

HOUSE BILL No. 5395

February 14, 2012, Introduced by Rep. Opsommer and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7524 and 7524a (MCL 333.7524 and 333.7524a), section 7524 as amended by 2011 PA 161 and section 7524a as amended by 1994 PA 8.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7524. (1) When property is forfeited under this article,
2 the local unit of government that seized the property may do any of
3 the following, or if the property is seized by or in the custody of
4 the state, the state may do any of the following, subject to
5 section 7523(1)(d):

6 (a) Retain it for official use.

7 (b) Sell that which is not required to be destroyed by law and
8 which is not harmful to the public. ~~The~~**SUBJECT TO SUBSECTION (2),**

1 **THE** proceeds and any money, negotiable instruments, securities, or
2 any other thing of value as described in section 7521(1)(f) that
3 are forfeited under this article shall be deposited with the
4 treasurer of the entity having budgetary authority over the seizing
5 agency and applied as follows:

6 (i) For the payment of proper expenses of the proceedings for
7 forfeiture and sale, including expenses incurred during the seizure
8 process, maintenance of custody, advertising, and court costs,
9 except as otherwise provided in subsection ~~(4)~~—(5).

10 (ii) ~~The~~ **SUBJECT TO SUBSECTION (2), THE** balance remaining after
11 the payment of expenses shall be distributed by the court having
12 jurisdiction over the forfeiture proceedings to the treasurer of
13 the entity having budgetary authority over the seizing agency. If
14 more than 1 agency was substantially involved in effecting the
15 forfeiture, the court having jurisdiction over the forfeiture
16 proceeding shall equitably distribute the money among the
17 treasurers of the entities having budgetary authority over the
18 seizing agencies. A seizing agency may direct that the funds or a
19 portion of the funds it would otherwise have received under this
20 subsection be paid to nonprofit organizations whose primary
21 activity is to assist law enforcement agencies with drug-related
22 criminal investigations and obtaining information for solving
23 crimes. The money received by a seizing agency under this
24 subparagraph and all interest and other earnings on money received
25 by the seizing agency under this subparagraph shall be used only
26 for law enforcement purposes, as appropriated by the entity having
27 budgetary authority over the seizing agency. A distribution made

1 under this subparagraph shall serve as a supplement to, and not a
2 replacement for, funds otherwise budgeted for law enforcement
3 purposes.

4 (c) Require the administrator to take custody of the property
5 and remove it for disposition in accordance with law.

6 (d) Forward it to the bureau for disposition.

7 (2) BEGINNING OCTOBER 1, 2012, 5% OF THE FUNDS COLLECTED UNDER
8 SUBSECTION (1) (B) SHALL BE FORWARDED BY THE COURT TO THE STATE
9 TREASURER IN THE MANNER DETERMINED BY THE STATE TREASURER. THE
10 STATE TREASURER SHALL DEPOSIT THE FUNDS COLLECTED UNDER THIS
11 SUBSECTION INTO THE DOMESTIC REIMBURSEMENT UTILIZATION GRANT FUND
12 FOR USE AS PROVIDED IN THE DOMESTIC REIMBURSEMENT UTILIZATION GRANT
13 FUND ACT.

14 (3) ~~(2)~~ Notwithstanding subsection (1), this state or local
15 units of government may donate lights for plant growth or scales
16 forfeited under this article to elementary or secondary schools or
17 institutions of higher education that request in writing to receive
18 those lights or scales ~~pursuant to~~ **UNDER** this subsection, for
19 educational purposes. This state or local units of government shall
20 donate lights and scales under this subsection to elementary or
21 secondary schools or institutions of higher education in the order
22 in which the written requests are received. This state or local
23 units of government may limit the number of lights and scales
24 available to each requestor.

25 (4) ~~(3)~~ In the course of selling real property under
26 subsection (1) (b), the court that has entered an order of
27 forfeiture may, on motion of the agency to whom the property has

1 been forfeited, appoint a receiver to dispose of the real property
2 forfeited. The receiver shall be entitled to reasonable
3 compensation. The receiver shall have authority to do all of the
4 following:

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

6 (b) Make whatever arrangements are necessary for the
7 maintenance and preservation of the forfeited real property.

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

9 (d) Execute instruments transferring title to the forfeited
10 real property.

11 (5) ~~(4)~~—If a court enters an order of forfeiture, the court
12 may order a person who claimed an interest in the forfeited
13 property under section 7523(1)(c) to pay the expenses of the
14 proceedings of forfeiture to the entity having budgetary authority
15 over the seizing agency.

16 Sec. 7524a. (1) Before February 1 of each year, each local
17 unit of government that had forfeiture proceedings pending in the
18 circuit court ~~pursuant to~~ **UNDER** section 7523; or effectuated a
19 forfeiture of property ~~pursuant to~~ **UNDER** section 7523 without a
20 forfeiture proceeding in the circuit court; or received money,
21 negotiable instruments, securities, or any other thing of value
22 ~~pursuant to~~ **UNDER** section 7524 during the fiscal year for the local
23 unit of government ending in the immediately preceding calendar
24 year shall submit a report to the office of drug agencies for
25 analysis and transmittal to the secretary of the senate and the
26 clerk of the house of representatives. The annual report shall be a
27 summary of the local unit of government's activities regarding the

1 forfeiture of property under this article ~~and pursuant to section~~
2 ~~17766a~~ for the fiscal year and shall contain the following
3 information, as applicable:

4 (a) The number of forfeiture proceedings that were instituted
5 in the circuit court by the local unit of government.

6 (b) The number of forfeiture proceedings instituted by the
7 local unit of government that were concluded in the circuit court.

8 (c) The number of all forfeiture proceedings instituted by the
9 local unit of government that were pending in the circuit court at
10 the end of the year.

11 (d) The number of forfeitures accomplished by the local unit
12 of government without filing a forfeiture proceeding in the circuit
13 court.

14 (e) The net total proceeds of all property forfeited under
15 this article ~~and pursuant to section 17766a~~ through forfeitures
16 instituted by the local unit of government that the local unit of
17 government is required to account for and report to the state
18 treasurer ~~pursuant to~~ **UNDER** either of the following, as applicable:

19 (i) ~~Act No. 71 of the Public Acts of 1919, being sections 21.41~~
20 ~~to 21.53 of the Michigan Compiled Laws. 1919 PA 71, MCL 21.41 TO~~
21 **21.55.**

22 (ii) The uniform budgeting and accounting act, ~~Act No. 2 of the~~
23 ~~Public Acts of 1968, being sections 141.421 to 141.440a of the~~
24 ~~Michigan Compiled Laws. 1968 PA 2, MCL 141.421 TO 141.440A.~~

25 (f) An inventory of property received by the local unit of
26 government ~~pursuant to~~ **UNDER** section 7524, ~~and section 17766a,~~
27 including, but not limited to, all of the following:

1 (i) all of the following real property:

2 (A) Single-family residential.

3 (B) Multiple-family residential.

4 (C) Industrial.

5 (D) Commercial.

6 (E) Agricultural.

7 (ii) Any type of conveyance described in section 7521(1)(d),
8 including the year, make, and model.

9 (iii) Money, negotiable instruments, and securities.

10 (iv) The total value of personal property, excluding personal
11 property described in subparagraphs (ii) and (iii).

12 (G) **THE AMOUNT OF MONEY FORWARDED TO THE STATE TREASURER UNDER**
13 **SECTION 7524(2).**

14 (H) ~~(g)~~—A statement explaining how the money received by the
15 local unit of government ~~pursuant to~~ **UNDER** section 7524(1)(b)(ii)
16 has been used or is being used to enhance the law enforcement
17 efforts. ~~pertaining to this article or section 17766a.~~

18 (I) ~~(h)~~—A statement of the number of lights for plant growth
19 or scales donated under section ~~7524(2),~~ **7524(3)**, the total value
20 of those lights or scales, and the elementary or secondary schools
21 or institutions of higher education to which they were donated.

22 (2) The records of a local unit of government described in
23 subsection (1) regarding the forfeiture of property under this
24 article ~~or pursuant to section 17766a~~ shall be audited in
25 accordance with 1 of the following, as applicable:

26 (a) ~~Act No. 71 of the Public Acts of 1919, being sections~~
27 ~~21.41 to 21.53 of the Michigan Compiled Laws.~~ **1919 PA 71, MCL 21.41**

1 TO 21.55.

2 (b) The uniform budgeting and accounting act, ~~Act No. 2 of the~~
3 ~~Public Acts of 1968, being sections 141.421 to 141.440a of the~~
4 ~~Michigan Compiled Laws. 1968 PA 2, MCL 141.421 TO 141.440A.~~

5 (3) The records of a local unit of government described in
6 subsection (1) regarding the forfeiture of property under this
7 article ~~or pursuant to section 17766a~~ may be audited by an auditor
8 of the local unit of government.

9 Enacting section 1. This amendatory act takes effect October
10 1, 2012.

11 Enacting section 2. This amendatory act does not take effect
12 unless all of the following bills of the 96th Legislature are
13 enacted into law:

14 (a) Senate Bill No. ____ or House Bill No. 5394 (request no.
15 03794'11).

16 (b) Senate Bill No. ____ or House Bill No. 5396 (request no.
17 03794'11 b).