

HOUSE BILL NO. 5383

November 14, 2023, Introduced by Reps. Jaime Greene, Wozniak, Aragona, DeBoyer, Borton, Kuhn, Johnsen, Alexander, Outman, DeBoer, BeGole, St. Germaine, Martin and Phil Green and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 4708 (MCL 600.4708), as amended by 2014 PA 333.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4708. (1) When property is forfeited under this chapter,
2 the unit of government that seized or filed a lien against the
3 property may sell the property that is not required to be destroyed
4 by law and that is not harmful to the public and may dispose of the
5 proceeds and any money, including any interest earned on money
6 deposited in a financial institution as ~~described~~ **that term is**

1 **defined** in section 4703(6), negotiable instrument, security, or
2 other thing of value that is forfeited under this chapter in the
3 following order of priority:

4 (a) Pay any outstanding security interest of a secured party
5 ~~who~~**that** did not have prior knowledge of, or consent to the
6 commission of, the crime, or did not acquire ~~his or her~~**the**
7 **security** interest as the result of a transfer that is void under
8 section 4703(7).

9 (b) Satisfy any order of restitution in the prosecution for
10 the crime.

11 (c) Pay the claim of each person who shows that ~~he or she~~**the**
12 **person** is a victim of the crime to the extent that the claim is not
13 covered by an order of restitution.

14 (d) Pay any outstanding lien against the property that has
15 been imposed by a governmental unit.

16 (e) Pay the proper expenses of the proceedings for forfeiture
17 and sale, including, but not limited to, expenses incurred during
18 the seizure process and expenses for maintaining custody of the
19 property, advertising, as well as reasonable prosecution and court
20 costs.

21 (f) The balance ~~remaining~~**that remains** after the payment of
22 restitution, the claims of victims, outstanding liens, and expenses
23 ~~shall~~**must** be distributed by the court ~~having~~**that has** jurisdiction
24 over the forfeiture proceedings to the **treasurer of the** unit or
25 units of government substantially involved in effecting the
26 forfeiture. Seventy-five percent of the money received by a unit of
27 government under this subdivision ~~shall~~**must** be used to enhance
28 enforcement of the criminal laws **as appropriated by the entity that**
29 **has budgetary authority over the unit or units of government**

1 substantially involved in effecting the forfeiture with not more
2 than 30%, or in the alternative, an amount not exceeding an hourly
3 rate agreed to by the seizing agency and the appropriate
4 prosecutor, being directed to the prosecuting attorney for the
5 county if the county is the unit, or 1 of the units of government
6 substantially involved in effecting the forfeiture, and 25% of the
7 money ~~shall~~**must** be used to implement the William Van Regenmorter
8 crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834. A
9 unit of government receiving money under this subdivision shall
10 report annually to the department of **technology**, management, and
11 budget the amount of money received under this subdivision that was
12 used to enhance enforcement of the criminal laws and the amount
13 that was used to implement the William Van Regenmorter crime
14 victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

15 (2) In the course of selling real property under subsection
16 (1), the court that enters an order of forfeiture, on motion of the
17 unit of government to whom the property is forfeited, may appoint a
18 receiver to dispose of the real property forfeited. The receiver is
19 entitled to reasonable compensation. The receiver has authority to
20 do all of the following:

21 (a) List the forfeited real property for sale.

22 (b) Make ~~whatever~~**any** arrangements ~~are~~ necessary for the
23 maintenance and preservation of the forfeited real property.

24 (c) Accept offers to purchase the forfeited real property.

25 (d) Execute instruments ~~transferring~~**that transfer** title to
26 the forfeited real property.

27 (3) If any property included in the order of forfeiture under
28 this chapter cannot be located or has been sold to a bona fide
29 purchaser for value, placed beyond the jurisdiction of the court,

1 substantially diminished in value by the conduct of the defendant,
2 or commingled with other property that cannot be divided without
3 difficulty or undue injury to innocent persons, the court may order
4 forfeiture of any other reachable property of the owner up to the
5 value of the property that is unreachable as described in this
6 subsection. This subsection only applies against an owner that is
7 also the person convicted of the crime underlying the forfeiture
8 action.