

Legislative Analysis



FORFEITURE UNDER PUBLIC HEALTH CODE

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House Bill 4629 as introduced
Sponsor: Rep. Peter J. Lucido
Committee: Oversight and Ethics
Complete to 2-10-16

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

The bill would amend sections of the Public Health Code that allow local units of government and the state to seize property related to criminal activity connected with controlled substances.

Generally speaking, the state's civil asset forfeiture provisions allow the seizing entity to petition a court to have such property forfeited, meaning that the seizing entity takes possession of the seized property. Forfeited property can then be used or sold by the seizing entity and, in some instances, used for law enforcement purposes.

House Bill 4629, in cases where property is seized without process, eliminates (1) a requirement that a bond be provided by a person claiming interest in property subject to forfeiture proceedings to cover the costs and expenses of those proceedings, and (2) the provision that allows a court to order a person who claimed an interest in property to pay the expenses of the proceedings if a court enters an order of forfeiture.

The code allows property to be seized without process in certain circumstances, including incident to a lawful arrest, pursuant to a search warrant, or pursuant to an inspection under an administrative inspection warrant; and when there is probable cause to believe that the property is directly or indirectly dangerous to health or safety.

Under Section 7523, the local unit that seizes property must notify the property owner of the seizure and the intent to forfeit and dispose of the property in writing. Then a person claiming an interest in the property may file a written claim. The code requires that a bond to accompany the filing equal to 10% of the value of the claimed property, but not less than \$250 or more than \$5,000. House Bill 4629, as noted earlier, eliminates the bond requirement.

Under Section 7524, if a court enters an order of forfeiture, it may order a person who claimed an interest in the forfeited property under the procedure described above to pay the expenses of the proceedings of forfeiture to the entity having budgetary authority over the seizing agency. House Bill 4629 strikes this provision.

FISCAL IMPACT:

The fiscal impact is indeterminate. This summary will be updated as information becomes available.

Legislative Analyst: Chris Couch
Fiscal Analyst: Kent P. Dell

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