



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bills 4240 and 4241 (as passed by the House)
Sponsor: Representative Jeff Yaroch (H.B. 4240)
Representative Douglas C. Wozniak (H.B. 4241)
House Committee: Judiciary
Senate Committee: Judiciary and Public Safety

Date Completed: 11-28-22

CONTENT

House Bill 4240 and House Bill 4241 would amend the Revised Judicature Act (RJA) and the Michigan Vehicle Code, respectively, to modify the distribution of proceeds from the sale of forfeited property or vehicles, as applicable.

House Bill 4240

Under the RJA, when property is forfeited under Chapter 47, the unit of government that seized or filed a lien against the property may sell the property that is not required to be destroyed by law and that is not harmful to the public and may dispose of the proceeds and any money, including any interest earned on money deposited in a financial institution as described in Section 4703(6) (a State or nationally chartered bank or a State or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in Michigan under the laws of Michigan or the US), negotiable instrument, security, or other thing of value that is forfeited in the following order of priority:

- Pay any outstanding security interest of a secured party who did not have prior knowledge of, or consent to the commission of, the crime, or did not acquire his or her interest as the result of a transfer that is void.
- Satisfy any order of restitution in the prosecution for the crime.
- Pay the claim of each person who shows that he or she is a victim of the crime to the extent that the claim is not covered by an order of restitution.
- Pay any outstanding lien against the property that has been imposed by a governmental unit.
- Pay the proper expenses of the proceedings for forfeiture and sale, including expenses incurred during the seizure process and expenses for maintaining custody of the property, advertising, as well as reasonable prosecution and court costs.
- The balance remaining after the payment of restitution, the claims of victims, outstanding liens, and expenses must be distributed by the court having jurisdiction over the forfeiture proceedings to the unit or units of government substantially involved in effecting the forfeiture.

Seventy-five percent of the money received by a unit of government must be used to enhance enforcement of the criminal laws and 25% of the money must be used to implement the Crime Victim's Rights Act.

Instead, under the bill, 75% of the money received by a unit of government would have to be used to enhance enforcement of the criminal laws as appropriated by the entity having budgetary authority over the unit or units of government substantially involved in effecting the forfeiture with not more than 30%, or in the alternative, an amount not exceeding an hourly rate agreed to by the seizing agency and the appropriate prosecutor, being directed to the prosecuting attorney for the county if the county were the unit, or one of the units of government substantially involved in effecting the forfeiture and 25% of the money would have to be used to implement the Crime Victim's Rights Act.

House Bill 4241

Under Section 625n of the Vehicle Code, except as otherwise provided, the judgment of sentence for a conviction for certain violations of the Code may require one of the following with regard to the vehicle used in the offense if the defendant owns the vehicle in whole or in part or leases it:

- Forfeiture of the vehicle if the defendant owns it in whole or in part.
- Return of the vehicle to the lessor if the defendant leases it.

If a vehicle is forfeited, the unit of government that seized the vehicle must sell it and dispose of the proceeds in the following order of priority:

- Pay any outstanding security interest of a secured party who did not have prior knowledge of or consent to the commission of the violation.
- Pay the equity interest of a co-owner who did not have prior knowledge of or consent to the commission of the violation.
- Satisfy any order of restitution entered in the prosecution for the violation.
- Pay any outstanding accrued towing and storage fees.
- Pay the claim of each person who shows that he or she is a victim of the violation to the extent that the claim is not covered by an order of restitution.
- Pay any outstanding lien against the property that has been imposed by a governmental unit.
- Pay the proper expenses of the proceedings for forfeiture and sale, including, but not limited to, expenses incurred during the seizure process and expenses for maintaining custody of the property, advertising, and court costs.
- The balance remaining after the payment of the above items must be distributed by the court having jurisdiction over the forfeiture proceedings to the unit or units of government substantially involved in effecting the forfeiture.

Seventy-five percent of the money received by a unit of government must be used to enhance enforcement of the criminal laws and 25% of the money must be used to implement the crime Victim's Rights Act.

Instead, under the bill, 75% of the money received by a unit of government would have to be used to enhance enforcement of the criminal laws as appropriated by the entity having budgetary authority over the unit or units of government substantially involved in effecting the forfeiture with not more than 30%, or in the alternative, an amount not exceeding an hourly rate agreed to by the seizing agency and the appropriate prosecutor, being directed to the prosecuting attorney for the county if the county were the unit, or one of the units of government substantially involved in effecting the forfeiture, and 25% of the money would have to be used to implement the Crime Victim's Rights Act.

MCL 600.4708 (H.B. 4240)
257.625n (H.B. 4241)

Legislative Analyst: Stephen P. Jackson

FISCAL IMPACT

The bills would have no fiscal impact on State government. The bills would provide guidance regarding the proceeds from the sale of forfeited property related to certain criminal activity. It is not clear if the bills would generate more or less revenue for counties and the prosecuting attorney offices within those counties; however, the bills would provide more stability by providing not more than 30% of the proceeds from the sale of forfeited property, or an agree-to hourly rate, to prosecuting attorney offices.

Fiscal Analyst: Robert Canell

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.