

JAN 18 2019

A BILL FOR AN ACT

RELATING TO PROPERTY FORFEITURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 712A-5, Hawaii Revised Statutes, is
2 amended by amending subsection (2) to read as follows:

3 "(2) Except that:

4 (a) Real property, or an interest therein, may be
5 forfeited under the provisions of this chapter only in
6 cases in which the covered offense is chargeable as a
7 felony offense under state law;

8 (b) No property shall be forfeited under this chapter to
9 the extent of an interest of an owner [~~, by reason of~~
10 ~~any act or omission established by that owner to have~~
11 ~~been committed or omitted without the knowledge and~~
12 ~~consent of that owner;~~] by reason of:

13 (i) The commission of any covered offense unless the:

14 (A) Covered offense is chargeable as a felony
15 offense under state law; and

16 (B) Owner has been convicted of the covered
17 offense by a verdict or plea, including a no



S.B. NO. 481

- 1 contest plea or a deferred acceptance of
2 guilty plea or no contest plea; or
3 (ii) Any act or omission established by that owner to
4 have been committed or omitted without the
5 knowledge and consent of that owner;
6 (c) No conveyance used by any person as a common carrier
7 in the transaction of a business as a common carrier
8 is subject to forfeiture under this section unless it
9 appears that the owner or other person in charge of
10 the conveyance is a consenting party or privy to a
11 violation of this chapter;
12 (d) No conveyance is subject to forfeiture under this
13 section by reason of any act or omission established
14 by the owner thereof to have been committed or omitted
15 without the owner's knowledge or consent; [~~and~~]
16 (e) A forfeiture of a conveyance encumbered by a bona fide
17 security interest is subject to the interest of the
18 secured party if the secured party neither had
19 knowledge of nor consented to the act or omission[-];
20 and



1 (f) This chapter shall not apply to the forfeiture of an
2 animal prior to disposition of criminal charges
3 pursuant to section 711-1109.2."

4 SECTION 2. Section 712A-16, Hawaii Revised Statutes, is
5 amended by amending subsection (2) to read as follows:

6 "(2) All forfeited property and the sale proceeds thereof,
7 up to a maximum of three million dollars per year, not
8 previously transferred pursuant to [†]subsection[†] (1)(a) of
9 this section, [~~shall,~~] after payment of expenses of
10 administration and sale, shall be distributed as follows:

11 [~~(a) One quarter shall be distributed to the unit or units~~
12 ~~of state or local government [whose] officers or~~
13 ~~employees conducted the investigation and caused the~~
14 ~~arrest of the person whose property was forfeited or~~
15 ~~seizure of the property for forfeiture;~~

16 [~~(b) One quarter shall be distributed to the prosecuting~~
17 ~~attorney who instituted the action producing the~~
18 ~~forfeiture; and~~

19 [~~(c) One half shall be deposited into the criminal~~
20 ~~forfeiture fund established by this chapter.]~~



S.B. NO. 481

- 1 (a) One half to the Hawaii law enforcement assisted
- 2 diversion program or its successor program; and
- 3 (b) One half to the state general fund."

4 SECTION 3. This Act does not affect rights and duties that

5 matured, penalties that were incurred, and proceedings that were

6 begun before its effective date.

7 SECTION 4. Statutory material to be repealed is bracketed

8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

10

INTRODUCED BY: *Paul E. Bell*

Kurt Jensen

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BSK



S.B. NO. 481

Report Title:

Attorney General; Penal Code; Forfeiture; Civil Assets

Description:

Prohibits civil asset forfeiture by reason of the commission of a covered offense, to the extent of the property owner's interest, unless the covered offense is a felony for which the property owner has been convicted. Prohibits the forfeiture of an animal prior to the disposition of criminal charges. Requires the Attorney General to distribute one half of all forfeited property and the sale proceeds thereof to the Hawaii law enforcement assisted diversion program, with the remaining half to be distributed to the state general fund.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

