

# HOUSE BILL No. 5990

December 2, 2014, Introduced by Rep. Haines and referred to the Committee on Local Government.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7523 and 12753 (MCL 333.7523 and 333.12753), section 7523 as amended by 2006 PA 130.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 7523. (1) If property is seized ~~pursuant to~~**UNDER** section  
2 7522, **THE SEIZING AGENCY SHALL PROMPTLY BEGIN** forfeiture  
3 proceedings. ~~shall be instituted promptly.~~ If the property is  
4 seized without process as provided under section 7522, and the  
5 total value of the property seized does not exceed \$50,000.00, the  
6 **SEIZING AGENCY SHALL USE THE** following procedure: ~~shall be used:~~  
7           (a) The ~~local unit of government that seized the property or,~~  
8 ~~if the property was seized by the state, the state~~ **SEIZING AGENCY**  
9 shall notify the owner of the property that the property has been

1 seized, and that the ~~local unit of government or, if applicable,~~  
2 ~~the state~~ **SEIZING AGENCY** intends to forfeit and dispose of the  
3 property by delivering a written notice to the owner of the  
4 property or by sending the notice to the owner by certified mail.  
5 If the name and address of the owner are not reasonably  
6 ascertainable, or delivery of the notice cannot be reasonably  
7 accomplished, the ~~notice~~ **SEIZING AGENCY** shall be published **DO 1 OF**  
8 **THE FOLLOWING, AS APPLICABLE:**

9 (i) **BEFORE JANUARY 1, 2015, PUBLISH THE NOTICE** in a newspaper  
10 of general circulation in the county in which the property was  
11 seized, for 10 successive publishing days.

12 (ii) **AFTER DECEMBER 31, 2014, PROVIDE TIER B PUBLIC NOTICE AS**  
13 **PROVIDED IN THE LOCAL GOVERNMENT PUBLIC NOTICE ACT.**

14 (b) Unless all criminal proceedings involving or relating to  
15 the property have been completed, the seizing agency shall  
16 immediately notify the prosecuting attorney for the county in which  
17 the property was seized or, if the attorney general is actively  
18 handling a case involving or relating to the property, the attorney  
19 general of the seizure of the property and the intention to forfeit  
20 and dispose of the property.

21 (c) Any person claiming an interest in property that is the  
22 subject of a notice under subdivision (a) may, within 20 days after  
23 receipt of the notice or of the date of the first publication of  
24 the notice, file **WITH THE SEIZING AGENCY** a written claim signed by  
25 the claimant ~~with the local unit of government or the state~~  
26 expressing his or her interest in the property. Upon the filing of  
27 the claim and the giving of a bond to the ~~local unit of government~~

1 ~~or the state~~ **SEIZING AGENCY** in the amount of 10% of the value of  
2 the claimed property, but not less than \$250.00 or greater than  
3 \$5,000.00, with sureties approved by the ~~local unit of government~~  
4 ~~or the state~~ **SEIZING AGENCY** containing the condition that if the  
5 property is ordered forfeited by the court the obligor shall pay  
6 all costs and expenses of the forfeiture proceedings, ~~The local~~  
7 ~~unit of government or, if applicable, the state~~ **THE SEIZING AGENCY**  
8 shall transmit the claim and bond with a list and description of  
9 the property seized to the attorney general, the prosecuting  
10 attorney for the county, or the city or township attorney for the  
11 local unit of government in which the seizure was made. The  
12 attorney general, the prosecuting attorney, or the city or township  
13 attorney shall promptly institute forfeiture proceedings after the  
14 expiration of the 20-day period. However, unless all criminal  
15 proceedings involving or relating to the property have been  
16 completed, a city or township attorney shall not institute  
17 forfeiture proceedings without the consent of the prosecuting  
18 attorney or, if the attorney general is actively handling a case  
19 involving or relating to the property, the attorney general.

20 (d) If no claim is filed or bond given within the 20-day  
21 period as described in subdivision (c), the ~~local unit of~~  
22 ~~government or the state~~ **SEIZING AGENCY** shall declare the property  
23 forfeited and shall dispose of the property as provided under  
24 section 7524. However, unless all criminal proceedings involving or  
25 relating to the property have been completed, the ~~local unit of~~  
26 ~~government or the state~~ **SEIZING AGENCY** shall not dispose of the  
27 property under this subdivision without the written consent of the

1 prosecuting attorney or, if the attorney general is actively  
 2 handling a case involving or relating to the property, the attorney  
 3 general.

4 (2) Property taken or detained under this article ~~shall~~**IS** not  
 5 ~~be~~ subject to an action to recover personal property, but is ~~deemed~~  
 6 **CONSIDERED** to be in the custody of the seizing agency subject only  
 7 to this section or an order and judgment of the court ~~having~~**THAT**  
 8 **HAS** jurisdiction over the forfeiture proceedings. ~~When property is~~  
 9 ~~seized under this article, the~~**A** seizing agency may do any of the  
 10 following **FOR PROPERTY THAT IS SEIZED UNDER THIS ARTICLE:**

11 (a) Place the property under seal.

12 (b) Remove the property to a place designated by the court.

13 (c) Require the administrator to take custody of the property  
 14 and remove it to an appropriate location for disposition in  
 15 accordance with law.

16 (d) Deposit money seized under this article into an interest-  
 17 bearing account in a financial institution. As used in this  
 18 subdivision, "financial institution" means a state or nationally  
 19 chartered bank or a state or federally chartered savings and loan  
 20 association, savings bank, or credit union whose deposits are  
 21 insured by an agency of the United States government and that  
 22 maintains a principal office or branch office located in this state  
 23 under the laws of this state or the United States.

24 (3) ~~Title~~**A COURT OF COMPETENT JURISDICTION SHALL DETERMINE**  
 25 **TITLE** to real property forfeited under this article. ~~shall be~~  
 26 ~~determined by a court of competent jurisdiction.~~ A forfeiture of  
 27 real property encumbered by a bona fide security interest is

1 subject to the interest of the secured party ~~who neither had~~ **THAT**  
2 **DID NOT HAVE** knowledge of ~~nor consented~~ **OR DID NOT CONSENT** to the  
3 act or omission.

4 (4) An attorney for a person who is charged with a crime  
5 involving or related to the money seized under this article ~~shall~~  
6 **MUST** be ~~afforded~~ **GIVEN** a period of 60 days within which to examine  
7 that money. ~~This~~ **THE** 60-day period ~~shall begin~~ **BEGINS** to run after  
8 notice is given under subsection (1)(a) but before the money is  
9 deposited into a financial institution under subsection (2)(d). If  
10 the attorney general, prosecuting attorney, or city or township  
11 attorney fails to sustain his or her burden of proof in forfeiture  
12 proceedings under this article, the court shall order the return of  
13 the money, including any interest earned on money deposited into a  
14 financial institution under subsection (2)(d).

15 Sec. 12753. (1) Structures in which sanitary sewage originates  
16 ~~lying~~ **THAT ARE LOCATED** within the limits of a city, village, or  
17 township ~~shall~~ **MUST** be connected to an available public sanitary  
18 sewer in the city, village, or township if required by the city,  
19 village, or township.

20 (2) Structures in which sanitary sewage originates ~~lying~~ **THAT**  
21 **ARE LOCATED** outside the limits of the city, village, or township in  
22 which the available public sanitary sewer ~~lies~~ ~~shall~~ **IS LOCATED**  
23 **MUST** be connected to the available public sanitary sewer after the  
24 approval of both the city, village, or township in which the  
25 structure and the public sanitary sewer system ~~lies~~ **ARE LOCATED** and  
26 if required by the city, village, or township in which the sewage  
27 originates.

1           (3) Except as **OTHERWISE** provided in subsection (4), the  
2 connection provided for in subsections (1) and (2) ~~shall~~**MUST** be  
3 completed promptly but not later than 18 months after the date of  
4 occurrence of the last of the following events or before the city,  
5 village, or township in which the sewage originates requires the  
6 connection:

7           (a) ~~Publication~~**BEFORE JANUARY 1, 2015, PUBLICATION** of a  
8 notice by the governmental entity ~~which~~**THAT** operates the public  
9 sanitary sewer system of availability of the public sanitary sewer  
10 system in a newspaper of general circulation in the city, village,  
11 or township in which the structure is located. **AFTER DECEMBER 31,**  
12 **2014, THE GOVERNMENTAL ENTITY THAT OPERATES THE PUBLIC SANITARY**  
13 **SEWER SYSTEM SHALL PROVIDE TIER B PUBLIC NOTICE AS SET FORTH IN THE**  
14 **LOCAL GOVERNMENT PUBLIC NOTICE ACT OF AVAILABILITY OF THE PUBLIC**  
15 **SANITARY SEWER SYSTEM IN THE CITY, VILLAGE, OR TOWNSHIP IN WHICH**  
16 **THE STRUCTURE IS LOCATED.**

17           (b) Modification of a structure so as to become a structure in  
18 which sanitary sewage originates.

19           (4) A city, village, or township may enact ordinances, or a  
20 county or district board of health ~~may~~ adopt regulations, to  
21 require completion of the connection within a shorter period of  
22 time for reasons of public health.

23           Enacting section 1. This amendatory act does not take effect  
24 unless Senate Bill No. \_\_\_ or House Bill No. 5560 (request no.  
25 03796'13) of the 97th Legislature is enacted into law.