

PROPERTY FORFEITURE FOR DRUG OFFENSES

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Senate Bill 750 (Substitute S-1)

Sponsor: Sen. John Pappageorge

House Committee: Intergovernmental and Regional Affairs

Senate Committee: Judiciary

Complete to 3-15-10

A SUMMARY OF SENATE BILL 750 (S-1) AS PASSED BY THE SENATE 12-10-09

The bill would amend Article 7 (which concerns Controlled Substances) of the Public Health Code to do the following in regard to the forfeiture of real property for controlled substance violations:

- Allow a seizing agency to request expedited proceedings on the ground that a building or structure constituted a health or safety hazard and the agency intended to demolish it.
- Allow a local unit of government to demolish forfeited real property, preserve it for historic purposes, convert it to a park, or convey it to the state, a local unit, or a nonprofit entity for specific purposes.
- Require a local unit's annual report of forfeiture activities to include information about real property disposed of by those methods.

Expedited Proceedings

The bill would allow a seizing agency to request expedited proceedings on the grounds that a building or structure subject to forfeiture constituted a health or safety hazard and the agency intended to demolish it upon forfeiture. A request for expedited proceedings could be filed at any time during the forfeiture proceedings but only with the approval of the attorney general or the county prosecuting attorney. If a request were filed, the court would have to conduct and conclude the forfeiture proceedings before all other cases not having priority by statute. Each party with an ownership, possessory, or secured interest in the building or structure would have to be notified of the expedited proceedings and given an opportunity to be heard regarding forfeiture.

If the court ordered property to be forfeited, the order could provide for immediate demolition of the building or structure at the discretion of the seizing agency, subject only to a stay of proceedings pending an appeal. If any real property were to be sold or transferred by the seizing agency to another entity after forfeiture, the court also could, with the approval of the attorney general or the county prosecuting attorney, execute the necessary documents at the time of forfeiture to complete that sale or transfer.

Disposal Options

Under Article 7, when property is forfeited, the local unit of government that seized it or the state, as applicable, may retain it for official use, sell property that is not required by

law to be destroyed and is not harmful to the public, require the Michigan Board of Pharmacy to take custody of the property and remove it for disposition, or forward it to the U.S. Department of Justice's Drug Enforcement Administration for disposition.

Under the bill, if real property were forfeited, the local unit of government that seized the property also could dispose of it by doing any of the following with the consent of the attorney general or the county prosecutor:

- Demolish the property.
- Preserve the property for historic purposes.
- Convert the property to a park or natural area.
- Convey the property to the state, a local unit of government, or a nonprofit entity for any of the purposes listed below.

Forfeited real property could be conveyed for use as a facility in which to do any of the following:

- Provide substance abuse treatment and rehabilitation services.
- Provide drug resistance education or crime prevention education.
- Provide job training skills to members of the community.
- Provide housing to individuals within the community who were displaced due to drug crime.

These provisions would not prohibit the local unit of government that seized the property from disposing of it in any other manner authorized under Article 7.

Annual Forfeiture Report

Under Article 7, before February 1 each year, every local unit of government that had forfeiture proceedings pending in the circuit court, forfeited property without a forfeiture proceeding, or received anything of value from the disposition of forfeited property during the local unit's preceding fiscal year, must submit a report to the Office of Drug Agencies for analysis and transmittal to the Secretary of the Senate and the Clerk of the House of Representatives.

The report must summarize the local unit's activities regarding the forfeiture of property for the fiscal year, and must contain specified information. Under the bill, the report also would have to contain a statement of all real property disposed of under the provision described above (allowing demolition, preservation, conversion, or conveyance), the means of disposal, the total value of the property, and, if the property were being used for an authorized purpose, the nature of that use.

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FISCAL IMPACT:

Senate Bill 750 would have an indeterminate, but likely negligible fiscal impact on state and local government. The provisions of the bill would provide for an expedited process relating to the demolition of structures when the property was forfeited due to a drug offense. The costs associated with demolition of the property and the revenue received from disposal of the property would presumably be the same under the provisions of the bill. However, the costs incurred and the revenue received would both come about at an earlier date under the expedited process provided for under the bill.

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