

SENATE BILL No. 1128

February 10, 2010, Introduced by Senators BASHAM, HUNTER, CLARKE, CLARK-COLEMAN, ANDERSON, THOMAS, KAHN and GARCIA and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 4702 (MCL 600.4702), as amended by 2002 PA 142.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4702. (1) Except as otherwise provided in this section,
2 the following property is subject to seizure by, and forfeiture to,
3 a local unit of government or this state under this chapter:

4 (a) All personal property that is the proceeds of a crime, the
5 substituted proceeds of a crime, or an instrumentality of a crime.

6 (b) All real property that is the proceeds of a crime or the
7 substituted proceeds of a crime, except real property that is the
8 primary residence of the spouse or a dependent child of the owner,
9 unless that spouse or dependent child had prior knowledge of, and

1 consented to the commission of, the crime.

2 (c) In the case of a crime that is a violation of **SECTION 49**
3 **OR** chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL
4 **750.49 AND** 750.543a to 750.543z, all property described in
5 subdivisions (a) and (b) and all real property or personal property
6 that performed 1 of the following functions:

7 (i) Contributed directly and materially to the commission of
8 the crime.

9 (ii) Was used to conceal the crime.

10 (iii) Was used to escape from the scene of the crime.

11 (iv) Was used to conceal the identity of 1 or more of the
12 individuals who committed the crime.

13 (2) Property is not subject to seizure or forfeiture if either
14 of the following circumstances exists:

15 (a) The owner of the property did not have prior knowledge of,
16 or consent to the commission of, the crime.

17 (b) The owner served written notice of the commission of the
18 crime upon an appropriate law enforcement agency, and served a
19 written notice to quit upon the person who committed the crime.

20 (3) The forfeiture of property encumbered by a security
21 interest is subject to the interest of the holder of the security
22 interest who did not have prior knowledge of, or consent to the
23 commission of, the crime.

24 (4) The forfeiture of property encumbered by an unpaid balance
25 on a land contract is subject to the interest of the land contract
26 vendor, if the vendor did not have prior knowledge of, or consent
27 to the commission of, the crime.

1 (5) The forfeiture of the substituted proceeds of a crime is
2 limited to the value of the proceeds of the crime plus the amount
3 by which any restitution or damages owed to the victim of the crime
4 exceeds the value of the proceeds of the crime.