property is forfeited under the judicial forfeiture  
14          proceeding, the clerk of the court shall transfer 90% of  
15          the sum which has been deposited to the State's Attorney  
16          prosecuting the civil forfeiture to be applied to the costs  
17          of prosecution and the clerk shall retain as costs 10% of  
18          the sum deposited.

19          (4) If no claim is filed or bond given within the 45  
20          day period as described in paragraph (3) of this subsection  
21          (k), the State's Attorney shall declare the property  
22          forfeited and shall promptly notify the owner and all known  
23          interest holders of the property and the Director of State  
24          Police of the declaration of forfeiture and the Director  
25          shall dispose of the property in accordance with law.

26          (1) Judicial in rem procedures. If property seized under

1 the provisions of this Article is non-real property that  
2 exceeds \$20,000 in value excluding the value of any conveyance,  
3 or is real property, or a claimant has filed a claim and a cost  
4 bond under paragraph (3) of subsection (k) of this Section, the  
5 following judicial in rem procedures shall apply:

6 (1) If, after a review of the facts surrounding the  
7 seizure, the State's Attorney is of the opinion that the  
8 seized property is subject to forfeiture, then within 45  
9 days of the receipt of notice of seizure by the seizing  
10 agency or the filing of the claim and cost bond, whichever  
11 is later, the State's Attorney shall institute judicial  
12 forfeiture proceedings by filing a verified complaint for  
13 forfeiture and, if the claimant has filed a claim and cost  
14 bond, by depositing the cost bond with the clerk of the  
15 court. When authorized by law, a forfeiture must be ordered  
16 by a court on an action in rem brought by a State's  
17 Attorney under a verified complaint for forfeiture.

18 (2) During the probable cause portion of the judicial  
19 in rem proceeding wherein the State presents its  
20 case-in-chief, the court must receive and consider, among  
21 other things, all relevant hearsay evidence and  
22 information. The laws of evidence relating to civil actions  
23 apply to all other portions of the judicial in rem  
24 proceeding.

25 (3) Only an owner of or interest holder in the property  
26 may file an answer asserting a claim against the property

1 in the action in rem. For purposes of this Section, the  
2 owner or interest holder shall be referred to as claimant.  
3 Upon motion of the State, the court shall first hold a  
4 hearing, wherein any claimant must establish by a  
5 preponderance of the evidence, that he or she has a lawful,  
6 legitimate ownership interest in the property and that it  
7 was obtained through a lawful source.

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

10 (A) the caption of the proceedings as set forth on  
11 the notice of pending forfeiture and the name of the  
12 claimant;

13 (B) the address at which the claimant will accept  
14 mail;

15 (C) the nature and extent of the claimant's  
16 interest in the property;

17 (D) the date, identity of transferor, and  
18 circumstances of the claimant's acquisition of the  
19 interest in the property;

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

22 (F) all essential facts supporting each assertion;  
23 and

24 (G) the precise relief sought.

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

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

3           (7) The State shall show the existence of probable  
4 cause for forfeiture of the property. If the State shows  
5 probable cause, the claimant has the burden of showing by a  
6 preponderance of the evidence that the claimant's interest  
7 in the property is not subject to forfeiture.

8           (8) If the State does not show existence of probable  
9 cause, the court shall order the interest in the property  
10 returned or conveyed to the claimant and shall order all  
11 other property forfeited to the State. If the State does  
12 show existence of probable cause, the court shall order all  
13 property forfeited to the State.

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

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

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

6 (11) All property declared forfeited under this  
7 Article vests in this State on the commission of the  
8 conduct giving rise to forfeiture together with the  
9 proceeds of the property after that time. Any such property  
10 or proceeds subsequently transferred to any person remain  
11 subject to forfeiture and thereafter shall be ordered  
12 forfeited.

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

21 (m) Stay of time periods. If property is seized for  
22 evidence and for forfeiture, the time periods for instituting  
23 judicial and non-judicial forfeiture proceedings shall not  
24 begin until the property is no longer necessary for evidence.

25 (n) Settlement of claims. Notwithstanding other provisions  
26 of this Article, the State's Attorney and a claimant of seized



1 property may enter into an agreed-upon settlement concerning  
2 the seized property in such an amount and upon such terms as  
3 are set out in writing in a settlement agreement.

4 (o) Property constituting attorney fees. Nothing in this  
5 Article applies to property which constitutes reasonable bona  
6 fide attorney's fees paid to an attorney for services rendered  
7 or to be rendered in the forfeiture proceeding or criminal  
8 proceeding relating directly thereto where such property was  
9 paid before its seizure, before the issuance of any seizure  
10 warrant or court order prohibiting transfer of the property and  
11 where the attorney, at the time he or she received the property  
12 did not know that it was property subject to forfeiture under  
13 this Article.

14 (p) Construction. It is the intent of the General Assembly  
15 that the forfeiture provisions of this Article be liberally  
16 construed so as to effect their remedial purpose. The  
17 forfeiture of property and other remedies hereunder shall be  
18 considered to be in addition to, and not exclusive of, any  
19 sentence or other remedy provided by law.

20 (q) Judicial review. If property has been declared  
21 forfeited under subsection (k) of this Section, any person who  
22 has an interest in the property declared forfeited may, within  
23 30 days after the effective date of the notice of the  
24 declaration of forfeiture, file a claim and cost bond as  
25 described in paragraph (3) of subsection (k) of this Section.  
26 If a claim and cost bond is filed under this Section, then the

1 procedures described in subsection (l) of this Section apply.

2 (r) Burden of proof of exemption or exception. It is not  
3 necessary for the State to negate any exemption or exception in  
4 this Article in any complaint, information, indictment or other  
5 pleading or in any trial, hearing, or other proceeding under  
6 this Article. The burden of proof of any exemption or exception  
7 is upon the person claiming it.

8 (s) Review of administrative decisions. All administrative  
9 findings, rulings, final determinations, findings, and  
10 conclusions of the State's Attorney's Office under this Article  
11 are final and conclusive decisions of the matters involved. Any  
12 person aggrieved by the decision may obtain review of the  
13 decision pursuant to the provisions of the Administrative  
14 Review Law and the rules adopted pursuant to that Law. Pending  
15 final decision on such review, the administrative acts, orders,  
16 and rulings of the State's Attorney's Office remain in full  
17 force and effect unless modified or suspended by order of court  
18 pending final judicial decision. Pending final decision on such  
19 review, the acts, orders, and rulings of the State's Attorney's  
20 Office remain in full force and effect, unless stayed by order  
21 of court. However, no stay of any decision of the  
22 administrative agency shall issue unless the person aggrieved  
23 by the decision establishes by a preponderance of the evidence  
24 that good cause exists for the stay. In determining good cause,  
25 the court shall find that the aggrieved party has established a  
26 substantial likelihood of prevailing on the merits and that

1 granting the stay will not have an injurious effect on the  
2 general public.

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

4 (Text of Section after amendment by P.A. 100-512)

5 Sec. 29B-1. Money laundering.

6 (a) A person commits the offense of money laundering:

7 (1) when, knowing that the property involved in a  
8 financial transaction represents the proceeds of some form  
9 of unlawful activity, he or she conducts or attempts to  
10 conduct the ~~such a~~ financial transaction which in fact  
11 involves criminally derived property:

12 (A) with the intent to promote the carrying on of  
13 the unlawful activity from which the criminally  
14 derived property was obtained; or

15 (B) where he or she knows or reasonably should know  
16 that the financial transaction is designed in whole or  
17 in part:

18 (i) to conceal or disguise the nature, the  
19 location, the source, the ownership or the control  
20 of the criminally derived property; or

21 (ii) to avoid a transaction reporting  
22 requirement under State law; or

23 (1.5) when he or she transports, transmits, or  
24 transfers, or attempts to transport, transmit, or transfer  
25 a monetary instrument:

1 (A) with the intent to promote the carrying on of  
2 the unlawful activity from which the criminally  
3 derived property was obtained; or

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

6 (i) to conceal or disguise the nature, the  
7 location, the source, the ownership or the control  
8 of the criminally derived property; or

9 (ii) to avoid a transaction reporting  
10 requirement under State law; or

11 (2) when, with the intent to:

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

14 (B) conceal or disguise the nature, location,  
15 source, ownership, or control of property believed to  
16 be the proceeds of a specified criminal activity as  
17 defined in this Article ~~by subdivision (b) (6)~~; or

18 (C) avoid a transaction reporting requirement  
19 under State law,

20 he or she conducts or attempts to conduct a financial  
21 transaction involving property he or she believes to be the  
22 proceeds of specified criminal activity ~~as defined by~~  
23 ~~subdivision (b) (6)~~ or property used to conduct or  
24 facilitate specified criminal activity as defined in this  
25 Article ~~by subdivision (b) (6)~~.

26 (b) (Blank). ~~As used in this Section:~~

1           ~~(0.5) "Knowing that the property involved in a~~  
2           ~~financial transaction represents the proceeds of some form~~  
3           ~~of unlawful activity" means that the person knew the~~  
4           ~~property involved in the transaction represented proceeds~~  
5           ~~from some form, though not necessarily which form, of~~  
6           ~~activity that constitutes a felony under State, federal, or~~  
7           ~~foreign law.~~

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

1 ~~financial transaction for purposes of this Section.~~

2 ~~(2) "Financial institution" means any bank; saving and~~  
3 ~~loan association; trust company; agency or branch of a~~  
4 ~~foreign bank in the United States; currency exchange;~~  
5 ~~credit union; mortgage banking institution; pawnbroker;~~  
6 ~~loan or finance company; operator of a credit card system;~~  
7 ~~issuer, redeemer or cashier of travelers checks, checks or~~  
8 ~~money orders; dealer in precious metals, stones or jewels;~~  
9 ~~broker or dealer in securities or commodities; investment~~  
10 ~~banker; or investment company.~~

11 ~~(3) "Monetary instrument" means United States coins~~  
12 ~~and currency; coins and currency of a foreign country;~~  
13 ~~travelers checks; personal checks, bank checks, and money~~  
14 ~~orders; investment securities; bearer negotiable~~  
15 ~~instruments; bearer investment securities; or bearer~~  
16 ~~securities and certificates of stock in such form that~~  
17 ~~title thereto passes upon delivery.~~

18 ~~(4) "Criminally derived property" means: (A) any~~  
19 ~~property, real or personal, constituting or derived from~~  
20 ~~proceeds obtained, directly or indirectly, from activity~~  
21 ~~that constitutes a felony under State, federal, or foreign~~  
22 ~~law; or (B) any property represented to be property~~  
23 ~~constituting or derived from proceeds obtained, directly~~  
24 ~~or indirectly, from activity that constitutes a felony~~  
25 ~~under State, federal, or foreign law.~~

26 ~~(5) "Conduct" or "conducts" includes, in addition to~~

1 ~~its ordinary meaning, initiating, concluding, or~~  
2 ~~participating in initiating or concluding a transaction.~~

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

6 ~~(7) "Director" means the Director of State Police or~~  
7 ~~his or her designated agents.~~

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

10 ~~(9) "Transaction reporting requirement under State~~  
11 ~~law" means any violation as defined under the Currency~~  
12 ~~Reporting Act.~~

13 (c) Sentence.

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

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

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

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

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

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

3           (A) Laundering of property of a value not exceeding  
4 \$10,000 is a Class 3 felony;

5           (B) Laundering of property of a value exceeding  
6 \$10,000 but not exceeding \$100,000 is a Class 2 felony;

7           (C) Laundering of property of a value exceeding  
8 \$100,000 but not exceeding \$500,000 is a Class 1  
9 felony;

10           (D) Laundering of property of a value exceeding  
11 \$500,000 is a Class 1 non-probationable felony.

12           ~~(d) Evidence. In a prosecution under this Article, either~~  
13 ~~party may introduce the following evidence pertaining to the~~  
14 ~~issue of whether the property or proceeds were known to be some~~  
15 ~~form of criminally derived property or from some form of~~  
16 ~~unlawful activity:~~

17           ~~(1) A financial transaction was conducted or~~  
18 ~~structured or attempted in violation of the reporting~~  
19 ~~requirements of any State or federal law; or~~

20           ~~(2) A financial transaction was conducted or attempted~~  
21 ~~with the use of a false or fictitious name or a forged~~  
22 ~~instrument; or~~

23           ~~(3) A falsely altered or completed written instrument~~  
24 ~~or a written instrument that contains any materially false~~  
25 ~~personal identifying information was made, used, offered~~  
26 ~~or presented, whether accepted or not, in connection with a~~



1 ~~financial transaction; or~~

2 ~~(4) A financial transaction was structured or~~  
3 ~~attempted to be structured so as to falsely report the~~  
4 ~~actual consideration or value of the transaction; or~~

5 ~~(5) A money transmitter, a person engaged in a trade or~~  
6 ~~business or any employee of a money transmitter or a person~~  
7 ~~engaged in a trade or business, knows or reasonably should~~  
8 ~~know that false personal identifying information has been~~  
9 ~~presented and incorporates the false personal identifying~~  
10 ~~information into any report or record; or~~

11 ~~(6) The criminally derived property is transported or~~  
12 ~~possessed in a fashion inconsistent with the ordinary or~~  
13 ~~usual means of transportation or possession of such~~  
14 ~~property and where the property is discovered in the~~  
15 ~~absence of any documentation or other indicia of legitimate~~  
16 ~~origin or right to such property; or~~

17 ~~(7) A person pays or receives substantially less than~~  
18 ~~face value for one or more monetary instruments; or~~

19 ~~(8) A person engages in a transaction involving one or~~  
20 ~~more monetary instruments, where the physical condition or~~  
21 ~~form of the monetary instrument or instruments makes it~~  
22 ~~apparent that they are not the product of bona fide~~  
23 ~~business or financial transactions.~~

24 ~~(e) Duty to enforce this Article.~~

25 ~~(1) It is the duty of the Department of State Police,~~  
26 ~~and its agents, officers, and investigators, to enforce all~~

1 ~~provisions of this Article, except those specifically~~  
2 ~~delegated, and to cooperate with all agencies charged with~~  
3 ~~the enforcement of the laws of the United States, or of any~~  
4 ~~state, relating to money laundering. Only an agent,~~  
5 ~~officer, or investigator designated by the Director may be~~  
6 ~~authorized in accordance with this Section to serve seizure~~  
7 ~~notices, warrants, subpoenas, and summonses under the~~  
8 ~~authority of this State.~~

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

17 ~~(f) Protective orders.~~

18 ~~(1) Upon application of the State, the court may enter~~  
19 ~~a restraining order or injunction, require the execution of~~  
20 ~~a satisfactory performance bond, or take any other action~~  
21 ~~to preserve the availability of property described in~~  
22 ~~subsection (h) for forfeiture under this Article.~~

23 ~~(A) upon the filing of an indictment, information,~~  
24 ~~or complaint charging a violation of this Article for~~  
25 ~~which forfeiture may be ordered under this Article and~~  
26 ~~alleging that the property with respect to which the~~

1 ~~order is sought would be subject to forfeiture under~~  
2 ~~this Article; or~~

3 ~~(B) prior to the filing of such an indictment,~~  
4 ~~information, or complaint, if, after notice to persons~~  
5 ~~appearing to have an interest in the property and~~  
6 ~~opportunity for a hearing, the court determines that:~~

7 ~~(i) there is probable cause to believe that the~~  
8 ~~State will prevail on the issue of forfeiture and~~  
9 ~~that failure to enter the order will result in the~~  
10 ~~property being destroyed, removed from the~~  
11 ~~jurisdiction of the court, or otherwise made~~  
12 ~~unavailable for forfeiture; and~~

13 ~~(ii) the need to preserve the availability of~~  
14 ~~the property through the entry of the requested~~  
15 ~~order outweighs the hardship on any party against~~  
16 ~~whom the order is to be entered.~~

17 ~~Provided, however, that an order entered pursuant~~  
18 ~~to subparagraph (B) shall be effective for not more~~  
19 ~~than 90 days, unless extended by the court for good~~  
20 ~~cause shown or unless an indictment, information,~~  
21 ~~complaint, or administrative notice has been filed.~~

22 ~~(2) A temporary restraining order under this~~  
23 ~~subsection may be entered upon application of the State~~  
24 ~~without notice or opportunity for a hearing when an~~  
25 ~~indictment, information, complaint, or administrative~~  
26 ~~notice has not yet been filed with respect to the property,~~

1 ~~if the State demonstrates that there is probable cause to~~  
2 ~~believe that the property with respect to which the order~~  
3 ~~is sought would be subject to forfeiture under this Section~~  
4 ~~and that provision of notice will jeopardize the~~  
5 ~~availability of the property for forfeiture. Such a~~  
6 ~~temporary order shall expire not more than 30 days after~~  
7 ~~the date on which it is entered, unless extended for good~~  
8 ~~cause shown or unless the party against whom it is entered~~  
9 ~~consents to an extension for a longer period. A hearing~~  
10 ~~requested concerning an order entered under this paragraph~~  
11 ~~shall be held at the earliest possible time and prior to~~  
12 ~~the expiration of the temporary order.~~

13 ~~(3) The court may receive and consider, at a hearing~~  
14 ~~held pursuant to this subsection (f), evidence and~~  
15 ~~information that would be inadmissible under the Illinois~~  
16 ~~rules of evidence.~~

17 ~~(4) Order to repatriate and deposit.~~

18 ~~(A) In general. Pursuant to its authority to enter~~  
19 ~~a pretrial restraining order under this Section, the~~  
20 ~~court may order a defendant to repatriate any property~~  
21 ~~that may be seized and forfeited and to deposit that~~  
22 ~~property pending trial with the Illinois State Police~~  
23 ~~or another law enforcement agency designated by the~~  
24 ~~Illinois State Police.~~

25 ~~(B) Failure to comply. Failure to comply with an~~  
26 ~~order under this subsection (f) is punishable as a~~

1 ~~civil or criminal contempt of court.~~

2 ~~(g) Warrant of seizure. The State may request the issuance~~  
3 ~~of a warrant authorizing the seizure of property described in~~  
4 ~~subsection (h) in the same manner as provided for a search~~  
5 ~~warrant. If the court determines that there is probable cause~~  
6 ~~to believe that the property to be seized would be subject to~~  
7 ~~forfeiture, the court shall issue a warrant authorizing the~~  
8 ~~seizure of such property.~~

9 ~~(h) Forfeiture.~~

10 ~~(1) The following are subject to forfeiture:~~

11 ~~(A) any property, real or personal, constituting,~~  
12 ~~derived from, or traceable to any proceeds the person~~  
13 ~~obtained directly or indirectly, as a result of a~~  
14 ~~violation of this Article;~~

15 ~~(B) any of the person's property used, or intended~~  
16 ~~to be used, in any manner or part, to commit, or to~~  
17 ~~facilitate the commission of, a violation of this~~  
18 ~~Article;~~

19 ~~(C) all conveyances, including aircraft, vehicles~~  
20 ~~or vessels, which are used, or intended for use, to~~  
21 ~~transport, or in any manner to facilitate the~~  
22 ~~transportation, sale, receipt, possession, or~~  
23 ~~concealment of property described in subparagraphs (A)~~  
24 ~~and (B), but:~~

25 ~~(i) no conveyance used by any person as a~~  
26 ~~common carrier in the transaction of business as a~~

1 ~~common carrier is subject to forfeiture under this~~  
2 ~~Section unless it appears that the owner or other~~  
3 ~~person in charge of the conveyance is a consenting~~  
4 ~~party or privy to a violation of this Article;~~

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

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

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

24 ~~(2) Property subject to forfeiture under this Article~~  
25 ~~may be seized by the Director or any peace officer upon~~  
26 ~~process or seizure warrant issued by any court having~~

1 ~~jurisdiction over the property. Seizure by the Director or~~  
2 ~~any peace officer without process may be made:~~

3 ~~(A) if the seizure is incident to a seizure~~  
4 ~~warrant;~~

5 ~~(B) if the property subject to seizure has been the~~  
6 ~~subject of a prior judgment in favor of the State in a~~  
7 ~~criminal proceeding, or in an injunction or forfeiture~~  
8 ~~proceeding based upon this Article;~~

9 ~~(C) if there is probable cause to believe that the~~  
10 ~~property is directly or indirectly dangerous to health~~  
11 ~~or safety;~~

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

16 ~~(E) in accordance with the Code of Criminal~~  
17 ~~Procedure of 1963.~~

18 ~~(3) In the event of seizure pursuant to paragraph (2),~~  
19 ~~forfeiture proceedings shall be instituted in accordance~~  
20 ~~with subsections (i) through (r).~~

21 ~~(4) Property taken or detained under this Section shall~~  
22 ~~not be subject to replevin, but is deemed to be in the~~  
23 ~~custody of the Director subject only to the order and~~  
24 ~~judgments of the circuit court having jurisdiction over the~~  
25 ~~forfeiture proceedings and the decisions of the State's~~  
26 ~~Attorney under this Article. When property is seized under~~

1 ~~this Article, the seizing agency shall promptly conduct an~~  
2 ~~inventory of the seized property and estimate the~~  
3 ~~property's value and shall forward a copy of the inventory~~  
4 ~~of seized property and the estimate of the property's value~~  
5 ~~to the Director. Upon receiving notice of seizure, the~~  
6 ~~Director may:~~

7 ~~(A) place the property under seal;~~

8 ~~(B) remove the property to a place designated by~~  
9 ~~the Director;~~

10 ~~(C) keep the property in the possession of the~~  
11 ~~seizing agency;~~

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

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

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

26 ~~(5) When property is forfeited under this Article, the~~



1       ~~Director shall sell all such property unless such property~~  
2       ~~is required by law to be destroyed or is harmful to the~~  
3       ~~public, and shall distribute the proceeds of the sale,~~  
4       ~~together with any moneys forfeited or seized, in accordance~~  
5       ~~with paragraph (6).~~

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

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

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

1 ~~use in the enforcement of laws. In counties over~~  
2 ~~3,000,000 population, 25% shall be distributed to the~~  
3 ~~Office of the State's Attorney for use in the~~  
4 ~~enforcement of laws. If the prosecution is undertaken~~  
5 ~~solely by the Attorney General, the portion provided~~  
6 ~~hereunder shall be distributed to the Attorney General~~  
7 ~~for use in the enforcement of laws.~~

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

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

21 ~~Moneys and the sale proceeds distributed to the~~  
22 ~~Department of State Police under this Article shall be~~  
23 ~~deposited in the Money Laundering Asset Recovery Fund~~  
24 ~~created in the State treasury and shall be used by the~~  
25 ~~Department of State Police for State law enforcement~~  
26 ~~purposes.~~

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

6           ~~(7.5) Preliminary Review.~~

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

11           ~~(B) The rules of evidence shall not apply to any~~  
12           ~~proceeding conducted under this Section.~~

13           ~~(C) The court may conduct the review under~~  
14           ~~subparagraph (A) of this paragraph (7.5)~~  
15           ~~simultaneously with a proceeding under Section 109-1~~  
16           ~~of the Code of Criminal Procedure of 1963 for a related~~  
17           ~~criminal offense if a prosecution is commenced by~~  
18           ~~information or complaint.~~

19           ~~(D) The court may accept a finding of probable~~  
20           ~~cause at a preliminary hearing following the filing of~~  
21           ~~an information or complaint charging a related~~  
22           ~~criminal offense or following the return of indictment~~  
23           ~~by a grand jury charging the related offense as~~  
24           ~~sufficient evidence of probable cause as required~~  
25           ~~under subparagraph (A) of this paragraph (7.5).~~

26           ~~(E) Upon a finding of probable cause as required~~

1           ~~under this Section, the circuit court shall order the~~  
2           ~~property subject to the applicable forfeiture Act held~~  
3           ~~until the conclusion of any forfeiture proceeding.~~

4           ~~(i) Notice to owner or interest holder.~~

5           ~~(1) The first attempted service shall be commenced~~  
6           ~~within 28 days of the latter of filing of the verified~~  
7           ~~claim or the receipt of the notice from seizing agency by~~  
8           ~~form 4 64. A complaint for forfeiture or a notice of~~  
9           ~~pending forfeiture shall be served on a claimant if the~~  
10           ~~owner's or interest holder's name and current address are~~  
11           ~~known, then by either: (i) personal service or; (ii)~~  
12           ~~mailing a copy of the notice by certified mail, return~~  
13           ~~receipt requested and first class mail, to that address. If~~  
14           ~~no signed return receipt is received by the State's~~  
15           ~~Attorney within 28 days of mailing or no communication from~~  
16           ~~the owner or interest holder is received by the State's~~  
17           ~~Attorney documenting actual notice by the parties, the~~  
18           ~~State's Attorney shall, within a reasonable period of time,~~  
19           ~~mail a second copy of the notice by certified mail, return~~  
20           ~~receipt requested and first class mail, to that address. If~~  
21           ~~no signed return receipt is received by the State's~~  
22           ~~Attorney within 28 days of the second mailing, or no~~  
23           ~~communication from the owner or interest holder is received~~  
24           ~~by the State's Attorney documenting actual notice by the~~  
25           ~~parties, the State's Attorney shall have 60 days to attempt~~  
26           ~~to personally serve the notice by personal service,~~

~~including substitute service by leaving a copy at the usual place of abode with some person of the family or a person residing there, of the age of 13 years or upwards. If after 3 attempts at service in this manner, and no service of the notice is accomplished, the notice shall be posted in a conspicuous manner at this address and service shall be made by the posting. The attempts at service and the posting if required, shall be documented by the person attempting service and the documentation shall be made part of a return of service returned to the State's Attorney. The State's Attorney may utilize any Sheriff or Deputy Sheriff, a peace officer, a private process server or investigator, or an employee, agent, or investigator of the State's Attorney's Office to attempt service without seeking leave of court. After the procedures listed are followed, service shall be effective on the owner or interest holder on the date of receipt by the State's Attorney of a returned return receipt requested, or on the date of receipt of a communication from an owner or interest holder documenting actual notice, whichever is first in time, or on the date of the last act performed by the State's Attorney in attempting personal service. For purposes of notice under this Section, if a person has been arrested for the conduct giving rise to the forfeiture, the address provided to the arresting agency at the time of arrest shall be deemed to be that person's known address.~~

1 ~~Provided, however, if an owner or interest holder's address~~  
2 ~~changes prior to the effective date of the notice of~~  
3 ~~pending forfeiture, the owner or interest holder shall~~  
4 ~~promptly notify the seizing agency of the change in address~~  
5 ~~or, if the owner or interest holder's address changes~~  
6 ~~subsequent to the effective date of the notice of pending~~  
7 ~~forfeiture, the owner or interest holder shall promptly~~  
8 ~~notify the State's Attorney of the change in address. If~~  
9 ~~the property seized is a conveyance, notice shall also be~~  
10 ~~directed to the address reflected in the office of the~~  
11 ~~agency or official in which title or interest to the~~  
12 ~~conveyance is required by law to be recorded.~~

13 ~~(A) (Blank);~~

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

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

26 ~~(A 15) Notice to a person whose address is not~~

1       ~~within the State shall be completed by a single mailing~~  
2       ~~of a copy of the notice by certified mail, return~~  
3       ~~receipt requested and first class mail to that address.~~  
4       ~~This notice is complete regardless of the return of a~~  
5       ~~signed "return receipt requested".~~

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

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

21      ~~After a claimant files a verified claim with the~~  
22      ~~State's Attorney and provides an address at which they~~  
23      ~~will accept service, the complaint shall be served and~~  
24      ~~notice shall be complete upon the mailing of the~~  
25      ~~complaint to the claimant at the address the claimant~~  
26      ~~provided via certified mail, return receipt requested~~

1           ~~and first class mail. No return receipt card need be~~  
2           ~~received, or any other attempts at service need be made~~  
3           ~~to comply with service and notice requirements under~~  
4           ~~this Section. This certified mailing, return receipt~~  
5           ~~requested shall be proof of service of the complaint on~~  
6           ~~the claimant. If notice is to be shown by actual notice~~  
7           ~~from communication with a claimant, then the State's~~  
8           ~~Attorney shall file an affidavit as proof of service~~  
9           ~~providing details of the communication which shall be~~  
10           ~~accepted as proof of service by the court.~~

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

17           ~~(C) (Blank).~~

18           ~~(2) Notice served under this Article is effective upon~~  
19           ~~personal service, the last date of publication, or the~~  
20           ~~mailing of written notice, whichever is earlier.~~

21           ~~(j) Notice to State's Attorney. The law enforcement agency~~  
22           ~~seizing property for forfeiture under this Article shall,~~  
23           ~~within 60 days after seizure, notify the State's Attorney for~~  
24           ~~the county, either where an act or omission giving rise to the~~  
25           ~~forfeiture occurred or where the property was seized, of the~~  
26           ~~seizure of the property and the facts and circumstances giving~~



1 ~~rise to the seizure and shall provide the State's Attorney with~~  
2 ~~the inventory of the property and its estimated value. When the~~  
3 ~~property seized for forfeiture is a vehicle, the law~~  
4 ~~enforcement agency seizing the property shall immediately~~  
5 ~~notify the Secretary of State that forfeiture proceedings are~~  
6 ~~pending regarding such vehicle. This notice shall be by the~~  
7 ~~form 4-64.~~

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

18 ~~(1) If, after review of the facts surrounding the~~  
19 ~~seizure, the State's Attorney is of the opinion that the~~  
20 ~~seized property is subject to forfeiture, then within 45~~  
21 ~~days after the receipt of notice of seizure from the~~  
22 ~~seizing agency, the State's Attorney shall cause notice of~~  
23 ~~pending forfeiture to be given to the owner of the property~~  
24 ~~and all known interest holders of the property in~~  
25 ~~accordance with subsection (i) of this Section.~~

26 ~~(2) The notice of pending forfeiture must include a~~

1 ~~description of the property, the estimated value of the~~  
2 ~~property, the date and place of seizure, the conduct giving~~  
3 ~~rise to forfeiture or the violation of law alleged, and a~~  
4 ~~summary of procedures and procedural rights applicable to~~  
5 ~~the forfeiture action.~~

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

14 ~~(i) the caption of the proceedings as set forth on~~  
15 ~~the notice of pending forfeiture and the name of the~~  
16 ~~claimant;~~

17 ~~(ii) the address at which the claimant will accept~~  
18 ~~mail;~~

19 ~~(iii) the nature and extent of the claimant's~~  
20 ~~interest in the property;~~

21 ~~(iv) the date, identity of the transferor, and~~  
22 ~~circumstances of the claimant's acquisition of the~~  
23 ~~interest in the property;~~

24 ~~(v) the name and address of all other persons known~~  
25 ~~to have an interest in the property;~~

26 ~~(vi) the specific provision of law relied on in~~

1 ~~asserting the property is not subject to forfeiture;~~

2 ~~(vii) all essential facts supporting each~~  
3 ~~assertion; and~~

4 ~~(viii) the relief sought.~~

5 ~~(B) If a claimant files the claim, then the State's~~  
6 ~~Attorney shall institute judicial in rem forfeiture~~  
7 ~~proceedings with the clerk of the court as described in~~  
8 ~~subsection (l) of this Section within 45 days after receipt~~  
9 ~~of the claim.~~

10 ~~(C) (Blank).~~

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

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

24 ~~(1) If, after a review of the facts surrounding the~~  
25 ~~seizure, the State's Attorney is of the opinion that the~~  
26 ~~seized property is subject to forfeiture, then within 28~~

~~days of the receipt of notice of seizure by the seizing agency or the filing of the claim, whichever is later, the State's Attorney shall institute judicial forfeiture proceedings by filing a verified complaint for forfeiture. When authorized by law, a forfeiture must be ordered by a court on an action in rem brought by a State's Attorney under a verified complaint for forfeiture.~~

~~(1.5) A complaint of forfeiture shall include:~~

~~(i) a description of the property seized;~~

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

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

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

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

~~"This is a civil court proceeding subject to the Code of Civil Procedure. You received this Complaint of Forfeiture because the State's Attorney's office has brought a legal action seeking forfeiture of your seized property. This complaint starts the court process where the State seeks to prove that your property should be forfeited~~

1 ~~and not returned to you. This process is also your~~  
2 ~~opportunity to try to prove to a judge that you should get~~  
3 ~~your property back. The complaint lists the date, time, and~~  
4 ~~location of your first court date. You must appear in court~~  
5 ~~on that day, or you may lose the case automatically. You~~  
6 ~~must also file an appearance and answer. If you are unable~~  
7 ~~to pay the appearance fee, you may qualify to have the fee~~  
8 ~~waived. If there is a criminal case related to the seizure~~  
9 ~~of your property, your case may be set for trial after the~~  
10 ~~criminal case has been resolved. Before trial, the judge~~  
11 ~~may allow discovery, where the State can ask you to respond~~  
12 ~~in writing to questions and give them certain documents,~~  
13 ~~and you can make similar requests of the State. The trial~~  
14 ~~is your opportunity to explain what happened when your~~  
15 ~~property was seized and why you should get the property~~  
16 ~~back."~~

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

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

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

12           ~~(A) the caption of the proceedings as set forth on~~  
13           ~~the notice of pending forfeiture and the name of the~~  
14           ~~claimant;~~

15           ~~(B) the address at which the claimant will accept~~  
16           ~~mail;~~

17           ~~(C) the nature and extent of the claimant's~~  
18           ~~interest in the property;~~

19           ~~(D) the date, identity of transferor, and~~  
20           ~~circumstances of the claimant's acquisition of the~~  
21           ~~interest in the property;~~

22           ~~(E) the name and address of all other persons known~~  
23           ~~to have an interest in the property;~~

24           ~~(F) all essential facts supporting each assertion;~~

25           ~~(G) the precise relief sought; and~~

26           ~~(H) the answer shall follow the rules under the~~

1           ~~Code of Civil Procedure.~~

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

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

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

22           ~~(i) that the claimant was legally accountable for~~  
23 ~~the conduct giving rise to the forfeiture;~~

24           ~~(ii) that the claimant knew or reasonably should~~  
25 ~~have known of the conduct giving rise to the~~  
26 ~~forfeiture;~~

1           ~~(iii) that the claimant knew or reasonable should~~  
2           ~~have known that the conduct giving rise to the~~  
3           ~~forfeiture was likely to occur;~~

4           ~~(iv) that the claimant held the property for the~~  
5           ~~benefit of, or as nominee for, any person whose conduct~~  
6           ~~gave rise to its forfeiture;~~

7           ~~(v) that if the claimant acquired their interest~~  
8           ~~through any person engaging in any of the conduct~~  
9           ~~described above or conduct giving rise to the~~  
10           ~~forfeiture;~~

11           ~~(1) the claimant did not acquire it as a bona~~  
12           ~~fide purchaser for value; or~~

13           ~~(2) the claimant acquired the interest under~~  
14           ~~the circumstances that they reasonably should have~~  
15           ~~known the property was derived from, or used in,~~  
16           ~~the conduct giving rise to the forfeiture; or~~

17           ~~(vii) that the claimant is not the true owner of~~  
18           ~~the property that is subject to forfeiture.~~

19           ~~(8) If the State does not meet its burden to show that~~  
20           ~~the property is subject to forfeiture, the court shall~~  
21           ~~order the interest in the property returned or conveyed to~~  
22           ~~the claimant and shall order all other property forfeited~~  
23           ~~to the State. If the State does meet its burden to show~~  
24           ~~that the property is subject to forfeiture, the court shall~~  
25           ~~order all property forfeited to the State.~~

26           ~~(9) A defendant convicted in any criminal proceeding is~~



1 ~~precluded from later denying the essential allegations of~~  
2 ~~the criminal offense of which the defendant was convicted~~  
3 ~~in any proceeding under this Article regardless of the~~  
4 ~~pendency of an appeal from that conviction. However,~~  
5 ~~evidence of the pendency of an appeal is admissible.~~

6 ~~(10) On a motion by the the parties, the court may stay~~  
7 ~~civil forfeiture proceedings during the criminal trial for~~  
8 ~~a related criminal indictment or information alleging a~~  
9 ~~money laundering violation. Such a stay shall not be~~  
10 ~~available pending an appeal. Property subject to~~  
11 ~~forfeiture under this Article shall not be subject to~~  
12 ~~return or release by a court exercising jurisdiction over a~~  
13 ~~criminal case involving the seizure of such property unless~~  
14 ~~such return or release is consented to by the State's~~  
15 ~~Attorney.~~

16 ~~Notwithstanding any other provision of this Section,~~  
17 ~~the State's burden of proof at the trial of the forfeiture~~  
18 ~~action shall be by clear and convincing evidence if: (1) a~~  
19 ~~finding of not guilty is entered as to all counts and all~~  
20 ~~defendants in a criminal proceeding relating to the conduct~~  
21 ~~giving rise to the forfeiture action; or (2) the State~~  
22 ~~receives an adverse finding at a preliminary hearing and~~  
23 ~~fails to secure an indictment in a criminal proceeding~~  
24 ~~relating to the factual allegations of the forfeiture~~  
25 ~~action.~~

26 ~~(11) All property declared forfeited under this~~

1 ~~Article vests in this State on the commission of the~~  
2 ~~conduct giving rise to forfeiture together with the~~  
3 ~~proceeds of the property after that time. Except as~~  
4 ~~otherwise provided in this Article, title to any such~~  
5 ~~property or proceeds subsequently transferred to any~~  
6 ~~person remain subject to forfeiture and thereafter shall be~~  
7 ~~ordered forfeited unless the person to whom the property~~  
8 ~~was transferred makes an appropriate claim and has his or~~  
9 ~~her claim adjudicated at the judicial in rem hearing.~~

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

18 ~~(m) Stay of time periods. If property is seized for~~  
19 ~~evidence and for forfeiture, the time periods for instituting~~  
20 ~~judicial and non-judicial forfeiture proceedings shall not~~  
21 ~~begin until the property is no longer necessary for evidence.~~

22 ~~(n) Settlement of claims. Notwithstanding other provisions~~  
23 ~~of this Article, the State's Attorney and a claimant of seized~~  
24 ~~property may enter into an agreed upon settlement concerning~~  
25 ~~the seized property in such an amount and upon such terms as~~  
26 ~~are set out in writing in a settlement agreement. All proceeds~~

1 ~~from a settlement agreement shall be tendered to the Department~~  
2 ~~of State Police and distributed under paragraph (6) of~~  
3 ~~subsection (h) of this Section.~~

4 ~~(o) Property constituting attorney fees. Nothing in this~~  
5 ~~Article applies to property which constitutes reasonable bona~~  
6 ~~fade attorney's fees paid to an attorney for services rendered~~  
7 ~~or to be rendered in the forfeiture proceeding or criminal~~  
8 ~~proceeding relating directly thereto where such property was~~  
9 ~~paid before its seizure, before the issuance of any seizure~~  
10 ~~warrant or court order prohibiting transfer of the property and~~  
11 ~~where the attorney, at the time he or she received the property~~  
12 ~~did not know that it was property subject to forfeiture under~~  
13 ~~this Article.~~

14 ~~(p) Construction. It is the intent of the General Assembly~~  
15 ~~that the forfeiture provisions of this Article be liberally~~  
16 ~~construed so as to effect their remedial purpose. The~~  
17 ~~forfeiture of property and other remedies hereunder shall be~~  
18 ~~considered to be in addition to, and not exclusive of, any~~  
19 ~~sentence or other remedy provided by law.~~

20 ~~(q) Judicial review. If property has been declared~~  
21 ~~forfeited under subsection (k) of this Section, any person who~~  
22 ~~has an interest in the property declared forfeited may, within~~  
23 ~~30 days after the effective date of the notice of the~~  
24 ~~declaration of forfeiture, file a claim as described in~~  
25 ~~paragraph (3) of subsection (k) of this Section. If a claim is~~  
26 ~~filed under this Section, then the procedures described in~~

1 ~~subsection (l) of this Section apply.~~

2 ~~(r) (Blank).~~

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

24 ~~(t) Actual physical seizure of real property subject to~~  
25 ~~forfeiture under this Act requires the issuance of a seizure~~  
26 ~~warrant. Nothing in this Section prohibits the constructive~~

1 ~~seizure of real property through the filing of a complaint for~~  
2 ~~forfeiture in circuit court and the recording of a lis pendens~~  
3 ~~against the real property which is subject to forfeiture~~  
4 ~~without any hearing, warrant application, or judicial~~  
5 ~~approval.~~

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

12 ~~(v) If property is ordered forfeited under this Section~~  
13 ~~from a claimant who held title to the property in joint tenancy~~  
14 ~~or tenancy in common with another claimant, the court shall~~  
15 ~~determine the amount of each owner's interest in the property~~  
16 ~~according to principles of property law.~~

17 ~~(w) A claimant or a party interested in personal property~~  
18 ~~contained within a seized conveyance may file a request with~~  
19 ~~the State's Attorney in a non judicial forfeiture action, or a~~  
20 ~~motion with the court in a judicial forfeiture action for the~~  
21 ~~return of any personal property contained within a conveyance~~  
22 ~~which is seized under this Article. The return of personal~~  
23 ~~property shall not be unreasonably withheld if the personal~~  
24 ~~property is not mechanically or electrically coupled to the~~  
25 ~~conveyance, needed for evidentiary purposes, or otherwise~~  
26 ~~contraband. Any law enforcement agency that returns property~~

1 ~~under a court order under this Section shall not be liable to~~  
2 ~~any person who claims ownership to the property if it is~~  
3 ~~returned to an improper party.~~

4 ~~(x) Innocent owner hearing.~~

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

11 ~~(i) that the claimant filing the motion is the true~~  
12 ~~owner of the conveyance as interpreted by case law;~~

13 ~~(ii) that the claimant was not legally accountable~~  
14 ~~for the conduct giving rise to the forfeiture or~~  
15 ~~acquiesced in the conduct;~~

16 ~~(iii) that the claimant did not solicit, conspire,~~  
17 ~~or attempt to commit the conduct giving rise to the~~  
18 ~~forfeiture;~~

19 ~~(iv) that the claimant did not know or did not have~~  
20 ~~reason to know that the conduct giving rise to the~~  
21 ~~forfeiture was likely to occur; and~~

22 ~~(v) that the claimant did not hold the property for~~  
23 ~~the benefit of, or as nominee for any person whose~~  
24 ~~conduct gave rise to its forfeiture or if the owner or~~  
25 ~~interest holder acquired the interest through any~~  
26 ~~person, the owner or interest holder did not acquire it~~

1           ~~as a bona fide purchaser for value or acquired the~~  
2           ~~interest without knowledge of the seizure of the~~  
3           ~~property for forfeiture.~~

4           ~~(2) The claimant shall include specific facts which~~  
5           ~~support these assertions in their motion.~~

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

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

21           ~~(ii) At the hearing on the motion, it shall be the~~  
22           ~~burden of the claimant to prove each of the assertions~~  
23           ~~listed in paragraph (1) of this subsection (x) by a~~  
24           ~~preponderance of the evidence.~~

25           ~~(iii) If a claimant meets his burden of proof, the~~  
26           ~~court shall grant the motion and order the property~~

1           ~~returned to the claimant. If the claimant fails to meet~~  
2           ~~his or her burden of proof then the court shall deny~~  
3           ~~the motion.~~

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

13           ~~(z) Forfeiture proceedings under this Section shall be~~  
14           ~~subject to the Code of Civil Procedure and the rules of~~  
15           ~~evidence relating to civil actions.~~

16           ~~(aa) Return of property, damages, and costs.~~

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

24           ~~(2) The law enforcement agency that holds custody of~~  
25           ~~property is responsible for any damages, storage fees, and~~  
26           ~~related costs applicable to property returned. The~~



1 ~~claimant shall not be subject to any charges by the State~~  
2 ~~for storage of the property or expenses incurred in the~~  
3 ~~preservation of the property. Charges for the towing of a~~  
4 ~~conveyance shall be borne by the claimant unless the~~  
5 ~~conveyance was towed for the sole reason of seizure for~~  
6 ~~forfeiture. This Section does not prohibit the imposition~~  
7 ~~of any fees or costs by a home rule unit of local~~  
8 ~~government related to the impoundment of a conveyance under~~  
9 ~~an ordinance enacted by the unit of government.~~

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

22 ~~(bb) The changes made to this Section by this amendatory~~  
23 ~~Act of the 100th General Assembly are subject to Sections 2 and~~  
24 ~~4 of the Statute on Statutes.~~

25 (Source: P.A. 99-480, eff. 9-9-15; 100-512, eff. 7-1-18.)

1 (720 ILCS 5/29B-2 new)

2 Sec. 29B-2. Evidence in money laundering prosecutions.

3 In a prosecution under this Article, either party may  
4 introduce the following evidence pertaining to the issue of  
5 whether the property or proceeds were known to be some form of  
6 criminally derived property or from some form of unlawful  
7 activity:

8 (1) a financial transaction was conducted or  
9 structured or attempted in violation of the reporting  
10 requirements of any State or federal law;

11 (2) a financial transaction was conducted or attempted  
12 with the use of a false or fictitious name or a forged  
13 instrument;

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

19 (4) a financial transaction was structured or  
20 attempted to be structured so as to falsely report the  
21 actual consideration or value of the transaction;

22 (5) a money transmitter, a person engaged in a trade or  
23 business, or any employee of a money transmitter or a  
24 person engaged in a trade or business, knows or reasonably  
25 should know that false personal identifying information  
26 has been presented and incorporates the false personal

1 identifying information into any report or record;

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

8 (7) a person pays or receives substantially less than  
9 face value for one or more monetary instruments; or

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

15 (720 ILCS 5/29B-3 new)

16 Sec. 29B-3. Duty to enforce this Article.

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

1 State.

2 (b) An agent, officer, investigator, or peace officer  
3 designated by the Director may: (1) make seizure of property  
4 under this Article; and (2) perform other law enforcement  
5 duties as the Director designates. It is the duty of all  
6 State's Attorneys to prosecute violations of this Article and  
7 institute legal proceedings as authorized under this Article.

8 (720 ILCS 5/29B-4 new)

9 Sec. 29B-4. Protective orders and warrants for forfeiture  
10 purposes.

11 (a) Upon application of the State, the court may enter a  
12 restraining order or injunction, require the execution of a  
13 satisfactory performance bond, or take any other action to  
14 preserve the availability of property described in Section  
15 29B-5 of this Article for forfeiture under this Article:

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

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

25 (A) there is probable cause to believe that the

1       State will prevail on the issue of forfeiture and that  
2       failure to enter the order will result in the property  
3       being destroyed, removed from the jurisdiction of the  
4       court, or otherwise made unavailable for forfeiture;  
5       and

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

10       Provided, however, that an order entered under  
11       paragraph (2) of this Section shall be effective for not  
12       more than 90 days, unless extended by the court for good  
13       cause shown or unless an indictment, information,  
14       complaint, or administrative notice has been filed.

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

1 extension for a longer period. A hearing requested concerning  
2 an order entered under this subsection (b) shall be held at the  
3 earliest possible time and prior to the expiration of the  
4 temporary order.

5 (c) The court may receive and consider, at a hearing held  
6 under this Section, evidence and information that would be  
7 inadmissible under the Illinois rules of evidence.

8 (d) Under its authority to enter a pretrial restraining  
9 order under this Section, the court may order a defendant to  
10 repatriate any property that may be seized and forfeited and to  
11 deposit that property pending trial with the Department of  
12 State Police or another law enforcement agency designated by  
13 the Department of State Police. Failure to comply with an order  
14 under this Section is punishable as a civil or criminal  
15 contempt of court.

16 (e) The State may request the issuance of a warrant  
17 authorizing the seizure of property described in Section 29B-5  
18 of this Article in the same manner as provided for a search  
19 warrant. If the court determines that there is probable cause  
20 to believe that the property to be seized would be subject to  
21 forfeiture, the court shall issue a warrant authorizing the  
22 seizure of that property.

23 (720 ILCS 5/29B-5 new)

24 Sec. 29B-5. Property subject to forfeiture. The following  
25 are subject to forfeiture:

1       (1) any property, real or personal, constituting, derived  
2 from, or traceable to any proceeds the person obtained directly  
3 or indirectly, as a result of a violation of this Article;

4       (2) any of the person's property used, or intended to be  
5 used, in any manner or part, to commit, or to facilitate the  
6 commission of, a violation of this Article;

7       (3) all conveyances, including aircraft, vehicles, or  
8 vessels, which are used, or intended for use, to transport, or  
9 in any manner to facilitate the transportation, sale, receipt,  
10 possession, or concealment of property described in paragraphs  
11 (1) and (2) of this Section, but:

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

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

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

26       (4) all real property, including any right, title, and

1 interest, including, but not limited to, any leasehold interest  
2 or the beneficial interest in a land trust, in the whole of any  
3 lot or tract of land and any appurtenances or improvements,  
4 which is used or intended to be used, in any manner or part, to  
5 commit, or in any manner to facilitate the commission of, any  
6 violation of this Article or that is the proceeds of any  
7 violation or act that constitutes a violation of this Article.

8 (720 ILCS 5/29B-6 new)

9 Sec. 29B-6. Seizure.

10 (a) Property subject to forfeiture under this Article may  
11 be seized by the Director or any peace officer upon process or  
12 seizure warrant issued by any court having jurisdiction over  
13 the property. Seizure by the Director or any peace officer  
14 without process may be made:

15 (1) if the seizure is incident to a seizure warrant;

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

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 Article and  
25 the property is seized under circumstances in which a



1 warrantless seizure or arrest would be reasonable; or

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

4 (b) In the event of seizure under subsection (a) of this  
5 Section, forfeiture proceedings shall be instituted in  
6 accordance with this Article.

7 (c) Actual physical seizure of real property subject to  
8 forfeiture requires the issuance of a seizure warrant. Nothing  
9 in this Article prohibits the constructive seizure of real  
10 property through the filing of a complaint for forfeiture in  
11 circuit court and the recording of a lis pendens against the  
12 real property that is subject to forfeiture without any  
13 hearing, warrant application, or judicial approval.

14 (720 ILCS 5/29B-7 new)

15 Sec. 29B-7. Safekeeping of seized property pending  
16 disposition.

17 (a) If property is seized under this Article, the seizing  
18 agency shall promptly conduct an inventory of the seized  
19 property and estimate the property's value and shall forward a  
20 copy of the inventory of seized property and the estimate of  
21 the property's value to the Director. Upon receiving notice of  
22 seizure, the Director may:

23 (1) place the property under seal;

24 (2) remove the property to a place designated by the  
25 Director;

1           (3) keep the property in the possession of the seizing  
2           agency;

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

7           (5) place the property under constructive seizure by  
8           posting notice of pending forfeiture on it, by giving  
9           notice of pending forfeiture to its owners and interest  
10           holders, or by filing notice of pending forfeiture in any  
11           appropriate public record relating to the property; or

12           (6) provide for another agency or custodian, including  
13           an owner, secured party, or lienholder, to take custody of  
14           the property upon the terms and conditions set by the  
15           Director.

16           (b) When property is forfeited under this Article, the  
17           Director shall sell all the property unless the property is  
18           required by law to be destroyed or is harmful to the public,  
19           and shall distribute the proceeds of the sale, together with  
20           any moneys forfeited or seized, under Section 29B-26 of this  
21           Article.

22           (720 ILCS 5/29B-8 new)

23           Sec. 29B-8. Notice to State's Attorney. The law enforcement  
24           agency seizing property for forfeiture under this Article  
25           shall, within 60 days after seizure, notify the State's

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

11 (720 ILCS 5/29B-9 new)

12 Sec. 29B-9. Preliminary review.

13 (a) Within 28 days of the seizure, the State shall seek a  
14 preliminary determination from the circuit court as to whether  
15 there is probable cause that the property may be subject to  
16 forfeiture.

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

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

24 (d) The court may accept a finding of probable cause at a  
25 preliminary hearing following the filing of an information or

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

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

9 (720 ILCS 5/29B-10 new)

10 Sec. 29B-10. Notice to owner or interest holder.

11 (a) The first attempted service of notice shall be  
12 commenced within 28 days of the latter of filing of the  
13 verified claim or the receipt of the notice from the seizing  
14 agency by Form 4-64. A complaint for forfeiture or a notice of  
15 pending forfeiture shall be served on a claimant if the owner's  
16 or interest holder's name and current address are known, then  
17 by either: (1) personal service; or (2) mailing a copy of the  
18 notice by certified mail, return receipt requested, and first  
19 class mail to that address.

20 (b) If no signed return receipt is received by the State's  
21 Attorney within 28 days of mailing or no communication from the  
22 owner or interest holder is received by the State's Attorney  
23 documenting actual notice by the parties, the State's Attorney  
24 shall, within a reasonable period of time, mail a second copy  
25 of the notice by certified mail, return receipt requested, and

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

20 (c) After the procedures listed are followed, service shall  
21 be effective on the owner or interest holder on the date of  
22 receipt by the State's Attorney of a return receipt, or on the  
23 date of receipt of a communication from an owner or interest  
24 holder documenting actual notice, whichever is first in time,  
25 or on the date of the last act performed by the State's  
26 Attorney in attempting personal service. For purposes of notice

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

16 (d) If the owner's or interest holder's address is not  
17 known, and is not on record as provided in this Section,  
18 service by publication for 3 successive weeks in a newspaper of  
19 general circulation in the county in which the seizure occurred  
20 shall suffice for service requirements.

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

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

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

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

19       (i) After a claimant files a verified claim with the  
20 State's Attorney and provides an address at which the claimant  
21 will accept service, the complaint shall be served and notice  
22 shall be complete upon the mailing of the complaint to the  
23 claimant at the address the claimant provided via certified  
24 mail, return receipt requested, and first class mail. No return  
25 receipt need be received, or any other attempts at service need  
26 be made to comply with service and notice requirements under

1 this Section. This certified mailing, return receipt  
2 requested, shall be proof of service of the complaint on the  
3 claimant. If notice is to be shown by actual notice from  
4 communication with a claimant, then the State's Attorney shall  
5 file an affidavit as proof of service, providing details of the  
6 communication, which shall be accepted as proof of service by  
7 the court.

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

13 (k) Notice served under this Article is effective upon  
14 personal service, the last date of publication, or the mailing  
15 of written notice, whichever is earlier.

16 (720 ILCS 5/29B-11 new)

17 Sec. 29B-11. Replevin prohibited. Property taken or  
18 detained under this Article shall not be subject to replevin,  
19 but is deemed to be in the custody of the Director subject only  
20 to the order and judgments of the circuit court having  
21 jurisdiction over the forfeiture proceedings and the decisions  
22 of the State's Attorney under this Article.

23 (720 ILCS 5/29B-12 new)

24 Sec. 29B-12. Non-judicial forfeiture. If non-real



1 property that exceeds \$20,000 in value excluding the value of  
2 any conveyance, or if real property is seized under the  
3 provisions of this Article, the State's Attorney shall  
4 institute judicial in rem forfeiture proceedings as described  
5 in Section 29B-13 of this Article within 28 days from receipt  
6 of notice of seizure from the seizing agency under Section  
7 29B-8 of this Article. However, if non-real property that does  
8 not exceed \$20,000 in value excluding the value of any  
9 conveyance is seized, the following procedure shall be used:

10 (1) If, after review of the facts surrounding the seizure,  
11 the State's Attorney is of the opinion that the seized property  
12 is subject to forfeiture, then within 28 days after the receipt  
13 of notice of seizure from the seizing agency, the State's  
14 Attorney shall cause notice of pending forfeiture to be given  
15 to the owner of the property and all known interest holders of  
16 the property in accordance with Section 29B-10 of this Article.

17 (2) The notice of pending forfeiture shall include a  
18 description of the property, the estimated value of the  
19 property, the date and place of seizure, the conduct giving  
20 rise to forfeiture or the violation of law alleged, and a  
21 summary of procedures and procedural rights applicable to the  
22 forfeiture action.

23 (3) (A) Any person claiming an interest in property that is  
24 the subject of notice under paragraph (1) of this Section,  
25 must, in order to preserve any rights or claims to the  
26 property, within 45 days after the effective date of notice as

1 described in Section 29B-10 of this Article, file a verified  
2 claim with the State's Attorney expressing his or her interest  
3 in the property. The claim shall set forth:

4 (i) the caption of the proceedings as set forth on the  
5 notice of pending forfeiture and the name of the claimant;

6 (ii) the address at which the claimant will accept  
7 mail;

8 (iii) the nature and extent of the claimant's interest  
9 in the property;

10 (iv) the date, identity of the transferor, and  
11 circumstances of the claimant's acquisition of the  
12 interest in the property;

13 (v) the names and addresses of all other persons known  
14 to have an interest in the property;

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

17 (vii) all essential facts supporting each assertion;  
18 and

19 (viii) the relief sought.

20 (B) If a claimant files the claim, then the State's  
21 Attorney shall institute judicial in rem forfeiture  
22 proceedings with the clerk of the court as described in Section  
23 29B-13 of this Article within 28 days after receipt of the  
24 claim.

25 (4) If no claim is filed within the 28-day period as  
26 described in paragraph (3) of this Section, the State's

1 Attorney shall declare the property forfeited and shall  
2 promptly notify the owner and all known interest holders of the  
3 property and the Director of State Police of the declaration of  
4 forfeiture and the Director shall dispose of the property in  
5 accordance with law.

6 (720 ILCS 5/29B-13 new)

7 Sec. 29B-13. Judicial in rem procedures. If property seized  
8 under this Article is non-real property that exceeds \$20,000 in  
9 value excluding the value of any conveyance, or is real  
10 property, or a claimant has filed a claim under paragraph (3)  
11 of Section 29B-12 of this Article, the following judicial in  
12 rem procedures shall apply:

13 (1) If, after a review of the facts surrounding the  
14 seizure, the State's Attorney is of the opinion that the seized  
15 property is subject to forfeiture, then within 28 days of the  
16 receipt of notice of seizure by the seizing agency or the  
17 filing of the claim, whichever is later, the State's Attorney  
18 shall institute judicial forfeiture proceedings by filing a  
19 verified complaint for forfeiture. If authorized by law, a  
20 forfeiture shall be ordered by a court on an action in rem  
21 brought by a State's Attorney under a verified complaint for  
22 forfeiture.

23 (2) A complaint of forfeiture shall include:

24 (A) a description of the property seized;

25 (B) the date and place of seizure of the property;

1           (C) the name and address of the law enforcement agency  
2           making the seizure; and

3           (D) the specific statutory and factual grounds for the  
4           seizure.

5           (3) The complaint shall be served upon the person from whom  
6           the property was seized and all persons known or reasonably  
7           believed by the State to claim an interest in the property, as  
8           provided in Section 29B-10 of this Article. The complaint shall  
9           be accompanied by the following written notice:

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

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

4 (4) Forfeiture proceedings under this Article shall be  
5 subject to the Code of Civil Procedure and the rules of  
6 evidence relating to civil actions shall apply to proceedings  
7 under this Article with the following exception. The parties  
8 shall be allowed to use, and the court shall receive and  
9 consider, all relevant hearsay evidence that relates to  
10 evidentiary foundation, chain of custody, business records,  
11 recordings, laboratory analysis, laboratory reports, and  
12 relevant hearsay related to the use of technology in the  
13 investigation that resulted in the seizure of property that is  
14 subject to the forfeiture action.

15 (5) Only an owner of or interest holder in the property may  
16 file an answer asserting a claim against the property in the  
17 action in rem. For purposes of this Section, the owner or  
18 interest holder shall be referred to as claimant. Upon motion  
19 of the State, the court shall first hold a hearing, in which a  
20 claimant shall establish by a preponderance of the evidence,  
21 that he or she has a lawful, legitimate ownership interest in  
22 the property and that it was obtained through a lawful source.

23 (6) The answer must be signed by the owner or interest  
24 holder under penalty of perjury and shall set forth:

25 (A) the caption of the proceedings as set forth on the  
26 notice of pending forfeiture and the name of the claimant;

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

2           (C) the nature and extent of the claimant's interest in  
3 the property;

4           (D) the date, identity of transferor, and  
5 circumstances of the claimant's acquisition of the  
6 interest in the property;

7           (E) the names and addresses of all other persons known  
8 to have an interest in the property;

9           (F) all essential facts supporting each assertion;

10          (G) the precise relief sought;

11          (H) in a forfeiture action involving currency or its  
12 equivalent, a claimant shall provide the State with notice  
13 of his or her intent to allege that the currency or its  
14 equivalent is not related to the alleged factual basis for  
15 the forfeiture, and why; and

16          (I) the answer shall follow the rules under the Code of  
17 Civil Procedure.

18          (7) The answer shall be filed with the court within 45 days  
19 after service of the civil in rem complaint.

20          (8) The hearing shall be held within 60 days after filing  
21 of the answer unless continued for good cause.

22          (9) At the judicial in rem proceeding, in the State's case  
23 in chief, the State shall show by a preponderance of the  
24 evidence that the property is subject to forfeiture. If the  
25 State makes such a showing, the claimant shall have the burden  
26 of production to set forth evidence that the property is not

1 related to the alleged factual basis of the forfeiture. After  
2 this production of evidence, the State shall maintain the  
3 burden of proof to overcome this assertion. A claimant shall  
4 provide the State notice of its intent to allege that the  
5 currency or its equivalent is not related to the alleged  
6 factual basis of the forfeiture and why. As to conveyances, at  
7 the judicial in rem proceeding, in its case in chief, the State  
8 shall show by a preponderance of the evidence, that (A) the  
9 property is subject to forfeiture; and (B) at least one of the  
10 following:

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

13 (ii) that the claimant knew or reasonably should have  
14 known of the conduct giving rise to the forfeiture;

15 (iii) that the claimant knew or reasonably should have  
16 known that the conduct giving rise to the forfeiture was  
17 likely to occur;

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

21 (v) that if the claimant acquired the interest through  
22 any person engaging in any of the conduct described above  
23 or conduct giving rise to the forfeiture:

24 (a) the claimant did not acquire it as a bona fide  
25 purchaser for value; or

26 (b) the claimant acquired the interest under the

1           circumstances that the claimant reasonably should have  
2           known the property was derived from, or used in, the  
3           conduct giving rise to the forfeiture; or  
4           (vi) that the claimant is not the true owner of the  
5           property that is subject to forfeiture.

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

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

19          (12) On a motion by the parties, the court may stay civil  
20          forfeiture proceedings during the criminal trial for a related  
21          criminal indictment or information alleging a money laundering  
22          violation. Such a stay shall not be available pending an  
23          appeal. Property subject to forfeiture under this Article shall  
24          not be subject to return or release by a court exercising  
25          jurisdiction over a criminal case involving the seizure of the  
26          property unless the return or release is consented to by the



1 State's Attorney.

2 (720 ILCS 5/29B-14 new)

3 Sec. 29B-14. Innocent owner hearing.

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

10 (1) that the claimant filing the motion is the true  
11 owner of the conveyance as interpreted by case law;

12 (2) that the claimant was not legally accountable for  
13 the conduct giving rise to the forfeiture or acquiesced in  
14 the conduct;

15 (3) that the claimant did not solicit, conspire, or  
16 attempt to commit the conduct giving rise to the  
17 forfeiture;

18 (4) that the claimant did not know or did not have  
19 reason to know that the conduct giving rise to the  
20 forfeiture was likely to occur; and

21 (5) that the claimant did not hold the property for the  
22 benefit of, or as nominee for any person whose conduct gave  
23 rise to its forfeiture or if the owner or interest holder  
24 acquired the interest through any person, the owner or  
25 interest holder did not acquire it as a bona fide purchaser

1       for value or acquired the interest without knowledge of the  
2       seizure of the property for forfeiture.

3       (b) The claimant's motion shall include specific facts  
4       supporting these assertions.

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

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

19       (2) At the hearing on the motion, it shall be the  
20       burden of the claimant to prove each of the assertions  
21       listed in subsection (a) of this Section by a preponderance  
22       of the evidence.

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

1 motion and the forfeiture case shall proceed according to  
2 the Code of Civil Procedure.

3 (720 ILCS 5/29B-15 new)

4 Sec. 29B-15. Burden and commencement of forfeiture action.

5 (a) Notwithstanding any other provision of this Article,  
6 the State's burden of proof at the trial of the forfeiture  
7 action shall be by clear and convincing evidence if:

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

11 (2) the State receives an adverse finding at a  
12 preliminary hearing and fails to secure an indictment in a  
13 criminal proceeding relating to the factual allegations of  
14 the forfeiture action.

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

24 (c) A civil action under this Article shall be commenced  
25 within 5 years after the last conduct giving rise to forfeiture

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

6 (720 ILCS 5/29B-16 new)

7 Sec. 29B-16. Joint tenancy or tenancy in common. If  
8 property is ordered forfeited under this Section from a  
9 claimant who held title to the property in joint tenancy or  
10 tenancy in common with another claimant, the court shall  
11 determine the amount of each owner's interest in the property  
12 according to principles of property law.

13 (720 ILCS 5/29B-17 new)

14 Sec. 29B-17. Exception for bona fide purchasers. No  
15 property shall be forfeited under this Article from a person  
16 who, without actual or constructive notice that the property  
17 was the subject of forfeiture proceedings, obtained possession  
18 of the property as a bona fide purchaser for value. A person  
19 who purports to affect transfer of property after receiving  
20 actual or constructive notice that the property is subject to  
21 seizure or forfeiture is guilty of contempt of court, and shall  
22 be liable to the State for a penalty in the amount of the fair  
23 market value of the property.

1 (720 ILCS 5/29B-18 new)

2 Sec. 29B-18. Proportionality. Property that is forfeited  
3 shall be subject to an 8th Amendment to the United States  
4 Constitution disproportionate penalties analysis and the  
5 property forfeiture may be denied in whole or in part if the  
6 court finds that the forfeiture would constitute an excessive  
7 fine in violation of the 8th Amendment as interpreted by case  
8 law.

9 (720 ILCS 5/29B-19 new)

10 Sec. 29B-19. Stay of time periods. If property is seized  
11 for evidence and for forfeiture, the time periods for  
12 instituting judicial and non-judicial forfeiture proceedings  
13 shall not begin until the property is no longer necessary for  
14 evidence.

15 (720 ILCS 5/29B-20 new)

16 Sec. 29B-20. Settlement of claims. Notwithstanding other  
17 provisions of this Article, the State's Attorney and a claimant  
18 of seized property may enter into an agreed-upon settlement  
19 concerning the seized property in such an amount and upon such  
20 terms as are set out in writing in a settlement agreement. All  
21 proceeds from a settlement agreement shall be tendered to the  
22 Department of State Police and distributed under Section 29B-26  
23 of this Article.

1 (720 ILCS 5/29B-21 new)

2 Sec. 29B-21. Attorney's fees. Nothing in this Article  
3 applies to property that constitutes reasonable bona fide  
4 attorney's fees paid to an attorney for services rendered or to  
5 be rendered in the forfeiture proceeding or criminal proceeding  
6 relating directly thereto if the property was paid before its  
7 seizure, before the issuance of any seizure warrant or court  
8 order prohibiting transfer of the property and if the attorney,  
9 at the time he or she received the property did not know that  
10 it was property subject to forfeiture under this Article.

11 (720 ILCS 5/29B-22 new)

12 Sec. 29B-22. Construction.

13 (a) It is the intent of the General Assembly that the  
14 forfeiture provisions of this Article be liberally construed so  
15 as to effect their remedial purpose. The forfeiture of property  
16 and other remedies under this Article shall be considered to be  
17 in addition to, and not exclusive of, any sentence or other  
18 remedy provided by law.

19 (b) The changes made to this Article by Public Act 100-0512  
20 and this amendatory Act of the 100th General Assembly are  
21 subject to Section 2 of the Statute on Statutes.

22 (720 ILCS 5/29B-23 new)

23 Sec. 29B-23. Judicial review. If property has been declared  
24 forfeited under Section 29B-12 of this Article, any person who

1 has an interest in the property declared forfeited may, within  
2 30 days after the effective date of the notice of the  
3 declaration of forfeiture, file a claim as described in  
4 paragraph (3) of Section 29B-12 of this Article. If a claim is  
5 filed under this Section, then the procedures described in  
6 Section of 29B-13 of this Article apply.

7 (720 ILCS 5/29B-24 new)

8 Sec. 29B-24. Review of administrative decisions. All  
9 administrative findings, rulings, final determinations,  
10 findings, and conclusions of the State's Attorney's Office  
11 under this Article are final and conclusive decisions of the  
12 matters involved. Any person aggrieved by the decision may  
13 obtain review of the decision under the provisions of the  
14 Administrative Review Law and the rules adopted under that Law.  
15 Pending final decision on such review, the administrative acts,  
16 orders, and rulings of the State's Attorney's Office remain in  
17 full force and effect unless modified or suspended by order of  
18 court pending final judicial decision. Pending final decision  
19 on such review, the acts, orders, and rulings of the State's  
20 Attorney's Office remain in full force and effect, unless  
21 stayed by order of court. However, no stay of any decision of  
22 the administrative agency shall issue unless the person  
23 aggrieved by the decision establishes by a preponderance of the  
24 evidence that good cause exists for the stay. In determining  
25 good cause, the court shall find that the aggrieved party has

1 established a substantial likelihood of prevailing on the  
2 merits and that granting the stay will not have an injurious  
3 effect on the general public.

4 (720 ILCS 5/29B-25 new)

5 Sec. 29B-25. Return of property, damages, and costs.

6 (a) The law enforcement agency that holds custody of  
7 property seized for forfeiture shall deliver property ordered  
8 by the court to be returned or conveyed to the claimant within  
9 a reasonable time not to exceed 7 days, unless the order is  
10 stayed by the trial court or a reviewing court pending an  
11 appeal, motion to reconsider, or other reason.

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

24 (c) A law enforcement agency shall not retain forfeited  
25 property for its own use or transfer the property to any person



1 or entity, except as provided under this Section. A law  
2 enforcement agency may apply in writing to the Director of  
3 State Police to request that forfeited property be awarded to  
4 the agency for a specifically articulated official law  
5 enforcement use in an investigation. The Director shall provide  
6 a written justification in each instance detailing the reasons  
7 why the forfeited property was placed into official use and the  
8 justification shall be retained for a period of not less than 3  
9 years.

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

23 (720 ILCS 5/29B-26 new)

24 Sec. 29B-26. Distribution of proceeds.

25 All monies and the sale proceeds of all other property

1 forfeited and seized under this Article shall be distributed as  
2 follows:

3 (1) 65% shall be distributed to the metropolitan  
4 enforcement group, local, municipal, county, or State law  
5 enforcement agency or agencies that conducted or  
6 participated in the investigation resulting in the  
7 forfeiture. The distribution shall bear a reasonable  
8 relationship to the degree of direct participation of the  
9 law enforcement agency in the effort resulting in the  
10 forfeiture, taking into account the total value of the  
11 property forfeited and the total law enforcement effort  
12 with respect to the violation of the law upon which the  
13 forfeiture is based. Amounts distributed to the agency or  
14 agencies shall be used for the enforcement of laws.

15 (2) (i) 12.5% shall be distributed to the Office of the  
16 State's Attorney of the county in which the prosecution  
17 resulting in the forfeiture was instituted, deposited in a  
18 special fund in the county treasury and appropriated to the  
19 State's Attorney for use in the enforcement of laws. In  
20 counties over 3,000,000 population, 25% shall be  
21 distributed to the Office of the State's Attorney for use  
22 in the enforcement of laws. If the prosecution is  
23 undertaken solely by the Attorney General, the portion  
24 provided under this subparagraph (i) shall be distributed  
25 to the Attorney General for use in the enforcement of laws.

26 (ii) 12.5% shall be distributed to the Office of the

1 State's Attorneys Appellate Prosecutor and deposited in  
2 the Narcotics Profit Forfeiture Fund of that office to be  
3 used for additional expenses incurred in the  
4 investigation, prosecution, and appeal of cases arising  
5 under laws. The Office of the State's Attorneys Appellate  
6 Prosecutor shall not receive distribution from cases  
7 brought in counties with over 3,000,000 population.

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

11 Moneys and the sale proceeds distributed to the Department  
12 of State Police under this Article shall be deposited in the  
13 Money Laundering Asset Recovery Fund created in the State  
14 treasury and shall be used by the Department of State Police  
15 for State law enforcement purposes. All moneys and sale  
16 proceeds of property forfeited and seized under this Article  
17 and distributed according to this Section may also be used to  
18 purchase opioid antagonists as defined in Section 5-23 of the  
19 Alcoholism and Other Drug Abuse and Dependency Act.

20 (720 ILCS 5/29B-27 new)

21 Sec. 29B-27. Applicability; savings clause.

22 (a) The changes made to this Article by Public Act 100-0512  
23 and this amendatory Act of the 100th General Assembly only  
24 apply to property seized on and after July 1, 2018.

25 (b) The changes made to this Article by this amendatory Act

1 of the 100th General Assembly are subject to Section 4 of the  
2 Statute on Statutes.

3 (720 ILCS 5/33G-6)

4 (Text of Section before amendment by P.A. 100-512)

5 (Section scheduled to be repealed on June 11, 2022)

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

8 (a) The circuit court shall have jurisdiction to prevent  
9 and restrain violations of this Article by issuing appropriate  
10 orders, including:

11 (1) ordering any person to disgorge illicit proceeds  
12 obtained by a violation of this Article or divest himself  
13 or herself of any interest, direct or indirect, in any  
14 enterprise or real or personal property of any character,  
15 including money, obtained, directly or indirectly, by a  
16 violation of this Article;

17 (2) imposing reasonable restrictions on the future  
18 activities or investments of any person or enterprise,  
19 including prohibiting any person or enterprise from  
20 engaging in the same type of endeavor as the person or  
21 enterprise engaged in, that violated this Article; or

22 (3) ordering dissolution or reorganization of any  
23 enterprise, making due provision for the rights of innocent  
24 persons.

25 (b) Any violation of this Article is subject to the

1 remedies, procedures, and forfeiture as set forth in  
2 subsections (f) through (s) of Section 29B-1 of this Code.

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

4 (Text of Section after amendment by P.A. 100-512)

5 (Section scheduled to be repealed on June 11, 2022)

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

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9 and restrain violations of this Article by issuing appropriate  
10 orders, including:

11 (1) ordering any person to disgorge illicit proceeds  
12 obtained by a violation of this Article or divest himself  
13 or herself of any interest, direct or indirect, in any  
14 enterprise or real or personal property of any character,  
15 including money, obtained, directly or indirectly, by a  
16 violation of this Article;

17 (2) imposing reasonable restrictions on the future  
18 activities or investments of any person or enterprise,  
19 including prohibiting any person or enterprise from  
20 engaging in the same type of endeavor as the person or  
21 enterprise engaged in, that violated this Article; or

22 (3) ordering dissolution or reorganization of any  
23 enterprise, making due provision for the rights of innocent  
24 persons.

25 (b) Any violation of this Article is subject to the

1 remedies, procedures, and forfeiture as set forth in Article  
2 29B ~~subsections (f) through (s) of Section 29B-1~~ of this Code.

3 (c) Property seized or forfeited under this Article is  
4 subject to reporting under the Seizure and Forfeiture Reporting  
5 Act.

6 (Source: P.A. 100-512, eff. 7-1-18.)

7 (720 ILCS 5/36-1.1)

8 (This Section may contain text from a Public Act with a  
9 delayed effective date)

10 Sec. 36-1.1. Seizure.

11 (a) Any property subject to forfeiture under this Article  
12 may be seized and impounded by the Director of State Police or  
13 any peace officer upon process or seizure warrant issued by any  
14 court having jurisdiction over the property.

15 (b) Any property subject to forfeiture under this Article  
16 may be seized and impounded by the Director of State Police or  
17 any peace officer without process if there is probable cause to  
18 believe that the property is subject to forfeiture under  
19 Section 36-1 of this Article and the property is seized under  
20 circumstances in which a warrantless seizure or arrest would be  
21 reasonable.

22 (c) If the seized property is a conveyance, an  
23 investigation shall be made by the law enforcement agency as to  
24 any person whose right, title, interest, or lien is of record  
25 in the office of the agency or official in which title to or

1 interest in ~~to~~ the conveyance is required by law to be  
2 recorded.

3 (d) After seizure under this Section, notice shall be given  
4 to all known interest holders that forfeiture proceedings,  
5 including a preliminary review, may be instituted and the  
6 proceedings may be instituted under this Article.

7 (Source: P.A. 100-512, eff. 7-1-18.)

8 (720 ILCS 5/36-1.3)

9 (This Section may contain text from a Public Act with a  
10 delayed effective date)

11 Sec. 36-1.3. Safekeeping of seized property pending  
12 disposition.

13 (a) Property seized under this Article is deemed to be in  
14 the custody of the Director of State Police, subject only to  
15 the order and judgments of the circuit court having  
16 jurisdiction over the forfeiture proceedings and the decisions  
17 of the State's Attorney under this Article.

18 (b) If property is seized under this Article, the seizing  
19 agency shall promptly conduct an inventory of the seized  
20 property and estimate the property's value, and shall forward a  
21 copy of the inventory of seized property and the estimate of  
22 the property's value to the Director of State Police. Upon  
23 receiving notice of seizure, the Director of State Police may:

24 (1) place the property under seal;

25 (2) remove the property to a place designated by the

1 Director of State Police;

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

4 (4) remove the property to a storage area for  
5 safekeeping; ~~or~~

6 (5) place the property under constructive seizure by  
7 posting notice of pending forfeiture on it, by giving  
8 notice of pending forfeiture to its owners and interest  
9 holders, or by filing notice of pending forfeiture in any  
10 appropriate public record relating to the property; or

11 (6) provide for another agency or custodian, including  
12 an owner, secured party, or lienholder, to take custody of  
13 the property upon the terms and conditions set by the  
14 seizing agency.

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

18 (d) Property seized or forfeited under this Article is  
19 subject to reporting under the Seizure and Forfeiture Reporting  
20 Act.

21 (Source: P.A. 100-512, eff. 7-1-18.)

22 (720 ILCS 5/36-1.4)

23 (This Section may contain text from a Public Act with a  
24 delayed effective date)

25 Sec. 36-1.4. Notice to State's Attorney. The law



1 enforcement agency seizing property for forfeiture under this  
2 Article shall, as soon as practicable but not later than 28  
3 days after the seizure, notify the State's Attorney for the  
4 county in which an act or omission giving rise to the seizure  
5 occurred or in which the property was seized and the facts and  
6 circumstances giving rise to the seizure, and shall provide the  
7 State's Attorney with the inventory of the property and its  
8 estimated value. The notice shall be by the delivery of  
9 Illinois State Police Notice/Inventory of Seized Property  
10 (Form 4-64) ~~the form 4-64~~. If the property seized for  
11 forfeiture is a vehicle, the law enforcement agency seizing the  
12 property shall immediately notify the Secretary of State that  
13 forfeiture proceedings are pending regarding the vehicle.

14 (Source: P.A. 100-512, eff. 7-1-18.)

15 (720 ILCS 5/36-1.5)

16 (Text of Section before amendment by P.A. 100-512)

17 Sec. 36-1.5. Preliminary review.

18 (a) Within 14 days of the seizure, the State's Attorney in  
19 the county in which the seizure occurred shall seek a  
20 preliminary determination from the circuit court as to whether  
21 there is probable cause that the property may be subject to  
22 forfeiture.

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

25 (c) The court may conduct the review under subsection (a)

1 simultaneously with a proceeding pursuant to Section 109-1 of  
2 the Code of Criminal Procedure of 1963 for a related criminal  
3 offense if a prosecution is commenced by information or  
4 complaint.

5 (d) The court may accept a finding of probable cause at a  
6 preliminary hearing following the filing of an information or  
7 complaint charging a related criminal offense or following the  
8 return of indictment by a grand jury charging the related  
9 offense as sufficient evidence of probable cause as required  
10 under subsection (a).

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

15 For seizures of conveyances, within 7 days of a finding of  
16 probable cause under subsection (a), the registered owner or  
17 other claimant may file a motion in writing supported by sworn  
18 affidavits claiming that denial of the use of the conveyance  
19 during the pendency of the forfeiture proceedings creates a  
20 substantial hardship. The court shall consider the following  
21 factors in determining whether a substantial hardship has been  
22 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 restricting the conveyance's use to  
16 only those individuals authorized to use the conveyance by the  
17 registered owner. The court shall revoke the order releasing  
18 the conveyance and order that the conveyance be resealed by law  
19 enforcement if the conditions of release are violated or if the  
20 conveyance is used in the commission of any offense identified  
21 in subsection (a) of Section 6-205 of the Illinois Vehicle  
22 Code.

23 If the court orders the release of the conveyance during  
24 the pendency of the forfeiture proceedings, the registered  
25 owner or his or her authorized designee shall post a cash  
26 security with the Clerk of the Court as ordered by the court.

1 The court shall consider the following factors in determining  
2 the amount of the cash security:

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

4 (B) the nature of the hardship;

5 (C) the extent and length of the usage of the  
6 conveyance; and

7 (D) such other conditions as the court deems necessary  
8 to safeguard the conveyance.

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

18 If the conveyance subject to forfeiture is released under  
19 this Section and is subsequently forfeited, the person to whom  
20 the conveyance was released shall return the conveyance to the  
21 law enforcement agency that seized the conveyance within 7 days  
22 from the date of the declaration of forfeiture or order of  
23 forfeiture. If the conveyance is not returned within 7 days,  
24 the cash security shall be forfeited in the same manner as the  
25 conveyance subject to forfeiture. If the cash security was less  
26 than the full market value, a judgment shall be entered against

1 the parties to whom the conveyance was released and the  
2 registered owner, jointly and severally, for the difference  
3 between the full market value and the amount of the cash  
4 security. If the conveyance is returned in a condition other  
5 than the condition in which it was released, the cash security  
6 shall be returned to the surety who posted the security minus  
7 the amount of the diminished value, and that amount shall be  
8 forfeited in the same manner as the conveyance subject to  
9 forfeiture. Additionally, the court may enter an order allowing  
10 any law enforcement agency in the State of Illinois to seize  
11 the conveyance wherever it may be found in the State to satisfy  
12 the judgment if the cash security was less than the full market  
13 value of the conveyance.

14 (Source: P.A. 97-544, eff. 1-1-12; 97-680, eff. 3-16-12;  
15 98-1020, eff. 8-22-14.)

16 (Text of Section after amendment by P.A. 100-512)

17 Sec. 36-1.5. Preliminary review.

18 (a) Within 14 days of the seizure, the State's Attorney of  
19 ~~in~~ the county in which the seizure occurred shall seek a  
20 preliminary determination from the circuit court as to whether  
21 there is probable cause that the property may be subject to  
22 forfeiture.

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

25 (c) The court may conduct the review under subsection (a)

1 of this Section simultaneously with a proceeding under ~~pursuant~~  
2 ~~to~~ Section 109-1 of the Code of Criminal Procedure of 1963 for  
3 a related criminal offense if a prosecution is commenced by  
4 information or complaint.

5 (d) The court may accept a finding of probable cause at a  
6 preliminary hearing following the filing of an information or  
7 complaint charging a related criminal offense or following the  
8 return of indictment by a grand jury charging the related  
9 offense as sufficient evidence of probable cause as required  
10 under subsection (a) of this Section.

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

15 For seizures of conveyances, within 28 days of a finding of  
16 probable cause under subsection (a) of this Section, the  
17 registered owner or other claimant may file a motion in writing  
18 supported by sworn affidavits claiming that denial of the use  
19 of the conveyance during the pendency of the forfeiture  
20 proceedings creates a substantial hardship and alleges facts  
21 showing that the hardship ~~delay~~ was not due to his or her  
22 culpable negligence. The court shall consider the following  
23 factors in determining whether a substantial hardship has been  
24 proven:

25 (1) the nature of the claimed hardship;

26 (2) the availability of public transportation or other

1 available means of transportation; and

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

4 If the court determines that a substantial hardship has  
5 been proven, the court shall then balance the nature of the  
6 hardship against the State's interest in safeguarding the  
7 conveyance. If the court determines that the hardship outweighs  
8 the State's interest in safeguarding the conveyance, the court  
9 may temporarily release the conveyance to the registered owner  
10 or the registered owner's authorized designee, or both, until  
11 the conclusion of the forfeiture proceedings or for such  
12 shorter period as ordered by the court provided that the person  
13 to whom the conveyance is released provides proof of insurance  
14 and a valid driver's license and all State and local  
15 registrations for operation of the conveyance are current. The  
16 court shall place conditions on the conveyance limiting its use  
17 to the stated hardship and providing transportation for  
18 employment, religious purposes, medical needs, child care, and  
19 restricting the conveyance's use to only those individuals  
20 authorized to use the conveyance by the registered owner. The  
21 use of the vehicle shall be further restricted to exclude all  
22 recreational and entertainment purposes. The court may order  
23 additional restrictions it deems reasonable and just on its own  
24 motion or on motion of the People. The court shall revoke the  
25 order releasing the conveyance and order that the conveyance be  
26 resealed by law enforcement if the conditions of release are

1 violated or if the conveyance is used in the commission of any  
2 offense identified in subsection (a) of Section 6-205 of the  
3 Illinois Vehicle Code.

4 If the court orders the release of the conveyance during  
5 the pendency of the forfeiture proceedings, the court may order  
6 the registered owner or his or her authorized designee to post  
7 a cash security with the clerk ~~Clerk~~ of the court ~~Court~~ as  
8 ordered by the court. If cash security is ordered, the court  
9 shall consider the following factors in determining the amount  
10 of the cash security:

- 11 (A) the full market value of the conveyance;  
12 (B) the nature of the hardship;  
13 (C) the extent and length of the usage of the  
14 conveyance;  
15 (D) the ability of the owner or designee to pay; and  
16 (E) other conditions as the court deems necessary to  
17 safeguard the conveyance.

18 If the conveyance is released, the court shall order that  
19 the registered owner or his or her designee safeguard the  
20 conveyance, not remove the conveyance from the jurisdiction,  
21 not conceal, destroy, or otherwise dispose of the conveyance,  
22 not encumber the conveyance, and not diminish the value of the  
23 conveyance in any way. The court shall also make a  
24 determination of the full market value of the conveyance prior  
25 to it being released based on a source or sources defined in 50  
26 Ill. Adm. Code 919.80(c) (2) (A) or 919.80(c) (2) (B).



1           If the conveyance subject to forfeiture is released under  
2 this Section and is subsequently forfeited, the person to whom  
3 the conveyance was released shall return the conveyance to the  
4 law enforcement agency that seized the conveyance within 7 days  
5 from the date of the declaration of forfeiture or order of  
6 forfeiture. If the conveyance is not returned within 7 days,  
7 the cash security shall be forfeited in the same manner as the  
8 conveyance subject to forfeiture. If the cash security was less  
9 than the full market value, a judgment shall be entered against  
10 the parties to whom the conveyance was released and the  
11 registered owner, jointly and severally, for the difference  
12 between the full market value and the amount of the cash  
13 security. If the conveyance is returned in a condition other  
14 than the condition in which it was released, the cash security  
15 shall be returned to the surety who posted the security minus  
16 the amount of the diminished value, and that amount shall be  
17 forfeited in the same manner as the conveyance subject to  
18 forfeiture. Additionally, the court may enter an order allowing  
19 any law enforcement agency in the State of Illinois to seize  
20 the conveyance wherever it may be found in the State to satisfy  
21 the judgment if the cash security was less than the full market  
22 value of the conveyance.

23       (Source: P.A. 100-512, eff. 7-1-18.)

24           (720 ILCS 5/36-2) (from Ch. 38, par. 36-2)

25           (Text of Section before amendment by P.A. 100-512)

1           Sec. 36-2. Action for forfeiture.

2           (a) The State's Attorney in the county in which such  
3 seizure occurs if he or she finds that the forfeiture was  
4 incurred without willful negligence or without any intention on  
5 the part of the owner of the vessel or watercraft, vehicle or  
6 aircraft or any person whose right, title or interest is of  
7 record as described in Section 36-1, to violate the law, or  
8 finds the existence of such mitigating circumstances as to  
9 justify remission of the forfeiture, may cause the law  
10 enforcement agency to remit the same upon such terms and  
11 conditions as the State's Attorney deems reasonable and just.  
12 The State's Attorney shall exercise his or her discretion under  
13 the foregoing provision of this Section 36-2(a) prior to or  
14 promptly after the preliminary review under Section 36-1.5.

15           (b) If the State's Attorney does not cause the forfeiture  
16 to be remitted he or she shall forthwith bring an action for  
17 forfeiture in the Circuit Court within whose jurisdiction the  
18 seizure and confiscation has taken place. The State's Attorney  
19 shall give notice of seizure and the forfeiture proceeding to  
20 each person according to the following method: upon each person  
21 whose right, title, or interest is of record in the office of  
22 the Secretary of State, the Secretary of Transportation, the  
23 Administrator of the Federal Aviation Agency, or any other  
24 department of this State, or any other state of the United  
25 States if the vessel or watercraft, vehicle, or aircraft is  
26 required to be so registered, as the case may be, by delivering

1 the notice and complaint in open court or by certified mail to  
2 the address as given upon the records of the Secretary of  
3 State, the Division of Aeronautics of the Department of  
4 Transportation, the Capital Development Board, or any other  
5 department of this State or the United States if the vessel or  
6 watercraft, vehicle, or aircraft is required to be so  
7 registered.

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

14 (d) The State shall show at such hearing by a preponderance  
15 of the evidence, that such vessel or watercraft, vehicle, or  
16 aircraft was used in the commission of an offense described in  
17 Section 36-1.

18 (e) The owner of such vessel or watercraft, vehicle, or  
19 aircraft or any person whose right, title, or interest is of  
20 record as described in Section 36-1, may show by a  
21 preponderance of the evidence that he did not know, and did not  
22 have reason to know, that the vessel or watercraft, vehicle, or  
23 aircraft was to be used in the commission of such an offense or  
24 that any of the exceptions set forth in Section 36-3 are  
25 applicable.

26 (f) Unless the State shall make such showing, the Court

1 shall order such vessel or watercraft, vehicle, or aircraft  
2 released to the owner. Where the State has made such showing,  
3 the Court may order the vessel or watercraft, vehicle, or  
4 aircraft destroyed or may order it forfeited to any local,  
5 municipal or county law enforcement agency, or the Department  
6 of State Police or the Department of Revenue of the State of  
7 Illinois.

8 (g) A copy of the order shall be filed with the law  
9 enforcement agency, and with each Federal or State office or  
10 agency with which such vessel or watercraft, vehicle, or  
11 aircraft is required to be registered. Such order, when filed,  
12 constitutes authority for the issuance of clear title to such  
13 vessel or watercraft, vehicle, or aircraft, to the department  
14 or agency to whom it is delivered or any purchaser thereof. The  
15 law enforcement agency shall comply promptly with instructions  
16 to remit received from the State's Attorney or Attorney General  
17 in accordance with Sections 36-2(a) or 36-3.

18 (h) The proceeds of any sale at public auction pursuant to  
19 Section 36-2 of this Act, after payment of all liens and  
20 deduction of the reasonable charges and expenses incurred by  
21 the State's Attorney's Office shall be paid to the law  
22 enforcement agency having seized the vehicle for forfeiture.

23 (Source: P.A. 98-699, eff. 1-1-15; 98-1020, eff. 8-22-14;  
24 99-78, eff. 7-20-15.)

25 (Text of Section after amendment by P.A. 100-512)

1           Sec. 36-2. Complaint for forfeiture.

2           (a) If the State's Attorney of ~~in~~ the county in which such  
3 seizure occurs finds that the alleged violation of law giving  
4 rise to the seizure was incurred without willful negligence or  
5 without any intention on the part of the owner of the vessel or  
6 watercraft, vehicle or aircraft or any person whose right,  
7 title or interest is of record as described in Section 36-1 of  
8 this Article, to violate the law, or finds the existence of  
9 such mitigating circumstances as to justify remission of the  
10 forfeiture, he or she may cause the law enforcement agency  
11 having custody of the property to return the property to the  
12 owner within a reasonable time not to exceed 7 days. The  
13 State's Attorney shall exercise his or her discretion under  
14 this subsection (a) prior to or promptly after the preliminary  
15 review under Section 36-1.5.

16           (b) If, after review of the facts surrounding the seizure,  
17 the State's Attorney is of the opinion that the seized property  
18 is subject to forfeiture and the State's Attorney does not  
19 cause the forfeiture to be remitted under subsection (a) of  
20 this Section, he or she shall ~~forthwith~~ bring an action for  
21 forfeiture in the circuit court ~~Circuit Court~~ within whose  
22 jurisdiction the seizure and confiscation has taken place by  
23 filing a verified complaint for ~~of~~ forfeiture in the circuit  
24 court within whose jurisdiction the seizure occurred, or within  
25 whose jurisdiction an act or omission giving rise to the  
26 seizure occurred, subject to Supreme Court Rule 187. The

1 complaint shall be filed as soon as practicable but not later  
2 ~~less~~ than 28 days after the State's Attorney receives notice  
3 from the seizing agency as provided ~~a finding of probable cause~~  
4 ~~at a preliminary review~~ under Section 36-1.4 ~~36-1.5~~ of this  
5 Article. A complaint of forfeiture shall include:

6 (1) a description of the property seized;

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

8 (3) the name and address of the law enforcement agency  
9 making the seizure; and

10 (4) the specific statutory and factual grounds for the  
11 seizure.

12 The complaint shall be served upon each person whose right,  
13 title, or interest is of record in the office of the Secretary  
14 of State, the Secretary of Transportation, the Administrator of  
15 the Federal Aviation Agency, or any other department of this  
16 State, or any other state of the United States if the vessel or  
17 watercraft, vehicle, or aircraft is required to be so  
18 registered, as the case may be, the person from whom the  
19 property was seized, and all persons known or reasonably  
20 believed by the State to claim an interest in the property, as  
21 provided in this Article. The complaint shall be accompanied by  
22 the following written notice:

23 "This is a civil court proceeding subject to the Code of  
24 Civil Procedure. You received this Complaint of Forfeiture  
25 because the State's Attorney's office has brought a legal  
26 action seeking forfeiture of your seized property. This

1 complaint starts the court process where the State seeks to  
2 prove that your property should be forfeited and not returned  
3 to you. This process is also your opportunity to try to prove  
4 to a judge that you should get your property back. The  
5 complaint lists the date, time, and location of your first  
6 court date. You must appear in court on that day, or you may  
7 lose the case automatically. You must also file an appearance  
8 and answer. If you are unable to pay the appearance fee, you  
9 may qualify to have the fee waived. If there is a criminal case  
10 related to the seizure of your property, your case may be set  
11 for trial after the criminal case has been resolved. Before  
12 trial, the judge may allow discovery, where the State can ask  
13 you to respond in writing to questions and give them certain  
14 documents, and you can make similar requests of the State. The  
15 trial is your opportunity to explain what happened when your  
16 property was seized and why you should get the property back."

17 (c) (Blank).

18 (d) (Blank).

19 (e) (Blank).

20 (f) (Blank).

21 (g) (Blank).

22 (h) (Blank).

23 (Source: P.A. 99-78, eff. 7-20-15; 100-512, eff. 7-1-18.)

24 (720 ILCS 5/36-2.1)

25 (This Section may contain text from a Public Act with a

1 delayed effective date)

2       Sec. 36-2.1. Notice to owner or interest holder. The first  
3 attempted service of notice shall be commenced within 28 days  
4 of the receipt of the notice from the seizing agency by Form  
5 ~~the form~~ 4-64. If the property seized is a conveyance, notice  
6 shall also be directed to the address reflected in the office  
7 of the agency or official in which title to or interest in ~~to~~  
8 the conveyance is required by law to be recorded. A complaint  
9 for forfeiture shall be served upon the property owner or  
10 interest holder in the following manner:

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

13                   (A) personal service; or

14                   (B) mailing a copy of the notice by certified mail,  
15           return receipt requested, and first class mail, to that  
16           address.

17                   (i) If notice is sent by certified mail and no  
18           signed return receipt is received by the State's  
19           Attorney within 28 days of mailing, and no  
20           communication from the owner or interest holder is  
21           received by the State's Attorney documenting  
22           actual notice by said parties, the State's  
23           Attorney shall, within a reasonable period of  
24           time, mail a second copy of the notice by certified  
25           mail, return receipt requested, and first class  
26           mail, to that address.



1 (ii) If no signed return receipt is received by  
2 the State's Attorney within 28 days of the second  
3 attempt at service by certified mail, and no  
4 communication from the owner or interest holder is  
5 received by the State's Attorney documenting  
6 actual notice by said parties, the State's  
7 Attorney shall have 60 days to attempt to serve the  
8 notice by personal service, which also includes  
9 substitute service by leaving a copy at the usual  
10 place of abode, with some person of the family or a  
11 person residing there, of the age of 13 years or  
12 upwards. If, after 3 attempts at service in this  
13 manner, no service of the notice is accomplished,  
14 then the notice shall be posted in a conspicuous  
15 manner at this address and service shall be made by  
16 the posting.

17 The attempts at service and the posting if  
18 required, shall be documented by the person attempting  
19 service and said documentation shall be made part of a  
20 return of service returned to the State's Attorney.

21 The State's Attorney may utilize a Sheriff or  
22 Deputy Sheriff, any peace officer, a private process  
23 server or investigator, or any employee, agent, or  
24 investigator of the State's Attorney's office to  
25 attempt service without seeking leave of court.

26 After the procedures are followed, service shall

1           be effective on an owner or interest holder on the date  
2           of receipt by the State's Attorney of a ~~returned~~ return  
3           receipt ~~requested~~, or on the date of receipt of a  
4           communication from an owner or interest holder  
5           documenting actual notice, whichever is first in time,  
6           or on the date of the last act performed by the State's  
7           Attorney in attempting personal service under item  
8           (ii) of this paragraph (1). If notice is to be shown by  
9           actual notice from communication with a claimant, then  
10          the State's Attorney shall file an affidavit providing  
11          details of the communication, which shall be accepted  
12          as sufficient proof of service by the court.

13                 For purposes of notice under this Section, if a  
14                 person has been arrested for the conduct giving rise to  
15                 the forfeiture, the address provided to the arresting  
16                 agency at the time of arrest shall be deemed to be that  
17                 person's known address. Provided, however, if an owner  
18                 or interest holder's address changes prior to the  
19                 effective date of the complaint for forfeiture, the  
20                 owner or interest holder shall promptly notify the  
21                 seizing agency of the change in address or, if the  
22                 owner or interest holder's address changes subsequent  
23                 to the effective date of the notice of pending  
24                 forfeiture, the owner or interest holder shall  
25                 promptly notify the State's Attorney of the change in  
26                 address; or if the property seized is a conveyance, to

1           the address reflected in the office of the agency or  
2           official in which title to or interest in ~~to~~ the  
3           conveyance is required by law to be recorded.

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

9           (3) Notice to any business entity, corporation,  
10          limited liability company, limited liability partnership  
11          ~~LLC, LLP~~, or partnership shall be completed ~~complete~~ by a  
12          single mailing of a copy of the notice by certified mail,  
13          return receipt requested, and first class mail, ~~to~~ to that  
14          address. This notice is complete regardless of the return  
15          of a signed "return receipt ~~requested~~".

16          (4) Notice to a person whose address is not within the  
17          State shall be completed ~~complete~~ by a single mailing of a  
18          copy of the notice by certified mail, return receipt  
19          requested, and first class mail, ~~to~~ to that address. This  
20          notice is complete regardless of the return of a signed  
21          "return receipt ~~requested~~".

22          (5) Notice to a person whose address is not within the  
23          United States shall be completed ~~complete~~ by a single  
24          mailing of a copy of the notice by certified mail, return  
25          receipt requested, and first class mail, ~~to~~ to that address.  
26          This 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 (6) 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 (Source: P.A. 100-512, eff. 7-1-18.)

12 (720 ILCS 5/36-2.2)

13 (This Section may contain text from a Public Act with a  
14 delayed effective date)

15 Sec. 36-2.2. Replevin prohibited; return of personal  
16 property inside seized conveyance.

17 (a) Property seized under this Article shall not be subject  
18 to replevin, but is deemed to be in the custody of the Director  
19 of State Police, subject only to the order and judgments of the  
20 circuit court having jurisdiction over the forfeiture  
21 proceedings and the decisions of the State's Attorney.

22 (b) A claimant or a party interested in personal property  
23 contained within a seized conveyance may file a motion with the  
24 court in a judicial forfeiture action for the return of any  
25 personal property contained within a conveyance seized under

1 this Article. The return of personal property shall not be  
2 unreasonably withheld if the personal property is not  
3 mechanically or electrically coupled to the conveyance, needed  
4 for evidentiary purposes, or otherwise contraband. A law  
5 enforcement agency that returns property under a court order  
6 under this Section shall not be liable to any person who claims  
7 ownership to the property if the property is returned to an  
8 improper party.

9 (Source: P.A. 100-512, eff. 7-1-18.)

10 (720 ILCS 5/36-2.5)

11 (This Section may contain text from a Public Act with a  
12 delayed effective date)

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

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

16 (b) Only an owner of or interest holder in the property may  
17 file an answer asserting a claim against the property in the  
18 action in rem. For purposes of this Section, the owner or  
19 interest holder shall be referred to as claimant. A person not  
20 named in the forfeiture complaint who claims to have an  
21 interest in the property may petition to intervene as a  
22 claimant under Section 2-408 of the Code of Civil Procedure.

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

25 (d) The trial shall be held within 60 days after filing of

1 the answer unless continued for good cause.

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

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

5 (2) at least one of the following:

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

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

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

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

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

19 (2) the State receives an adverse finding at a  
20 preliminary hearing and fails to secure an indictment in a  
21 criminal proceeding related to the factual allegations of  
22 the forfeiture action.

23 (g) If the State does not meet its burden of proof, the  
24 court shall order the interest in the property returned or  
25 conveyed to the claimant and shall order all other property in  
26 which the State does meet its burden of proof forfeited to the

1 State. If the State does meet its burden of proof, the court  
2 shall order all property forfeited to the State.

3 (h) A defendant convicted in any criminal proceeding is  
4 precluded from later denying the essential allegations of the  
5 criminal offense of which the defendant was convicted in any  
6 proceeding under this Article regardless of the pendency of an  
7 appeal from that conviction. However, evidence of the pendency  
8 of an appeal is admissible.

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

16 (j) Title to all property declared forfeited under this Act  
17 vests in this State on the commission of the conduct giving  
18 rise to forfeiture together with the proceeds of the property  
19 after that time. Except as otherwise provided in this Article,  
20 any property or proceeds subsequently transferred to any person  
21 remain subject to forfeiture unless a person to whom the  
22 property was transferred makes an appropriate claim under or  
23 has the ~~their~~ claim adjudicated at the judicial in rem hearing.

24 (k) No property shall be forfeited under this Article from  
25 a person who, without actual or constructive notice that the  
26 property was the subject of forfeiture proceedings, obtained

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

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

14 (m) If property is ordered forfeited under this Article  
15 from a claimant who held title to the property in joint tenancy  
16 or 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. 100-512, eff. 7-1-18.)

20 (720 ILCS 5/36-2.7)

21 (This Section may contain text from a Public Act with a  
22 delayed effective date)

23 Sec. 36-2.7. Innocent owner hearing.

24 (a) After a complaint for forfeiture has been filed and all  
25 claimants have appeared and answered, a claimant may file a



1 motion with the court for an innocent owner hearing prior to  
2 trial. This motion shall be made and supported by sworn  
3 affidavit and shall assert the following along with specific  
4 facts that ~~which~~ support each assertion:

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

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

10 ~~(b)~~ The claimant's motion ~~claimant~~ shall include specific  
11 facts that ~~which~~ support these assertions ~~in their motion~~.

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

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

26 (d) ~~(e)~~ At the hearing on the motion, the claimant shall

1 bear the burden of proving each of the assertions listed in  
2 subsection (a) of this Section by a preponderance of the  
3 evidence. ~~(f)~~ If a claimant meets the ~~their~~ burden of proof,  
4 the court shall grant the motion and order the conveyance  
5 returned to the claimant. If the claimant fails to meet the  
6 ~~their~~ burden of proof, the court shall deny the motion and the  
7 forfeiture case shall proceed according to the Code ~~Rules~~ of  
8 Civil Procedure.

9 (Source: P.A. 100-512, eff. 7-1-18.)

10 (720 ILCS 5/36-7)

11 (This Section may contain text from a Public Act with a  
12 delayed effective date)

13 Sec. 36-7. Distribution of proceeds; selling or retaining  
14 seized property prohibited.

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

18 (b) The Department of State Police or its designee shall  
19 dispose of all property at public auction and shall distribute  
20 the proceeds of the sale, together with any moneys forfeited or  
21 seized, under subsection (c) of this Section.

22 (c) All moneys ~~monies~~ and the sale proceeds of all other  
23 property forfeited and seized under this Act shall be  
24 distributed as follows:

25 (1) 65% shall be distributed to the drug task force,

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

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

25 (A) the receiving agency has entered into an  
26 intergovernmental agreement with the municipality to

1 provide police services;

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

5 (C) the seizure took place within the geographical  
6 limits of the municipality; and

7 (D) the funds are used only for the enforcement of  
8 criminal laws; for public education in the community or  
9 schools in the prevention or detection of the abuse of  
10 drugs or alcohol; or for security cameras used for the  
11 prevention or detection of violence or the  
12 establishment of a municipal police force, including  
13 the training of officers, construction of a police  
14 station, the purchase of law enforcement equipment, or  
15 vehicles.

16 (2) 12.5% shall be distributed to the Office of the  
17 State's Attorney of the county in which the prosecution  
18 resulting in the forfeiture was instituted, deposited in a  
19 special fund in the county treasury and appropriated to the  
20 State's Attorney for use, at the discretion of the State's  
21 Attorney, in the enforcement of criminal laws; or for  
22 public education in the community or schools in the  
23 prevention or detection of the abuse of drugs or alcohol;  
24 or at the discretion of the State's Attorney, in addition  
25 to other authorized purposes, to make grants to local  
26 substance abuse treatment facilities and half-way houses.

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

16 12.5% shall be distributed to the Office of the State's  
17 Attorneys Appellate Prosecutor and shall be used at the  
18 discretion of the State's Attorneys Appellate Prosecutor  
19 for additional expenses incurred in the investigation,  
20 prosecution and appeal of cases arising in the enforcement  
21 of criminal laws; or for public education in the community  
22 or schools in the prevention or detection of the abuse of  
23 drugs or alcohol. The Office of the State's Attorneys  
24 Appellate Prosecutor shall not receive distribution from  
25 cases brought in counties with over 3,000,000 population.

26 (3) 10% shall be retained by the Department of State

1 Police for expenses related to the administration and sale  
2 of seized and forfeited property.

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

14 (Source: P.A. 100-512, eff. 7-1-18.)

15 (720 ILCS 5/36-10 new)

16 Sec. 36-10. Applicability; savings clause.

17 (a) The changes made to this Article by Public Act 100-0512  
18 and this amendatory Act of the 100th General Assembly only  
19 apply to property seized on and after July 1, 2018.

20 (b) The changes made to this Article by this amendatory Act  
21 of the 100th General Assembly are subject to Section 4 of the  
22 Statute on Statutes.

23 Section 25. The Cannabis Control Act is amended by changing  
24 Section 12 as follows:

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

2 (Text of Section before amendment by P.A. 100-512)

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

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

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

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

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

23 (ii) no conveyance is subject to forfeiture under  
24 this Section by reason of any act or omission which the  
25 owner proves to have been committed or omitted without

1 his knowledge or consent;

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

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

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

16 (6) all real property, including any right, title, and  
17 interest including, but not limited to, any leasehold  
18 interest or the beneficial interest to a land trust, in the  
19 whole of any lot or tract of land and any appurtenances or  
20 improvements, that is used or intended to be used to  
21 facilitate the manufacture, distribution, sale, receipt,  
22 or concealment of property described in paragraph (1) or  
23 (2) of this subsection (a) that constitutes a felony  
24 violation of more than 2,000 grams of a substance  
25 containing cannabis or that is the proceeds of any felony  
26 violation of this Act.



1 (b) Property subject to forfeiture under this Act may be  
2 seized by the Director or any peace officer upon process or  
3 seizure warrant issued by any court having jurisdiction over  
4 the property. Seizure by the Director or any peace officer  
5 without process may be made:

6 (1) if the property subject to seizure has been the  
7 subject of a prior judgment in favor of the State in a  
8 criminal proceeding or in an injunction or forfeiture  
9 proceeding based upon this Act or the Drug Asset Forfeiture  
10 Procedure Act;

11 (2) if there is probable cause to believe that the  
12 property is directly or indirectly dangerous to health or  
13 safety;

14 (3) if there is probable cause to believe that the  
15 property is subject to forfeiture under this Act and the  
16 property is seized under circumstances in which a  
17 warrantless seizure or arrest would be reasonable; or

18 (4) in accordance with the Code of Criminal Procedure  
19 of 1963.

20 (c) In the event of seizure pursuant to subsection (b),  
21 notice shall be given forthwith to all known interest holders  
22 that forfeiture proceedings, including a preliminary review,  
23 shall be instituted in accordance with the Drug Asset  
24 Forfeiture Procedure Act and such proceedings shall thereafter  
25 be instituted in accordance with that Act. Upon a showing of  
26 good cause, the notice required for a preliminary review under

1 this Section may be postponed.

2 (c-1) In the event the State's Attorney is of the opinion  
3 that real property is subject to forfeiture under this Act,  
4 forfeiture proceedings shall be instituted in accordance with  
5 the Drug Asset Forfeiture Procedure Act. The exemptions from  
6 forfeiture provisions of Section 8 of the Drug Asset Forfeiture  
7 Procedure Act are applicable.

8 (d) Property taken or detained under this Section shall not  
9 be subject to replevin, but is deemed to be in the custody of  
10 the Director subject only to the order and judgments of the  
11 circuit court having jurisdiction over the forfeiture  
12 proceedings and the decisions of the State's Attorney under the  
13 Drug Asset Forfeiture Procedure Act. When property is seized  
14 under this Act, the seizing agency shall promptly conduct an  
15 inventory of the seized property, estimate the property's  
16 value, and shall forward a copy of the inventory of seized  
17 property and the estimate of the property's value to the  
18 Director. Upon receiving notice of seizure, the Director may:

- 19 (1) place the property under seal;
- 20 (2) remove the property to a place designated by him;
- 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          (e) No disposition may be made of property under seal until  
11          the time for taking an appeal has elapsed or until all appeals  
12          have been concluded unless a court, upon application therefor,  
13          orders the sale of perishable substances and the deposit of the  
14          proceeds of the sale with the court.

15          (f) When property is forfeited under this Act the Director  
16          shall sell all such property unless such property is required  
17          by law to be destroyed or is harmful to the public, and shall  
18          distribute the proceeds of the sale, together with any moneys  
19          forfeited or seized, in accordance with subsection (g).  
20          However, upon the application of the seizing agency or  
21          prosecutor who was responsible for the investigation, arrest or  
22          arrests and prosecution which lead to the forfeiture, the  
23          Director may return any item of forfeited property to the  
24          seizing agency or prosecutor for official use in the  
25          enforcement of laws relating to cannabis or controlled  
26          substances, if the agency or prosecutor can demonstrate that

1 the item requested would be useful to the agency or prosecutor  
2 in their enforcement efforts. When any forfeited conveyance,  
3 including an aircraft, vehicle, or vessel, is returned to the  
4 seizing agency or prosecutor, the conveyance may be used  
5 immediately in the enforcement of the criminal laws of this  
6 State. Upon disposal, all proceeds from the sale of the  
7 conveyance must be used for drug enforcement purposes. When any  
8 real property returned to the seizing agency is sold by the  
9 agency or its unit of government, the proceeds of the sale  
10 shall be delivered to the Director and distributed in  
11 accordance with subsection (g).

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

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

1 governing cannabis and controlled substances; for public  
2 education in the community or schools in the prevention or  
3 detection of the abuse of drugs or alcohol; or for security  
4 cameras used for the prevention or detection of violence,  
5 except that amounts distributed to the Secretary of State  
6 shall be deposited into the Secretary of State Evidence  
7 Fund to be used as provided in Section 2-115 of the  
8 Illinois Vehicle Code.

9 (ii) Any local, municipal, or county law enforcement  
10 agency entitled to receive a monetary distribution of  
11 forfeiture proceeds may share those forfeiture proceeds  
12 pursuant to the terms of an intergovernmental agreement  
13 with a municipality that has a population in excess of  
14 20,000 if:

15 (I) the receiving agency has entered into an  
16 intergovernmental agreement with the municipality to  
17 provide police services;

18 (II) the intergovernmental agreement for police  
19 services provides for consideration in an amount of not  
20 less than \$1,000,000 per year;

21 (III) the seizure took place within the  
22 geographical limits of the municipality; and

23 (IV) the funds are used only for the enforcement of  
24 laws governing cannabis and controlled substances; for  
25 public education in the community or schools in the  
26 prevention or detection of the abuse of drugs or

1 alcohol; or for security cameras used for the  
2 prevention or detection of violence or the  
3 establishment of a municipal police force, including  
4 the training of officers, construction of a police  
5 station, the purchase of law enforcement equipment, or  
6 vehicles.

7 (2) (i) 12.5% shall be distributed to the Office of the  
8 State's Attorney of the county in which the prosecution  
9 resulting in the forfeiture was instituted, deposited in a  
10 special fund in the county treasury and appropriated to the  
11 State's Attorney for use in the enforcement of laws  
12 governing cannabis and controlled substances; for public  
13 education in the community or schools in the prevention or  
14 detection of the abuse of drugs or alcohol; or at the  
15 discretion of the State's Attorney, in addition to other  
16 authorized purposes, to make grants to local substance  
17 abuse treatment facilities and half-way houses. In  
18 counties over 3,000,000 population, 25% will be  
19 distributed to the Office of the State's Attorney for use  
20 in the enforcement of laws governing cannabis and  
21 controlled substances; for public education in the  
22 community or schools in the prevention or detection of the  
23 abuse of drugs or alcohol; or at the discretion of the  
24 State's Attorney, in addition to other authorized  
25 purposes, to make grants to local substance abuse treatment  
26 facilities and half-way houses. If the prosecution is

1           undertaken solely by the Attorney General, the portion  
2           provided hereunder shall be distributed to the Attorney  
3           General for use in the enforcement of laws governing  
4           cannabis and controlled substances.

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

16          (3) 10% shall be retained by the Department of State  
17          Police for expenses related to the administration and sale  
18          of seized and forfeited property.

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

20                 (Text of Section after amendment by P.A. 100-512)

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

22                 (1) (blank);

23                 (2) all raw materials, products, and equipment of any  
24                 kind which are produced, delivered, or possessed in  
25                 connection with any substance containing cannabis in a

1 felony violation of this Act;

2 (3) all conveyances, including aircraft, vehicles, or  
3 vessels, which are used, or intended for use, to transport,  
4 or in any manner to facilitate the transportation, sale,  
5 receipt, possession, or concealment of any substance  
6 containing cannabis or property described in paragraph (2)  
7 of this subsection (a) that constitutes a felony violation  
8 of the Act, but:

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

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

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

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



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

7 (6) all real property, including any right, title, and  
8 interest including, but not limited to, any leasehold  
9 interest or the beneficial interest in ~~to~~ a land trust, in  
10 the whole of any lot or tract of land and any appurtenances  
11 or improvements, that is used or intended to be used to  
12 facilitate the manufacture, distribution, sale, receipt,  
13 or concealment of a substance containing cannabis or  
14 property described in paragraph (2) of this subsection (a)  
15 that constitutes a felony violation of this Act involving  
16 more than 2,000 grams of a substance containing cannabis or  
17 that is the proceeds of any felony violation 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.

22 (c) Forfeiture under this Act is subject to ~~subject to~~ an  
23 8th Amendment ~~amendment~~ to the United States Constitution  
24 disproportionate penalties analysis as provided under Section  
25 9.5 of the Drug Asset Forfeiture Procedure Act.

26 (c-1) With regard to possession of cannabis offenses only,

1 a sum of currency with a value of less than \$500 shall not be  
2 subject to forfeiture under this Act. For all other offenses  
3 under this Act, a sum of currency with a value of less than  
4 \$100 shall not be subject to forfeiture under this Act. In  
5 seizures of currency in excess of these amounts, this Section  
6 shall not create an exemption for these amounts.

7 (d) (Blank).

8 (e) (Blank).

9 (f) (Blank).

10 (g) (Blank).

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

16 (i) The changes made to this Section by Public Act 100-0512  
17 and this amendatory Act of the 100th General Assembly only  
18 apply to property seized on and after July 1, 2018.

19 (j) The changes made to this Section by this amendatory Act  
20 of the 100th General Assembly are subject to Section 4 of the  
21 Statute on Statutes.

22 (Source: P.A. 99-686, eff. 7-29-16; 100-512, eff. 7-1-18.)

23 Section 30. The Illinois Controlled Substances Act is  
24 amended by changing Section 505 as follows:

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

2 (Text of Section before amendment by P.A. 100-512)

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

4 (1) all substances which have been manufactured,  
5 distributed, dispensed, or possessed in violation of this  
6 Act;

7 (2) all raw materials, products and equipment of any  
8 kind which are used, or intended for use in manufacturing,  
9 distributing, dispensing, administering or possessing any  
10 substance in violation of this Act;

11 (3) all conveyances, including aircraft, vehicles or  
12 vessels, which are used, or intended for use, to transport,  
13 or in any manner to facilitate the transportation, sale,  
14 receipt, possession, or concealment of property described  
15 in paragraphs (1) and (2), but:

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

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

26 (iii) a forfeiture of a conveyance encumbered by a

1           bona fide security interest is subject to the interest  
2           of the secured party if he or she neither had knowledge  
3           of nor consented to the act or omission;

4           (4) all money, things of value, books, records, and  
5           research products and materials including formulas,  
6           microfilm, tapes, and data which are used, or intended to  
7           be used in violation of this Act;

8           (5) everything of value furnished, or intended to be  
9           furnished, in exchange for a substance in violation of this  
10          Act, all proceeds traceable to such an exchange, and all  
11          moneys, negotiable instruments, and securities used, or  
12          intended to be used, to commit or in any manner to  
13          facilitate any violation of this Act;

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

24          (b) Property subject to forfeiture under this Act may be  
25          seized by the Director or any peace officer upon process or  
26          seizure warrant issued by any court having jurisdiction over

1 the property. Seizure by the Director or any peace officer  
2 without process may be made:

3 (1) if the seizure is incident to inspection under an  
4 administrative inspection warrant;

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

10 (3) if there is probable cause to believe that the  
11 property is directly or indirectly dangerous to health or  
12 safety;

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

17 (5) in accordance with the Code of Criminal Procedure  
18 of 1963.

19 (c) In the event of seizure pursuant to subsection (b),  
20 notice shall be given forthwith to all known interest holders  
21 that forfeiture proceedings, including a preliminary review,  
22 shall be instituted in accordance with the Drug Asset  
23 Forfeiture Procedure Act and such proceedings shall thereafter  
24 be instituted in accordance with that Act. Upon a showing of  
25 good cause, the notice required for a preliminary review under  
26 this Section may be postponed.

1 (d) Property taken or detained under this Section shall not  
2 be subject to replevin, but is deemed to be in the custody of  
3 the Director subject only to the order and judgments of the  
4 circuit court having jurisdiction over the forfeiture  
5 proceedings and the decisions of the State's Attorney under the  
6 Drug Asset Forfeiture Procedure Act. When property is seized  
7 under this Act, the seizing agency shall promptly conduct an  
8 inventory of the seized property and estimate the property's  
9 value, and shall forward a copy of the inventory of seized  
10 property and the estimate of the property's value to the  
11 Director. Upon receiving notice of seizure, the Director may:

12 (1) place the property under seal;

13 (2) remove the property to a place designated by the  
14 Director;

15 (3) keep the property in the possession of the seizing  
16 agency;

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

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

26 (6) provide for another agency or custodian, including

1 an owner, secured party, or lienholder, to take custody of  
2 the property upon the terms and conditions set by the  
3 Director.

4 (e) If the Department of Financial and Professional  
5 Regulation suspends or revokes a registration, all controlled  
6 substances owned or possessed by the registrant at the time of  
7 suspension or the effective date of the revocation order may be  
8 placed under seal by the Director. No disposition may be made  
9 of substances under seal until the time for taking an appeal  
10 has elapsed or until all appeals have been concluded unless a  
11 court, upon application therefor, orders the sale of perishable  
12 substances and the deposit of the proceeds of the sale with the  
13 court. Upon a suspension or revocation order becoming final,  
14 all substances may be forfeited to the Illinois State Police.

15 (f) When property is forfeited under this Act the Director  
16 shall sell all such property unless such property is required  
17 by law to be destroyed or is harmful to the public, and shall  
18 distribute the proceeds of the sale, together with any moneys  
19 forfeited or seized, in accordance with subsection (g).  
20 However, upon the application of the seizing agency or  
21 prosecutor who was responsible for the investigation, arrest or  
22 arrests and prosecution which lead to the forfeiture, the  
23 Director may return any item of forfeited property to the  
24 seizing agency or prosecutor for official use in the  
25 enforcement of laws relating to cannabis or controlled  
26 substances, if the agency or prosecutor can demonstrate that

1 the item requested would be useful to the agency or prosecutor  
2 in their enforcement efforts. When any forfeited conveyance,  
3 including an aircraft, vehicle, or vessel, is returned to the  
4 seizing agency or prosecutor, the conveyance may be used  
5 immediately in the enforcement of the criminal laws of this  
6 State. Upon disposal, all proceeds from the sale of the  
7 conveyance must be used for drug enforcement purposes. When any  
8 real property returned to the seizing agency is sold by the  
9 agency or its unit of government, the proceeds of the sale  
10 shall be delivered to the Director and distributed in  
11 accordance with subsection (g).

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

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



1 governing cannabis and controlled substances; for public  
2 education in the community or schools in the prevention or  
3 detection of the abuse of drugs or alcohol; or for security  
4 cameras used for the prevention or detection of violence,  
5 except that amounts distributed to the Secretary of State  
6 shall be deposited into the Secretary of State Evidence  
7 Fund to be used as provided in Section 2-115 of the  
8 Illinois Vehicle Code.

9 (ii) Any local, municipal, or county law enforcement  
10 agency entitled to receive a monetary distribution of  
11 forfeiture proceeds may share those forfeiture proceeds  
12 pursuant to the terms of an intergovernmental agreement  
13 with a municipality that has a population in excess of  
14 20,000 if:

15 (I) the receiving agency has entered into an  
16 intergovernmental agreement with the municipality to  
17 provide police services;

18 (II) the intergovernmental agreement for police  
19 services provides for consideration in an amount of not  
20 less than \$1,000,000 per year;

21 (III) the seizure took place within the  
22 geographical limits of the municipality; and

23 (IV) the funds are used only for the enforcement of  
24 laws governing cannabis and controlled substances; for  
25 public education in the community or schools in the  
26 prevention or detection of the abuse of drugs or

1 alcohol; or for security cameras used for the  
2 prevention or detection of violence or the  
3 establishment of a municipal police force, including  
4 the training of officers, construction of a police  
5 station, the purchase of law enforcement equipment, or  
6 vehicles.

7 (2) (i) 12.5% shall be distributed to the Office of the  
8 State's Attorney of the county in which the prosecution  
9 resulting in the forfeiture was instituted, deposited in a  
10 special fund in the county treasury and appropriated to the  
11 State's Attorney for use in the enforcement of laws  
12 governing cannabis and controlled substances; for public  
13 education in the community or schools in the prevention or  
14 detection of the abuse of drugs or alcohol; or at the  
15 discretion of the State's Attorney, in addition to other  
16 authorized purposes, to make grants to local substance  
17 abuse treatment facilities and half-way houses. In  
18 counties over 3,000,000 population, 25% will be  
19 distributed to the Office of the State's Attorney for use  
20 in the enforcement of laws governing cannabis and  
21 controlled substances; for public education in the  
22 community or schools in the prevention or detection of the  
23 abuse of drugs or alcohol; or at the discretion of the  
24 State's Attorney, in addition to other authorized  
25 purposes, to make grants to local substance abuse treatment  
26 facilities and half-way houses. If the prosecution is

1           undertaken solely by the Attorney General, the portion  
2           provided hereunder shall be distributed to the Attorney  
3           General for use in the enforcement of laws governing  
4           cannabis and controlled substances or for public education  
5           in the community or schools in the prevention or detection  
6           of the abuse of drugs or alcohol.

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

18          (3) 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          (h) Species of plants from which controlled substances in  
22          Schedules I and II may be derived which have been planted or  
23          cultivated in violation of this Act, or of which the owners or  
24          cultivators are unknown, or which are wild growths, may be  
25          seized and summarily forfeited to the State. The failure, upon  
26          demand by the Director or any peace officer, of the person in

1 occupancy or in control of land or premises upon which the  
2 species of plants are growing or being stored, to produce  
3 registration, or proof that he or she is the holder thereof,  
4 constitutes authority for the seizure and forfeiture of the  
5 plants.

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

7 (Text of Section after amendment by P.A. 100-512)

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

9 (1) (blank);

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

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

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

1 to a violation of this Act;

2 (ii) 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 or her knowledge or consent;

6 (iii) 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 or she neither had knowledge  
9 of nor 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 which are used, or intended to  
13 be used in violation of this Act;

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

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 Section 401 or 405 of this Act or that is the  
2 proceeds of any violation or act that constitutes a  
3 violation of Section 401 or 405 of this Act.

4 (b) 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.

8 (c) Forfeiture under this Act is subject to ~~subject to~~ an  
9 8th Amendment ~~amendment~~ to the United States Constitution  
10 disproportionate penalties analysis as provided under Section  
11 9.5 of the Drug Asset Forfeiture Procedure Act.

12 (d) With regard to possession of controlled substances  
13 offenses only, a sum of currency with a value of less than \$500  
14 shall not be subject to forfeiture under this Act. For all  
15 other offenses under this Act, a sum of currency with a value  
16 of less than ~~currency with a value of under~~ \$100 shall not be  
17 subject to forfeiture under this Act. In seizures of currency  
18 in excess of these amounts, this Section shall not create an  
19 exemption for these amounts.

20 (d-5) For felony offenses involving possession of  
21 controlled substances only, no property shall be subject to  
22 forfeiture under this Act because of the possession of less  
23 than 2 single unit doses of a controlled substance. This  
24 exemption shall not apply in instances when the possessor, or  
25 another person at the direction of the possessor, engaged in  
26 the destruction of any amount of a controlled substance. The

1 amount of a single unit dose shall be the State's burden to  
2 prove in its ~~their~~ case in chief.

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

15 (f) (Blank).

16 (g) (Blank).

17 (h) (Blank).

18 (i) Contraband, including controlled substances possessed  
19 without authorization under State or federal law, is not  
20 subject to forfeiture. No property right exists in contraband.  
21 Contraband is subject to seizure and shall be disposed of  
22 according to State law.

23 (j) The changes made to this Section by Public Act 100-0512  
24 and this amendatory Act of the 100th General Assembly only  
25 apply to property seized on and after July 1, 2018.

26 (k) The changes made to this Section by this amendatory Act

1 of the 100th General Assembly are subject to Section 4 of the  
2 Statute on Statutes.

3 (Source: P.A. 99-686, eff. 7-29-16; 100-512, eff. 7-1-18.)

4 Section 35. The Methamphetamine Control and Community  
5 Protection Act is amended by changing Section 85 as follows:

6 (720 ILCS 646/85)

7 (Text of Section before amendment by P.A. 100-512)

8 Sec. 85. Forfeiture.

9 (a) The following are subject to forfeiture:

10 (1) all substances containing methamphetamine which  
11 have been produced, manufactured, delivered, or possessed  
12 in violation of this Act;

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

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

23 (i) no conveyance used by any person as a common  
24 carrier in the transaction of business as a common



1 carrier is subject to forfeiture under this Section  
2 unless it appears that the owner or other person in  
3 charge of the conveyance is a consenting party or privy  
4 to a violation of this Act;

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

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

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

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

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

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

6 (b) Property subject to forfeiture under this Act may be  
7 seized by the Director or any peace officer upon process or  
8 seizure warrant issued by any court having jurisdiction over  
9 the property. Seizure by the Director or any peace officer  
10 without process may be made:

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

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

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

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

25 (c) In the event of seizure pursuant to subsection (b),  
26 notice shall be given forthwith to all known interest holders

1 that forfeiture proceedings, including a preliminary review,  
2 shall be instituted in accordance with the Drug Asset  
3 Forfeiture Procedure Act and such proceedings shall thereafter  
4 be instituted in accordance with that Act. Upon a showing of  
5 good cause, the notice required for a preliminary review under  
6 this Section may be postponed.

7 (d) Property taken or detained under this Section is not  
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, estimate the property's value, and forward  
15 a copy of the inventory of seized property and the estimate of  
16 the property's value to the Director. Upon receiving notice of  
17 seizure, the Director may:

18 (1) place the property under seal;

19 (2) remove the property to a place designated by him or  
20 her;

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          (e) No disposition may be made of property under seal until  
11          the time for taking an appeal has elapsed or until all appeals  
12          have been concluded unless a court, upon application therefor,  
13          orders the sale of perishable substances and the deposit of the  
14          proceeds of the sale with the court.

15          (f) When property is forfeited under this Act, the Director  
16          shall sell the property unless the property is required by law  
17          to be destroyed or is harmful to the public, and shall  
18          distribute the proceeds of the sale, together with any moneys  
19          forfeited or seized, in accordance with subsection (g).  
20          However, upon the application of the seizing agency or  
21          prosecutor who was responsible for the investigation, arrest or  
22          arrests and prosecution which lead to the forfeiture, the  
23          Director may return any item of forfeited property to the  
24          seizing agency or prosecutor for official use in the  
25          enforcement of laws relating to methamphetamine, cannabis, or  
26          controlled substances, if the agency or prosecutor

1 demonstrates that the item requested would be useful to the  
2 agency or prosecutor in their enforcement efforts. When any  
3 forfeited conveyance, including an aircraft, vehicle, or  
4 vessel, is returned to the seizing agency or prosecutor, the  
5 conveyance may be used immediately in the enforcement of the  
6 criminal laws of this State. Upon disposal, all proceeds from  
7 the sale of the conveyance must be used for drug enforcement  
8 purposes. When any real property returned to the seizing agency  
9 is sold by the agency or its unit of government, the proceeds  
10 of the sale shall be delivered to the Director and distributed  
11 in accordance with subsection (g).

12 (g) All moneys and the sale proceeds of all other property  
13 forfeited and seized under this Act shall be distributed as  
14 follows:

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

1 governing methamphetamine, cannabis, and controlled  
2 substances; for public education in the community or  
3 schools in the prevention or detection of the abuse of  
4 drugs or alcohol; or for security cameras used for the  
5 prevention or detection of violence, except that amounts  
6 distributed to the Secretary of State shall be deposited  
7 into the Secretary of State Evidence Fund to be used as  
8 provided in Section 2-115 of the Illinois Vehicle Code.

9 (ii) Any local, municipal, or county law enforcement  
10 agency entitled to receive a monetary distribution of  
11 forfeiture proceeds may share those forfeiture proceeds  
12 pursuant to the terms of an intergovernmental agreement  
13 with a municipality that has a population in excess of  
14 20,000 if:

15 (I) the receiving agency has entered into an  
16 intergovernmental agreement with the municipality to  
17 provide police services;

18 (II) the intergovernmental agreement for police  
19 services provides for consideration in an amount of not  
20 less than \$1,000,000 per year;

21 (III) the seizure took place within the  
22 geographical limits of the municipality; and

23 (IV) the funds are used only for the enforcement of  
24 laws governing cannabis and controlled substances; for  
25 public education in the community or schools in the  
26 prevention or detection of the abuse of drugs or

1 alcohol; or for security cameras used for the  
2 prevention or detection of violence or the  
3 establishment of a municipal police force, including  
4 the training of officers, construction of a police  
5 station, the purchase of law enforcement equipment, or  
6 vehicles.

7 (2) (i) 12.5% shall be distributed to the Office of the  
8 State's Attorney of the county in which the prosecution  
9 resulting in the forfeiture was instituted, deposited in a  
10 special fund in the county treasury and appropriated to the  
11 State's Attorney for use in the enforcement of laws  
12 governing methamphetamine, cannabis, and controlled  
13 substances; for public education in the community or  
14 schools in the prevention or detection of the abuse of  
15 drugs or alcohol; or at the discretion of the State's  
16 Attorney, in addition to other authorized purposes, to make  
17 grants to local substance abuse treatment facilities and  
18 half-way houses. In counties with a population over  
19 3,000,000, 25% shall be distributed to the Office of the  
20 State's Attorney for use in the enforcement of laws  
21 governing methamphetamine, cannabis, and controlled  
22 substances; for public education in the community or  
23 schools in the prevention or detection of the abuse of  
24 drugs or alcohol; or at the discretion of the State's  
25 Attorney, in addition to other authorized purposes, to make  
26 grants to local substance abuse treatment facilities and

1 half-way houses. If the prosecution is undertaken solely by  
2 the Attorney General, the portion provided hereunder shall  
3 be distributed to the Attorney General for use in the  
4 enforcement of laws governing methamphetamine, cannabis,  
5 and controlled substances or for public education in the  
6 community or schools in the prevention or detection of the  
7 abuse of drugs or alcohol.

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

20 (3) 10% shall be retained by the Department of State  
21 Police for expenses related to the administration and sale  
22 of seized and forfeited property.

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

24 (Text of Section after amendment by P.A. 100-512)

25 Sec. 85. Forfeiture.



1 (a) The following are subject to forfeiture:

2 (1) (blank);

3 (2) all methamphetamine manufacturing materials which  
4 have been produced, delivered, or possessed in connection  
5 with any substance containing methamphetamine in violation  
6 of this Act;

7 (3) all conveyances, including aircraft, vehicles, or  
8 vessels, which are used, or intended for use, to transport,  
9 or in any manner to facilitate the transportation, sale,  
10 receipt, possession, or concealment of any substance  
11 containing methamphetamine or property described in  
12 paragraph (2) of this subsection (a) that constitutes a  
13 felony violation of the Act, but:

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

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

24 (iii) a forfeiture of a conveyance encumbered by a  
25 bona fide security interest is subject to the interest  
26 of the secured party if he or she neither had knowledge

1 of nor consented to the act or omission;

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

6 (5) everything of value furnished or intended to be  
7 furnished by any person in exchange for a substance in  
8 violation of this Act, all proceeds traceable to such an  
9 exchange, and all moneys, negotiable instruments, and  
10 securities used, or intended to be used, to commit or in  
11 any manner to facilitate any felony violation of this Act;

12 -

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

22 (b) Property subject to forfeiture under this Act may be  
23 seized under the Drug Asset Forfeiture Procedure Act. In the  
24 event of seizure, forfeiture proceedings shall be instituted  
25 under the Drug Asset Forfeiture Procedure Act.

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

1 8th Amendment ~~amendment~~ to the United States Constitution  
2 disproportionate penalties analysis as provided under Section  
3 9.5 of the Drug Asset Forfeiture Procedure Act.

4 (d) With regard to possession of methamphetamine offenses  
5 only, a sum of currency with a value of less than \$500 shall  
6 not be subject to forfeiture under this Act. For all other  
7 offenses under this Act, a sum of currency with a value of less  
8 than ~~under~~ \$100 shall not be subject to forfeiture under this  
9 Act. In seizures of currency in excess of these amounts, this  
10 Section shall not create an exemption for these amounts.

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

20 (f) (Blank).

21 (g) (Blank).

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

1       (i) The changes made to this Section by Public Act 100-0512  
2       and this amendatory Act of the 100th General Assembly only  
3       apply to property seized on and after July 1, 2018.

4       (j) The changes made to this Section by this amendatory Act  
5       of the 100th General Assembly are subject to Section 4 of the  
6       Statute on Statutes.

7       (Source: P.A. 99-686, eff. 7-29-16; 100-512, eff. 7-1-18.)

8       Section 40. The Drug Asset Forfeiture Procedure Act is  
9       amended by changing Sections 3.1, 3.3, 3.5, 4, 5, 5.1, 6, 7, 8,  
10      9, 9.1, and 11, by adding Section 13.4, renumbering and  
11      changing Sections 15 and 17, and renumbering Section 20 as  
12      follows:

13           (725 ILCS 150/3.1)

14           (This Section may contain text from a Public Act with a  
15           delayed effective date)

16           Sec. 3.1. Seizure.

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

24           (b) Personal property subject to forfeiture under the

1 Illinois Controlled Substances Act, the Cannabis Control Act,  
2 the Illinois Food, Drug and Cosmetic Act, or the  
3 Methamphetamine Control and Community Protection Act may be  
4 seized by the Director of State Police or any peace officer  
5 upon process or seizure warrant issued by any court having  
6 jurisdiction over the property.

7 (c) Personal property subject to forfeiture under the  
8 Illinois Controlled Substances Act, the Cannabis Control Act,  
9 the Illinois Food, Drug and Cosmetic Act, or the  
10 Methamphetamine Control and Community Protection Act may be  
11 seized by the Director of State Police or any peace officer  
12 without process:

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;

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

22 (4) if there is probable cause to believe that the  
23 property is subject to forfeiture under the Illinois  
24 Controlled Substances Act, the Cannabis Control Act, the  
25 Illinois Food, Drug and Cosmetic Act, or the  
26 Methamphetamine Control and Community Protection Act, and

1 the property is seized under circumstances in which a  
2 warrantless seizure or arrest would be reasonable; or

3 (5) under the Code of Criminal Procedure of 1963.

4 (d) If a conveyance is seized under this Act, an  
5 investigation shall be made by the law enforcement agency as to  
6 any person whose right, title, interest, or lien is of record  
7 in the office of the agency or official in which title to or  
8 interest in ~~to~~ the conveyance is required by law to be  
9 recorded.

10 (e) After seizure under this Section, notice shall be given  
11 to all known interest holders that forfeiture proceedings,  
12 including a preliminary review, may be instituted and the  
13 proceedings may be instituted under this Act. Upon a showing of  
14 good cause related to an ongoing investigation, the notice  
15 required for a preliminary review under this Section may be  
16 postponed.

17 (Source: P.A. 100-512, eff. 7-1-18.)

18 (725 ILCS 150/3.3)

19 (This Section may contain text from a Public Act with a  
20 delayed effective date)

21 Sec. 3.3. Safekeeping of seized property pending  
22 disposition.

23 (a) Property seized under this Act is deemed to be in the  
24 custody of the Director of State Police, subject only to the  
25 order and judgments of the circuit court having jurisdiction

1 over the forfeiture proceedings and the decisions of the  
2 State's Attorney under this Act.

3 (b) If property is seized under this Act, the seizing  
4 agency shall promptly conduct an inventory of the seized  
5 property and estimate the property's value, and shall forward a  
6 copy of the inventory of seized property and the estimate of  
7 the property's value to the Director of State Police. Upon  
8 receiving notice of seizure, the Director of State Police may:

9 (1) place the property under seal;

10 (2) remove the property to a place designated by the  
11 seizing agency;

12 (3) keep the property in the possession of the Director  
13 of State Police;

14 (4) remove the property to a storage area for  
15 safekeeping; ~~or~~

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

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

25 (c) The seizing agency is required to exercise ordinary  
26 care to protect the seized property from negligent loss,

1 damage, or destruction.

2 (Source: P.A. 100-512, eff. 7-1-18.)

3 (725 ILCS 150/3.5)

4 (Text of Section before amendment by P.A. 100-512)

5 Sec. 3.5. Preliminary review.

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

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

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

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

23 (e) Upon making a finding of probable cause as required  
24 under this Section, the circuit court shall order the property  
25 subject to the provisions of the applicable forfeiture Act held



1 until the conclusion of any forfeiture proceeding.

2 For seizures of conveyances, within 7 days of a finding of  
3 probable cause under subsection (a), the registered owner or  
4 other claimant may file a motion in writing supported by sworn  
5 affidavits claiming that denial of the use of the conveyance  
6 during the pendency of the forfeiture proceedings creates a  
7 substantial hardship. The court shall consider the following  
8 factors in determining whether a substantial hardship has been  
9 proven:

10 (1) the nature of the claimed hardship;

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

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

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

1 court shall place conditions on the conveyance limiting its use  
2 to the stated hardship and restricting the conveyance's use to  
3 only those individuals authorized to use the conveyance by the  
4 registered owner. The court shall revoke the order releasing  
5 the conveyance and order that the conveyance be resealed by law  
6 enforcement if the conditions of release are violated or if the  
7 conveyance is used in the commission of any offense identified  
8 in subsection (a) of Section 6-205 of the Illinois Vehicle  
9 Code.

10 If the court orders the release of the conveyance during  
11 the pendency of the forfeiture proceedings, the registered  
12 owner or his or her authorized designee shall post a cash  
13 security with the Clerk of the Court as ordered by the court.  
14 The court shall consider the following factors in determining  
15 the amount of the cash security:

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

17 (B) the nature of the hardship;

18 (C) the extent and length of the usage of the  
19 conveyance; and

20 (D) such other conditions as the court deems necessary  
21 to safeguard the conveyance.

22 If the conveyance is released, the court shall order that  
23 the registered owner or his or her designee safeguard the  
24 conveyance, not remove the conveyance from the jurisdiction,  
25 not conceal, destroy, or otherwise dispose of the conveyance,  
26 not encumber the conveyance, and not diminish the value of the

1 conveyance in any way. The court shall also make a  
2 determination of the full market value of the conveyance prior  
3 to it being released based on a source or sources defined in 50  
4 Ill. Adm. Code 919.80(c)(2)(A) or 919.80(c)(2)(B).

5 If the conveyance subject to forfeiture is released under  
6 this Section and is subsequently forfeited, the person to whom  
7 the conveyance was released shall return the conveyance to the  
8 law enforcement agency that seized the conveyance within 7 days  
9 from the date of the declaration of forfeiture or order of  
10 forfeiture. If the conveyance is not returned within 7 days,  
11 the cash security shall be forfeited in the same manner as the  
12 conveyance subject to forfeiture. If the cash security was less  
13 than the full market value, a judgment shall be entered against  
14 the parties to whom the conveyance was released and the  
15 registered owner, jointly and severally, for the difference  
16 between the full market value and the amount of the cash  
17 security. If the conveyance is returned in a condition other  
18 than the condition in which it was released, the cash security  
19 shall be returned to the surety who posted the security minus  
20 the amount of the diminished value, and that amount shall be  
21 forfeited in the same manner as the conveyance subject to  
22 forfeiture. Additionally, the court may enter an order allowing  
23 any law enforcement agency in the State of Illinois to seize  
24 the conveyance wherever it may be found in the State to satisfy  
25 the judgment if the cash security was less than the full market  
26 value of the conveyance.

1 (Source: P.A. 97-544, eff. 1-1-12; 97-680, eff. 3-16-12.)

2 (Text of Section after amendment by P.A. 100-512)

3 Sec. 3.5. Preliminary review.

4 (a) Within 14 days of the seizure, the State 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 of this Section simultaneously with a proceeding under ~~pursuant~~  
12 ~~to~~ Section 109-1 of the Code of Criminal Procedure of 1963 for  
13 a related criminal offense if a prosecution is commenced by  
14 information or 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) of this Section.

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 days after a finding

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

10 (1) the nature of the claimed hardship;

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

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

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

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

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

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

24 (B) the nature of the hardship;

25 (C) the extent and length of the usage of the  
26 conveyance;

1           (D) the ability of the owner or designee to pay; and  
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. 100-512, eff. 7-1-18.)

10 (725 ILCS 150/4) (from Ch. 56 1/2, par. 1674)

11 (Text of Section before amendment by P.A. 100-512)

12 Sec. 4. Notice to owner or interest holder.

13 (A) Whenever notice of pending forfeiture or service of an  
14 in rem complaint is required under the provisions of this Act,  
15 such notice or service shall be given as follows:

16 (1) If the owner's or interest holder's name and  
17 current address are known, then by either personal service  
18 or mailing a copy of the notice by certified mail, return  
19 receipt requested, to that address. For purposes of notice  
20 under this Section, if a person has been arrested for the  
21 conduct giving rise to the forfeiture, then the address  
22 provided to the arresting agency at the time of arrest  
23 shall be deemed to be that person's known address.  
24 Provided, however, if an owner or interest holder's address  
25 changes prior to the effective date of the notice of



1 pending forfeiture, the owner or interest holder shall  
2 promptly notify the seizing agency of the change in address  
3 or, if the owner or interest holder's address changes  
4 subsequent to the effective date of the notice of pending  
5 forfeiture, the owner or interest holder shall promptly  
6 notify the State's Attorney of the change in address; or

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

13 (3) If the owner's or interest holder's address is not  
14 known, and is not on record as provided in paragraph (2),  
15 then by publication for 3 successive weeks in a newspaper  
16 of general circulation in the county in which the seizure  
17 occurred.

18 (B) Notice served under this Act is effective upon personal  
19 service, the last date of publication, or the mailing of  
20 written notice, whichever is earlier.

21 (Source: P.A. 86-1382; 87-614.)

22 (Text of Section after amendment by P.A. 100-512)

23 Sec. 4. Notice to owner or interest holder. The first  
24 attempted service of notice shall be commenced within 28 days  
25 of the filing of the verified claim or the receipt of the

1 notice from the seizing agency by Illinois State Police  
2 Notice/Inventory of Seized Property (Form 4-64) ~~the form 4-64~~,  
3 whichever occurs sooner. A complaint for forfeiture or a notice  
4 of pending forfeiture shall be served upon the property owner  
5 or interest holder in the following manner:

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

8 (A) personal service; or

9 (B) mailing a copy of the notice by certified mail,  
10 return receipt requested, and first class mail, to that  
11 address.

12 (i) If notice is sent by certified mail and no  
13 signed return receipt is received by the State's  
14 Attorney within 28 days of mailing, and no  
15 communication from the owner or interest holder is  
16 received by the State's Attorney documenting  
17 actual notice by said parties, then the State's  
18 Attorney shall, within a reasonable period of  
19 time, mail a second copy of the notice by certified  
20 mail, return receipt requested, and first class  
21 mail to that address.

22 (ii) If no signed return receipt is received by  
23 the State's Attorney within 28 days of the second  
24 attempt at service by certified mail, and no  
25 communication from the owner or interest holder is  
26 received by the State's Attorney documenting

1 actual notice by said parties, then the State's  
2 Attorney shall have 60 days to attempt to serve the  
3 notice by personal service, which also includes  
4 substitute service by leaving a copy at the usual  
5 place of abode, with some person of the family or a  
6 person residing there, of the age of 13 years or  
7 upwards. If, after 3 attempts at service in this  
8 manner, no service of the notice is accomplished,  
9 then the notice shall be posted in a conspicuous  
10 manner at this address and service shall be made by  
11 posting.

12 The attempts at service and the posting if  
13 required, shall be documented by the person  
14 attempting service and said documentation shall be  
15 made part of a return of service returned to the  
16 State's Attorney.

17 The State's Attorney may utilize any Sheriff  
18 or Deputy Sheriff, any peace officer, a private  
19 process server or investigator, or any employee,  
20 agent, or investigator of the State's Attorney's  
21 Office to attempt service without seeking leave of  
22 court.

23 After the procedures set forth are followed,  
24 service shall be effective on an owner or interest  
25 holder on the date of receipt by the State's  
26 Attorney of a ~~returned~~ return receipt ~~requested~~,

1 or on the date of receipt of a communication from  
2 an owner or interest holder documenting actual  
3 notice, whichever is first in time, or on the date  
4 of the last act performed by the State's Attorney  
5 in attempting personal service under subparagraph  
6 (ii) above. If notice is to be shown by actual  
7 notice from communication with a claimant, then  
8 the State's Attorney shall file an affidavit  
9 providing details of the communication, which may  
10 be accepted as sufficient proof of service by the  
11 court.

12 After a claimant files a verified claim with  
13 the State's Attorney and provides ~~provide~~ an  
14 address at which the claimant ~~they~~ will accept  
15 service, the complaint shall be served and notice  
16 shall be perfected upon mailing of the complaint to  
17 the claimant at the address the claimant provided  
18 via certified mail, return receipt requested, and  
19 first class mail. No return receipt ~~card~~ need be  
20 received, or any other attempts at service need be  
21 made to comply with service and notice  
22 requirements under this Act. This certified  
23 mailing, return receipt requested, shall be proof  
24 of service of the complaint on the claimant.

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

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

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

23 (3) After a claimant files a verified claim with the  
24 State's Attorney and provides an address at which the  
25 claimant ~~they~~ will accept service, the complaint shall be  
26 served and notice shall be perfected upon mailing of the

1 complaint to the claimant at the address the claimant  
2 provided via certified mail, return receipt requested, and  
3 first class mail. No return receipt ~~card~~ need be received  
4 or any other attempts at service need be made to comply  
5 with service and notice requirements under this Act. This  
6 certified mailing, return receipt requested, shall be  
7 proof of service of the complaint on the claimant.

8 (4) Notice to any business entity, corporation,  
9 limited liability company, limited liability partnership  
10 ~~LLC, LLP~~, or partnership shall be completed ~~complete~~ by a  
11 single mailing of a copy of the notice by certified mail,  
12 return receipt requested, and first class mail, to that  
13 address. This notice is complete regardless of the return  
14 of a signed "return receipt requested".

15 (5) Notice to a person whose address is not within the  
16 State shall be completed ~~complete~~ by a single mailing of a  
17 copy of the notice by certified mail, return receipt  
18 requested, and first class mail, to that address. This  
19 notice is complete regardless of the return of a signed  
20 "return receipt requested".

21 (6) Notice to a person whose address is not within the  
22 United States shall be completed ~~complete~~ by a single  
23 mailing of a copy of the notice by certified mail, return  
24 receipt requested, and first class mail, to that address.  
25 This notice shall be complete regardless of the return of a  
26 signed "return receipt requested". If certified mail is not

1 available in the foreign country where the person has an  
2 address, then notice shall proceed by publication under  
3 paragraph (2) of this Section.

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

10 ~~(A) (Blank).~~

11 ~~(B) (Blank).~~

12 (Source: P.A. 100-512, eff. 7-1-18.)

13 (725 ILCS 150/5) (from Ch. 56 1/2, par. 1675)

14 (Text of Section before amendment by P.A. 100-512)

15 Sec. 5. Notice to State's Attorney. The law enforcement  
16 agency seizing property for forfeiture under the Illinois  
17 Controlled Substances Act, the Cannabis Control Act, or the  
18 Methamphetamine Control and Community Protection Act shall,  
19 within 52 days of seizure, notify the State's Attorney for the  
20 county in which an act or omission giving rise to the  
21 forfeiture occurred or in which the property was seized of the  
22 seizure of the property and the facts and circumstances giving  
23 rise to the seizure and shall provide the State's Attorney with  
24 the inventory of the property and its estimated value. When the  
25 property seized for forfeiture is a vehicle, the law

1 enforcement agency seizing the property shall immediately  
2 notify the Secretary of State that forfeiture proceedings are  
3 pending regarding such vehicle.

4 (Source: P.A. 94-556, eff. 9-11-05.)

5 (Text of Section after amendment by P.A. 100-512)

6 Sec. 5. Notice to State's Attorney. The law enforcement  
7 agency seizing property for forfeiture under the Illinois  
8 Controlled Substances Act, the Cannabis Control Act, or the  
9 Methamphetamine Control and Community Protection Act, or the  
10 Illinois Food, Drug, and Cosmetic Act shall, as soon as  
11 practicable but not later than 28 days after the seizure,  
12 notify the State's Attorney for the county in which an act or  
13 omission giving rise to the seizure occurred or in which the  
14 property was seized of the seizure of the property and the  
15 facts and circumstances giving rise to the seizure and shall  
16 provide the State's Attorney with the inventory of the property  
17 and its estimated value. Said notice shall be by the delivery  
18 of Form ~~the form~~ 4-64. When the property seized for forfeiture  
19 is a vehicle, the law enforcement agency seizing the property  
20 shall immediately notify the Secretary of State that forfeiture  
21 proceedings are pending regarding such vehicle.

22 (Source: P.A. 100-512, eff. 7-1-18.)

23 (725 ILCS 150/5.1)

24 (This Section may contain text from a Public Act with a



1 delayed effective date)

2       Sec. 5.1. Replevin prohibited; return of personal property  
3 inside seized conveyance.

4       (a) Property seized under this Act shall not be subject to  
5 replevin, but is deemed to be in the custody of the Director of  
6 State Police, subject only to the order and judgments of the  
7 circuit court having jurisdiction over the forfeiture  
8 proceedings and the decisions of the State's Attorney.

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

22 (Source: P.A. 100-512, eff. 7-1-18.)

23 (725 ILCS 150/6) (from Ch. 56 1/2, par. 1676)

24 (Text of Section before amendment by P.A. 100-512)

25 Sec. 6. Non-judicial forfeiture. If non-real property that

1 exceeds \$150,000 in value excluding the value of any  
2 conveyance, or if real property is seized under the provisions  
3 of the Illinois Controlled Substances Act, the Cannabis Control  
4 Act, or the Methamphetamine Control and Community Protection  
5 Act, the State's Attorney shall institute judicial in rem  
6 forfeiture proceedings as described in Section 9 of this Act  
7 within 45 days from receipt of notice of seizure from the  
8 seizing agency under Section 5 of this Act. However, if  
9 non-real property that does not exceed \$150,000 in value  
10 excluding the value of any conveyance is seized, the following  
11 procedure shall be used:

12 (A) If, after review of the facts surrounding the  
13 seizure, the State's Attorney is of the opinion that the  
14 seized property is subject to forfeiture, then within 45  
15 days of the receipt of notice of seizure from the seizing  
16 agency, the State's Attorney shall cause notice of pending  
17 forfeiture to be given to the owner of the property and all  
18 known interest holders of the property in accordance with  
19 Section 4 of this Act.

20 (B) The notice of pending forfeiture must include a  
21 description of the property, the estimated value of the  
22 property, the date and place of seizure, the conduct giving  
23 rise to forfeiture or the violation of law alleged, and a  
24 summary of procedures and procedural rights applicable to  
25 the forfeiture action.

26 (C) (1) Any person claiming an interest in property

1           which is the subject of notice under subsection (A) of  
2           Section 6 of this Act, may, within 45 days after the  
3           effective date of notice as described in Section 4 of this  
4           Act, file a verified claim with the State's Attorney  
5           expressing his or her interest in the property. The claim  
6           must set forth:

7                   (i) the caption of the proceedings as set forth on  
8                   the notice of pending forfeiture and the name of the  
9                   claimant;

10                   (ii) the address at which the claimant will accept  
11                   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 known  
18                   to have an interest in the property;

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

21                   (vii) all essential facts supporting each  
22                   assertion; and

23                   (viii) the relief sought.

24           (2) If a claimant files the claim and deposits with  
25           the State's Attorney a cost bond, in the form of a  
26           cashier's check payable to the clerk of the court, in the

1       sum of 10 percent of the reasonable value of the property  
2       as alleged by the State's Attorney or the sum of \$100,  
3       whichever is greater, upon condition that, in the case of  
4       forfeiture, the claimant must pay all costs and expenses of  
5       forfeiture proceedings, then the State's Attorney shall  
6       institute judicial in rem forfeiture proceedings and  
7       deposit the cost bond with the clerk of the court as  
8       described in Section 9 of this Act within 45 days after  
9       receipt of the claim and cost bond. In lieu of a cost bond,  
10      a person claiming interest in the seized property may file,  
11      under penalty of perjury, an indigency affidavit.

12           (3) If none of the seized property is forfeited in the  
13      judicial in rem proceeding, the clerk of the court shall  
14      return to the claimant, unless the court orders otherwise,  
15      90% of the sum which has been deposited and shall retain as  
16      costs 10% of the money deposited. If any of the seized  
17      property is forfeited under the judicial forfeiture  
18      proceeding, the clerk of the court shall transfer 90% of  
19      the sum which has been deposited to the State's Attorney  
20      prosecuting the civil forfeiture to be applied to the costs  
21      of prosecution and the clerk shall retain as costs 10% of  
22      the sum deposited.

23           (D) If no claim is filed or bond given within the 45  
24      day period as described in subsection (C) of Section 6 of  
25      this Act, the State's Attorney shall declare the property  
26      forfeited and shall promptly notify the owner and all known

1 interest holders of the property and the Director of the  
2 Illinois Department of State Police of the declaration of  
3 forfeiture and the Director shall dispose of the property  
4 in accordance with law.

5 (Source: P.A. 97-544, eff. 1-1-12.)

6 (Text of Section after amendment by P.A. 100-512)

7 Sec. 6. Non-judicial forfeiture. If non-real property that  
8 exceeds \$150,000 in value excluding the value of any  
9 conveyance, or if real property is seized under the provisions  
10 of the Illinois Controlled Substances Act, the Cannabis Control  
11 Act, or the Methamphetamine Control and Community Protection  
12 Act, the State's Attorney shall institute judicial in rem  
13 forfeiture proceedings as described in Section 9 of this Act  
14 within 28 ~~45~~ days from receipt of notice of seizure from the  
15 seizing agency under Section 5 of this Act. However, if  
16 non-real property that does not exceed \$150,000 in value  
17 excluding the value of any conveyance is seized, the following  
18 procedure shall be used:

19 (A) If, after review of the facts surrounding the  
20 seizure, the State's Attorney is of the opinion that the  
21 seized property is subject to forfeiture, then within 28 ~~45~~  
22 days of the receipt of notice of seizure from the seizing  
23 agency, the State's Attorney shall cause notice of pending  
24 forfeiture to be given to the owner of the property and all  
25 known interest holders of the property in accordance with

1 Section 4 of this Act.

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

8 (C) (1) Any person claiming an interest in property  
9 which is the subject of notice under subsection (A) of this  
10 ~~Section 6 of this Act,~~ may, within 45 days after the  
11 effective date of notice as described in Section 4 of this  
12 Act, file a verified claim with the State's Attorney  
13 expressing his or her interest in the property. The claim  
14 must set forth:

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

18 (ii) the address at which the claimant will accept  
19 mail;

20 (iii) the nature and extent of the claimant's  
21 interest in the property;

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

25 (v) the names and addresses ~~name and address~~ of all  
26 other persons known to have an interest in the

1 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 then the State's  
8 Attorney shall institute judicial in rem forfeiture  
9 proceedings within 28 ~~30~~ days after receipt of the claim.➤

10 (D) If no claim is filed within the 45 day period as  
11 described in subsection (C) of this Section ~~6 of this Act~~,  
12 the State's Attorney shall declare the property forfeited  
13 and shall promptly notify the owner and all known interest  
14 holders of the property and the Director of the Illinois  
15 Department of State Police of the declaration of forfeiture  
16 and the Director shall dispose of the property in  
17 accordance with law.

18 (Source: P.A. 100-512, eff. 7-1-18.)

19 (725 ILCS 150/7) (from Ch. 56 1/2, par. 1677)

20 (Text of Section before amendment by P.A. 100-512)

21 Sec. 7. Presumptions. The following situations shall give  
22 rise to a presumption that the property described therein was  
23 furnished or intended to be furnished in exchange for a  
24 substance in violation of the Illinois Controlled Substances  
25 Act, the Cannabis Control Act, or the Methamphetamine Control

1 and Community Protection Act, or is the proceeds of such an  
2 exchange, and therefore forfeitable under this Act, such  
3 presumptions being rebuttable by a preponderance of the  
4 evidence:

5 (1) All moneys, coin, or currency found in close proximity  
6 to forfeitable substances, to forfeitable drug manufacturing  
7 or distributing paraphernalia, or to forfeitable records of the  
8 importation, manufacture or distribution of substances;

9 (2) All property acquired or caused to be acquired by a  
10 person either between the dates of occurrence of two or more  
11 acts in felony violation of the Illinois Controlled Substances  
12 Act, the Cannabis Control Act, or the Methamphetamine Control  
13 and Community Protection Act, or an act committed in another  
14 state, territory or country which would be punishable as a  
15 felony under the Illinois Controlled Substances Act, the  
16 Cannabis Control Act, or the Methamphetamine Control and  
17 Community Protection Act, committed by that person within 5  
18 years of each other, or all property acquired by such person  
19 within a reasonable amount of time after the commission of such  
20 acts if:

21 (a) At least one of the above acts was committed after  
22 the effective date of this Act; and

23 (b) At least one of the acts is or was punishable as a  
24 Class X, Class 1, or Class 2 felony; and

25 (c) There was no likely source for such property other  
26 than a violation of the above Acts.



1 (Source: P.A. 94-556, eff. 9-11-05.)

2 (Text of Section after amendment by P.A. 100-512)

3 Sec. 7. Presumptions and inferences.

4 (1) The following situation shall give rise to a  
5 presumption that the property described therein was furnished  
6 or intended to be furnished in exchange for a substance in  
7 violation of the Illinois Controlled Substances Act, the  
8 Cannabis Control Act, or the Methamphetamine Control and  
9 Community Protection Act, or is the proceeds of such an  
10 exchange, and therefore forfeitable under this Act, such  
11 presumptions being rebuttable by a preponderance of the  
12 evidence:

13 All moneys, coin, or currency found in close proximity to  
14 any ~~forfeitable~~ substances manufactured, distributed,  
15 dispensed, or possessed in violation of the Illinois Controlled  
16 Substances Act, the Cannabis Control Act, or the  
17 Methamphetamine Control and Community Protection Act, to  
18 forfeitable drug manufacturing or distributing paraphernalia,  
19 or to forfeitable records of the importation, manufacture or  
20 distribution of substances.

21 (2) In the following situation, the trier of fact may infer  
22 that the property described therein was furnished or intended  
23 to be furnished in exchange for a substance in violation of the  
24 Illinois Controlled Substances Act, the Cannabis Control Act,  
25 or the Methamphetamine Control and Community Protection Act, or

1 is the proceeds of such an exchange, and therefore forfeitable  
2 under this Act:

3 All property acquired or caused to be acquired by a person  
4 either between the dates of occurrence of two or more acts in  
5 felony violation of the Illinois Controlled Substances Act, the  
6 Cannabis Control Act, or the Methamphetamine Control and  
7 Community Protection Act, or an act committed in another state,  
8 territory or country which would be punishable as a felony  
9 under the Illinois Controlled Substances Act, the Cannabis  
10 Control Act, or the Methamphetamine Control and Community  
11 Protection Act, committed by that person within 5 years of each  
12 other, or all property acquired by such person within a  
13 reasonable amount of time after the commission of such acts if:

14 (a) at ~~At~~ least one of the above acts was committed  
15 after the effective date of this Act; and

16 (b) both ~~Both~~ of the acts are or were punishable as a  
17 Class X, Class 1, or Class 2 felony; and

18 (c) there ~~There~~ was no likely source for such property  
19 other than a violation of the above Acts.

20 (3) Presumptions and permissive inferences set forth in  
21 this Section shall apply to all portions of all phases of all  
22 ~~the judicial in rem~~ forfeiture proceedings under this Act.

23 (Source: P.A. 100-512, eff. 7-1-18.)

24 (725 ILCS 150/8) (from Ch. 56 1/2, par. 1678)

25 (Text of Section before amendment by P.A. 100-512)

1           Sec. 8. Exemptions from forfeiture. A property interest is  
2 exempt from forfeiture under this Section if its owner or  
3 interest holder establishes by a preponderance of evidence that  
4 the owner or interest holder:

5           (A) (i) in the case of personal property, is not legally  
6 accountable for the conduct giving rise to the forfeiture, did  
7 not acquiesce in it, and did not know and could not reasonably  
8 have known of the conduct or that the conduct was likely to  
9 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) had not acquired and did not stand to acquire  
15 substantial proceeds from the conduct giving rise to its  
16 forfeiture other than as an interest holder in an arms length  
17 commercial transaction; and

18          (C) with respect to conveyances, did not hold the property  
19 jointly or in common with a person whose conduct gave rise to  
20 the forfeiture; and

21          (D) does not hold the property for the benefit of or as  
22 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) that the owner or interest holder acquired the  
3 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 (Text of Section after amendment by P.A. 100-512)

21 Sec. 8. Exemptions from forfeiture.

22 (a) No vessel or watercraft, vehicle, or aircraft used by  
23 any person as a common carrier in the transaction of business  
24 as a common carrier may be forfeited under this Act unless the  
25 State proves by a preponderance of the evidence that:

1 (1) in the case of a railway car or engine, the owner,  
2 or

3 (2) in the case of any other such vessel or watercraft,  
4 vehicle or aircraft, the owner or the master of such vessel  
5 or watercraft or the owner or conductor, driver, pilot, or  
6 other person in charge of that vehicle or aircraft was at  
7 the time of the alleged illegal act a consenting party or  
8 privy to that knowledge.

9 (b) No vessel or watercraft, vehicle, or aircraft shall be  
10 forfeited under this Act by reason of any act or omission  
11 committed or omitted by any person other than such owner while  
12 a vessel or watercraft, vehicle, or aircraft was unlawfully in  
13 the possession of a person who acquired possession in violation  
14 of the criminal laws of the United States<sup>7</sup> or of any state.

15 ~~(A) (blank); and~~

16 ~~(B) (blank); and~~

17 ~~(C) (blank); and~~

18 ~~(D) (blank); and~~

19 ~~(E) (blank); and~~

20 (Source: P.A. 100-512, eff. 7-1-18.)

21 (725 ILCS 150/9) (from Ch. 56 1/2, par. 1679)

22 (Text of Section before amendment by P.A. 100-512)

23 Sec. 9. Judicial in rem procedures. If property seized  
24 under the provisions of the Illinois Controlled Substances Act,  
25 the Cannabis Control Act, or the Methamphetamine Control and

1 Community Protection Act is non-real property that exceeds  
2 \$20,000 in value excluding the value of any conveyance, or is  
3 real property, or a claimant has filed a claim and a cost bond  
4 under subsection (C) of Section 6 of this Act, the following  
5 judicial in rem procedures shall apply:

6 (A) If, after a review of the facts surrounding the  
7 seizure, the State's Attorney is of the opinion that the seized  
8 property is subject to forfeiture, then within 45 days of the  
9 receipt of notice of seizure by the seizing agency or the  
10 filing of the claim and cost bond, whichever is later, the  
11 State's Attorney shall institute judicial forfeiture  
12 proceedings by filing a verified complaint for forfeiture and,  
13 if the claimant has filed a claim and cost bond, by depositing  
14 the cost bond with the clerk of the court. When authorized by  
15 law, a forfeiture must be ordered by a court on an action in  
16 rem brought by a State's Attorney under a verified complaint  
17 for forfeiture.

18 (B) During the probable cause portion of the judicial in  
19 rem proceeding wherein the State presents its case-in-chief,  
20 the court must receive and consider, among other things, all  
21 relevant hearsay evidence and information. The laws of evidence  
22 relating to civil actions shall apply to all other portions of  
23 the judicial in rem proceeding.

24 (C) Only an owner of or interest holder in the property may  
25 file an answer asserting a claim against the property in the  
26 action in rem. For purposes of this Section, the owner or

1 interest holder shall be referred to as claimant.

2 (D) The answer must be signed by the owner or interest  
3 holder under penalty of perjury and must set forth:

4 (i) the caption of the proceedings as set forth on the  
5 notice of pending forfeiture and the name of the claimant;

6 (ii) the address at which the claimant will accept  
7 mail;

8 (iii) the nature and extent of the claimant's interest  
9 in the property;

10 (iv) the date, identity of transferor, and  
11 circumstances of the claimant's acquisition of the  
12 interest in the property;

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

15 (vi) the specific provisions of Section 8 of this Act  
16 relied on in asserting it is not subject to forfeiture;

17 (vii) all essential facts supporting each assertion;  
18 and

19 (viii) the precise relief sought.

20 (E) The answer must be filed with the court within 45 days  
21 after service of the civil in rem complaint.

22 (F) The hearing must be held within 60 days after filing of  
23 the answer unless continued for good cause.

24 (G) The State shall show the existence of probable cause  
25 for forfeiture of the property. If the State shows probable  
26 cause, the claimant has the burden of showing by a

1 preponderance of the evidence that the claimant's interest in  
2 the property is not subject to forfeiture.

3 (H) If the State does not show existence of probable cause  
4 or a claimant has established by a preponderance of evidence  
5 that the claimant has an interest that is exempt under Section  
6 8 of this Act, the court shall order the interest in the  
7 property returned or conveyed to the claimant and shall order  
8 all other property forfeited to the State. If the State does  
9 show existence of probable cause and the claimant does not  
10 establish by a preponderance of evidence that the claimant has  
11 an interest that is exempt under Section 8 of this Act, the  
12 court shall order all property forfeited to the State.

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

19 (J) An acquittal or dismissal in a criminal proceeding  
20 shall not preclude civil proceedings under this Act; however,  
21 for good cause shown, on a motion by the State's Attorney, the  
22 court may stay civil forfeiture proceedings during the criminal  
23 trial for a related criminal indictment or information alleging  
24 a violation of the Illinois Controlled Substances Act, the  
25 Cannabis Control Act, or the Methamphetamine Control and  
26 Community Protection Act. Such a stay shall not be available



1 pending an appeal. Property subject to forfeiture under the  
2 Illinois Controlled Substances Act, the Cannabis Control Act,  
3 or the Methamphetamine Control and Community Protection Act  
4 shall not be subject to return or release by a court exercising  
5 jurisdiction over a criminal case involving the seizure of such  
6 property unless such return or release is consented to by the  
7 State's Attorney.

8 (K) All property declared forfeited under this Act vests in  
9 this State on the commission of the conduct giving rise to  
10 forfeiture together with the proceeds of the property after  
11 that time. Any such property or proceeds subsequently  
12 transferred to any person remain subject to forfeiture and  
13 thereafter shall be ordered forfeited unless the transferee  
14 claims and establishes in a hearing under the provisions of  
15 this Act that the transferee's interest is exempt under Section  
16 8 of this Act.

17 (L) A civil action under this Act must be commenced within  
18 5 years after the last conduct giving rise to forfeiture became  
19 known or should have become known or 5 years after the  
20 forfeitable property is discovered, whichever is later,  
21 excluding any time during which either the property or claimant  
22 is out of the State or in confinement or during which criminal  
23 proceedings relating to the same conduct are in progress.

24 (Source: P.A. 94-556, eff. 9-11-05.)

25 (Text of Section after amendment by P.A. 100-512)

1           Sec. 9. Judicial in rem procedures. If property seized  
2 under the provisions of the Illinois Controlled Substances Act,  
3 the Cannabis Control Act, or the Methamphetamine Control and  
4 Community Protection Act is non-real property that exceeds  
5 \$150,000 in value excluding the value of any conveyance, or is  
6 real property, or a claimant has filed a claim ~~and a cost bond~~  
7 under subsection (C) of Section 6 of this Act, the following  
8 judicial in rem procedures shall apply:

9           (A) If, after a review of the facts surrounding the  
10 seizure, the State's Attorney is of the opinion that the seized  
11 property is subject to forfeiture, the State's Attorney shall  
12 institute judicial forfeiture proceedings by filing a verified  
13 complaint for forfeiture in the circuit court within whose  
14 jurisdiction the seizure occurred, or within whose  
15 jurisdiction an act or omission giving rise to the seizure  
16 occurred, subject to Supreme Court Rule 187. The complaint for  
17 ~~of~~ forfeiture shall be filed as soon as practicable, but not  
18 later than 28 days after the filing of a verified claim by a  
19 claimant if the property was acted upon under a non-judicial  
20 forfeiture action, or 28 days after the State's Attorney  
21 receives notice from the seizing agency as provided under  
22 Section 5 of this Act, whichever occurs later. When authorized  
23 by law, a forfeiture must be ordered by a court on an action in  
24 rem brought by a State's Attorney under a verified complaint  
25 for forfeiture.

26           (A-5) If the State's Attorney finds that the alleged

1 violation of law giving rise to the seizure was incurred  
2 without willful negligence or without any intention on the part  
3 of the owner of the property to violate the law or finds the  
4 existence of ~~those~~ mitigating circumstances to justify  
5 remission of the forfeiture, may cause the law enforcement  
6 agency having custody of the property to return the property to  
7 the owner within a reasonable time not to exceed 7 days. The  
8 State's Attorney shall exercise his or her discretion prior to  
9 or promptly after the preliminary review under Section 3.5 of  
10 this Act. Judicial in rem forfeiture proceedings under this Act  
11 shall be subject to the Code of Civil Procedure and the rules  
12 of evidence relating to civil actions.

13 (A-10) A complaint of forfeiture shall include:

- 14 (1) a description of the property seized;  
15 (2) the date and place of seizure of the property;  
16 (3) the name and address of the law enforcement agency  
17 making the seizure; and  
18 (4) the specific statutory and factual grounds for the  
19 seizure.

20 The complaint shall be served upon the person from whom the  
21 property was seized and all persons known or reasonably  
22 believed by the State to claim an interest in the property, as  
23 provided in Section 4 of this Act. The complaint shall be  
24 accompanied by the following written notice:

25 "This is a civil court proceeding subject to the Code of  
26 Civil Procedure. You received this Complaint of Forfeiture

1 because the State's Attorney's office has brought a legal  
2 action seeking forfeiture of your seized property. This  
3 complaint starts the court process where the state seeks to  
4 prove that your property should be forfeited and not  
5 returned to you. This process is also your opportunity to  
6 try to prove to a judge that you should get your property  
7 back. The complaint lists the date, time, and location of  
8 your first court date. You must appear in court on that  
9 day, or you may lose the case automatically. You must also  
10 file an appearance and answer. If you are unable to pay the  
11 appearance fee, you may qualify to have the fee waived. If  
12 there is a criminal case related to the seizure of your  
13 property, your case may be set for trial after the criminal  
14 case has been resolved. Before trial, the judge may allow  
15 discovery, where the State can ask you to respond in  
16 writing to questions and give them certain documents, and  
17 you can make similar requests of the State. The trial is  
18 your opportunity to explain what happened when your  
19 property was seized and why you should get the property  
20 back.".

21 (B) The laws of evidence relating to civil actions shall  
22 apply to all other proceedings under this Act except that the  
23 parties shall be allowed to use, and the court must receive and  
24 consider, all relevant hearsay evidence that ~~which~~ relates to  
25 evidentiary foundation, chain of custody, business records,  
26 recordings, laboratory analysis, laboratory reports, and the

1 use of technology in the investigation that resulted in the  
2 seizure of the property that ~~which~~ is subject to the ~~this~~  
3 forfeiture action.

4 (C) Only an owner of or interest holder in the property may  
5 file an answer asserting a claim against the property in the  
6 action in rem. For purposes of this Section, the owner or  
7 interest holder shall be referred to as claimant. A person not  
8 named in the forfeiture complaint who claims to have an  
9 interest in the property may petition to intervene as a  
10 claimant under Section 2-408 of the Code of Civil Procedure.

11 (D) The answer must be signed by the owner or interest  
12 holder under penalty of perjury and must set forth:

13 (i) the caption of the proceedings as set forth on the  
14 notice of pending forfeiture and the name of the claimant;

15 (ii) the address at which the claimant will accept  
16 mail;

17 (iii) the nature and extent of the claimant's interest  
18 in the property;

19 (iv) the date, identity of transferor, and  
20 circumstances of the claimant's acquisition of the  
21 interest in the property;

22 (v) the names and addresses ~~name and address~~ of all  
23 other persons known to have an interest in the property;

24 (vi) the specific provisions of Section 8 of this Act  
25 relied on in asserting it is exempt from forfeiture, if  
26 applicable;

1 (vii) all essential facts supporting each assertion;  
2 (viii) the precise relief sought; and  
3 (ix) in a forfeiture action involving currency or its  
4 equivalent, a claimant shall provide the State with notice  
5 of the claimant's ~~their~~ intent to allege that the currency  
6 or its equivalent is not related to the alleged factual  
7 basis for the forfeiture, and why.

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

10 (F) The trial shall be held within 60 days after filing of  
11 the answer unless continued for good cause.

12 (G) The State, in its case in chief, shall show by a  
13 preponderance of the evidence the property is subject to  
14 forfeiture; and at least one of the following:

15 (i) In the case of personal property, including  
16 conveyances:

17 (a) that the claimant was legally accountable for  
18 the conduct giving rise to the forfeiture;

19 (b) that the claimant knew or reasonably should  
20 have known of the conduct giving rise to the  
21 forfeiture;

22 (c) that the claimant knew or reasonably should  
23 have known that the conduct giving rise to the  
24 forfeiture was likely to occur;

25 (d) that the claimant held the property for the  
26 benefit of, or as nominee for, any person whose conduct

1 gave rise to its forfeiture;

2 (e) that if the claimant acquired the ~~their~~  
3 interest through any person engaging in any of the  
4 conduct described above or conduct giving rise to the  
5 forfeiture:

6 (1) the claimant did not acquire it as a bona  
7 fide purchaser for value, or

8 (2) the claimant acquired the interest under  
9 such circumstances that the claimant ~~they~~  
10 reasonably should have known the property was  
11 derived from, or used in, the conduct giving rise  
12 to the forfeiture; ~~or~~

13 (f) that the claimant is not the true owner of the  
14 property;

15 (g) that the claimant acquired the interest:

16 (1) before the commencement of the conduct  
17 giving rise to the forfeiture and the person whose  
18 conduct gave rise to the forfeiture did not have  
19 authority to convey the interest to a bona fide  
20 purchaser for value at the time of the conduct; or

21 (2) after the commencement of the conduct  
22 giving rise to the forfeiture and the owner or  
23 interest holder acquired the interest as a  
24 mortgagee, secured creditor, lienholder, or bona  
25 fide purchaser for value without knowledge of the  
26 conduct that ~~which~~ gave rise to the forfeiture, and

1           without the knowledge of the seizure of the  
2           property for forfeiture.

3           (ii) In the case of real property:

4           (a) that the claimant was legally accountable for  
5           the conduct giving rise to the forfeiture;

6           (b) that the claimant solicited, conspired, or  
7           attempted to commit the conduct giving rise to the  
8           forfeiture; or

9           (c) that the claimant had acquired or stood to  
10          acquire substantial proceeds from the conduct giving  
11          rise to its forfeiture other than as an interest holder  
12          in an arm's length transaction;

13          (d) that the claimant is not the true owner of the  
14          property;

15          (e) that the claimant acquired the interest:

16               (1) before the commencement of the conduct  
17               giving rise to the forfeiture and the person whose  
18               conduct gave rise to the forfeiture did not have  
19               authority to convey the interest to a bona fide  
20               purchaser for value at the time of the conduct; or

21               (2) after the commencement of the conduct  
22               giving rise to the forfeiture and the owner or  
23               interest holder acquired the interest as a  
24               mortgagee, secured creditor, lienholder, or bona  
25               fide purchaser for value without knowledge of the  
26               conduct that ~~which~~ gave rise to the forfeiture, and



1           before the filing in the office of the recorder of  
2           deeds of the county in which the real estate is  
3           located a notice of seizure for forfeiture or a lis  
4           pendens notice.

5           (G-5) If the property that is the subject of the forfeiture  
6           proceeding is currency or its equivalent, the State, in its  
7           case in chief, shall show by a preponderance of the evidence  
8           that the property is subject to forfeiture. If the State makes  
9           that showing, the claimant shall have the burden of production  
10          to set forth evidence that the currency or its equivalent is  
11          not related to the alleged factual basis of the forfeiture.  
12          After the production of evidence, the State shall maintain the  
13          burden of proof to overcome this assertion.

14          (G-10) Notwithstanding any other provision of this  
15          Section, the State's burden of proof at the trial of the  
16          forfeiture action shall be by clear and convincing evidence if:

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

20                (2) the State receives an adverse finding at a  
21                preliminary hearing and fails to secure an indictment in a  
22                criminal proceeding related to the factual allegations of  
23                the forfeiture action.

24          (H) If the State does not meet its burden of proof, the  
25          court shall order the interest in the property returned or  
26          conveyed to the claimant and shall order all other property as

1 to which the State does meet its burden of proof forfeited to  
2 the State. If the State does meet its burden of proof, the  
3 court shall order all property forfeited to the State.

4 (I) A defendant convicted in any criminal proceeding is  
5 precluded from later denying the essential allegations of the  
6 criminal offense of which the defendant was convicted in any  
7 proceeding under this Act regardless of the pendency of an  
8 appeal from that conviction. However, evidence of the pendency  
9 of an appeal is admissible.

10 (J) An acquittal or dismissal in a criminal proceeding  
11 shall not preclude civil proceedings under this Act; however,  
12 for good cause shown, on a motion by the State's Attorney, the  
13 court may stay civil forfeiture proceedings during the criminal  
14 trial for a related criminal indictment or information alleging  
15 a violation of the Illinois Controlled Substances Act, the  
16 Cannabis Control Act, or the Methamphetamine Control and  
17 Community Protection Act. Such a stay shall not be available  
18 pending an appeal. Property subject to forfeiture under the  
19 Illinois Controlled Substances Act, the Cannabis Control Act,  
20 or the Methamphetamine Control and Community Protection Act  
21 shall not be subject to return or release by a court exercising  
22 jurisdiction over a criminal case involving the seizure of such  
23 property unless such return or release is consented to by the  
24 State's Attorney.

25 (K) Title to all property declared forfeited under this Act  
26 vests in the ~~this~~ State on the commission of the conduct giving

1 rise to forfeiture together with the proceeds of the property  
2 after that time. Except as otherwise provided in this Act, any  
3 such property or proceeds subsequently transferred to any  
4 person remain subject to forfeiture unless a person to whom the  
5 property was transferred makes an appropriate claim under this  
6 Act and has the ~~their~~ claim adjudicated in the judicial in rem  
7 proceeding.

8 (L) A civil action under this Act must be commenced within  
9 5 years after the last conduct giving rise to forfeiture became  
10 known or should have become known or 5 years after the  
11 forfeitable property is discovered, whichever is later,  
12 excluding any time during which either the property or claimant  
13 is out of the State or in confinement or during which criminal  
14 proceedings relating to the same conduct are in progress.

15 (M) No property shall be forfeited under this Act from a  
16 person who, without actual or constructive notice that the  
17 property was the subject of forfeiture proceedings, obtained  
18 possession of the property as a bona fide purchaser for value.  
19 A person who purports to transfer property after receiving  
20 actual or constructive notice that the property is subject to  
21 seizure or forfeiture is guilty of contempt of court and shall  
22 be liable to the State for a penalty in the amount of the fair  
23 market value of the property.

24 (N) If property is ordered forfeited under this Act from a  
25 claimant who held title to the property in joint tenancy or  
26 tenancy in common with another claimant, the court shall

1 determine the amount of each owner's interest in the property  
2 according to principles of property law.

3 (Source: P.A. 100-512, eff. 7-1-18.)

4 (725 ILCS 150/9.1)

5 (This Section may contain text from a Public Act with a  
6 delayed effective date)

7 Sec. 9.1. Innocent owner hearing.

8 (a) After a complaint for forfeiture is filed and all  
9 claimants have appeared and answered, a claimant may file a  
10 motion with the court for an innocent owner hearing prior to  
11 trial. This motion shall be made and supported by sworn  
12 affidavit and shall assert the following along with specific  
13 facts that ~~which~~ support each assertion:

14 (1) that the claimant filing the motion is the true  
15 owner of the conveyance as interpreted by case law;

16 (2) that the claimant was not legally accountable for  
17 the conduct giving rise to the forfeiture or acquiesced in  
18 the conduct;

19 (3) that the claimant did not solicit, conspire, or  
20 attempt to commit the conduct giving rise to the  
21 forfeiture;

22 (4) that the claimant did not know or did not ~~they~~ have  
23 reason to know that the conduct giving rise to the  
24 forfeiture was likely to occur; and

25 (5) that the claimant did not hold the property for the

1 benefit of, or as nominee for any person whose conduct gave  
2 rise to its forfeiture, or if the owner or interest holder  
3 acquired the interest through any such person, the owner or  
4 interest holder did not acquire it as a bona fide purchaser  
5 for value, or acquired the interest without knowledge of  
6 the seizure of the property for forfeiture.

7 ~~(b)~~ The claimant's motion shall include specific facts  
8 supporting these assertions.

9 (b) ~~(e)~~ Upon this filing, a hearing may only be held after  
10 the parties have been given the opportunity to conduct limited  
11 discovery as to the ownership and control of the property, the  
12 claimant's knowledge, or any matter relevant to the issues  
13 raised or facts alleged in the claimant's motion. Discovery  
14 shall be limited to the People's requests in these areas but  
15 may proceed by any means allowed in the Code of Civil  
16 Procedure.

17 (c) ~~(d)~~ After discovery is complete and the court has  
18 allowed for sufficient time to review and investigate the  
19 discovery responses, the court shall conduct a hearing. At the  
20 hearing, the fact that the property is subject to forfeiture  
21 shall not be at issue. The court shall only hear evidence  
22 relating to the issue of innocent ownership.

23 (d) ~~(e)~~ At the hearing on the motion, the claimant shall  
24 bear the burden of proving by a preponderance of the evidence  
25 each of the assertions set forth in subsection (a) of this  
26 Section. ~~(f)~~ If a claimant meets the ~~their~~ burden of proof, the

1 court shall grant the motion and order the property returned to  
2 the claimant. If the claimant fails to meet the ~~their~~ burden of  
3 proof, then the court shall deny the motion and the forfeiture  
4 case shall proceed according to the Code ~~Rules~~ of Civil  
5 Procedure.

6 (Source: P.A. 100-512, eff. 7-1-18.)

7 (725 ILCS 150/11) (from Ch. 56 1/2, par. 1681)

8 (Text of Section before amendment by P.A. 100-512)

9 Sec. 11. Settlement of claims. Notwithstanding other  
10 provisions of this Act, the State's Attorney and a claimant of  
11 seized property may enter into an agreed-upon settlement  
12 concerning the seized property in such an amount and upon such  
13 terms as are set out in writing in a settlement agreement.

14 (Source: P.A. 86-1382.)

15 (Text of Section after amendment by P.A. 100-512)

16 Sec. 11. Settlement of claims. Notwithstanding other  
17 provisions of this Act, the State's Attorney and a claimant of  
18 seized property may enter into an agreed-upon settlement  
19 concerning the seized property in such an amount and upon such  
20 terms as are set out in writing in a settlement agreement. All  
21 proceeds from a settlement agreement shall be tendered to the  
22 Department of State Police and distributed in accordance with  
23 the provisions of Section 13.2 ~~47~~ of this Act.

24 (Source: P.A. 100-512, eff. 7-1-18.)

1 (725 ILCS 150/13.1)

2 (This Section may contain text from a Public Act with a  
3 delayed effective date)

4 Sec. 13.1 ~~15~~. Return of property, damages, and costs.

5 (a) The law enforcement agency that holds custody of  
6 property seized for forfeiture shall deliver property ordered  
7 by the court to be returned or conveyed to the claimant within  
8 a reasonable time not to exceed 7 days, unless the order is  
9 stayed by the trial court or a reviewing court pending an  
10 appeal, motion to reconsider, or other reason.

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

23 (c) A law enforcement agency shall not retain forfeited  
24 property for its own use or transfer the property to any person  
25 or entity, except as provided under this Section. A law

1 enforcement agency may apply in writing to the Director of  
2 State Police to request that ~~a~~ forfeited property be awarded to  
3 the agency for a specifically articulated official law  
4 enforcement use in an investigation. The Director of State  
5 Police shall provide a written justification in each instance  
6 detailing the reasons why the forfeited property was placed  
7 into official use and the justification shall be retained for a  
8 period of not less than 3 years.

9 (Source: P.A. 100-512, eff. 7-1-18.)

10 (725 ILCS 150/13.2)

11 (This Section may contain text from a Public Act with a  
12 delayed effective date)

13 Sec. 13.2 ~~17~~. Distribution of proceeds; selling or  
14 retaining seized property prohibited.

15 (a) Except as otherwise provided in this Section, the court  
16 shall order that property forfeited under this Act be delivered  
17 to the Department of State Police within 60 days.

18 (b) All moneys ~~monies~~ and the sale proceeds of all other  
19 property forfeited and seized under this Act shall be  
20 distributed as follows:

21 (1)(i) 65% shall be distributed to the metropolitan  
22 enforcement group, local, municipal, county, or State  
23 ~~state~~ law enforcement agency or agencies that ~~which~~  
24 conducted or participated in the investigation resulting  
25 in the forfeiture. The distribution shall bear a reasonable



1 relationship to the degree of direct participation of the  
2 law enforcement agency in the effort resulting in the  
3 forfeiture, taking into account the total value of the  
4 property forfeited and the total law enforcement effort  
5 with respect to the violation of the law upon which the  
6 forfeiture is based. Amounts distributed to the agency or  
7 agencies shall be used for the enforcement of laws  
8 governing cannabis and controlled substances; for public  
9 education in the community or schools in the prevention or  
10 detection of the abuse of drugs or alcohol; or for security  
11 cameras used for the prevention or detection of violence,  
12 except that amounts distributed to the Secretary of State  
13 shall be deposited into the Secretary of State Evidence  
14 Fund to be used as provided in Section 2-115 of the  
15 Illinois Vehicle Code.

16 (ii) Any local, municipal, or county law enforcement  
17 agency entitled to receive a monetary distribution of  
18 forfeiture proceeds may share those forfeiture proceeds  
19 pursuant to the terms of an intergovernmental agreement  
20 with a municipality that has a population in excess of  
21 20,000 if:

22 (A) the receiving agency has entered into an  
23 intergovernmental agreement with the municipality to  
24 provide police services;

25 (B) the intergovernmental agreement for police  
26 services provides for consideration in an amount of not

1 less than \$1,000,000 per year;

2 (C) the seizure took place within the geographical  
3 limits of the municipality; and

4 (D) the funds are used only for the enforcement of  
5 laws governing cannabis and controlled substances; for  
6 public education in the community or schools in the  
7 prevention or detection of the abuse of drugs or  
8 alcohol; or for security cameras used for the  
9 prevention or detection of violence or the  
10 establishment of a municipal police force, including  
11 the training of officers, construction of a police  
12 station, or the purchase of law enforcement equipment  
13 or vehicles.

14 (2) (i) 12.5% shall be distributed to the Office of the  
15 State's Attorney of the county in which the prosecution  
16 resulting in the forfeiture was instituted, deposited in a  
17 special fund in the county treasury and appropriated to the  
18 State's Attorney for use in the enforcement of laws  
19 governing cannabis and controlled substances; for public  
20 education in the community or schools in the prevention or  
21 detection of the abuse of drugs or alcohol; or, at the  
22 discretion of the State's Attorney, in addition to other  
23 authorized purposes, to make grants to local substance  
24 abuse treatment facilities and half-way houses. In  
25 counties over 3,000,000 population, 25% shall be  
26 distributed to the Office of the State's Attorney for use

1 in the enforcement of laws governing cannabis and  
2 controlled substances; for public education in the  
3 community or schools in the prevention or detection of the  
4 abuse of drugs or alcohol; or at the discretion of the  
5 State's Attorney, in addition to other authorized  
6 purposes, to make grants to local substance abuse treatment  
7 facilities and half-way houses. If the prosecution is  
8 undertaken solely by the Attorney General, the portion  
9 provided shall be distributed to the Attorney General for  
10 use in the enforcement of laws governing cannabis and  
11 controlled substances or for public education in the  
12 community or schools in the prevention or detection of the  
13 abuse of drugs or alcohol.

14 (ii) 12.5% shall be distributed to the Office of the  
15 State's Attorneys Appellate Prosecutor and deposited in  
16 the Narcotics Profit Forfeiture Fund of that office to be  
17 used for additional expenses incurred in the  
18 investigation, prosecution and appeal of cases arising  
19 under laws governing cannabis and controlled substances or  
20 for public education in the community or schools in the  
21 prevention or detection of the abuse of drugs or alcohol.  
22 The Office of the State's Attorneys Appellate Prosecutor  
23 shall not receive distribution from cases brought in  
24 counties with over 3,000,000 population.

25 (3) 10% shall be retained by the Department of State  
26 Police for expenses related to the administration and sale

1 of seized and forfeited property.

2 (Source: P.A. 100-512, eff. 7-1-18.)

3 (725 ILCS 150/13.3)

4 (This Section may contain text from a Public Act with a  
5 delayed effective date)

6 Sec. 13.3 ~~20~~. Reporting. Property seized or forfeited under  
7 this Act is subject to reporting under the Seizure and  
8 Forfeiture Reporting Act.

9 (Source: P.A. 100-512, eff. 7-1-18.)

10 (725 ILCS 150/13.4 new)

11 Sec. 13.4. Applicability; savings clause.

12 (a) The changes made to this Act by Public Act 100-0512 and  
13 this amendatory Act of the 100th General Assembly only apply to  
14 property seized on and after July 1, 2018.

15 (b) The changes made to this Act by this amendatory Act of  
16 the 100th General Assembly are subject to Section 4 of the  
17 Statute on Statutes.

18 Section 42. The Illinois Streetgang Terrorism Omnibus  
19 Prevention Act is amended by changing Section 40 as follows:

20 (740 ILCS 147/40)

21 (Text of Section before amendment by P.A. 100-512)

22 Sec. 40. Contraband.

1 (a) The following are declared to be contraband and no  
2 person shall have a property interest in them:

3 (1) any property that is directly or indirectly used or  
4 intended for use in any manner to facilitate streetgang  
5 related activity; and

6 (2) any property constituting or derived from gross  
7 profits or other proceeds obtained from streetgang related  
8 activity.

9 (b) Within 60 days of the date of the seizure of contraband  
10 under this Section, the State's Attorney shall initiate  
11 forfeiture proceedings as provided in Article 36 of the  
12 Criminal Code of 2012. An owner or person who has a lien on the  
13 property may establish as a defense to the forfeiture of  
14 property that is subject to forfeiture under this Section that  
15 the owner or lienholder had no knowledge that the property was  
16 acquired through a pattern of streetgang related activity.  
17 Property that is forfeited under this Section shall be disposed  
18 of as provided in Article 36 of the Criminal Code of 2012 for  
19 the forfeiture of vehicles, vessels, and aircraft. The proceeds  
20 of the disposition shall be paid to the Gang Violence Victims  
21 and Witnesses Fund to be used to assist in the prosecution of  
22 gang crimes.

23 (Source: P.A. 97-1150, eff. 1-25-13.)

24 (Text of Section after amendment by P.A. 100-512)

25 Sec. 40. Forfeiture.

1 (a) The following are subject to seizure and forfeiture:

2 (1) any property that is directly or indirectly used or  
3 intended for use in any manner to facilitate streetgang  
4 related activity; and

5 (2) any property constituting or derived from gross  
6 profits or other proceeds obtained from streetgang related  
7 activity.

8 (b) Property subject to forfeiture under this Section may  
9 be seized under the procedures set forth under Section 36-2.1  
10 of the Criminal Code of 2012, except that actual physical  
11 seizure of real property subject to forfeiture under this Act  
12 requires the issuance of a seizure warrant. Nothing in this  
13 Section prohibits the constructive seizure of real property  
14 through the filing of a complaint for forfeiture in circuit  
15 court and the recording of a lis pendens against the real  
16 property without a hearing, warrant application, or judicial  
17 approval.

18 (c) The State's Attorney may initiate forfeiture  
19 proceedings under the procedures in Article 36 of the Criminal  
20 Code of 2012. The State shall bear the burden of proving by a  
21 preponderance of the evidence that the property was acquired  
22 through a pattern of streetgang related activity.

23 (d) Property forfeited under this Section shall be disposed  
24 of in accordance with Section 36-7 of Article 36 of the  
25 Criminal Code of 2012 for the forfeiture of vehicles, vessels,  
26 and aircraft.

1           (e) Within 60 days of the date of the seizure of contraband  
2 under this Section, the State's Attorney shall initiate  
3 forfeiture proceedings as provided in Article 36 of the  
4 Criminal Code of 2012. An owner or person who has a lien on the  
5 property may establish as a defense to the forfeiture of  
6 property that is subject to forfeiture under this Section that  
7 the owner or lienholder had no knowledge that the property was  
8 acquired through a pattern of streetgang related activity.  
9 Property that is forfeited under this Section shall be disposed  
10 of as provided in Article 36 of the Criminal Code of 2012 for  
11 the forfeiture of vehicles, vessels, and aircraft. The proceeds  
12 of the disposition shall be paid to the Gang Violence Victims  
13 and Witnesses Fund to be used to assist in the prosecution of  
14 gang crimes.

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

18           (g) The changes made to this Section by Public Act 100-0512  
19 only apply to property seized on and after July 1, 2018.

20           (Source: P.A. 100-512, eff. 7-1-18.)

21           Section 45. The Illinois Securities Law of 1953 is amended  
22 by changing Section 11 as follows:

23           (815 ILCS 5/11) (from Ch. 121 1/2, par. 137.11)

24           (Text of Section before amendment by P.A. 100-512)

1           Sec. 11. Duties and powers of the Secretary of State.

2           A. (1) The administration of this Act is vested in the  
3 Secretary of State, who may from time to time make, amend and  
4 rescind such rules and regulations as may be necessary to carry  
5 out this Act, including rules and regulations governing  
6 procedures of registration, statements, applications and  
7 reports for various classes of securities, persons and matters  
8 within his or her jurisdiction and defining any terms, whether  
9 or not used in this Act, insofar as the definitions are not  
10 inconsistent with this Act. The rules and regulations adopted  
11 by the Secretary of State under this Act shall be effective in  
12 the manner provided for in the Illinois Administrative  
13 Procedure Act.

14           (2) Among other things, the Secretary of State shall have  
15 authority, for the purposes of this Act, to prescribe the form  
16 or forms in which required information shall be set forth,  
17 accounting practices, the items or details to be shown in  
18 balance sheets and earning statements, and the methods to be  
19 followed in the preparation of accounts, in the appraisal or  
20 valuation of assets and liabilities, in the determination of  
21 depreciation and depletion, in the differentiation of  
22 recurring and non-recurring income, in the differentiation of  
23 investment and operating income, and in the preparation of  
24 consolidated balance sheets or income accounts of any person,  
25 directly or indirectly, controlling or controlled by the  
26 issuer, or any person under direct or indirect common control



1 with the issuer.

2 (3) No provision of this Act imposing any liability shall  
3 apply to any act done or omitted in good faith in conformity  
4 with any rule or regulation of the Secretary of State under  
5 this Act, notwithstanding that the rule or regulation may,  
6 after the act or omission, be amended or rescinded or be  
7 determined by judicial or other authority to be invalid for any  
8 reason.

9 (4) The Securities Department of the Office of the  
10 Secretary of State shall be deemed a criminal justice agency  
11 for purposes of all federal and state laws and regulations and,  
12 in that capacity, shall be entitled to access to any  
13 information available to criminal justice agencies and has the  
14 power to appoint special agents to conduct all investigations,  
15 searches, seizures, arrests, and other duties imposed under the  
16 provisions of any law administered by the Department. The  
17 special agents have and may exercise all the powers of peace  
18 officers solely for the purpose of enforcing provisions of this  
19 Act.

20 The Director must authorize to each special agent employed  
21 under this Section a distinct badge that, on its face, (i)  
22 clearly states that the badge is authorized by the Department  
23 and (ii) contains a unique and identifying number.

24 Special agents shall comply with all training requirements  
25 established for law enforcement officers by provisions of the  
26 Illinois Police Training Act.

1           (5) The Secretary of State, by rule, may conditionally or  
2 unconditionally exempt any person, security, or transaction,  
3 or any class or classes of persons, securities, or transactions  
4 from any provision of Section 5, 6, 7, 8, 8a, or 9 of this Act  
5 or of any rule promulgated under these Sections, to the extent  
6 that such exemption is necessary or appropriate in the public  
7 interest, and is consistent with the protection of investors.

8           B. The Secretary of State may, anything in this Act to the  
9 contrary notwithstanding, require financial statements and  
10 reports of the issuer, dealer, Internet portal, salesperson,  
11 investment adviser, or investment adviser representative as  
12 often as circumstances may warrant. In addition, the Secretary  
13 of State may secure information or books and records from or  
14 through others and may make or cause to be made investigations  
15 respecting the business, affairs, and property of the issuer of  
16 securities, any person involved in the sale or offer for sale,  
17 purchase or offer to purchase of any mineral investment  
18 contract, mineral deferred delivery contract, or security and  
19 of dealers, Internet portals, salespersons, investment  
20 advisers, and investment adviser representatives that are  
21 registered or are the subject of an application for  
22 registration under this Act. The costs of an investigation  
23 shall be borne by the registrant or the applicant, provided  
24 that the registrant or applicant shall not be obligated to pay  
25 the costs without his, her or its consent in advance.

26           C. Whenever it shall appear to the Secretary of State,

1 either upon complaint or otherwise, that this Act, or any rule  
2 or regulation prescribed under authority thereof, has been or  
3 is about to be violated, he or she may, in his or her  
4 discretion, do one or more of the following:

5 (1) require or permit the person to file with the  
6 Secretary of State a statement in writing under oath, or  
7 otherwise, as to all the facts and circumstances concerning  
8 the subject matter which the Secretary of State believes to  
9 be in the public interest to investigate, audit, examine,  
10 or inspect;

11 (2) conduct an investigation, audit, examination, or  
12 inspection as necessary or advisable for the protection of  
13 the interests of the public; and

14 (3) appoint investigators to conduct all  
15 investigations, searches, seizures, arrests, and other  
16 duties imposed under the provisions of any law administered  
17 by the Department. The Director must authorize to each  
18 investigator employed under this Section a distinct badge  
19 that, on its face, (i) clearly states that the badge is  
20 authorized by the Department and (ii) contains a unique and  
21 identifying number.

22 D. (1) For the purpose of all investigations, audits,  
23 examinations, or inspections which in the opinion of the  
24 Secretary of State are necessary and proper for the enforcement  
25 of this Act, the Secretary of State or a person designated by  
26 him or her is empowered to administer oaths and affirmations,

1 subpoena witnesses, take evidence, and require, by subpoena or  
2 other lawful means provided by this Act or the rules adopted by  
3 the Secretary of State, the production of any books and  
4 records, papers, or other documents which the Secretary of  
5 State or a person designated by him or her deems relevant or  
6 material to the inquiry.

7 (2) The Secretary of State or a person designated by him or  
8 her is further empowered to administer oaths and affirmations,  
9 subpoena witnesses, take evidence, and require the production  
10 of any books and records, papers, or other documents in this  
11 State at the request of a securities agency of another state,  
12 if the activities constituting the alleged violation for which  
13 the information is sought would be in violation of Section 12  
14 of this Act if the activities had occurred in this State.

15 (3) The Circuit Court of any County of this State, upon  
16 application of the Secretary of State or a person designated by  
17 him or her may order the attendance of witnesses, the  
18 production of books and records, papers, accounts and documents  
19 and the giving of testimony before the Secretary of State or a  
20 person designated by him or her; and any failure to obey the  
21 order may be punished by the Circuit Court as a contempt  
22 thereof.

23 (4) The fees of subpoenaed witnesses under this Act for  
24 attendance and travel shall be the same as fees of witnesses  
25 before the Circuit Courts of this State, to be paid when the  
26 witness is excused from further attendance, provided, the

1 witness is subpoenaed at the instance of the Secretary of  
2 State; and payment of the fees shall be made and audited in the  
3 same manner as other expenses of the Secretary of State.

4 (5) Whenever a subpoena is issued at the request of a  
5 complainant or respondent as the case may be, the Secretary of  
6 State may require that the cost of service and the fee of the  
7 witness shall be borne by the party at whose instance the  
8 witness is summoned.

9 (6) The Secretary of State shall have power at his or her  
10 discretion, to require a deposit to cover the cost of the  
11 service and witness fees and the payment of the legal witness  
12 fee and mileage to the witness served with subpoena.

13 (7) A subpoena issued under this Act shall be served in the  
14 same manner as a subpoena issued out of a circuit court.

15 (8) The Secretary of State may in any investigation,  
16 audits, examinations, or inspections cause the taking of  
17 depositions of persons residing within or without this State in  
18 the manner provided in civil actions under the laws of this  
19 State.

20 E. Anything in this Act to the contrary notwithstanding:

21 (1) If the Secretary of State shall find that the offer  
22 or sale or proposed offer or sale or method of offer or  
23 sale of any securities by any person, whether exempt or  
24 not, in this State, is fraudulent, or would work or tend to  
25 work a fraud or deceit, or is being offered or sold in  
26 violation of Section 12, or there has been a failure or

1 refusal to submit any notification filing or fee required  
2 under this Act, the Secretary of State may by written order  
3 prohibit or suspend the offer or sale of securities by that  
4 person or deny or revoke the registration of the securities  
5 or the exemption from registration for the securities.

6 (2) If the Secretary of State shall find that any  
7 person has violated subsection C, D, E, F, G, H, I, J, or K  
8 of Section 12 of this Act, the Secretary of State may by  
9 written order temporarily or permanently prohibit or  
10 suspend the person from offering or selling any securities,  
11 any mineral investment contract, or any mineral deferred  
12 delivery contract in this State, provided that any person  
13 who is the subject of an order of permanent prohibition may  
14 petition the Secretary of State for a hearing to present  
15 evidence of rehabilitation or change in circumstances  
16 justifying the amendment or termination of the order of  
17 permanent prohibition.

18 (3) If the Secretary of State shall find that any  
19 person is engaging or has engaged in the business of  
20 selling or offering for sale securities as a dealer,  
21 Internet portal, or salesperson or is acting or has acted  
22 as an investment adviser, investment adviser  
23 representative, or federal covered investment adviser,  
24 without prior thereto and at the time thereof having  
25 complied with the registration or notice filing  
26 requirements of this Act, the Secretary of State may by

1 written order prohibit or suspend the person from engaging  
2 in the business of selling or offering for sale securities,  
3 or acting as an investment adviser, investment adviser  
4 representative, or federal covered investment adviser, in  
5 this State.

6 (4) In addition to any other sanction or remedy  
7 contained in this subsection E, the Secretary of State,  
8 after finding that any provision of this Act has been  
9 violated, may impose a fine as provided by rule, regulation  
10 or order not to exceed \$10,000 for each violation of this  
11 Act, may issue an order of public censure against the  
12 violator, and may charge as costs of investigation all  
13 reasonable expenses, including attorney's fees and witness  
14 fees.

15 F. (1) The Secretary of State shall not deny, suspend or  
16 revoke the registration of securities, suspend or revoke the  
17 registration of a dealer, Internet portal, salesperson,  
18 investment adviser, or investment adviser representative,  
19 prohibit or suspend the offer or sale of any securities,  
20 prohibit or suspend any person from offering or selling any  
21 securities in this State, prohibit or suspend a dealer or  
22 salesperson from engaging in the business of selling or  
23 offering for sale securities, prohibit or suspend a person from  
24 acting as an investment adviser or federal covered investment  
25 adviser, or investment adviser representative, impose any fine  
26 for violation of this Act, issue an order of public censure, or

1 enter into an agreed settlement except after an opportunity for  
2 hearing upon not less than 10 days notice given by personal  
3 service or registered mail or certified mail, return receipt  
4 requested, to the person or persons concerned. Such notice  
5 shall state the date and time and place of the hearing and  
6 shall contain a brief statement of the proposed action of the  
7 Secretary of State and the grounds for the proposed action. A  
8 failure to appear at the hearing or otherwise respond to the  
9 allegations set forth in the notice of hearing shall constitute  
10 an admission of any facts alleged therein and shall constitute  
11 sufficient basis to enter an order.

12 (2) Anything herein contained to the contrary  
13 notwithstanding, the Secretary of State may temporarily  
14 prohibit or suspend, for a maximum period of 90 days, by an  
15 order effective immediately, the offer or sale or registration  
16 of securities, the registration of a dealer, Internet portal,  
17 salesperson, investment adviser, or investment adviser  
18 representative, or the offer or sale of securities by any  
19 person, or the business of rendering investment advice, without  
20 the notice and prior hearing in this subsection prescribed, if  
21 the Secretary of State shall in his or her opinion, based on  
22 credible evidence, deem it necessary to prevent an imminent  
23 violation of this Act or to prevent losses to investors which  
24 the Secretary of State reasonably believes will occur as a  
25 result of a prior violation of this Act. Immediately after  
26 taking action without such notice and hearing, the Secretary of



1 State shall deliver a copy of the temporary order to the  
2 respondent named therein by personal service or registered mail  
3 or certified mail, return receipt requested. The temporary  
4 order shall set forth the grounds for the action and shall  
5 advise that the respondent may request a hearing, that the  
6 request for a hearing will not stop the effectiveness of the  
7 temporary order and that respondent's failure to request a  
8 hearing within 30 days after the date of the entry of the  
9 temporary order shall constitute an admission of any facts  
10 alleged therein and shall constitute sufficient basis to make  
11 the temporary order final. Any provision of this paragraph (2)  
12 to the contrary notwithstanding, the Secretary of State may not  
13 pursuant to the provisions of this paragraph (2) suspend the  
14 registration of a dealer, limited Canadian dealer,  
15 salesperson, investment adviser, or investment adviser  
16 representative based upon sub-paragraph (n) of paragraph (1) of  
17 subsection E of Section 8 of this Act or revoke the  
18 registration of securities or revoke the registration of any  
19 dealer, salesperson, investment adviser representative, or  
20 investment adviser.

21 (3) The Secretary of State may issue a temporary order  
22 suspending or delaying the effectiveness of any registration of  
23 securities under subsection A or B of Section 5, 6 or 7 of this  
24 Act subsequent to and upon the basis of the issuance of any  
25 stop, suspension or similar order by the Securities and  
26 Exchange Commission with respect to the securities which are

1 the subject of the registration under subsection A or B of  
2 Section 5, 6 or 7 of this Act, and the order shall become  
3 effective as of the date and time of effectiveness of the  
4 Securities and Exchange Commission order and shall be vacated  
5 automatically at such time as the order of the Securities and  
6 Exchange Commission is no longer in effect.

7 (4) When the Secretary of State finds that an application  
8 for registration as a dealer, Internet portal, salesperson,  
9 investment adviser, or investment adviser representative  
10 should be denied, the Secretary of State may enter an order  
11 denying the registration. Immediately after taking such  
12 action, the Secretary of State shall deliver a copy of the  
13 order to the respondent named therein by personal service or  
14 registered mail or certified mail, return receipt requested.  
15 The order shall state the grounds for the action and that the  
16 matter will be set for hearing upon written request filed with  
17 the Secretary of State within 30 days after the receipt of the  
18 request by the respondent. The respondent's failure to request  
19 a hearing within 30 days after receipt of the order shall  
20 constitute an admission of any facts alleged therein and shall  
21 make the order final. If a hearing is held, the Secretary of  
22 State shall affirm, vacate, or modify the order.

23 (5) The findings and decision of the Secretary of State  
24 upon the conclusion of each final hearing held pursuant to this  
25 subsection shall be set forth in a written order signed on  
26 behalf of the Secretary of State by his or her designee and

1 shall be filed as a public record. All hearings shall be held  
2 before a person designated by the Secretary of State, and  
3 appropriate records thereof shall be kept.

4 (6) Notwithstanding the foregoing, the Secretary of State,  
5 after notice and opportunity for hearing, may at his or her  
6 discretion enter into an agreed settlement, stipulation or  
7 consent order with a respondent in accordance with the  
8 provisions of the Illinois Administrative Procedure Act. The  
9 provisions of the agreed settlement, stipulation or consent  
10 order shall have the full force and effect of an order issued  
11 by the Secretary of State.

12 (7) Anything in this Act to the contrary notwithstanding,  
13 whenever the Secretary of State finds that a person is  
14 currently expelled from, refused membership in or association  
15 with, or limited in any material capacity by a self-regulatory  
16 organization registered under the Federal 1934 Act or the  
17 Federal 1974 Act because of a fraudulent or deceptive act or a  
18 practice in violation of a rule, regulation, or standard duly  
19 promulgated by the self-regulatory organization, the Secretary  
20 of State may, at his or her discretion, enter a Summary Order  
21 of Prohibition, which shall prohibit the offer or sale of any  
22 securities, mineral investment contract, or mineral deferred  
23 delivery contract by the person in this State. The order shall  
24 take effect immediately upon its entry. Immediately after  
25 taking the action the Secretary of State shall deliver a copy  
26 of the order to the named Respondent by personal service or

1 registered mail or certified mail, return receipt requested. A  
2 person who is the subject of an Order of Prohibition may  
3 petition the Secretary of State for a hearing to present  
4 evidence of rehabilitation or change in circumstances  
5 justifying the amendment or termination of the Order of  
6 Prohibition.

7 G. No administrative action shall be brought by the  
8 Secretary of State for relief under this Act or upon or because  
9 of any of the matters for which relief is granted by this Act  
10 after the earlier to occur of (i) 3 years from the date upon  
11 which the Secretary of State had notice of facts which in the  
12 exercise of reasonable diligence would lead to actual knowledge  
13 of the alleged violation of the Act, or (ii) 5 years from the  
14 date on which the alleged violation occurred.

15 H. The action of the Secretary of State in denying,  
16 suspending, or revoking the registration of a dealer, Internet  
17 portal, limited Canadian dealer, salesperson, investment  
18 adviser, or investment adviser representative, in prohibiting  
19 any person from engaging in the business of offering or selling  
20 securities as a dealer, limited Canadian dealer, or  
21 salesperson, in prohibiting or suspending the offer or sale of  
22 securities by any person, in prohibiting a person from acting  
23 as an investment adviser, federal covered investment adviser,  
24 or investment adviser representative, in denying, suspending,  
25 or revoking the registration of securities, in prohibiting or  
26 suspending the offer or sale or proposed offer or sale of

1 securities, in imposing any fine for violation of this Act, or  
2 in issuing any order shall be subject to judicial review in the  
3 Circuit Courts of Cook or Sangamon Counties in this State. The  
4 Administrative Review Law shall apply to and govern every  
5 action for the judicial review of final actions or decisions of  
6 the Secretary of State under this Act.

7 I. Notwithstanding any other provisions of this Act to the  
8 contrary, whenever it shall appear to the Secretary of State  
9 that any person is engaged or about to engage in any acts or  
10 practices which constitute or will constitute a violation of  
11 this Act or of any rule or regulation prescribed under  
12 authority of this Act, the Secretary of State may at his or her  
13 discretion, through the Attorney General take any of the  
14 following actions:

15 (1) File a complaint and apply for a temporary  
16 restraining order without notice, and upon a proper showing  
17 the court may enter a temporary restraining order without  
18 bond, to enforce this Act.

19 (2) File a complaint and apply for a preliminary or  
20 permanent injunction, and, after notice and a hearing and  
21 upon a proper showing, the court may grant a preliminary or  
22 permanent injunction and may order the defendant to make an  
23 offer of rescission with respect to any sales or purchases  
24 of securities, mineral investment contracts, or mineral  
25 deferred delivery contracts determined by the court to be  
26 unlawful under this Act.

1           (3) Seek the seizure of assets when probable cause  
2 exists that the assets were obtained by a defendant through  
3 conduct in violation of Section 12, paragraph F, G, I, J,  
4 K, or L of this Act, and thereby subject to a judicial  
5 forfeiture hearing as required under this Act.

6           (a) In the event that such probable cause exists  
7 that the subject of an investigation who is alleged to  
8 have committed one of the relevant violations of this  
9 Act has in his possession assets obtained as a result  
10 of the conduct giving rise to the violation, the  
11 Secretary of State may seek a seizure warrant in any  
12 circuit court in Illinois.

13           (b) In seeking a seizure warrant, the Secretary of  
14 State, or his or her designee, shall submit to the  
15 court a sworn affidavit detailing the probable cause  
16 evidence for the seizure, the location of the assets to  
17 be seized, the relevant violation under Section 12 of  
18 this Act, and a statement detailing any known owners or  
19 interest holders in the assets.

20           (c) Seizure of the assets shall be made by any  
21 peace officer upon process of the seizure warrant  
22 issued by the court. Following the seizure of assets  
23 under this Act and pursuant to a seizure warrant,  
24 notice of seizure, including a description of the  
25 seized assets, shall immediately be returned to the  
26 issuing court. Seized assets shall be maintained

1 pending a judicial forfeiture hearing in accordance  
2 with the instructions of the court.

3 (d) In the event that management of seized assets  
4 becomes necessary to prevent the devaluation,  
5 dissipation, or otherwise to preserve the property,  
6 the court shall have jurisdiction to appoint a  
7 receiver, conservator, ancillary receiver, or  
8 ancillary conservator for that purpose, as provided in  
9 item (2) of this subsection.

10 (4) Seek the forfeiture of assets obtained through  
11 conduct in violation of Section 12, paragraph F, G, H, I,  
12 J, K, or L when authorized by law. A forfeiture must be  
13 ordered by a circuit court or an action brought by the  
14 Secretary of State as provided for in this Act, under a  
15 verified complaint for forfeiture.

16 (a) In the event assets have been seized pursuant  
17 to this Act, forfeiture proceedings shall be  
18 instituted by the Attorney General within 45 days of  
19 seizure.

20 (b) Service of the complaint filed under the  
21 provisions of this Act shall be made in the manner as  
22 provided in civil actions in this State.

23 (c) Only an owner of or interest holder in the  
24 property may file an answer asserting a claim against  
25 the property. For purposes of this Section, the owner  
26 or interest holder shall be referred to as claimant.

1 (d) The answer must be signed by the owner or  
2 interest holder under penalty of perjury and must set  
3 forth:

4 (i) the caption of the proceedings as set forth  
5 on the notice of pending forfeiture and the name of  
6 the claimant;

7 (ii) the address at which the claimant will  
8 accept mail;

9 (iii) the nature and extent of the claimant's  
10 interest in the property;

11 (iv) the date, identity of the transferor, and  
12 circumstances of the claimant's acquisition of the  
13 interest in the property;

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

16 (vi) the specific provisions of this Act  
17 relied on in asserting that the property is not  
18 subject to forfeiture;

19 (vii) all essential facts supporting each  
20 assertion; and

21 (viii) the precise relief sought.

22 (e) The answer must be filed with the court within  
23 45 days after service of the complaint.

24 (f) A property interest is exempt from forfeiture  
25 under this Act if its owner or interest holder  
26 establishes by a preponderance of evidence that the



1 owner or interest holder:

2 (i) is not legally accountable for the conduct  
3 giving rise to the forfeiture, did not acquiesce in  
4 it, and did not know and could not reasonably have  
5 known of the conduct or that the conduct was likely  
6 to occur;

7 (ii) with respect to conveyances, did not hold  
8 the property jointly or in common with a person  
9 whose conduct gave rise to the forfeiture;

10 (iii) does not hold the property for the  
11 benefit of or as a nominee for any person whose  
12 conduct gave rise to its forfeiture and the owner  
13 or interest holder acquires it as a bona fide  
14 purchaser for value without knowingly taking part  
15 in the conduct giving rise to the forfeiture; or

16 (iv) acquired the interest after the  
17 commencement of the conduct giving rise to its  
18 forfeiture and the owner or interest holder  
19 acquired the interest as a mortgagee, secured  
20 creditor, lienholder, or bona fide purchaser for  
21 value without knowledge of the conduct that gave  
22 rise to the forfeiture.

23 (g) The hearing must be held within 60 days after  
24 the answer is filed unless continued for good cause.

25 (h) During the probable cause portion of the  
26 judicial in rem proceeding wherein the Secretary of

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

6 (i) The Secretary of State shall show the existence  
7 of probable cause for forfeiture of the property. If  
8 the Secretary of State shows probable cause, the  
9 claimant has the burden of showing by a preponderance  
10 of the evidence that the claimant's interest in the  
11 property is not subject to forfeiture.

12 (j) If the Secretary of State does not show the  
13 existence of probable cause or a claimant has an  
14 interest that is exempt under subdivision I (4) (d) of  
15 this Section, the court shall order the interest in the  
16 property returned or conveyed to the claimant and shall  
17 order all other property forfeited to the Secretary of  
18 State pursuant to all provisions of this Act. If the  
19 Secretary of State does show the existence of probable  
20 cause and the claimant does not establish by a  
21 preponderance of the evidence that the claimant has an  
22 interest that is exempt under subsection D herein, the  
23 court shall order all the property forfeited to the  
24 Secretary of State pursuant to the provisions of the  
25 Section.

26 (k) A defendant convicted in any criminal

1 proceeding is precluded from later denying the  
2 essential allegations of the criminal offense of which  
3 the defendant was convicted in any proceeding for  
4 violations of the Act giving rise to forfeiture of  
5 property herein regardless of the pendency of an appeal  
6 from that conviction. However, evidence of the  
7 pendency of an appeal is admissible.

8 (l) An acquittal or dismissal in a criminal  
9 proceeding for violations of the Act giving rise to the  
10 forfeiture of property herein shall not preclude civil  
11 proceedings under this provision; however, for good  
12 cause shown, on a motion by the Secretary of State, the  
13 court may stay civil forfeiture proceedings during the  
14 criminal trial for a related criminal indictment or  
15 information alleging violation of the provisions of  
16 Section 12 of the Illinois Securities Law of 1953.  
17 Property subject to forfeiture under this Section  
18 shall not be subject to return or release by a court  
19 exercising jurisdiction over a criminal case involving  
20 the seizure of the property unless the return or  
21 release is consented to by the Secretary of State.

22 (m) All property declared forfeited under this Act  
23 vests in the State on the commission of the conduct  
24 giving rise to forfeiture together with the proceeds of  
25 the property after that time. Any such property or  
26 proceeds subsequently transferred to any person remain

1 subject to forfeiture and thereafter shall be ordered  
2 forfeited unless the transferee claims and establishes  
3 in a hearing under the provisions of this Act that the  
4 transferee's interest is exempt under the Act. Any  
5 assets forfeited to the State shall be disposed of in  
6 following manner:

7 (i) all forfeited property and assets shall be  
8 liquidated by the Secretary of State in accordance  
9 with all laws and rules governing the disposition  
10 of such property;

11 (ii) the Secretary of State shall provide the  
12 court at the time the property and assets are  
13 declared forfeited a verified statement of  
14 investors subject to the conduct giving rise to the  
15 forfeiture;

16 (iii) after payment of any costs of sale,  
17 receivership, storage, or expenses for  
18 preservation of the property seized, other costs  
19 to the State, and payment to claimants for any  
20 amount deemed exempt from forfeiture, the proceeds  
21 from liquidation shall be distributed pro rata to  
22 investors subject to the conduct giving rise to the  
23 forfeiture; and

24 (iv) any proceeds remaining after all verified  
25 investors have been made whole shall be  
26 distributed 25% to the Securities Investors

1 Education Fund, 25% to the Securities Audit and  
2 Enforcement Fund, 25% to the Attorney General or  
3 any State's Attorney bringing criminal charges for  
4 the conduct giving rise to the forfeiture, and 25%  
5 to other law enforcement agencies participating in  
6 the investigation of the criminal charges for the  
7 conduct giving rise to the forfeiture. In the event  
8 that no other law enforcement agencies are  
9 involved in the investigation of the conduct  
10 giving rise to the forfeiture, then the portion to  
11 other law enforcement agencies shall be  
12 distributed to the Securities Investors Education  
13 Fund.

14 (n) The Secretary of State shall notify by  
15 certified mail, return receipt requested, all known  
16 investors in the matter giving rise to the forfeiture  
17 of the forfeiture proceeding and sale of assets  
18 forfeited arising from the violations of this Act, and  
19 shall further publish notice in a paper of general  
20 circulation in the district in which the violations  
21 were prosecuted. The notice to investors shall  
22 identify the name, address, and other identifying  
23 information about any defendant prosecuted for  
24 violations of this Act that resulted in forfeiture and  
25 sale of property, the offense for which the defendant  
26 was convicted, and that the court has ordered

1 forfeiture and sale of property for claims of investors  
2 who incurred losses or damages as a result of the  
3 violations. Investors may then file a claim in a form  
4 prescribed by the Secretary of State in order to share  
5 in disbursement of the proceeds from sale of the  
6 forfeited property. Investor claims must be filed with  
7 the Secretary of State within 30 days after receipt of  
8 the certified mail return receipt, or within 30 days  
9 after the last date of publication of the general  
10 notice in a paper of general circulation in the  
11 district in which the violations were prosecuted,  
12 whichever occurs last.

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

22 (p) If property is seized for evidence and for  
23 forfeiture, the time periods for instituting judicial  
24 forfeiture proceedings shall not begin until the  
25 property is no longer necessary for evidence.

26 (q) Notwithstanding other provisions of this Act,

1           the Secretary of State and a claimant of forfeitable  
2           property may enter into an agreed-upon settlement  
3           concerning the forfeitable property in such an amount  
4           and upon such terms as are set out in writing in a  
5           settlement agreement.

6           (r) Nothing in this Act shall apply to property  
7           that constitutes reasonable bona fide attorney's fees  
8           paid to an attorney for services rendered or to be  
9           rendered in the forfeiture proceeding or criminal  
10          proceeding relating directly thereto when the property  
11          was paid before its seizure and before the issuance of  
12          any seizure warrant or court order prohibiting  
13          transfer of the property and when the attorney, at the  
14          time he or she received the property, did not know that  
15          it was property subject to forfeiture under this Act.

16          The court shall further have jurisdiction and authority, in  
17          addition to the penalties and other remedies in this Act  
18          provided, to enter an order for the appointment of the court or  
19          a person as a receiver, conservator, ancillary receiver or  
20          ancillary conservator for the defendant or the defendant's  
21          assets located in this State, or to require restitution,  
22          damages or disgorgement of profits on behalf of the person or  
23          persons injured by the act or practice constituting the subject  
24          matter of the action, and may assess costs against the  
25          defendant for the use of the State; provided, however, that the  
26          civil remedies of rescission and appointment of a receiver,

1 conservator, ancillary receiver or ancillary conservator shall  
2 not be available against any person by reason of the failure to  
3 file with the Secretary of State, or on account of the contents  
4 of, any report of sale provided for in subsection G or P of  
5 Section 4, paragraph (2) of subsection D of Sections 5 and 6,  
6 or paragraph (2) of subsection F of Section 7 of this Act.  
7 Appeals may be taken as in other civil cases.

8 J. In no case shall the Secretary of State, or any of his  
9 or her employees or agents, in the administration of this Act,  
10 incur any official or personal liability by instituting an  
11 injunction or other proceeding or by denying, suspending or  
12 revoking the registration of a dealer or salesperson, or by  
13 denying, suspending or revoking the registration of securities  
14 or prohibiting the offer or sale of securities, or by  
15 suspending or prohibiting any person from acting as a dealer,  
16 limited Canadian dealer, salesperson, investment adviser, or  
17 investment adviser representative or from offering or selling  
18 securities.

19 K. No provision of this Act shall be construed to require  
20 or to authorize the Secretary of State to require any  
21 investment adviser or federal covered investment adviser  
22 engaged in rendering investment supervisory services to  
23 disclose the identity, investments, or affairs of any client of  
24 the investment adviser or federal covered investment adviser,  
25 except insofar as the disclosure may be necessary or  
26 appropriate in a particular proceeding or investigation having



1 as its object the enforcement of this Act.

2 L. Whenever, after an examination, investigation or  
3 hearing, the Secretary of State deems it of public interest or  
4 advantage, he or she may certify a record to the State's  
5 Attorney of the county in which the act complained of, examined  
6 or investigated occurred. The State's Attorney of that county  
7 within 90 days after receipt of the record shall file a written  
8 statement at the Office of the Secretary of State, which  
9 statement shall set forth the action taken upon the record, or  
10 if no action has been taken upon the record that fact, together  
11 with the reasons therefor, shall be stated.

12 M. The Secretary of State may initiate, take, pursue, or  
13 prosecute any action authorized or permitted under Section 6d  
14 of the Federal 1974 Act.

15 N. (1) Notwithstanding any provision of this Act to the  
16 contrary, to encourage uniform interpretation, administration,  
17 and enforcement of the provisions of this Act, the Secretary of  
18 State may cooperate with the securities agencies or  
19 administrators of one or more states, Canadian provinces or  
20 territories, or another country, the Securities and Exchange  
21 Commission, the Commodity Futures Trading Commission, the  
22 Securities Investor Protection Corporation, any  
23 self-regulatory organization, and any governmental law  
24 enforcement or regulatory agency.

25 (2) The cooperation authorized by paragraph (1) of this  
26 subsection includes, but is not limited to, the following:

1           (a) establishing or participating in a central  
2           depository or depositories for registration under this Act  
3           and for documents or records required under this Act;

4           (b) making a joint audit, inspection, examination, or  
5           investigation;

6           (c) holding a joint administrative hearing;

7           (d) filing and prosecuting a joint civil or criminal  
8           proceeding;

9           (e) sharing and exchanging personnel;

10          (f) sharing and exchanging information and documents;

11          or

12          (g) issuing any joint statement or policy.

13          (Source: P.A. 99-182, eff. 1-1-16.)

14           (Text of Section after amendment by P.A. 100-512)

15          Sec. 11. Duties and powers of the Secretary of State.

16          A. (1) The administration of this Act is vested in the  
17          Secretary of State, who may from time to time make, amend and  
18          rescind such rules and regulations as may be necessary to carry  
19          out this Act, including rules and regulations governing  
20          procedures of registration, statements, applications and  
21          reports for various classes of securities, persons and matters  
22          within his or her jurisdiction and defining any terms, whether  
23          or not used in this Act, insofar as the definitions are not  
24          inconsistent with this Act. The rules and regulations adopted  
25          by the Secretary of State under this Act shall be effective in

1 the manner provided for in the Illinois Administrative  
2 Procedure Act.

3 (2) Among other things, the Secretary of State shall have  
4 authority, for the purposes of this Act, to prescribe the form  
5 or forms in which required information shall be set forth,  
6 accounting practices, the items or details to be shown in  
7 balance sheets and earning statements, and the methods to be  
8 followed in the preparation of accounts, in the appraisal or  
9 valuation of assets and liabilities, in the determination of  
10 depreciation and depletion, in the differentiation of  
11 recurring and non-recurring income, in the differentiation of  
12 investment and operating income, and in the preparation of  
13 consolidated balance sheets or income accounts of any person,  
14 directly or indirectly, controlling or controlled by the  
15 issuer, or any person under direct or indirect common control  
16 with the issuer.

17 (3) No provision of this Act imposing any liability shall  
18 apply to any act done or omitted in good faith in conformity  
19 with any rule or regulation of the Secretary of State under  
20 this Act, notwithstanding that the rule or regulation may,  
21 after the act or omission, be amended or rescinded or be  
22 determined by judicial or other authority to be invalid for any  
23 reason.

24 (4) The Securities Department of the Office of the  
25 Secretary of State shall be deemed a criminal justice agency  
26 for purposes of all federal and state laws and regulations and,

1 in that capacity, shall be entitled to access to any  
2 information available to criminal justice agencies and has the  
3 power to appoint special agents to conduct all investigations,  
4 searches, seizures, arrests, and other duties imposed under the  
5 provisions of any law administered by the Department. The  
6 special agents have and may exercise all the powers of peace  
7 officers solely for the purpose of enforcing provisions of this  
8 Act.

9 The Director must authorize to each special agent employed  
10 under this Section a distinct badge that, on its face, (i)  
11 clearly states that the badge is authorized by the Department  
12 and (ii) contains a unique and identifying number.

13 Special agents shall comply with all training requirements  
14 established for law enforcement officers by provisions of the  
15 Illinois Police Training Act.

16 (5) The Secretary of State, by rule, may conditionally or  
17 unconditionally exempt any person, security, or transaction,  
18 or any class or classes of persons, securities, or transactions  
19 from any provision of Section 5, 6, 7, 8, 8a, or 9 of this Act  
20 or of any rule promulgated under these Sections, to the extent  
21 that such exemption is necessary or appropriate in the public  
22 interest, and is consistent with the protection of investors.

23 B. The Secretary of State may, anything in this Act to the  
24 contrary notwithstanding, require financial statements and  
25 reports of the issuer, dealer, Internet portal, salesperson,  
26 investment adviser, or investment adviser representative as

1 often as circumstances may warrant. In addition, the Secretary  
2 of State may secure information or books and records from or  
3 through others and may make or cause to be made investigations  
4 respecting the business, affairs, and property of the issuer of  
5 securities, any person involved in the sale or offer for sale,  
6 purchase or offer to purchase of any mineral investment  
7 contract, mineral deferred delivery contract, or security and  
8 of dealers, Internet portals, salespersons, investment  
9 advisers, and investment adviser representatives that are  
10 registered or are the subject of an application for  
11 registration under this Act. The costs of an investigation  
12 shall be borne by the registrant or the applicant, provided  
13 that the registrant or applicant shall not be obligated to pay  
14 the costs without his, her or its consent in advance.

15 C. Whenever it shall appear to the Secretary of State,  
16 either upon complaint or otherwise, that this Act, or any rule  
17 or regulation prescribed under authority thereof, has been or  
18 is about to be violated, he or she may, in his or her  
19 discretion, do one or more of the following:

20 (1) require or permit the person to file with the  
21 Secretary of State a statement in writing under oath, or  
22 otherwise, as to all the facts and circumstances concerning  
23 the subject matter which the Secretary of State believes to  
24 be in the public interest to investigate, audit, examine,  
25 or inspect;

26 (2) conduct an investigation, audit, examination, or

1 inspection as necessary or advisable for the protection of  
2 the interests of the public; and

3 (3) appoint investigators to conduct all  
4 investigations, searches, seizures, arrests, and other  
5 duties imposed under the provisions of any law administered  
6 by the Department. The Director must authorize to each  
7 investigator employed under this Section a distinct badge  
8 that, on its face, (i) clearly states that the badge is  
9 authorized by the Department and (ii) contains a unique and  
10 identifying number.

11 D. (1) For the purpose of all investigations, audits,  
12 examinations, or inspections which in the opinion of the  
13 Secretary of State are necessary and proper for the enforcement  
14 of this Act, the Secretary of State or a person designated by  
15 him or her is empowered to administer oaths and affirmations,  
16 subpoena witnesses, take evidence, and require, by subpoena or  
17 other lawful means provided by this Act or the rules adopted by  
18 the Secretary of State, the production of any books and  
19 records, papers, or other documents which the Secretary of  
20 State or a person designated by him or her deems relevant or  
21 material to the inquiry.

22 (2) The Secretary of State or a person designated by him or  
23 her is further empowered to administer oaths and affirmations,  
24 subpoena witnesses, take evidence, and require the production  
25 of any books and records, papers, or other documents in this  
26 State at the request of a securities agency of another state,

1 if the activities constituting the alleged violation for which  
2 the information is sought would be in violation of Section 12  
3 of this Act if the activities had occurred in this State.

4 (3) The Circuit Court of any County of this State, upon  
5 application of the Secretary of State or a person designated by  
6 him or her may order the attendance of witnesses, the  
7 production of books and records, papers, accounts and documents  
8 and the giving of testimony before the Secretary of State or a  
9 person designated by him or her; and any failure to obey the  
10 order may be punished by the Circuit Court as a contempt  
11 thereof.

12 (4) The fees of subpoenaed witnesses under this Act for  
13 attendance and travel shall be the same as fees of witnesses  
14 before the Circuit Courts of this State, to be paid when the  
15 witness is excused from further attendance, provided, the  
16 witness is subpoenaed at the instance of the Secretary of  
17 State; and payment of the fees shall be made and audited in the  
18 same manner as other expenses of the Secretary of State.

19 (5) Whenever a subpoena is issued at the request of a  
20 complainant or respondent as the case may be, the Secretary of  
21 State may require that the cost of service and the fee of the  
22 witness shall be borne by the party at whose instance the  
23 witness is summoned.

24 (6) The Secretary of State shall have power at his or her  
25 discretion, to require a deposit to cover the cost of the  
26 service and witness fees and the payment of the legal witness

1 fee and mileage to the witness served with subpoena.

2 (7) A subpoena issued under this Act shall be served in the  
3 same manner as a subpoena issued out of a circuit court.

4 (8) The Secretary of State may in any investigation,  
5 audits, examinations, or inspections cause the taking of  
6 depositions of persons residing within or without this State in  
7 the manner provided in civil actions under the laws of this  
8 State.

9 E. Anything in this Act to the contrary notwithstanding:

10 (1) If the Secretary of State shall find that the offer  
11 or sale or proposed offer or sale or method of offer or  
12 sale of any securities by any person, whether exempt or  
13 not, in this State, is fraudulent, or would work or tend to  
14 work a fraud or deceit, or is being offered or sold in  
15 violation of Section 12, or there has been a failure or  
16 refusal to submit any notification filing or fee required  
17 under this Act, the Secretary of State may by written order  
18 prohibit or suspend the offer or sale of securities by that  
19 person or deny or revoke the registration of the securities  
20 or the exemption from registration for the securities.

21 (2) If the Secretary of State shall find that any  
22 person has violated subsection C, D, E, F, G, H, I, J, or K  
23 of Section 12 of this Act, the Secretary of State may by  
24 written order temporarily or permanently prohibit or  
25 suspend the person from offering or selling any securities,  
26 any mineral investment contract, or any mineral deferred



1 delivery contract in this State, provided that any person  
2 who is the subject of an order of permanent prohibition may  
3 petition the Secretary of State for a hearing to present  
4 evidence of rehabilitation or change in circumstances  
5 justifying the amendment or termination of the order of  
6 permanent prohibition.

7 (3) If the Secretary of State shall find that any  
8 person is engaging or has engaged in the business of  
9 selling or offering for sale securities as a dealer,  
10 Internet portal, or salesperson or is acting or has acted  
11 as an investment adviser, investment adviser  
12 representative, or federal covered investment adviser,  
13 without prior thereto and at the time thereof having  
14 complied with the registration or notice filing  
15 requirements of this Act, the Secretary of State may by  
16 written order prohibit or suspend the person from engaging  
17 in the business of selling or offering for sale securities,  
18 or acting as an investment adviser, investment adviser  
19 representative, or federal covered investment adviser, in  
20 this State.

21 (4) In addition to any other sanction or remedy  
22 contained in this subsection E, the Secretary of State,  
23 after finding that any provision of this Act has been  
24 violated, may impose a fine as provided by rule, regulation  
25 or order not to exceed \$10,000 for each violation of this  
26 Act, may issue an order of public censure against the

1 violator, and may charge as costs of investigation all  
2 reasonable expenses, including attorney's fees and witness  
3 fees.

4 F. (1) The Secretary of State shall not deny, suspend or  
5 revoke the registration of securities, suspend or revoke the  
6 registration of a dealer, Internet portal, salesperson,  
7 investment adviser, or investment adviser representative,  
8 prohibit or suspend the offer or sale of any securities,  
9 prohibit or suspend any person from offering or selling any  
10 securities in this State, prohibit or suspend a dealer or  
11 salesperson from engaging in the business of selling or  
12 offering for sale securities, prohibit or suspend a person from  
13 acting as an investment adviser or federal covered investment  
14 adviser, or investment adviser representative, impose any fine  
15 for violation of this Act, issue an order of public censure, or  
16 enter into an agreed settlement except after an opportunity for  
17 hearing upon not less than 10 days notice given by personal  
18 service or registered mail or certified mail, return receipt  
19 requested, to the person or persons concerned. Such notice  
20 shall state the date and time and place of the hearing and  
21 shall contain a brief statement of the proposed action of the  
22 Secretary of State and the grounds for the proposed action. A  
23 failure to appear at the hearing or otherwise respond to the  
24 allegations set forth in the notice of hearing shall constitute  
25 an admission of any facts alleged therein and shall constitute  
26 sufficient basis to enter an order.

1           (2) Anything herein contained to the contrary  
2 notwithstanding, the Secretary of State may temporarily  
3 prohibit or suspend, for a maximum period of 90 days, by an  
4 order effective immediately, the offer or sale or registration  
5 of securities, the registration of a dealer, Internet portal,  
6 salesperson, investment adviser, or investment adviser  
7 representative, or the offer or sale of securities by any  
8 person, or the business of rendering investment advice, without  
9 the notice and prior hearing in this subsection prescribed, if  
10 the Secretary of State shall in his or her opinion, based on  
11 credible evidence, deem it necessary to prevent an imminent  
12 violation of this Act or to prevent losses to investors which  
13 the Secretary of State reasonably believes will occur as a  
14 result of a prior violation of this Act. Immediately after  
15 taking action without such notice and hearing, the Secretary of  
16 State shall deliver a copy of the temporary order to the  
17 respondent named therein by personal service or registered mail  
18 or certified mail, return receipt requested. The temporary  
19 order shall set forth the grounds for the action and shall  
20 advise that the respondent may request a hearing, that the  
21 request for a hearing will not stop the effectiveness of the  
22 temporary order and that respondent's failure to request a  
23 hearing within 30 days after the date of the entry of the  
24 temporary order shall constitute an admission of any facts  
25 alleged therein and shall constitute sufficient basis to make  
26 the temporary order final. Any provision of this paragraph (2)

1 to the contrary notwithstanding, the Secretary of State may not  
2 pursuant to the provisions of this paragraph (2) suspend the  
3 registration of a dealer, limited Canadian dealer,  
4 salesperson, investment adviser, or investment adviser  
5 representative based upon sub-paragraph (n) of paragraph (1) of  
6 subsection E of Section 8 of this Act or revoke the  
7 registration of securities or revoke the registration of any  
8 dealer, salesperson, investment adviser representative, or  
9 investment adviser.

10 (3) The Secretary of State may issue a temporary order  
11 suspending or delaying the effectiveness of any registration of  
12 securities under subsection A or B of Section 5, 6 or 7 of this  
13 Act subsequent to and upon the basis of the issuance of any  
14 stop, suspension or similar order by the Securities and  
15 Exchange Commission with respect to the securities which are  
16 the subject of the registration under subsection A or B of  
17 Section 5, 6 or 7 of this Act, and the order shall become  
18 effective as of the date and time of effectiveness of the  
19 Securities and Exchange Commission order and shall be vacated  
20 automatically at such time as the order of the Securities and  
21 Exchange Commission is no longer in effect.

22 (4) When the Secretary of State finds that an application  
23 for registration as a dealer, Internet portal, salesperson,  
24 investment adviser, or investment adviser representative  
25 should be denied, the Secretary of State may enter an order  
26 denying the registration. Immediately after taking such

1 action, the Secretary of State shall deliver a copy of the  
2 order to the respondent named therein by personal service or  
3 registered mail or certified mail, return receipt requested.  
4 The order shall state the grounds for the action and that the  
5 matter will be set for hearing upon written request filed with  
6 the Secretary of State within 30 days after the receipt of the  
7 request by the respondent. The respondent's failure to request  
8 a hearing within 30 days after receipt of the order shall  
9 constitute an admission of any facts alleged therein and shall  
10 make the order final. If a hearing is held, the Secretary of  
11 State shall affirm, vacate, or modify the order.

12 (5) The findings and decision of the Secretary of State  
13 upon the conclusion of each final hearing held pursuant to this  
14 subsection shall be set forth in a written order signed on  
15 behalf of the Secretary of State by his or her designee and  
16 shall be filed as a public record. All hearings shall be held  
17 before a person designated by the Secretary of State, and  
18 appropriate records thereof shall be kept.

19 (6) Notwithstanding the foregoing, the Secretary of State,  
20 after notice and opportunity for hearing, may at his or her  
21 discretion enter into an agreed settlement, stipulation or  
22 consent order with a respondent in accordance with the  
23 provisions of the Illinois Administrative Procedure Act. The  
24 provisions of the agreed settlement, stipulation or consent  
25 order shall have the full force and effect of an order issued  
26 by the Secretary of State.

1           (7) Anything in this Act to the contrary notwithstanding,  
2 whenever the Secretary of State finds that a person is  
3 currently expelled from, refused membership in or association  
4 with, or limited in any material capacity by a self-regulatory  
5 organization registered under the Federal 1934 Act or the  
6 Federal 1974 Act because of a fraudulent or deceptive act or a  
7 practice in violation of a rule, regulation, or standard duly  
8 promulgated by the self-regulatory organization, the Secretary  
9 of State may, at his or her discretion, enter a Summary Order  
10 of Prohibition, which shall prohibit the offer or sale of any  
11 securities, mineral investment contract, or mineral deferred  
12 delivery contract by the person in this State. The order shall  
13 take effect immediately upon its entry. Immediately after  
14 taking the action the Secretary of State shall deliver a copy  
15 of the order to the named Respondent by personal service or  
16 registered mail or certified mail, return receipt requested. A  
17 person who is the subject of an Order of Prohibition may  
18 petition the Secretary of State for a hearing to present  
19 evidence of rehabilitation or change in circumstances  
20 justifying the amendment or termination of the Order of  
21 Prohibition.

22           G. No administrative action shall be brought by the  
23 Secretary of State for relief under this Act or upon or because  
24 of any of the matters for which relief is granted by this Act  
25 after the earlier to occur of (i) 3 years from the date upon  
26 which the Secretary of State had notice of facts which in the

1 exercise of reasonable diligence would lead to actual knowledge  
2 of the alleged violation of the Act, or (ii) 5 years from the  
3 date on which the alleged violation occurred.

4 H. The action of the Secretary of State in denying,  
5 suspending, or revoking the registration of a dealer, Internet  
6 portal, limited Canadian dealer, salesperson, investment  
7 adviser, or investment adviser representative, in prohibiting  
8 any person from engaging in the business of offering or selling  
9 securities as a dealer, limited Canadian dealer, or  
10 salesperson, in prohibiting or suspending the offer or sale of  
11 securities by any person, in prohibiting a person from acting  
12 as an investment adviser, federal covered investment adviser,  
13 or investment adviser representative, in denying, suspending,  
14 or revoking the registration of securities, in prohibiting or  
15 suspending the offer or sale or proposed offer or sale of  
16 securities, in imposing any fine for violation of this Act, or  
17 in issuing any order shall be subject to judicial review in the  
18 Circuit Courts of Cook or Sangamon Counties in this State. The  
19 Administrative Review Law shall apply to and govern every  
20 action for the judicial review of final actions or decisions of  
21 the Secretary of State under this Act.

22 I. Notwithstanding any other provisions of this Act to the  
23 contrary, whenever it shall appear to the Secretary of State  
24 that any person is engaged or about to engage in any acts or  
25 practices which constitute or will constitute a violation of  
26 this Act or of any rule or regulation prescribed under

1 authority of this Act, the Secretary of State may at his or her  
2 discretion, through the Attorney General take any of the  
3 following actions:

4 (1) File a complaint and apply for a temporary  
5 restraining order without notice, and upon a proper showing  
6 the court may enter a temporary restraining order without  
7 bond, to enforce this Act.

8 (2) File a complaint and apply for a preliminary or  
9 permanent injunction, and, after notice and a hearing and  
10 upon a proper showing, the court may grant a preliminary or  
11 permanent injunction and may order the defendant to make an  
12 offer of rescission with respect to any sales or purchases  
13 of securities, mineral investment contracts, or mineral  
14 deferred delivery contracts determined by the court to be  
15 unlawful under this Act.

16 (3) Seek the seizure of assets when probable cause  
17 exists that the assets were obtained by a defendant through  
18 conduct in violation of Section 12, paragraph F, G, I, J,  
19 K, or L of this Act, and thereby subject to a judicial  
20 forfeiture hearing as required under this Act.

21 (a) In the event that such probable cause exists  
22 that the subject of an investigation who is alleged to  
23 have committed one of the relevant violations of this  
24 Act has in his possession assets obtained as a result  
25 of the conduct giving rise to the violation, the  
26 Secretary of State may seek a seizure warrant in any



1 circuit court in Illinois.

2 (b) In seeking a seizure warrant, the Secretary of  
3 State, or his or her designee, shall submit to the  
4 court a sworn affidavit detailing the probable cause  
5 evidence for the seizure, the location of the assets to  
6 be seized, the relevant violation under Section 12 of  
7 this Act, and a statement detailing any known owners or  
8 interest holders in the assets.

9 (c) Seizure of the assets shall be made by any  
10 peace officer upon process of the seizure warrant  
11 issued by the court. Following the seizure of assets  
12 under this Act and pursuant to a seizure warrant,  
13 notice of seizure, including a description of the  
14 seized assets, shall immediately be returned to the  
15 issuing court. Seized assets shall be maintained  
16 pending a judicial forfeiture hearing in accordance  
17 with the instructions of the court.

18 (d) In the event that management of seized assets  
19 becomes necessary to prevent the devaluation,  
20 dissipation, or otherwise to preserve the property,  
21 the court shall have jurisdiction to appoint a  
22 receiver, conservator, ancillary receiver, or  
23 ancillary conservator for that purpose, as provided in  
24 item (2) of this subsection.

25 (4) Seek the forfeiture of assets obtained through  
26 conduct in violation of Section 12, paragraph F, G, H, I,

1 J, K, or L when authorized by law. A forfeiture must be  
2 ordered by a circuit court or an action brought by the  
3 Secretary of State as provided for in this Act, under a  
4 verified complaint for forfeiture.

5 (a) In the event assets have been seized pursuant  
6 to this Act, forfeiture proceedings shall be  
7 instituted by the Attorney General within 45 days of  
8 seizure.

9 (b) Service of the complaint filed under the  
10 provisions of this Act shall be made in the manner as  
11 provided in civil actions in this State.

12 (c) Only an owner of or interest holder in the  
13 property may file an answer asserting a claim against  
14 the property. For purposes of this Section, the owner  
15 or interest holder shall be referred to as claimant.

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

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

22 (ii) the address at which the claimant will  
23 accept mail;

24 (iii) the nature and extent of the claimant's  
25 interest in the property;

26 (iv) the date, identity of the transferor, and



1 benefit of or as a nominee for any person whose  
2 conduct gave rise to its forfeiture and the owner  
3 or interest holder acquires it as a bona fide  
4 purchaser for value without knowingly taking part  
5 in the conduct giving rise to the forfeiture; or

6 (iv) acquired the interest after the  
7 commencement of the conduct giving rise to its  
8 forfeiture and the owner or interest holder  
9 acquired the interest as a mortgagee, secured  
10 creditor, lienholder, or bona fide purchaser for  
11 value without knowledge of the conduct that gave  
12 rise to the forfeiture.

13 (g) The hearing must be held within 60 days after  
14 the answer is filed unless continued for good cause.

15 (h) During the probable cause portion of the  
16 judicial in rem proceeding wherein the Secretary of  
17 State presents its case-in-chief, the court must  
18 receive and consider, among other things, any relevant  
19 hearsay evidence and information. The laws of evidence  
20 relating to civil actions shall apply to all other  
21 portions of the judicial in rem proceeding.

22 (i) The Secretary of State shall show the existence  
23 of probable cause for forfeiture of the property. If  
24 the Secretary of State shows probable cause, the  
25 claimant has the burden of showing by a preponderance  
26 of the evidence that the claimant's interest in the

1 property is not subject to forfeiture.

2 (j) If the Secretary of State does not show the  
3 existence of probable cause or a claimant has an  
4 interest that is exempt under subdivision I (4) (d) of  
5 this Section, the court shall order the interest in the  
6 property returned or conveyed to the claimant and shall  
7 order all other property forfeited to the Secretary of  
8 State pursuant to all provisions of this Act. If the  
9 Secretary of State does show the existence of probable  
10 cause and the claimant does not establish by a  
11 preponderance of the evidence that the claimant has an  
12 interest that is exempt under subsection D herein, the  
13 court shall order all the property forfeited to the  
14 Secretary of State pursuant to the provisions of the  
15 Section.

16 (k) A defendant convicted in any criminal  
17 proceeding is precluded from later denying the  
18 essential allegations of the criminal offense of which  
19 the defendant was convicted in any proceeding for  
20 violations of the Act giving rise to forfeiture of  
21 property herein regardless of the pendency of an appeal  
22 from that conviction. However, evidence of the  
23 pendency of an appeal is admissible.

24 (l) An acquittal or dismissal in a criminal  
25 proceeding for violations of the Act giving rise to the  
26 forfeiture of property herein shall not preclude civil

1 proceedings under this provision; however, for good  
2 cause shown, on a motion by the Secretary of State, the  
3 court may stay civil forfeiture proceedings during the  
4 criminal trial for a related criminal indictment or  
5 information alleging violation of the provisions of  
6 Section 12 of the Illinois Securities Law of 1953.  
7 Property subject to forfeiture under this Section  
8 shall not be subject to return or release by a court  
9 exercising jurisdiction over a criminal case involving  
10 the seizure of the property unless the return or  
11 release is consented to by the Secretary of State.

12 (m) All property declared forfeited under this Act  
13 vests in the State on the commission of the conduct  
14 giving rise to forfeiture together with the proceeds of  
15 the property after that time. Any such property or  
16 proceeds subsequently transferred to any person remain  
17 subject to forfeiture and thereafter shall be ordered  
18 forfeited unless the transferee claims and establishes  
19 in a hearing under the provisions of this Act that the  
20 transferee's interest is exempt under the Act. Any  
21 assets forfeited to the State shall be disposed of in  
22 following manner:

23 (i) all forfeited property and assets shall be  
24 liquidated by the Secretary of State in accordance  
25 with all laws and rules governing the disposition  
26 of such property;

1           (ii) the Secretary of State shall provide the  
2           court at the time the property and assets are  
3           declared forfeited a verified statement of  
4           investors subject to the conduct giving rise to the  
5           forfeiture;

6           (iii) after payment of any costs of sale,  
7           receivership, storage, or expenses for  
8           preservation of the property seized, other costs  
9           to the State, and payment to claimants for any  
10          amount deemed exempt from forfeiture, the proceeds  
11          from liquidation shall be distributed pro rata to  
12          investors subject to the conduct giving rise to the  
13          forfeiture; and

14          (iv) any proceeds remaining after all verified  
15          investors have been made whole shall be  
16          distributed 25% to the Securities Investors  
17          Education Fund, 25% to the Securities Audit and  
18          Enforcement Fund, 25% to the Attorney General or  
19          any State's Attorney bringing criminal charges for  
20          the conduct giving rise to the forfeiture, and 25%  
21          to other law enforcement agencies participating in  
22          the investigation of the criminal charges for the  
23          conduct giving rise to the forfeiture. In the event  
24          that no other law enforcement agencies are  
25          involved in the investigation of the conduct  
26          giving rise to the forfeiture, then the portion to

1           other law enforcement agencies shall be  
2           distributed to the Securities Investors Education  
3           Fund.

4           (n) The Secretary of State shall notify by  
5           certified mail, return receipt requested, all known  
6           investors in the matter giving rise to the forfeiture  
7           of the forfeiture proceeding and sale of assets  
8           forfeited arising from the violations of this Act, and  
9           shall further publish notice in a paper of general  
10          circulation in the district in which the violations  
11          were prosecuted. The notice to investors shall  
12          identify the name, address, and other identifying  
13          information about any defendant prosecuted for  
14          violations of this Act that resulted in forfeiture and  
15          sale of property, the offense for which the defendant  
16          was convicted, and that the court has ordered  
17          forfeiture and sale of property for claims of investors  
18          who incurred losses or damages as a result of the  
19          violations. Investors may then file a claim in a form  
20          prescribed by the Secretary of State in order to share  
21          in disbursement of the proceeds from sale of the  
22          forfeited property. Investor claims must be filed with  
23          the Secretary of State within 30 days after receipt of  
24          the certified mail return receipt, or within 30 days  
25          after the last date of publication of the general  
26          notice in a paper of general circulation in the



1 district in which the violations were prosecuted,  
2 whichever occurs last.

3 (o) A civil action under this subsection must be  
4 commenced within 5 years after the last conduct giving  
5 rise to the forfeiture became known or should have  
6 become known or 5 years after the forfeitable property  
7 is discovered, whichever is later, excluding time  
8 during which either the property or claimant is out of  
9 this State or in confinement or during which criminal  
10 proceedings relating to the same conduct are in  
11 progress.

12 (p) If property is seized for evidence and for  
13 forfeiture, the time periods for instituting judicial  
14 forfeiture proceedings shall not begin until the  
15 property is no longer necessary for evidence.

16 (q) Notwithstanding other provisions of this Act,  
17 the Secretary of State and a claimant of forfeitable  
18 property may enter into an agreed-upon settlement  
19 concerning the forfeitable property in such an amount  
20 and upon such terms as are set out in writing in a  
21 settlement agreement.

22 (r) Nothing in this Act shall apply to property  
23 that constitutes reasonable bona fide attorney's fees  
24 paid to an attorney for services rendered or to be  
25 rendered in the forfeiture proceeding or criminal  
26 proceeding relating directly thereto when the property

1           was paid before its seizure and before the issuance of  
2           any seizure warrant or court order prohibiting  
3           transfer of the property and when the attorney, at the  
4           time he or she received the property, did not know that  
5           it was property subject to forfeiture under this Act.

6           The court shall further have jurisdiction and authority, in  
7           addition to the penalties and other remedies in this Act  
8           provided, to enter an order for the appointment of the court or  
9           a person as a receiver, conservator, ancillary receiver or  
10          ancillary conservator for the defendant or the defendant's  
11          assets located in this State, or to require restitution,  
12          damages or disgorgement of profits on behalf of the person or  
13          persons injured by the act or practice constituting the subject  
14          matter of the action, and may assess costs against the  
15          defendant for the use of the State; provided, however, that the  
16          civil remedies of rescission and appointment of a receiver,  
17          conservator, ancillary receiver or ancillary conservator shall  
18          not be available against any person by reason of the failure to  
19          file with the Secretary of State, or on account of the contents  
20          of, any report of sale provided for in subsection G or P of  
21          Section 4, paragraph (2) of subsection D of Sections 5 and 6,  
22          or paragraph (2) of subsection F of Section 7 of this Act.  
23          Appeals may be taken as in other civil cases.

24          I-5. Property forfeited under this Section is subject to  
25          reporting under the Seizure and Forfeiture Reporting Act.

26          J. In no case shall the Secretary of State, or any of his

1 or her employees or agents, in the administration of this Act,  
2 incur any official or personal liability by instituting an  
3 injunction or other proceeding or by denying, suspending or  
4 revoking the registration of a dealer or salesperson, or by  
5 denying, suspending or revoking the registration of securities  
6 or prohibiting the offer or sale of securities, or by  
7 suspending or prohibiting any person from acting as a dealer,  
8 limited Canadian dealer, salesperson, investment adviser, or  
9 investment adviser representative or from offering or selling  
10 securities.

11 K. No provision of this Act shall be construed to require  
12 or to authorize the Secretary of State to require any  
13 investment adviser or federal covered investment adviser  
14 engaged in rendering investment supervisory services to  
15 disclose the identity, investments, or affairs of any client of  
16 the investment adviser or federal covered investment adviser,  
17 except insofar as the disclosure may be necessary or  
18 appropriate in a particular proceeding or investigation having  
19 as its object the enforcement of this Act.

20 L. Whenever, after an examination, investigation or  
21 hearing, the Secretary of State deems it of public interest or  
22 advantage, he or she may certify a record to the State's  
23 Attorney of the county in which the act complained of, examined  
24 or investigated occurred. The State's Attorney of that county  
25 within 90 days after receipt of the record shall file a written  
26 statement at the Office of the Secretary of State, which

1 statement shall set forth the action taken upon the record, or  
2 if no action has been taken upon the record that fact, together  
3 with the reasons therefor, shall be stated.

4 M. The Secretary of State may initiate, take, pursue, or  
5 prosecute any action authorized or permitted under Section 6d  
6 of the Federal 1974 Act.

7 N. (1) Notwithstanding any provision of this Act to the  
8 contrary, to encourage uniform interpretation, administration,  
9 and enforcement of the provisions of this Act, the Secretary of  
10 State may cooperate with the securities agencies or  
11 administrators of one or more states, Canadian provinces or  
12 territories, or another country, the Securities and Exchange  
13 Commission, the Commodity Futures Trading Commission, the  
14 Securities Investor Protection Corporation, any  
15 self-regulatory organization, and any governmental law  
16 enforcement or regulatory agency.

17 (2) The cooperation authorized by paragraph (1) of this  
18 subsection includes, but is not limited to, the following:

19 (a) establishing or participating in a central  
20 depository or depositories for registration under this Act  
21 and for documents or records required under this Act;

22 (b) making a joint audit, inspection, examination, or  
23 investigation;

24 (c) holding a joint administrative hearing;

25 (d) filing and prosecuting a joint civil or criminal  
26 proceeding;

- 1           (e) sharing and exchanging personnel;
- 2           (f) sharing and exchanging information and documents;
- 3           or
- 4           (g) issuing any joint statement or policy.
- 5       (Source: P.A. 99-182, eff. 1-1-16; 100-512, eff. 7-1-18.)

6           Section 50. "AN ACT concerning criminal law", approved  
7       September 19, 2017, (Public Act 100-0512) is amended by adding  
8       Section 997 as follows:

9           Section 997. Savings clause. The provisions of this Act are  
10       subject to Section 4 of the Statute on Statutes.

11          Section 95. No acceleration or delay. Where this Act makes  
12       changes in a statute that is represented in this Act by text  
13       that is not yet or no longer in effect (for example, a Section  
14       represented by multiple versions), the use of that text does  
15       not accelerate or delay the taking effect of (i) the changes  
16       made by this Act or (ii) provisions derived from any other  
17       Public Act.

18          Section 99. Effective date. This Act takes effect July 1,  
19       2018.