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# A BILL FOR AN ACT

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RELATING TO PROPERTY FORFEITURE.

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

SECTION 1. The purpose of this Act is to make the State's property forfeiture process more just by:

(1) Increasing transparency and accountability surrounding property forfeiture;

(2) Restricting civil asset forfeiture to cases involving the commission of a felony offense where the property owner has been convicted of an underlying felony offense;

(3) Directing any forfeiture proceeds to the general fund;

(4) Amending the allowable expenses for moneys in the criminal forfeiture fund;

(5) Requiring the attorney general to adopt rules necessary to carry out the purposes of the Hawaii omnibus criminal forfeiture act; and

(6) Repealing language that requires the Hawaii omnibus criminal forfeiture act to be construed liberally.



SECTION 2. Chapter 712A, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**"§712A- Records of forfeited property. (1) Each**  
**seizing agency shall maintain the following records for all**  
**property seized for purposes of forfeiture:**

(a) The authority under which the property was forfeited;

(b) The date on which each item of property was forfeited;

(c) The department or agency that has possession of the  
forfeited property;

(d) A description of each item of forfeited property; and

(e) The estimated value of each item of forfeited  
property.

(2) The seizing agency shall:

(a) Maintain all records of forfeited property;

(b) Make the records open to inspection; and

(c) Post the records on a publicly accessible website.

**§712A- Equitable sharing program; restrictions.**

Notwithstanding the provisions of section 712A-7, a seizing  
agency or prosecuting attorney shall not enter into an agreement  
to transfer or refer property seized under section 712A-6 to a



1 federal agency directly, indirectly, through adoption, through  
2 an intergovernmental joint task force, or by other means that  
3 circumvent the provisions of this section, unless the seized  
4 property includes United States currency in excess of \$100,000."

5 SECTION 3. Section 712A-5, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 **"§712A-5 Property subject to forfeiture; exemption. (1)**

8 The following is subject to forfeiture:

9 (a) Property described in a statute authorizing  
10 forfeiture;

11 (b) Property used or intended for use in the commission  
12 of, attempt to commit, or conspiracy to commit a  
13 covered offense, or ~~[which]~~ that facilitated or  
14 assisted ~~[such]~~ the activity;

15 (c) Any firearm ~~[which]~~ that is subject to forfeiture  
16 under any other subsection of this section or ~~[which]~~  
17 is carried during, visible, or used in furtherance of  
18 the commission, attempt to commit, or conspiracy to  
19 commit a covered offense, or any firearm found in  
20 proximity to contraband or to instrumentalities of an  
21 offense;



1 (d) Contraband or untaxed cigarettes in violation of  
2 chapter 245, shall be seized and summarily forfeited  
3 to the State without regard to the procedures set  
4 forth in this chapter;

5 (e) Any proceeds or other property acquired, maintained,  
6 or produced by means of or as a result of the  
7 commission of the covered offense;

8 (f) Any property derived from any proceeds [~~which~~] that  
9 were obtained directly or indirectly from the  
10 commission of a covered offense;

11 (g) Any interest in, security of, claim against, or  
12 property or contractual right of any kind affording a  
13 source of influence over any enterprise [~~which~~] that  
14 has been established, participated in, operated,  
15 controlled, or conducted in order to commit a covered  
16 offense; and

17 (h) All books, records, bank statements, accounting  
18 records, microfilms, tapes, computer data, or other  
19 data [~~which~~] that are used, intended for use, or  
20 [~~which~~] that facilitated or assisted in the commission



1 of a covered offense, or ~~[which]~~ that document the use  
2 of the proceeds of a covered offense.

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 (2) The following is not subject to forfeiture; provided  
9 that nothing in this paragraph shall be construed to prevent the  
10 seizure of property before conviction pursuant to section  
11 712A-6:

12 ~~[(b)]~~ (a) No property shall be forfeited under this chapter  
13 ~~[to the extent of an interest of an owner,]~~ by reason  
14 of ~~[any act or omission established by that owner to~~  
15 ~~have been committed or omitted without the knowledge~~  
16 ~~and consent of that owner;]~~ the commission of any  
17 covered offense unless:

18 (i) The covered offense is chargeable as a felony  
19 offense under state law; and

20 (ii) The owner has been convicted of the covered  
21 offense by a verdict or plea, including a no



1                   contest plea or a deferred acceptance of guilty  
2                   plea or no contest plea;

3       (b)   No property shall be forfeited under this chapter by  
4           reason of any act or omission established by the owner  
5           to have been committed or omitted without the  
6           knowledge and consent of the owner;

7       (c)   No conveyance used by any person as a common carrier  
8           in the transaction of a business as a common carrier  
9           is subject to forfeiture under this section unless it  
10          appears that the owner or other person in charge of  
11          the conveyance is a consenting party or privy to a  
12          violation of this chapter;

13       (d)   No conveyance is subject to forfeiture under this  
14           section by reason of any act or omission established  
15           by the owner thereof to have been committed or omitted  
16           without the owner's knowledge or consent; and

17       (e)   A forfeiture of a conveyance encumbered by a bona fide  
18           security interest is subject to the interest of the  
19           secured party if the secured party neither had  
20           knowledge of nor consented to the act or omission.



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

4        (4) This section shall not prohibit or restrict  
5 forfeitures authorized by law other than this chapter."

6        SECTION 4. Section 712A-16, Hawaii Revised Statutes, is  
7 amended to read as follows:

8        **"§712A-16 Disposition of property forfeited.** (1) All  
9 property forfeited to the State under this chapter shall be  
10 transferred to the attorney general, who[÷] may:

11        [~~(a) May transfer property, other than currency, which~~  
12        ~~shall be distributed in accordance with subsection (2)~~  
13        ~~to any local or state government entity, municipality,~~  
14        ~~or law enforcement agency within the State;~~

15        ~~(b) May sell]~~ (a) Sell forfeited property to the public  
16        by public sale; provided that for leasehold real  
17        property:

18        (i) The attorney general shall first offer the holder  
19        of the immediate reversionary interest the right  
20        to acquire the leasehold interest and any  
21        improvements built or paid for by the lessee for



1 the then fair market value of the leasehold  
2 interest and improvements. The holder of the  
3 immediate reversionary interest shall have thirty  
4 days after receiving written notice within which  
5 to accept or reject the offer in writing;  
6 provided that the offer shall be deemed to be  
7 rejected if the holder of the immediate  
8 reversionary interest has not communicated  
9 acceptance to the attorney general within the  
10 thirty-day period. The holder of the immediate  
11 reversionary interest shall have thirty days  
12 after acceptance to tender to the attorney  
13 general the purchase price for the leasehold  
14 interest and any improvements, upon which tender  
15 the leasehold interest and improvements shall be  
16 conveyed to the holder of the immediate  
17 reversionary interest[-];

18 (ii) If the holder of the immediate reversionary  
19 interest fails to exercise the right of first  
20 refusal provided in subparagraph (i), the  
21 attorney general may proceed to sell the





1 leasehold interest and any improvements by public  
2 sale~~[-]~~; and

3 (iii) Any dispute between the attorney general and the  
4 holder of the immediate reversionary interest as  
5 to the fair market value of the leasehold  
6 interest and improvements shall be settled by  
7 arbitration pursuant to chapter 658A;

8 [~~(e) May sell~~] (b) Sell or destroy all raw materials,  
9 products, and equipment of any kind used or intended  
10 for use in manufacturing, compounding, or processing a  
11 controlled substance or any untaxed cigarettes in  
12 violation of chapter 245;

13 [~~(d) May compromise~~] (c) Compromise and pay valid claims  
14 against property forfeited pursuant to this chapter;  
15 or

16 [~~(e) May make~~] (d) Make any other disposition of forfeited  
17 property authorized by law.

18 (2) All forfeited property and the sale proceeds thereof,  
19 [~~up to a maximum of three million dollars per year, not~~  
20 ~~previously transferred pursuant to [subsection] (1)(a) of this~~



1 ~~section, shall,]~~ after payment of expenses of administration and  
2 sale, ~~[be distributed as follows:~~

3 ~~(a) One quarter shall be distributed to the unit or units~~  
4 ~~of state or local government [whose] officers or~~  
5 ~~employees conducted the investigation and caused the~~  
6 ~~arrest of the person whose property was forfeited or~~  
7 ~~seizure of the property for forfeiture;~~

8 ~~(b) One quarter shall be distributed to the prosecuting~~  
9 ~~attorney who instituted the action producing the~~  
10 ~~forfeiture; and~~

11 ~~(c) One half shall be deposited into the criminal~~  
12 ~~forfeiture fund established by this chapter.~~

13 ~~(3) Property and money distributed to units of state and~~  
14 ~~local government shall be used for law enforcement purposes, and~~  
15 ~~shall complement but not supplant the funds regularly~~  
16 ~~appropriated for such purposes.] including reimbursement for any~~  
17 ~~costs incurred by the department of the attorney general related~~  
18 ~~to the seizure or storage of seized property, shall be deposited~~  
19 ~~to the credit of the state general fund.~~

20 ~~[(4)]~~ (3) There is established in the department of the  
21 attorney general a special fund to be known as the criminal



1 forfeiture fund, hereinafter referred to as the "fund", ~~[in]~~  
2 into which shall be deposited ~~[one-half of the proceeds of a~~  
3 ~~forfeiture and any penalties paid pursuant to section 712A-~~  
4 ~~10(6)-]~~ a portion of the proceeds of each sale made pursuant to  
5 this section that is sufficient to cover expenses of  
6 administration and sale. All moneys in the fund shall be  
7 expended by the attorney general and are hereby appropriated for  
8 the ~~[following purposes:]~~

9       ~~(a) The]~~ payment of any expenses necessary to seize,  
10            detain, appraise, inventory, safeguard, maintain,  
11            advertise, or sell property seized, detained, or  
12            forfeited pursuant to this chapter or of any other  
13            necessary expenses incident to the seizure, detention,  
14            or forfeiture of ~~[such]~~ property and ~~[such]~~ contract  
15            services and payments to reimburse any federal, state,  
16            or county agency for any expenditures made to perform  
17            the foregoing functions~~[.]~~.

18       ~~[(b) The payment of awards for information or assistance~~  
19            ~~leading to a civil or criminal proceeding;~~

20       ~~(c) The payment of supplemental sums to state and county~~  
21            ~~agencies for law enforcement purposes;~~



1       ~~(d) The payment of expenses arising in connection with~~  
2           ~~programs for training and education of law enforcement~~  
3           ~~officers; and~~

4       ~~(e) The payment of expenses arising in connection with~~  
5           ~~enforcement pursuant to the drug nuisance abatement~~  
6           ~~unit in the department of the attorney general.~~

7       ~~(5)]~~ (4) The attorney general ~~[may, without regard to the~~  
8       ~~requirements of chapter 91, promulgate]~~ shall adopt rules ~~[and~~  
9       ~~regulations]~~ necessary to carry out the purpose of this chapter,  
10      including rules concerning the disposition of property, the use  
11      of the fund, and compromising and paying valid claims against  
12      property forfeited ~~[pursuant to this chapter].~~

13       ~~[(6)]~~ (5) Not less than ~~[twenty]~~ forty days ~~[prior to]~~  
14      before the convening of each regular session, the attorney  
15      general shall provide to the legislature a report on the use of  
16      the Hawaii omnibus criminal forfeiture act during the fiscal  
17      year preceding the legislative session. The report shall  
18      include:

19           (a) The total amount and type of property seized by law  
20           enforcement agencies;



1 (b) The total number of administrative and judicial  
2 actions filed by prosecuting attorneys and the  
3 disposition thereof[+] for each action;

4 (c) The total number of claims or petitions for remission  
5 or mitigation filed in administrative actions and the  
6 dispositions thereof[+] for each action;

7 (d) The total amount and type of property forfeited and  
8 the sale proceeds thereof;

9 (e) The total amount and type of property distributed to  
10 units of state and local government;

11 (f) The amount of money deposited into the [~~criminal~~  
12 ~~forfeiture~~] fund; [~~and~~]

13 (g) The amount of money deposited into the general fund;  
14 and

15 [~~(g)~~] (h) The amount of money expended by the attorney  
16 general from the criminal forfeiture fund under  
17 subsection [~~(5)~~] (4) and the reason for the  
18 expenditures."

19 SECTION 5. Section 712A-19, Hawaii Revised Statutes, is  
20 repealed.



1       ["~~§712A-19~~ **Construction.** ~~It is the intent of the~~  
2 ~~legislature that this chapter be liberally construed so as to~~  
3 ~~effect the purposes of this chapter.~~"]

4       SECTION 6. 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 7. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9       SECTION 8. This Act shall take effect on July 1, 2025.



**Report Title:**

Hawaii Omnibus Criminal Forfeiture Act; Civil Asset Forfeiture;  
Property Forfeiture

**Description:**

Increases transparency and accountability surrounding property forfeiture. Restricts civil asset forfeiture to cases involving the commission of a felony offense where the property owner has been convicted of an underlying felony offense. Directs forfeiture proceeds to the general fund. Amends the allowable expenses for moneys in the Criminal Forfeiture Fund. Requires the Attorney General to adopt rules necessary to carry out the purpose of the Hawaii Omnibus Criminal Forfeiture Act. Limits the transfer of certain forfeiture property to federal agencies. Establishes records requirements. Repeals language that requires the Hawaii Omnibus Criminal Forfeiture Act to be construed liberally. (Proposed SD1)

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

