

SECOND REGULAR SESSION

HOUSE BILL NO. 1772

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DOGAN.

5043H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 82.1000, 195.130, 195.140, 195.146, 313.805, 313.832, 513.600, 513.605, 513.607, 513.610, 513.612, 513.615, 513.617, 513.620, 513.623, 513.625, 513.630, 513.635, 513.637, 513.640, 513.645, 570.105, 579.105, RSMo, and section 195.190 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 195.190 as enacted by senate bills nos. 215 & 58, eighty-fifth general assembly, first regular session, and to enact in lieu thereof forty new sections relating to asset forfeiture, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 82.1000, 195.130, 195.140, 195.146, 313.805, 313.832, 513.600, 2 513.605, 513.607, 513.610, 513.612, 513.615, 513.617, 513.620, 513.623, 513.625, 513.630, 3 513.635, 513.637, 513.640, 513.645, 570.105, 579.105, RSMo, and section 195.190 as enacted 4 by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 5 195.190 as enacted by senate bills nos. 215 & 58, eighty-fifth general assembly, first regular 6 session, are repealed and forty new sections enacted in lieu thereof, to be known as sections 7 82.1000, 195.130, 195.140, 195.146, 313.805, 313.832, 513.700, 513.702, 513.704, 513.706, 8 513.708, 513.710, 513.712, 513.714, 513.716, 513.718, 513.720, 513.722, 513.724, 513.726, 9 513.728, 513.730, 513.732, 513.734, 513.736, 513.738, 513.740, 513.742, 513.744, 513.746, 10 513.748, 513.750, 513.752, 513.754, 513.756, 513.758, 513.760, 513.762, 570.105, and 579.105, 11 to read as follows:

82.1000. 1. In addition to forfeiture proceedings pursuant to sections [513.600 to 2 513.645] **513.700 to 513.762**, the governing body of any constitutional charter city having a 3 population of more than one hundred thousand inhabitants and located within a county of the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

4 first classification that adjoins no other county of the first classification may enact ordinances
5 which would subject to forfeiture any motor vehicle operated by a person with one or more prior
6 convictions for an intoxication-related traffic offense, as defined in section 577.023, who is
7 prohibited from obtaining a license to operate a motor vehicle by the director of revenue pursuant
8 to subdivision (9) or (10) of section 302.060, or who has the person's license to operate a motor
9 vehicle suspended or revoked, as a result of a finding or a plea of guilty to:

10 (1) Any intoxication-related traffic offense as defined in section 577.023; or

11 (2) Involuntary manslaughter as a result of operating a motor vehicle while in an
12 intoxicated condition as defined in section 565.024. Such forfeiture pursuant to this subsection
13 shall only be allowed if such person operates a motor vehicle while the person's license to
14 operate a motor vehicle is under such a suspension or revocation.

15 2. The ordinance allowing forfeitures pursuant to this section may also provide for the
16 impoundment and forfeiture of a motor vehicle operated by any person who is classified as a
17 prior offender or persistent offender pursuant to section 577.023 after the effective date of such
18 ordinance, except that a judgment of forfeiture may only be rendered if there is a conviction of
19 an intoxication-related traffic offense which causes the owner of the motor vehicle to be
20 classified as a prior or persistent offender.

21 3. The ordinance allowing the forfeitures pursuant to this section may also provide for
22 the impoundment and forfeiture of a motor vehicle operated by any person who has previously
23 been convicted of two or more intoxication-related traffic offenses, as defined in section
24 577.023, and who thereafter, pursuant to a chemical test conducted in accordance with sections
25 577.020 to 577.041, is determined upon probable cause to have been driving a motor vehicle
26 with a blood-alcohol concentration equal to or greater than the blood-alcohol percentage
27 concentration specified in subsection 1 of section 302.520, or any such person who, pursuant to
28 section 577.041, has been requested to submit to a chemical test as described pursuant to that
29 section, and refused to submit to such test.

30 4. All forfeiture proceedings pursuant to this section shall be conducted in accordance
31 with sections [513.600 to 513.645] **513.700 to 513.762**, except the forfeiture proceeding shall
32 be brought by the city attorney for the city which enacted such ordinances.

33 5. The ordinance shall also provide that any person claiming an ownership interest in the
34 motor vehicle subject to forfeiture shall have all the defenses to the forfeiture proceeding
35 available to them which they may be entitled to raise pursuant to sections [513.600 to 513.645]
36 **513.700 to 513.762**. The ordinance shall further provide that, in the event the title documents
37 registered with the department of revenue for the motor vehicle subject to forfeiture, at the time
38 of the action giving rise to the forfeiture proceeding, list persons as owners or co-owners of the
39 vehicle in addition to or other than the operator, and the nonoperator owner of the motor vehicle

40 has not previously been the operator or the owner of, a motor vehicle which has been the subject
41 of a forfeiture proceeding authorized by this section, the motor vehicle shall be returned to the
42 nonoperator registered owner and all costs associated with the seizure, towing, storage and
43 impoundment of the vehicle, and the payment of all court costs and reasonable attorney fees
44 associated with the forfeiture proceeding shall be paid by the owners or the operator of the
45 vehicle. To be entitled to return of the vehicle all owners shall execute a written agreement with
46 the municipality stipulating and consenting to the seizure and forfeiture of the motor vehicle in
47 the event such motor vehicle is subsequently operated by the same operator under circumstances
48 which would allow the municipality to seek forfeiture of such vehicle pursuant to an ordinance
49 authorized by this section.

195.130. 1. Any room, building, structure or inhabitable structure as defined in section
2 569.010 which is used for the illegal use, keeping or selling of controlled substances is a "public
3 nuisance". No person shall keep or maintain such a public nuisance.

4 2. The attorney general, circuit attorney or prosecuting attorney may, in addition to any
5 criminal prosecutions, prosecute a suit in equity to enjoin the public nuisance. If the court finds
6 that the owner of the room, building, structure or inhabitable structure knew that the premises
7 were being used for the illegal use, keeping or selling of controlled substances, the court may
8 order that the premises shall not be occupied or used for such period as the court may determine,
9 not to exceed one year.

10 3. All persons, including owners, lessees, officers, agents, inmates or employees, aiding
11 or facilitating such a nuisance may be made defendants in any suit to enjoin the nuisance.

12 4. It is unlawful for a person to keep or maintain such a public nuisance. In addition to
13 any other criminal prosecutions, the prosecuting attorney or circuit attorney may by information
14 or indictment charge the owner or the occupant, or both the owner and the occupant of the room,
15 building, structure, or inhabitable structure with the crime of keeping or maintaining a public
16 nuisance. Keeping or maintaining a public nuisance is a class C felony.

17 5. Upon the conviction of the owner pursuant to subsection 4 of this section, the room,
18 building, structure, or inhabitable structure is subject to the provisions of sections [513.600 to
19 513.645] **513.700 to 513.762.**

195.140. 1. All controlled substances, imitation controlled substances or drug
2 paraphernalia for the administration, use or manufacture of controlled substances or imitation
3 controlled substances and which have come into the custody of a peace officer or officer or agent
4 of the department of health and senior services as provided by this chapter or chapter 579, the
5 lawful possession of which is not established or the title to which cannot be ascertained after a
6 hearing as prescribed in Rule 34 of Rules of Criminal Procedure for the courts of Missouri or
7 some other appropriate hearing, shall be forfeited, and disposed of as follows:

8 (1) Except as in this section otherwise provided, the court or associate circuit judge
9 having jurisdiction shall order such controlled substances, imitation controlled substances, or
10 drug paraphernalia forfeited and destroyed. A record of the place where said controlled
11 substances, imitation controlled substances, or drug paraphernalia were seized, of the kinds and
12 quantities of controlled substances, imitation controlled substances, or drug paraphernalia so
13 destroyed, and of the time, place and manner of destructions, shall be kept, and a return under
14 oath, reporting the destruction of the controlled substances, imitation controlled substances, or
15 drug paraphernalia shall be made to the court or associate circuit judge;

16 (2) The department of health and senior services shall keep a complete record of all
17 controlled substances, imitation controlled substances, or drug paraphernalia received and
18 disposed of, together with the dates of such receipt and disposal, showing the exact kinds,
19 quantities, and forms of such controlled substances, imitation controlled substances, or drug
20 paraphernalia; the persons from whom received and to whom delivered; and by whose authority
21 they were received, delivered or destroyed; which record shall be open to inspection by all
22 federal or state officers charged with the enforcement of federal and state narcotic or controlled
23 substances laws.

24 2. (1) Everything of value furnished, or intended to be furnished, in exchange for a
25 controlled substance, imitation controlled substance or drug paraphernalia in violation of this
26 chapter or chapter 579, all proceeds traceable to such an exchange, and all moneys, negotiable
27 instruments, or securities used, or intended to be used, to facilitate any violation of this chapter
28 or chapter 579, shall be forfeited, except that no property shall be forfeited under this subsection
29 to the extent of the interest of an owner by reason of any act or omission established by him to
30 have been committed without his or her knowledge or consent.

31 (2) Any moneys, coin, or currency found in close proximity to forfeitable controlled
32 substances, imitation controlled substances, or drug paraphernalia, or forfeitable records of the
33 importation, manufacture, or distribution of controlled substances, imitation controlled
34 substances or drug paraphernalia are presumed to be forfeitable under this subsection. The
35 burden of proof shall be upon claimants of the property to rebut this presumption.

36 (3) All forfeiture proceedings shall be conducted pursuant to the provisions of sections
37 [513.600 to 513.653] **513.700 to 513.762.**

195.140. 1. All controlled substances, imitation controlled substances or drug
2 paraphernalia for the administration, use or manufacture of controlled substances or imitation
3 controlled substances and which have come into the custody of a peace officer or officer or agent
4 of the department of health and senior services as provided by sections 195.010 to 195.320, the
5 lawful possession of which is not established or the title to which cannot be ascertained after a

6 hearing as prescribed in Rule 34 of Rules of Criminal Procedure for the courts of Missouri or
7 some other appropriate hearing, shall be forfeited, and disposed of as follows:

8 (1) Except as in this section otherwise provided, the court or associate circuit judge
9 having jurisdiction shall order such controlled substances, imitation controlled substances, or
10 drug paraphernalia forfeited and destroyed. A record of the place where said controlled
11 substances, imitation controlled substances, or drug paraphernalia were seized, of the kinds and
12 quantities of controlled substances, imitation controlled substances, or drug paraphernalia so
13 destroyed, and of the time, place and manner of destructions, shall be kept, and a return under
14 oath, reporting the destruction of the controlled substances, imitation controlled substances, or
15 drug paraphernalia shall be made to the court or associate circuit judge;

16 (2) The department of health and senior services shall keep a complete record of all
17 controlled substances, imitation controlled substances, or drug paraphernalia received and
18 disposed of, together with the dates of such receipt and disposal, showing the exact kinds,
19 quantities, and forms of such controlled substances, imitation controlled substances, or drug
20 paraphernalia; the persons from whom received and to whom delivered; and by whose authority
21 they were received, delivered or destroyed; which record shall be open to inspection by all
22 federal or state officers charged with the enforcement of federal and state narcotic or controlled
23 substances laws.

24 2. (1) Everything of value furnished, or intended to be furnished, in exchange for a
25 controlled substance, imitation controlled substance or drug paraphernalia in violation of sections
26 195.010 to 195.320, all proceeds traceable to such an exchange, and all moneys, negotiable
27 instruments, or securities used, or intended to be used, to facilitate any violation of sections
28 195.010 to 195.320 shall be forfeited, except that no property shall be forfeited under this
29 subsection to the extent of the interest of an owner by reason of any act or omission established
30 by him to have been committed without his knowledge or consent.

31 (2) Any moneys, coin, or currency found in close proximity to forfeitable controlled
32 substances, imitation controlled substances, or drug paraphernalia, or forfeitable records of the
33 importation, manufacture, or distribution of controlled substances, imitation controlled
34 substances or drug paraphernalia are presumed to be forfeitable under this subsection. The
35 burden of proof shall be upon claimants of the property to rebut this presumption.

36 (3) All forfeiture proceedings shall be conducted pursuant to the provisions of sections
37 [513.600 to 513.660] **513.700 to 513.762**.

195.146. 1. Section 195.140 shall be applicable to property owned by, or in the
2 possession of, children.

3 2. The procedures for the forfeiture of property under sections [513.600 and 513.645]
4 **513.700 to 513.762** shall be applicable to children.

5 3. The term "arrest", for purposes of this chapter, shall include the taking of a child into
6 custody.

 313.805. The commission shall have full jurisdiction over and shall supervise all
2 gambling operations governed by sections 313.800 to 313.850. The commission shall have the
3 following powers and shall promulgate rules and regulations to implement sections 313.800 to
4 313.850:

5 (1) To investigate applicants and determine the priority and eligibility of applicants for
6 a license and to select among competing applicants for a license the applicant which best serves
7 the interests of the citizens of Missouri;

8 (2) To license the operators of excursion gambling boats and operators of gambling
9 games within such boats, to identify occupations within the excursion gambling boat operations
10 which require licensing, and adopt standards for licensing the occupations including establishing
11 fees for the occupational licenses and to license suppliers;

12 (3) To adopt standards under which all excursion gambling boat operations shall be held
13 and standards for the facilities within which the gambling operations are to be held.
14 Notwithstanding the provisions of chapter 311 to the contrary, the commission may authorize
15 the operation of gambling games on an excursion gambling boat which is also licensed to sell
16 or serve alcoholic beverages, wine, or beer. The commission shall regulate the wagering
17 structure for gambling excursions, provided that the commission shall not establish any
18 regulations or policies that limit the amount of wagers, losses, or buy-in amounts;

19 (4) To enter the premises of excursion gambling boats, facilities, or other places of
20 business of a licensee within this state to determine compliance with sections 313.800 to
21 313.850;

22 (5) To investigate alleged violations of sections 313.800 to 313.850 or the commission
23 rules, orders, or final decisions;

24 (6) To assess any appropriate administrative penalty against a licensee, including, but
25 not limited to, suspension, revocation, and penalties of an amount as determined by the
26 commission up to three times the highest daily amount of gross receipts derived from wagering
27 on the gambling games, whether unauthorized or authorized, conducted during the previous
28 twelve months as well as confiscation and forfeiture of all gambling game equipment used in the
29 conduct of unauthorized gambling games. Forfeitures pursuant to this section shall be enforced
30 as provided in sections [513.600 to 513.645] **513.700 to 513.762**;

31 (7) To require a licensee, an employee of a licensee or holder of an occupational license
32 to remove a person violating a provision of sections 313.800 to 313.850 or the commission rules,
33 orders, or final orders, or other person deemed to be undesirable from the excursion gambling
34 boat or adjacent facilities;

35 (8) To require the removal from the premises of a licensee, an employee of a licensee,
36 or a holder of an occupational license for a violation of sections 313.800 to 313.850 or a
37 commission rule or engaging in a fraudulent practice;

38 (9) To require all licensees to file all financial reports required by rules and regulations
39 of the commission;

40 (10) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for
41 the production of books, records, and other pertinent documents, and to administer oaths and
42 affirmations to the witnesses, when, in the judgment of the commission, it is necessary to enforce
43 sections 313.800 to 313.850 or the commission rules;

44 (11) To keep accurate and complete records of its proceedings and to certify the records
45 as may be appropriate;

46 (12) To ensure that the gambling games are conducted fairly. No gambling device shall
47 be set to pay out less than eighty percent of all wagers;

48 (13) To require all licensees of gambling game operations to use a cashless wagering
49 system whereby all players' money is converted to physical or electronic tokens, electronic cards,
50 or chips which only can be used on the excursion gambling boat;

51 (14) To require excursion gambling boat licensees to develop a system, approved by the
52 commission, that allows patrons the option to prohibit the excursion gambling boat licensee from
53 using identifying information for marketing purposes. The provisions of this subdivision shall
54 apply only to patrons giving identifying information for the first time. Such system shall be
55 submitted to the commission by October 1, 2000, and approved by the commission by January
56 1, 2001. The excursion gambling boat licensee shall use identifying information obtained from
57 patrons who have elected to have marketing blocked under the provisions of this section only for
58 the purposes of enforcing the requirements contained in sections 313.800 to 313.850. This
59 section shall not prohibit the commission from accessing identifying information for the
60 purposes of enforcing section 313.004 and sections 313.800 to 313.850;

61 (15) To determine which of the authorized gambling games will be permitted on any
62 licensed excursion gambling boat;

63 (16) Excursion gambling boats shall cruise, unless the commission finds that the best
64 interest of Missouri and the safety of the public indicate the need for continuous docking of the
65 excursion gambling boat in any city or county authorized pursuant to subsection 10 of section
66 313.812. The commission shall base its decision to allow continuously docked excursion
67 gambling boats on any of the following criteria: the docking location or the excursion cruise
68 could cause danger to the boat's passengers, violate federal law or the law of another state, or
69 cause disruption of interstate commerce or possible interference with railway or barge
70 transportation. In addition, the commission shall consider economic feasibility or impact that

71 would benefit land-based development and permanent job creation. The commission shall not
72 discriminate among applicants for continuous-docking excursion gambling that are similarly
73 situated with respect to the criteria set forth in this section;

74 (17) The commission shall render a finding concerning the possibility of continuous
75 docking, as described in subdivision (15) of this section, within thirty days after a hearing on any
76 request from an applicant or licensee. Such hearing may be held prior to any final action on
77 licensing to assist an applicant and any city or county in the finalizing of their economic
78 development plan;

79 (18) To require any applicant for a license or renewal of a license to operate an excursion
80 gambling boat to provide an affirmative action plan which has as its goal the use of best efforts
81 to achieve maximum employment of African-Americans and other minorities and maximum
82 participation in the procurement of contractual purchases of goods and services. This provision
83 shall be administered in accordance with all federal and state employment laws, including Title
84 VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991. At license
85 renewal, the licensee will report on the effectiveness of the plan. The commission shall include
86 the licensee's reported information in its annual report to the joint committee on gaming and
87 wagering;

88 (19) To take any other action as may be reasonable or appropriate to enforce sections
89 313.800 to 313.850 and the commission rules.

313.832. 1. Anything of value, including all traceable proceeds including but not limited
2 to real and personal property, moneys, negotiable instruments, securities, and conveyances, is
3 subject to forfeiture if the item was used for any of the following:

4 (1) In exchange for a bribe intended to affect the outcome of a gambling game; or

5 (2) In exchange for or to facilitate a violation of sections 313.800 to 313.840.

6 2. All moneys, coin, and currency found in close proximity of wagers, or of records of
7 wagers are presumed forfeited. The burden of proof is upon the claimant of the property to rebut
8 this presumption.

9 3. Subsections 1 and 2 of this section do not apply if the act or omission which would
10 give rise to the forfeiture was committed or omitted without the owner's knowledge or consent.

11 4. Forfeitures under this section shall be enforced as provided under sections [513.600
12 to 513.645] **513.700 to 513.762.**

**513.700. 1. The provisions of sections 513.700 to 513.762 shall be known and cited
2 as the "Asset Forfeiture Process and Private Property Protection Act". The provisions of
3 sections 513.700 to 513.762 set out the exclusive process governing forfeitures in the state
4 and shall supersede any conflicting provisions in law.**

5 **2. For purposes of sections 513.700 to 513.762, the following terms mean:**

- 6 (1) "Contraband", goods that are unlawful to import, export, or possess;
7 (2) "Conveyance", a device used for transportation and includes a motor vehicle,
8 trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term does
9 not include property that is stolen or taken in violation of the law;
10 (3) "Instrumentality", property otherwise lawful to possess that is used in an
11 offense. An "instrumentality" includes a tool, a firearm, a conveyance, a computer,
12 computer software, a telecommunications device, money, and other means of exchange;
13 (4) "Law subject to forfeiture", a state law that carries a felony penalty and that
14 explicitly includes forfeiture as a punishment or sanction for the offense.

513.702. 1. When a person is convicted of violating a law subject to forfeiture, the
2 court, consistent with sections 513.700 to 513.762, shall order the person to forfeit:

- 3 (1) Proceeds and property the person derived directly from the commission of the
4 crime;
5 (2) Proceeds and property directly traceable to proceeds and property derived
6 directly from the commission of the crime; and
7 (3) Instrumentalities the person used in the commission of the crime.

8 2. Property used in or derived from the violation of a law is subject to forfeiture
9 only if the violation is of a law subject to forfeiture and the violation is established by proof
10 of a criminal conviction.

11 3. The state shall establish that seized property is forfeitable under subsection 1 of
12 this section by clear and convincing evidence.

513.704. Notwithstanding any other provision of law, there is no civil asset
2 forfeiture.

513.706. 1. The court shall resolve any ambiguity in sections 513.700 to 513.762
2 relating to the state taking property through asset forfeiture in favor of the property
3 owner.

4 2. If a court determines that a person opposing forfeiture is financially unable to
5 obtain representation by counsel, the court, at the request of the person, shall insure that
6 the person is represented by an attorney at the state's expense. The attorney shall submit
7 a statement of reasonable fees and costs to the court in a manner directed by the court.

8 3. Except for federal forfeitures consistent with section 513.760, forfeiture may
9 occur only pursuant to an explicit grant of authority under state law. An ordinance
10 enacted by a county, municipality, or other unit of government authorizing forfeiture is not
11 valid.

12 4. A prosecutor having jurisdiction over a law subject to forfeiture has authority
13 to pursue forfeiture.

513.708. 1. Property subject to forfeiture is limited to:

2 (1) Land, buildings, containers, conveyances, equipment, materials, products,
3 money, securities, and negotiable instruments; and

4 (2) Ammunition, firearms, and ammunition and firearm accessories used in the
5 furtherance or commission of, or obtained from the proceeds of, a violation of a law subject
6 to forfeiture.

7 2. No property right exists in contraband, including scheduled drugs without a
8 valid prescription. Contraband is subject to seizure and shall be disposed of according to
9 state law. Contraband is not subject to forfeiture under sections 513.700 to 513.762.

2 513.710. 1. Upon the state's motion following conviction, the court may order the
3 forfeiture of substitute property owned fully by the defendant up to the value of
4 unreachable property only if the state proves by a preponderance of the evidence that the
5 defendant intentionally transferred, sold, or deposited property with a third party to avoid
6 the court's jurisdiction.

7 2. Except as otherwise provided in sections 513.700 to 513.762, the state may not
8 seek additional remedies including, but not limited to, personal money judgments.

2 513.712. 1. A defendant is not jointly and severally liable for forfeiture awards
3 owed by other defendants.

4 2. When ownership is unclear, a court may order each defendant to forfeit property
5 on a pro rata basis proportional to the proceeds that each defendant personally received.

2 513.714. 1. Property subject to forfeiture shall be identified by the state in an
3 indictment of a grand jury or by information in the court in any related criminal
4 proceeding in which a person with an interest in the property has been simultaneously
5 charged with a violation of a law subject to forfeiture.

6 2. The indictment or information shall specify the time and place of the violation,
7 identify the property, and particularly describe its use in the commission of the crime or
8 derivation from the commission of the crime.

9 3. At any time prior to trial, the state, with the consent of the court and any
10 defendant with an interest in the property, may file an ancillary charge alleging that
property is subject to forfeiture.

2 513.716. At the request of the state, a court may issue an ex parte preliminary order
3 to seize or secure property for which forfeiture is sought and to provide for its custody.
4 Application, issuance, execution, and return are subject to state law.

5 513.718. Property subject to forfeiture may be seized without a court order if:

2 (1) The seizure is incident to a lawful arrest or a lawful search;

3 (2) The property subject to seizure has been the subject of a prior judgment in
4 favor of the state; or

5 (3) The state has probable cause to believe that the delay occasioned by the
6 necessity to obtain process would result in the removal or destruction of the property and
7 that the property is forfeitable under section 513.702.

 513.720. When property is seized, the law enforcement officer shall give an itemized
2 receipt to the person in possession of the property; or, in the absence of any person, leave
3 a receipt in the place where the property was found, if reasonably possible.

 513.722. A motion for a bill of particulars may be made before arraignment, within
2 ninety days after arraignment, or at any later time that the court permits. A bill of
3 particulars may be amended at any time subject to conditions that justice requires.

 513.724. 1. At the time of seizure or entry of a restraining order, the state shall
2 acquire provisional title to the seized property. Provisional title authorizes the state to
3 hold and protect the property.

4 2. Title to the property shall vest with the state when the trier of fact renders a final
5 forfeiture verdict and relates back to the time when the state acquired provisional title.
6 However, this title is subject to claims by third parties adjudicated under sections 513.700
7 to 513.762.

 513.726. When property is seized, the state shall use reasonable diligence to secure
2 the property and prevent waste.

 513.728. 1. A state entity having custody of seized property that is subject to
2 forfeiture shall maintain the following records:

- 3 (1) The exact kinds, quantities, and forms of the property;
4 (2) The date and from whom it received the property;
5 (3) The violation of law that subjected the property to seizure;
6 (4) The liens against the seized property;
7 (5) The make, model, and serial number of each seized firearm;
8 (6) To whom and when the notice of forfeiture was given;
9 (7) To whom it delivered the property; and
10 (8) The date and manner of destruction or disposition of the property.

11 2. The records required under subsection 1 are subject to the provisions of chapter
12 610 regarding open records.

 513.730. 1. If the owner of property that has been seized seeks its possession before
2 the criminal trial, the owner may post bond or give substitute property in an amount equal
3 to the fair market value of the seized property at the time the bond amount is determined.

4 **2. On the posting of bond or the giving of substitute property, the state shall return**
5 **the seized property to the owner within a reasonable period of time not to exceed three**
6 **business days. The forfeiture action may then proceed against the bond or substitute**
7 **property as if it were the seized property.**

8 **3. This section does not apply to property reasonably held for investigatory**
9 **purposes.**

513.732. Prior to the entry of a court's order disposing of the forfeiture action, any
2 **person who has an interest in seized property may file with the state's attorney general a**
3 **petition for remission or mitigation of the forfeiture. The attorney general shall remit or**
4 **mitigate the forfeiture upon terms and conditions the attorney general deems reasonable**
5 **if the attorney general finds that the petitioner did not intend to violate the law or**
6 **extenuating circumstances justify the remission or mitigation of the forfeiture.**

513.734. 1. Following the seizure of property under sections 513.700 to 513.762, a
2 **defendant or third party has a right to a pretrial hearing to determine the validity of the**
3 **seizure.**

4 **2. The claimant may claim, at any time prior to sixty days before trial of the related**
5 **criminal violation, the right to possession of property by motion to the court to issue a writ**
6 **of replevin.**

7 **3. The claimant shall file a motion establishing the validity of the alleged right, title,**
8 **or interest in the property.**

9 **4. The court shall hear the motion no more than 30 days after the motion is filed.**

10 **5. The state shall file an answer showing probable cause for the seizure, or**
11 **cross-motions at least ten days before the hearing.**

12 **6. The court shall grant the motion if it finds that it is likely the final judgment will**
13 **be that the state shall return the property to the claimant or the property is the only**
14 **reasonable means for a defendant to pay for legal representation in the forfeiture or**
15 **criminal proceeding.**

16 **7. In lieu of ordering the issuance of the writ, the court may order the state to give**
17 **security for satisfaction of any judgment, including damages, that may be rendered in the**
18 **action, or order other relief as may be just.**

513.736. 1. Discovery is subject to the rules of criminal procedure.

2 **2. Any party to a forfeiture action has a right to trial by jury.**

3 **3. A trial related to the forfeiture of property shall be held in a single proceeding**
4 **together with the trial of the related alleged crime unless the defendant moves to bifurcate**
5 **the trial.**

6 4. The court, upon motion of a defendant, shall separate the trial of the criminal
7 matter against the defendant from the matter related to the forfeiture of property.

8 5. The court, upon motion of a defendant, shall allow a defendant to waive the right
9 to trial by jury related to the forfeiture of property while preserving the right to trial by
10 jury of any crime alleged.

11 6. If the court bifurcates the jury trial, the court shall first instruct and submit to
12 the jury the issue of the guilt or innocence of the defendant to be determined by proof
13 beyond a reasonable doubt and shall restrict argument of counsel to those issues.

14 7. If the court bifurcates the jury trial, each party may introduce evidence in the
15 forfeiture phase that was not introduced in the criminal phase.

16 8. If the jury finds a defendant guilty of the related criminal offense and the
17 defendant did not waive the right to trial by jury related to the forfeiture, the court shall
18 instruct and submit to the jury the issue of the forfeiture. The court may use
19 interrogatories to address the forfeiture issue.

 513.738. 1. Following determination by the trier of fact, the owner may petition the
2 court to determine whether the forfeiture is unconstitutionally excessive under the state
3 constitution or the United States Constitution.

4 2. The owner has the burden of establishing that the forfeiture is grossly
5 disproportional to the seriousness of the offense by a preponderance of the evidence at a
6 hearing conducted by the court without a jury.

7 3. In determining whether the forfeiture of an instrumentality is constitutionally
8 excessive, the court shall consider all relevant factors, including, but not limited to:

9 (1) The seriousness of the offense and its impact on the community, including the
10 duration of the activity and the harm caused by the person whose property is subject to
11 forfeiture;

12 (2) The extent to which the person whose property is subject to forfeiture
13 participated in the offense;

14 (3) The extent to which the property was used in committing the offense;

15 (4) The sentence imposed for committing the crime subject to forfeiture; and

16 (5) Whether the offense was completed or attempted.

17 4. In determining the value of the instrumentality subject to forfeiture, the court
18 shall consider relevant factors, including, but not limited to:

19 (1) The fair market value of the property;

20 (2) The value of the property to the person whose property is subject to forfeiture
21 including hardship to the owner if the forfeiture is realized; and

22 (3) The hardship from the loss of a motor vehicle or other property to family
23 members or others if the property is forfeited assets.

24 5. The court shall not consider the value of the instrumentality to the state in
25 determining whether the forfeiture of an instrumentality is constitutionally excessive.

 513.740. 1. A bona fide security interest is not subject to forfeiture unless the
2 person claiming a security interest had actual knowledge that the property was subject to
3 forfeiture at the time of the property was seized or restrained under sections 513.700 to
4 513.762.

5 2. A person claiming a security interest bears the burden of establishing that the
6 validity of the interest by a preponderance of the evidence.

 513.742. 1. A person not charged in the indictment or information but who has an
2 interest in property subject to forfeiture may not intervene after the criminal trial has
3 begun.

4 2. Following the entry of a verdict of forfeiture of property under sections 513.700
5 to 513.762 or the entry of a guilty plea in court on the record, the state shall exercise
6 reasonable diligence to identify persons with a potential interest in the property and make
7 reasonable efforts to give notice to potential claimants. The state shall provide written
8 notice of its intent to dispose of the property to any person known or alleged to have an
9 interest in the property exempted from forfeiture under sections 513.700 to 513.762,
10 including any person potentially making claims for:

- 11 (1) Court-ordered child support;
12 (2) Employment-related compensation; or
13 (3) Payment of unsecured debts.

14

15 The notice shall also be made by publication in a reasonable geographic area.

16 3. A person other than the defendant asserting a legal interest in the property may,
17 within sixty days of the date of the notice, petition the court for a hearing to adjudicate the
18 validity of the alleged interest in the property. The request for the hearing shall be signed
19 by the petitioner under penalty of perjury and state the nature and extent of the
20 petitioner's right, title, or interest in the property; the time and circumstances of the
21 petitioner's acquisition of the right, title, or interest; and any additional facts supporting
22 the petitioner's claim and the relief sought.

23 4. Upon the filing of a petition, the court shall schedule the hearing as soon as
24 practicable but in no event later than six months after the sentencing of any defendant
25 convicted upon the same indictment. The court shall issue or amend a final order of

26 forfeiture in accordance with its determination if, after the hearing, the court determines
27 that:

28 (1) The petitioner has a legal right, title, or interest in the property, and such right,
29 title, or interest renders the order of forfeiture invalid in whole or in part because the right,
30 title, or interest was vested in the petitioner rather the defendant or was superior to any
31 right, title, or interest of the defendant at the time of the property was seized or restrained
32 under sections 513.700 to 513.762; or

33 (2) The petitioner is a bona fide purchaser for value of the right, title, or interest
34 in the property and was at the time of purchase without cause to believe that the property
35 was subject to forfeiture under sections 513.700 to 513.762. The state has the burden of
36 proof with respect to the issue of whether the petitioner was without cause to believe that
37 the property was subject to forfeiture at the time of purchase or other acquisition of value.

38 5. A qualified indigent who wishes to contest the forfeiture of property and appears
39 to have an exempt interest has a right to court-appointed counsel as provided in section
40 513.706. In addition, the court shall waive the person's court fees.

513.744. 1. The property of an innocent partial or joint owner may not be forfeited
2 under any forfeiture statute. The process for determining whether a person is an innocent
3 partial or joint owner is set out in this section.

4 2. A person who has any form of partial or joint interest, including joint tenancy,
5 tenancy in common, or tenancy by the entirety, in property subject to forfeiture existing
6 at the time the illegal conduct giving rise to forfeiture occurred and who claims to be an
7 innocent partial or joint owner shall make a prima facie case that the person has a legal
8 right, title, or interest in the property seized or restrained under sections 513.700 to
9 513.762.

10 3. If subsection 2 is satisfied and the state seeks to proceed with the forfeiture
11 against the person's ownership interest, the state shall prove by a preponderance of the
12 evidence that the person had actual knowledge of the underlying crime giving rise to the
13 forfeiture or was willfully blind to its commission.

14 4. If subsection 3 is satisfied and the person seeks to establish the person's innocent
15 owner status, the person shall show by a preponderance of the evidence that the person did
16 all that reasonably could be expected under the circumstances to prohibit, abate, or
17 terminate the illegal use of the property. The person may show that the person did all that
18 reasonably could be expected by demonstrating, among other things, that the person, to
19 the extent permitted by law:

20 **(1) Gave timely notice to an appropriate law enforcement agency of information**
21 **that led the person to know the conduct giving rise to a forfeiture would occur or had**
22 **occurred; or**

23 **(2) In a timely fashion revoked or made a good-faith attempt to revoke permission**
24 **for those engaging in the illegal conduct to use the property or took reasonable actions in**
25 **consultation with a law enforcement agency to discourage or prevent the illegal use of the**
26 **property.**

27

28 **A person is not required under this subsection to take steps that the person reasonably**
29 **believes would be likely to subject the person to physical danger.**

30 **5. If subsection 4 of this section is satisfied, the court shall find that the claimant**
31 **was not a party to the crime and is an innocent partial or joint owner.**

32 **6. A person who acquired an ownership interest in property after the commission**
33 **of a crime giving rise to the forfeiture has occurred and who claims to be an innocent**
34 **partial or joint owner, shall make a prima facie case that the person has legal right, title,**
35 **or interest in the property seized or restrained under sections 513.700 to 513.762.**

36 **7. If subsection 6 of this section is satisfied and the state seeks to proceed with the**
37 **forfeiture against the person's ownership interest, the state shall prove by a preponderance**
38 **of the evidence that at the time the person acquired the property interest the person had**
39 **actual knowledge that the property was subject to forfeiture or was willfully blind to the**
40 **commission of the crime that subjected the property to forfeiture.**

41 **8. If the state fails to meet its burden in subsection 7 of this section, the court shall**
42 **find that the person was not a party to the crime and is an innocent partial or joint owner.**

43 **9. An otherwise valid claim under subsection 6 of this section may not be denied on**
44 **the grounds that the person gave nothing of value in exchange for the property if:**

45 **(1) The property is the person's primary residence;**

46 **(2) Depriving the person of the property would deprive the person of the means to**
47 **maintain reasonable shelter in the community for the person and all dependents residing**
48 **with the person;**

49 **(3) The property is not, and is not traceable to, the proceeds of any criminal**
50 **offense; and**

51 **(4) The person acquired interest in the property through marriage, divorce, or legal**
52 **separation, or the person was the spouse or legal dependent of someone whose death**
53 **resulted in the transfer of the property to the person through inheritance or probate,**
54 **except that the court shall limit the value of any real property interest for which innocent**
55 **ownership is recognized under this paragraph to the value necessary to maintain**

56 reasonable shelter in the community for the person and all dependents residing with the
57 person.

58 **10. If the innocent joint or partial owner's claim is established under this section,**
59 **the state shall relinquish all claims of title to the property that may have vested with it.**

60 **11. If the court determines that an innocent joint or partial owner has any form of**
61 **partial or joint interest in a conveyance subject to forfeiture related to operating a**
62 **conveyance while impaired, the court may order that the innocent joint or partial owner**
63 **participate in the ignition interlock device program under state law as a condition of**
64 **ordering the device be returned to the innocent owner.**

65 **12. If the court determines that an innocent joint or partial owner has any form of**
66 **partial or joint interest in property, other than property described in subsection 11 of this**
67 **section, the court shall enter an appropriate order reflecting the innocent owner's**
68 **preference for:**

69 **(1) Severing the property;**

70 **(2) Transferring the property to the state with a provision that the state compensate**
71 **the innocent owner to the extent of the owner's ownership interest once a final order of**
72 **forfeiture has been entered and the property has been reduced to liquid assets; or**

73 **(3) Permitting the innocent owner to retain the property subject to a lien in favor**
74 **of the state to the extent of the forfeitable interest in the property.**

513.746. If a trier of fact finds that property is to be forfeited, the court shall order
2 **the state to:**

3 **(1) Return stolen property to its owner;**

4 **(2) Sell all other firearms, ammunition and firearm accessories to licensed firearms**
5 **dealers in a commercially reasonable manner; or**

6 **(3) Sell other property in a commercially reasonable manner.**

513.748. The law enforcement agency that seized property forfeited under sections
2 **513.700 to 513.762 may not retain it for its own use or sell it directly or indirectly to any**
3 **employee of the agency, to a person related to an employee by blood or marriage, or to**
4 **another law enforcement agency.**

513.750. 1. Proceeds seized and proceeds from the sale of forfeited assets may be
2 **distributed only following a court order. The court shall order the funds be used to pay,**
3 **in order of priority, for the following purposes:**

4 **(1) Storage and sale expenses;**

5 **(2) Satisfaction of valid liens against the property;**

6 **(3) Restitution ordered to the victim of the criminal offense;**

7 (4) Reimbursement of investigation costs, excluding salaries that the law
8 enforcement agency incurred in the seizure of the assets subject to the forfeiture action;

9 (5) Court-ordered child support obligations;

10 (6) Claims for compensation by the defendant's employees; and

11 (7) Claims for compensation by defendant's unsecured creditors.

12 2. All remaining funds shall be deposited into the state's treasury and credited to
13 the general fund.

513.752. 1. For each forfeiture action occurring in the state regardless of the
2 authority for it, the participating law enforcement agency and prosecutor shall provide a
3 written record of the forfeiture incident to the state reporting agency.

4 2. The record shall include the amount forfeited, the underlying crime or conduct,
5 its date, and whether the property had a lien against it. The record shall also list the
6 number of firearms forfeited and the make, model, and serial number of each firearm
7 forfeited. The record shall indicate how the property was disposed.

8 3. The law enforcement agency and the prosecutor shall report to the state
9 reporting agency all instances in which property seized for forfeiture is returned to its
10 owner either because forfeiture is not pursued or for any other reason.

11 4. For forfeitures resulting from the activities of multi-jurisdictional law
12 enforcement entities, each entity on its own behalf shall report the information required
13 in this section.

14 5. The state reporting agency may require information not specified in this section
15 to be reported as well.

16 6. Reports shall be made on a monthly basis in a manner prescribed by the state
17 reporting agency.

18 7. The state reporting agency shall report annually to the legislature and the public
19 on the nature and extent of forfeitures.

20 8. The state reporting agency shall include in its report required under subsection
21 7 of this section recommended changes to forfeiture law to better ensure that forfeiture
22 proceedings are handled in a manner that is fair to innocent property owners, secured
23 interest holders, citizens, and taxpayers.

24 9. The state reporting agency shall include in its report required under subsection
25 7 of this section information on law enforcement agencies and prosecutorial offices not in
26 compliance with this section and shall order the state to withhold payment of any funds to
27 those agencies and offices until compliance is achieved.

513.754. 1. The provisions of this section shall apply when disposing of property
2 when the owner is deported from the United States to a foreign country.

3 **2. If the owner of property is deported after being convicted of a violation of a state**
4 **law that is subject to forfeiture and the property is found to be an instrumentality or**
5 **proceeds of the violation of that state law, the court shall enter an order disposing of the**
6 **property in accordance with sections 513.746, 513.748, and 513.750.**

7 **3. If the owner of property is deported but the owner is not convicted of violating**
8 **a state law that is subject to forfeiture or the property is not found to be an instrumentality**
9 **or proceeds from the violation of a state law subject to forfeiture for which the owner of**
10 **the property is convicted, the property shall be returned to the next of kin of the person**
11 **deported.**

12 **4. If the next of kin is not known or refuses the property, the state shall exercise**
13 **reasonable diligence to identify persons with a potential interest in the property and make**
14 **reasonable efforts to give notice to potential claimants. The state shall provide written**
15 **notice to persons known or alleged to have an interest in the property including other**
16 **family members and any person potentially making claims for court-ordered child support,**
17 **employment-related compensation, or payment of debts. The notice shall also be made by**
18 **publication in a reasonable geographic area.**

19 **5. If no claim is made within sixty days of the notice's publication date, the court**
20 **shall enter an order disposing of the property in accordance with sections 513.746, 513.748,**
21 **and 513.750.**

22 **6. A person wanting to assert a legal claim to the property shall, within sixty days**
23 **of the date of the applicable notice in subsection 4 of this section, petition the court for a**
24 **hearing to adjudicate the validity of the alleged interest in the property. The petition for**
25 **the hearing shall be signed by the claimant under penalty of perjury. It shall state the**
26 **nature and extent of the claimant's right, title, or interest in the property; the time and**
27 **circumstances of the claimant's acquisition of the right, title, or interest; and any additional**
28 **facts supporting the claim and the relief sought.**

29 **7. The court shall schedule a hearing as soon as practicable to determine if the**
30 **claimant has a legal right, title, or interest in the property or is a bona fide purchaser for**
31 **value of the legal right, title, or interest in the property.**

513.756. 1. The state shall return property to the owner within a reasonable period
2 **of time not to exceed three business days after a court finds that:**

3 **(1) The owner had a bona fide security interest;**

4 **(2) The owner was an innocent owner;**

5 **(3) Charges against the owner were dismissed; or**

6 **(4) The owner was found not guilty of the criminal charge that is the basis for the**
7 **forfeiture action.**

8 **2. If property returned under subsection 1 of this section has been damaged, the**
9 **owner may make a claim in small claims court or court for the damages to the seized**
10 **property against the agency that seized the property.**

11 **3. The state is responsible for any storage fees and related costs applicable to**
12 **property returned under subsection 1 of this section.**

513.758. 1. Any person acting under color of law, official title, or position who
2 **takes any action intending to conceal, transfer, withhold, retain, divert, or otherwise**
3 **prevent any proceeds, conveyances, real property, or any things of value forfeited under**
4 **the law of the state or the United States from being applied, deposited, used, or returned**
5 **to the owner in accordance with sections 513.700 to 513.762 is subject to a civil penalty in**
6 **an amount of three times the value of the forfeited property concealed, transferred,**
7 **withheld, retained, or diverted.**

8 **2. Any taxpayer to the state has standing to challenge in court any action contrary**
9 **to the provisions of sections 513.700 to 513.762.**

513.760. 1. No unit of state government shall transfer a criminal investigation or
2 **proceeding to the federal government to circumvent state forfeiture law.**

3 **2. For a state government unit to transfer a criminal investigation or proceeding**
4 **that includes forfeiture to the federal government, a state court shall affirmatively find**
5 **that:**

6 **(1) The suspected criminal activity giving rise to the forfeiture is interstate in**
7 **nature and sufficiently complex to justify the transfer; or**

8 **(2) The seized property is forfeitable only as a violation of federal law.**

9 **3. All funds paid by the federal government shall be deposited into the state's**
10 **treasury. The state shall credit:**

11 **(1) The state government unit involved with the federal government sufficiently to**
12 **reimburse it for investigation costs, excluding salaries, that the state government unit**
13 **incurred related to the seizure of the assets subject to the forfeiture action; and**

14 **(2) The remainder to the general fund.**

15 **4. No unit of state government may accept from the federal government any**
16 **instrumentality or payment of proceeds not permitted under subsection 3 of this section.**

17 **5. The state government unit shall report all transfers to the federal government**
18 **of an investigation or criminal proceeding that involves forfeiture per the reporting**
19 **requirements in section 513.752.**

20 **6. Any taxpayer has standing to challenge in court the receipt of any proceeds or**
21 **instrumentality by a state government unit from the federal government contrary to**
22 **subsections 3 and 4 of this section.**

513.762. In any forfeiture proceeding under sections 513.700 to 513.762 in which the claimant prevails, the state is liable for:

(1) Reasonable attorney fees and other litigation costs reasonably incurred by the claimant;

(2) Postjudgment interest; and

(3) In cases involving currency, other negotiable instruments, or the proceeds of an interlocutory sale:

(a) Interest actually paid to the state from the date of seizure of the property that resulted from the investment of the property in an interest-bearing account or instrument; and

(b) An imputed amount of interest that the currency, instruments, or proceeds would have earned at the rate applicable to the thirty-day U.S. Treasury Bill, for any period during which no interest was paid, not including any period when the property reasonably was in use as evidence in an official proceeding or in conducting scientific tests for the purpose of collecting evidence, commencing fifteen days after the property was seized by a law enforcement agency.

570.105. 1. Any items bearing a counterfeit mark, and all personal property, including but not limited to, any items, objects, tools, machines, equipment, instrumentalities or vehicles of any kind, employed or used in connection with a violation of section 570.103 or this section shall be seized by any law enforcement officer. All seized personal property shall be forfeited in accordance with [section 513.600, et seq] **sections 513.700 to 513.762.**

2. Upon the request of the intellectual property owner, all seized items bearing a counterfeit mark shall be released to the intellectual property owner for destruction or disposition. If the intellectual property owner does not request release of seized items bearing a counterfeit mark, such items shall be destroyed unless the intellectual property owner consents to another disposition.

579.105. 1. A person commits the offense of keeping or maintaining a public nuisance if he or she knowingly keeps or maintains:

(1) Any room, building, structure or inhabitable structure, as defined in section 556.061, which is used for the illegal manufacture, distribution, storage, or sale of any amount of a controlled substance, except thirty-five grams or less of marijuana or thirty-five grams or less of any synthetic cannabinoid; or

(2) Any room, building, structure or inhabitable structure, as defined in section 556.061, where on three or more separate occasions within the period of a year, two or more persons, who were not residents of the room, building, structure, or inhabitable structure, gathered for the

10 principal purpose of unlawfully ingesting, injecting, inhaling or using any amount of a controlled
11 substance, except thirty-five grams or less of marijuana or thirty-five grams or less of any
12 synthetic cannabinoid.

13 2. In addition to any other criminal prosecutions, the prosecuting attorney or circuit
14 attorney may by information or indictment charge the owner or the occupant, or both the owner
15 and the occupant of the room, building, structure, or inhabitable structure with the offense of
16 keeping or maintaining a public nuisance.

17 3. The offense of keeping or maintaining a public nuisance is a class E felony.

18 4. Upon the conviction of the owner pursuant to this section, the room, building,
19 structure, or inhabitable structure is subject to the provisions of sections [513.600 to 513.645]
20 **513.700 to 513.762.**

21

[513.600. Sections 513.600 to 513.645 shall be known and may be cited
2 as the "Criminal Activity Forfeiture Act".]

3

[513.605. As used in sections 513.600 to 513.645, unless the context
2 clearly indicates otherwise, the following terms mean:

3 (1) (a) "Beneficial interest":

4 a. The interest of a person as a beneficiary under any other trust
5 arrangement pursuant to which a trustee holds legal or record title to real property
6 for the benefit of such person; or

7 b. The interest of a person under any other form of express fiduciary
8 arrangement pursuant to which any other person holds legal or record title to real
9 property for the benefit of such person;

10 (b) "Beneficial interest" does not include the interest of a stockholder in
11 a corporation or the interest of a partner in either a general partnership or limited
12 partnership. A beneficial interest shall be deemed to be located where the real
13 property owned by the trustee is located;

14 (2) "Civil proceeding", any civil suit commenced by an investigative
15 agency under any provision of sections 513.600 to 513.645;

16 (3) "Criminal activity" is the commission, attempted commission,
17 conspiracy to commit, or the solicitation, coercion or intimidation of another
18 person to commit any crime which is chargeable by indictment or information
19 under the following Missouri laws:

20 (a) Chapter 195, relating to drug regulations;

21 (b) Chapter 565, relating to offenses against the person;

- 22 (c) Chapter 566, relating to sexual offenses;
- 23 (d) Chapter 568, relating to offenses against the family;
- 24 (e) Chapter 569, relating to robbery, arson, burglary and related offenses;
- 25 (f) Chapter 570, relating to stealing and related offenses;
- 26 (g) Chapter 567, relating to prostitution;
- 27 (h) Chapter 573, relating to pornography and related offenses;
- 28 (i) Chapter 574, relating to offenses against public order;
- 29 (j) Chapter 575, relating to offenses against the administration of justice;
- 30 (k) Chapter 491, relating to witnesses;
- 31 (l) Chapter 572, relating to gambling;
- 32 (m) Chapter 311, but relating only to felony violations of this chapter
- 33 committed by persons not duly licensed by the supervisor of liquor control;
- 34 (n) Chapter 571, relating to weapons offenses;
- 35 (o) Chapter 409, relating to regulation of securities;
- 36 (p) Chapter 301, relating to registration and licensing of motor vehicles;
- 37 (4) "Criminal proceeding", any criminal prosecution commenced by an
- 38 investigative agency under any criminal law of this state;
- 39 (5) "Investigative agency", the attorney general's office, or the office of
- 40 any prosecuting attorney or circuit attorney;
- 41 (6) "Pecuniary value":
- 42 (a) Anything of value in the form of money, a negotiable instrument, a
- 43 commercial interest, or anything else the primary significance of which is
- 44 economic advantage; or
- 45 (b) Any other property or service that has a value in excess of one
- 46 hundred dollars;
- 47 (7) "Real property", any estate or legal or equitable interest in land
- 48 situated in this state or any interest in such real property, including, but not
- 49 limited to, any lease or deed of trust upon such real property;
- 50 (8) "Seizing agency", the agency which is the primary employer of the
- 51 officer or agent seizing the property, including any agency in which one or more
- 52 of the employees acting on behalf of the seizing agency is employed by the state
- 53 of Missouri or any political subdivision of this state;
- 54 (9) "Seizure", the point at which any law enforcement officer or agent
- 55 discovers and exercises any control over property that an officer or agent has
- 56 reason to believe was used or intended for use in the course of, derived from, or
- 57 realized through criminal activity. Seizure includes but is not limited to

58 preventing anyone found in possession of the property from leaving the scene of
59 the investigation while in possession of the property;

60 (10) (a) "Trustee":

61 a. Any person who holds legal or record title to real property for which
62 any other person has a beneficial interest; or

63 b. Any successor trustee or trustees to any of the foregoing persons;

64 (b) "Trustee" does not include the following:

65 a. Any person appointed or acting as a personal representative under
66 chapter 475 or under chapter 473;

67 b. Any person appointed or acting as a trustee of any testamentary trust
68 or as trustee of any indenture of trust under which any bonds are or are to be
69 issued.]

70

[513.607. 1. All property of every kind, including cash or other
2 negotiable instruments, used or intended for use in the course of, derived from,
3 or realized through criminal activity is subject to civil forfeiture. Civil forfeiture
4 shall be had by a civil procedure known as a CAFA forfeiture proceeding.

5 2. A CAFA forfeiture proceeding shall be governed by the Missouri rules
6 of court, rules of civil procedure, except to the extent that special rules of
7 procedure are stated herein.

8 3. Any property seized by a law enforcement officer or agent shall not be
9 disposed of pursuant to section 542.301 or by the uniform disposition of
10 unclaimed property act, sections 447.500 through 447.595, unless the CAFA
11 proceeding involving the seized property does not result in a judgment of
12 forfeiture.

13 4. In cases where the property is abandoned or unclaimed, an in rem
14 CAFA forfeiture proceeding may be instituted by petition by the prosecuting
15 attorney of the county in which the property is located or seized by the attorney
16 general's office. The proceeding may be commenced before or after seizure of
17 the property.

18 5. In lieu of, or in addition to, an in rem proceeding under subsection 4
19 of this section, the prosecuting attorney or attorney general may bring an in
20 personam action for the forfeiture of property, which may be commenced by
21 petition before or after the seizure of property.

22 6. (1) If the petition is filed before seizure, it shall state what property
23 is sought to be forfeited, that the property is within the jurisdiction of the court,

24 the grounds for forfeiture, and the names of all persons known to have or claim
25 an interest in the property. The court shall determine ex parte whether there is
26 reasonable cause to believe that the property is subject to forfeiture and that
27 notice to those persons having or claiming an interest in the property prior to
28 seizure would cause the loss or destruction of the property. If the court finds that
29 reasonable cause does not exist to believe the property is subject to forfeiture, it
30 shall dismiss the proceeding. If the court finds that reasonable cause does exist
31 to believe the property is subject to forfeiture but there is not reasonable cause to
32 believe that prior notice would result in loss or destruction, it shall order service
33 on all persons known to have or claim an interest in the property prior to a further
34 hearing on whether a writ of seizure should issue. If the court finds that there is
35 reasonable cause to believe that the property is subject to forfeiture and to believe
36 that prior notice would cause loss or destruction, it shall without any further
37 hearing or notice issue a writ of seizure directing the sheriff of the county or other
38 authorized law enforcement agency where the property is found to seize it.

39 (2) Seizure may be effected by a law enforcement officer authorized to
40 enforce the criminal laws of this state prior to the filing of the petition and
41 without a writ of seizure if the seizure is incident to a lawful arrest, search, or
42 inspection and the officer has probable cause to believe the property is subject to
43 forfeiture and will be lost or destroyed if not seized. Within four days of the date
44 of seizure, such seizure shall be reported by said officer to the prosecuting
45 attorney of the county in which the seizure is effected or the attorney general; and
46 if in the opinion of the prosecuting attorney or attorney general forfeiture is
47 warranted, the prosecuting attorney or attorney general shall, within ten days after
48 receiving notice of seizure, file a petition for forfeiture. The petition shall state,
49 in addition to the information required in subdivision (1) of this subsection, the
50 date and place of seizure. The burden of proof will be on the investigative
51 agency to prove all allegations contained in the petition.

52 7. After the petition is filed or the seizure effected, whichever is later,
53 every person known to have or claim an interest in the property shall be served,
54 if not previously served, with a copy of the petition and a notice of seizure in the
55 manner provided by the Missouri rules of court and rules of civil procedure.
56 Service by publication may be ordered upon any party whose whereabouts cannot
57 be determined or if there be unknown parties.

58 8. The prosecuting attorney or attorney general to whom the seizure is
59 reported shall report annually by January thirty-first for the previous calendar

60 year all seizures. Such report shall include the date, time, and place of seizure,
61 the property seized, the estimated value of the property seized, the person or
62 persons from whom the property was seized, the criminal charges filed, and the
63 disposition of the seizure, forfeiture and criminal actions. The report shall be
64 made to the director of the Missouri department of public safety and shall be
65 considered an open record. The prosecuting attorney or attorney general shall
66 submit a copy of the report to the state auditor at the time the report is made to
67 the director of the department of public safety.

68 9. The state auditor shall make an annual report compiling the data
69 received from law enforcement, prosecuting attorneys and the attorney general,
70 and shall submit the report regarding seizures for the previous calendar year to
71 the general assembly annually by February twenty-eighth.

72 10. Intentional or knowing failure to comply with any reporting
73 requirement contained in this section shall be a class A misdemeanor, punishable
74 by a fine of up to one thousand dollars.]
75

[513.610. 1. Any person claiming an interest in the property may become
2 a party to the action at any time prior to judgment, whether named in the petition
3 or not. Any party claiming a valid interest in the property shall upon motion be
4 allowed by the court to take possession of the property upon posting bond with
5 good and sufficient security in the amount of the property's value conditioned to
6 pay the value of any interest in the property found to be subject to forfeiture or
7 the value of any interest of another not subject to forfeiture. Such a party taking
8 possession shall not remove the property from the jurisdiction of the court except
9 pursuant to court order.

10 2. The court may, upon such terms and conditions as prescribed by it,
11 order that the property be sold by an innocent party who holds a lien on or
12 security interest in the property at any time during the proceedings. Any proceeds
13 from such sale over and above the amount necessary to satisfy the lien or security
14 interest shall be paid into court pending final judgment in the forfeiture
15 proceeding. No such sale shall be ordered, however, unless the obligation upon
16 which the lien or security interest is based is in default.

17 3. Pending final judgment in the forfeiture proceeding, the court may
18 make any other disposition of the property as may be provided by the laws of this
19 state which is in the interest of justice.]
20

2 [513.612. Any party may bring one motion to dismiss at any time and
3 such motion shall be heard and ruled on within ten days. Any party may demand
4 a jury trial.]

2 [513.615. The interest of an innocent party in the property shall not be
3 subject to forfeiture. An "innocent party" is one who did not have actual
4 knowledge that the property was used or intended for use in the course of,
5 derived from or realized through a criminal activity. Any innocent party shall
6 have a right or claim to forfeited property or to the proceeds derived therefrom
7 superior to any right or claim the state or the county has in the same property or
8 proceeds. To enforce such a claim, the innocent party must intervene in the
9 forfeiture proceeding prior to its final disposition; except that, with respect to any
10 property for which the state maintains records of ownership, if the certificate of
11 title, the official records or other evidence of ownership indicates the existence
12 of a lien on the seized property or the ownership of the property by someone
13 other than the defendant, the named lienholder or owner shall be a necessary
14 party to the action commenced under this section unless the party has by affidavit
15 released the lien. The lienholder or owner shall have no obligation to intervene
16 to protect his rights, but the court shall determine the validity of the lien.]

2 [513.617. 1. In the event criminal charges arising from the same activity
3 giving rise to the CAFA proceeding are filed against any individual claiming an
4 interest in the property subject to the CAFA proceeding, such CAFA proceeding
5 shall be stayed by the court until the disposition of the criminal charges. In such
6 cases, no property shall be forfeited unless the person charged is found guilty of
7 or pleads guilty to a felony offense substantially related to the forfeiture. The
8 property of persons arrested, detained or apprehended and not subsequently
9 charged is not subject to forfeiture for that arrest, detention or apprehension. The
10 rights of an innocent owner of property are superior to any right or claim of the
11 state or county, and such rights shall be enforced pursuant to the provisions of
12 sections 513.610 to 513.620.

13 2. In any case where the court determines that seized property is subject
14 to forfeiture pursuant to the provisions of section 513.607 but there has not been
15 a felony conviction, finding of guilt or plea of guilt to support such forfeiture, the
16 court shall stay the civil forfeiture proceedings and order the release of the
property subject to the following requirements:

17 (1) The person to whom the property is released shall file a bond in an
18 amount which the court determines to be adequate to secure the property and
19 which does not exceed the value of the property;

20 (2) The court may impose other conditions that it deems reasonable and
21 necessary to prevent the property from being made unavailable for disposition by
22 the court;

23 (3) The bond and other conditions shall terminate at such time as the
24 released property is no longer subject to forfeiture or upon return of the property
25 to the confiscating authority.

26 3. No action filed pursuant to sections 513.600 to 513.660 shall be
27 compromised or otherwise settled without the express approval of the terms of
28 the settlement by the court in which such action is pending. Nothing in this
29 section shall prohibit or prevent the parties from contemporaneously resolving
30 criminal charges and a CAFA proceeding arising from the same activity.
31 However, seized property shall not be used in bargaining to defer prosecution of
32 criminal charges, obtain a guilty plea or affect sentencing recommendations, and
33 the court in which the CAFA proceeding is pending shall not approve any
34 settlement without first making such a finding. No state or local government
35 agency, nor any person, may accept any monetary payment or other thing of value
36 in exchange for the release of property seized for forfeiture or for the settlement
37 of any criminal charges.

38 4. No state or local government agency may hold property seized for
39 forfeiture unless a petition for forfeiture has been filed within the time limit
40 provided by section 513.607, unless a time extension is granted by order of the
41 circuit court. The court may extend the time for filing a petition for up to ten
42 days for each order, but may not extend the time for filing for more than thirty
43 days.]

44

2 [513.620. Subject to the requirement of protecting the interest of all
3 innocent parties, the court may after judgment of forfeiture make any of the
4 following orders for disposition of the property:

5 (1) Destruction of contraband, the possession of which is illegal;

6 (2) Retention of the property by any innocent party having an interest
7 therein, upon payment or approval of a plan for payment into court of the value
8 of any forfeited interest in the property; such a plan may include, in the case of
an innocent party who holds a lien on or security interest in the property, the sale

9 of the property by said innocent party under such terms and conditions as may be
10 prescribed by the court and the payment into court of any proceeds from such sale
11 over and above the amount necessary to satisfy the lien or security interest;

12 (3) Judicial sale of the property;

13 (4) Transfer of the property to any innocent party having an interest
14 therein equal to or greater than the value of the property; or

15 (5) Any other disposition of the property as may be provided by the laws
16 of this state which is in the interest of justice and adequately protects innocent
17 parties.]

18

2 [513.623. The clear proceeds of any sale or disposition after satisfaction
3 of the interest of any innocent party and after payment of the reasonable costs of
4 the CAFA proceeding, including reasonable storage costs as assessed by the
5 court, if any, shall be distributed pursuant to Section 7 of Article IX of the
6 Constitution of the State of Missouri.]

6

2 [513.625. 1. Upon the entry of a final judgment of forfeiture in favor of
3 the state, the title of the state to the forfeited property shall:

4 (1) In the case of real property or beneficial interest, relate back to the
5 date of filing of the CAFA lien notice in the official records of the county where
6 the real property or beneficial trust is located and, if no CAFA lien notice is filed,
7 then to the date of the filing of any notice of lis pendens under section 527.260
8 in the official records of the county where the real property or beneficial interest
9 is located and, if no CAFA lien notice or notice of lis pendens is so filed, then to
10 the date of recording of the final judgment of forfeiture in the official records of
11 the county where the real property or beneficial interest is located; and

12 (2) In the case of personal property, relate back to the date the personal
13 property was seized by the investigating agency.

14 2. If property subject to forfeiture is conveyed, alienated, disposed of, or
15 otherwise rendered unavailable for forfeiture after the filing of a CAFA lien
16 notice or after the filing of a forfeiture petition, whichever is earlier, the
17 investigative agency may, on behalf of the state, institute an action in the
18 appropriate circuit court against the person named in the CAFA lien notice or the
19 defendant in the civil proceeding and the court shall enter final judgment against
20 the person named in the CAFA lien notice or the defendant in the civil
proceeding in an amount equal to the fair market value of the property, together

21 with investigative costs and attorney's fees incurred by the investigative agency
22 in the action. If a civil proceeding is pending, such action shall be filed only in
23 the court where such civil proceeding is pending.]
24

[513.630. Notwithstanding any other provision of law, a proceeding
2 under this act may be commenced up until five years after the conduct terminates
3 or the cause of action accrues. If a criminal prosecution or civil action is brought
4 by the state relating to conduct which would constitute criminal activity as
5 defined in section 513.605, then the running of the period of limitations shall be
6 suspended during the pendency of such prosecution or action by the state and for
7 five years thereafter.]
8

[513.635. The application of one civil remedy under any provision of this
2 act shall not preclude the application of any other remedy. Remedies under this
3 act are supplemental and not mutually exclusive.]
4

[513.637. 1. Notwithstanding any other provision of law, a valid
2 judgment rendered by a court of a jurisdiction having a law substantially similar
3 to sections 513.600 to 513.645 will be recognized and enforced by the courts of
4 this state to the extent that a judgment rendered by a court of this state pursuant
5 to sections 513.600 to 513.645 would be enforced in such other jurisdiction.

6 2. The attorney general is hereby authorized to enter into reciprocal
7 agreements with the attorney general or chief prosecuting attorney of any
8 jurisdiction having a law substantially similar to sections 513.600 to 513.645 so
9 as to further the purposes of sections 513.600 to 513.645.]
10

[513.640. 1. Upon the institution of a civil forfeiture proceeding or, if
2 no civil suit has been instituted, upon the return of an indictment or filing of an
3 information of a crime which may constitute criminal activity as defined in
4 section 513.605, the investigative agency then or at any time during the pendency
5 of the proceeding may file in the official records of any one or more counties a
6 CAFA lien notice. No filing fee or other charge shall be required as a condition
7 for filing the CAFA lien notice. The recorder of deeds shall, upon the
8 presentation of a CAFA lien notice, immediately record it in the official records.
9

10 2. The CAFA lien notice shall be signed by the attorney general or his
11 designee or by a prosecuting or circuit attorney or his designee. The notice shall
12 be in such form as the attorney general prescribes and shall set forth the following
13 information:

14 (1) The name of the person against whom the civil proceeding has been
15 brought. The investigative agency may also name in the CAFA lien notice any
16 other aliases, names, or fictitious names under which the person may be known.
17 The investigative agency may also name in the CAFA lien notice any
18 corporation, partnership, or other entity that is either controlled by or entirely
19 owned by the person;

20 (2) If known to the investigative agency, the present residence and
21 business addresses of the person named in the CAFA lien notice and of the other
22 names set forth in the CAFA lien notice;

23 (3) A reference to the civil proceeding stating that a proceeding under
24 this act has been brought against the person named in the CAFA lien notice, the
25 name of the county or counties where the proceeding has been brought, and, if
26 known to the investigative agency at the time of filing the CAFA lien notice, the
27 case number of the proceeding;

28 (4) A statement that the notice is being filed pursuant to this act; and

29 (5) The name and address of the investigative agency filing the CAFA
30 lien notice and the name of the individual signing the CAFA lien notice.

31 3. A CAFA lien notice shall apply only to one person and, to the extent
32 applicable, any aliases, fictitious names, or other names, including names of
33 corporations, partnerships, or other entities. A separate CAFA lien notice shall
34 be filed for any other person against whom the investigative agency desires to file
35 a CAFA lien notice under this section.

36 4. The investigative agency shall, as soon as practicable after the filing
37 of each CAFA lien notice, furnish to the person named in the notice either a copy
38 of the recorded notice or a copy of the notice with a notation thereon of the
39 county or counties in which the notice has been recorded. The failure of the
40 investigative agency to so furnish a copy of the notice under this subsection shall
41 not invalidate or otherwise affect the notice.

42 5. The filing of a CAFA lien notice creates, from the time of its filing, a
43 lien in favor of the state on the following property of the person named in the
44 notice and against any other names set forth in the notice:

45 (1) Any real property situated in the county where the notice is filed then
46 or thereafter owned by the person; and

47 (2) Any beneficial interest situated in the county where the notice is filed
48 then or thereafter owned by the person.

49 6. The lien shall commence and attach as of the time of filing of the
50 CAFA lien notice and shall continue thereafter until expiration, termination, or
51 release. The lien created in favor of the state shall be superior and prior to the
52 interest of any other person in the real property or beneficial interest if the interest
53 is acquired subsequent to the filing of the notice.

54 7. In conjunction with any civil proceeding:

55 (1) The investigative agency may file without prior court order in any
56 county a lis pendens and, in such case, any person acquiring an interest in the
57 subject real property or beneficial interest subsequent to the filing of lis pendens
58 shall take the interest subject to the civil proceeding and any subsequent
59 judgment of forfeiture; and

60 (2) If a CAFA lien notice has been filed, the investigative agency may
61 name as defendants, in addition to the person named in the notice, any persons
62 acquiring an interest in the real property or beneficial interest subsequent to the
63 filing of the notice. If a judgment of forfeiture is entered in the proceeding in
64 favor of the state, the interest of any person in the property that was acquired
65 subsequent to the filing of the notice shall be subject to the notice and judgment
66 of forfeiture.

67 8. (1) A trustee who acquires actual knowledge that a CAFA lien notice
68 or a civil proceeding under sections 513.600 to 513.645 has been filed against
69 any person for whom he holds legal or record title to real property shall
70 immediately furnish to the investigative agency the following:

71 (a) The name and address of the beneficiary against whose interest the
72 CAFA lien notice or the CAFA proceeding has been filed, as known to the
73 trustee;

74 (b) The name and address, as known to the trustee, of all other persons
75 for whose benefit the trustee holds title to the real property; and

76 (c) A copy of the trust agreement or other instrument pursuant to which
77 the trustee holds legal or record title to the real property;

78 (2) Any trustee who fails to comply with the provisions of this subsection
79 is guilty of a class C misdemeanor.

80 9. Any trustee who conveys title to real property for which a CAFA lien
81 notice has been filed at the time of the conveyance in the county where the real
82 property is situated naming a person who, to the actual knowledge of the trustee,
83 holds a beneficial interest in the trust shall be liable to the state for the greater of:

84 (1) The amount of proceeds received directly by the person named in the
85 CAFA lien notice as a result of the conveyance;

86 (2) The amount of proceeds received by the trustee as a result of the
87 conveyance and distributed to the person named in the CAFA lien notice; or

88 (3) The fair market value of the interest of the person named in the
89 CAFA lien notice in the real property so conveyed; however, if the trustee
90 conveys the real property and holds the proceeds that would otherwise be paid or
91 distributed to the beneficiary or at the direction of the beneficiary or his designee,
92 the trustee's liability shall not exceed the amount of the proceeds so held for so
93 long as the proceeds are held by the trustee.

94 10. The filing of a CAFA lien notice shall not constitute a lien on the
95 record title to real property as owned by the trustee except to the extent the
96 trustee is named in the CAFA lien notice. The investigative agency may bring
97 a civil proceeding in any circuit court against the trustee to recover from the
98 trustee the amounts set forth in subsection 9 of this section, and the state shall
99 also be entitled to recover investigative costs and attorney's fees incurred by the
100 investigative agency.

101 11. The filing of a CAFA lien notice shall not affect the use to which real
102 property or a beneficial interest owned by the person named in the CAFA lien
103 notice may be put or the right of the person to receive any avails, rents, or other
104 proceeds resulting from the use and ownership, but not the sale, of the property
105 until a judgment of forfeiture is entered.

106 12. (1) The provisions of this section shall not apply to any conveyance
107 by a trustee pursuant to a court order unless such court order is entered in an
108 action between the trustee and the beneficiary;

109 (2) Unless the trustee has actual knowledge that a person owning a
110 beneficial interest in the trust is named in a CAFA lien notice or is otherwise a
111 defendant in a civil proceeding, the provisions of this section shall not apply to:

112 (a) Any conveyance by a trustee required under the terms of any trust
113 agreement, which trust agreement is a matter of public record prior to the filing
114 of any CAFA lien notice; or

115 (b) Any conveyance by a trustee to all of the persons who own a
116 beneficial interest in the trust.

117 13. All forfeitures or dispositions under this section shall be made with
118 due provision for the rights of innocent persons.]

119

2 [513.645. 1. The term of a CAFA lien notice shall be for a period of six
3 months from the date of filing of the petition. Said lien notice may be renewed
4 by the investigative agency one time prior to judgment. After judgment in favor
5 of the investigative agency the CAFA lien notice shall be for a period of six
6 years. The investigative agency shall be entitled to only one renewal of the
7 CAFA lien notice after judgment.

8 2. The investigative agency filing the CAFA lien notice may release in
9 whole or in part any CAFA lien notice or may release any specific real property
10 or beneficial interest from the CAFA lien notice upon such terms and conditions
11 as it may determine. Any release of a CAFA lien notice executed by the
12 investigative agency may be filed in the official records of any county. No charge
13 or fee shall be imposed for the filing of any release of a CAFA lien notice.

14 3. If no civil proceeding has been instituted by the investigative agency
15 seeking a forfeiture of any property owned by the person named in the CAFA lien
16 notice, the acquittal in the criminal proceeding of the person named in the CAFA
17 lien notice or the dismissal of the criminal proceeding shall terminate the CAFA
18 lien notice; and, in such case, the filing of the CAFA lien notice shall have no
19 effect.

20 4. If no civil proceeding is then pending against the person named in a
21 CAFA lien notice, any person named in a CAFA lien notice may institute an
22 action against the investigative agency filing the notice in the county where the
23 notice has been filed seeking a release or extinguishment of the notice; and, in
24 such case:

25 (1) The court shall, upon the motion of such person, immediately enter
26 an order setting a date for hearing, which shall be not less than five nor more than
27 ten days after the suit has been filed. The order, along with a copy of the
28 complaint, shall be served on the investigative agency within three days after the
29 institution of the suit. At the hearing, the court shall take evidence on the issue
30 of whether any real property or beneficial interest owned by such person is
31 covered by the CAFA lien notice or otherwise subject to forfeiture under the
Missouri CAFA act. If such person shows by the preponderance of the evidence

32 that the CAFA lien notice is not applicable to him or that any real property or
33 beneficial interest owned by him is not subject to forfeiture under this act, the
34 court shall enter a judgment extinguishing the CAFA lien notice or releasing the
35 real property or beneficial interest from the CAFA lien notice;

36 (2) The court shall immediately enter its order releasing from the CAFA
37 lien notice any specific real property or beneficial interest if a sale of the real
38 property or beneficial interest is pending and the filing of the notice prevents the
39 sale of the property or interest; provided, however, that the proceeds resulting
40 from the sale of the real property or beneficial interest shall be deposited into the
41 registry of the court, subject to the further order of the court; and

42 (3) At the hearing set forth in subdivision (1) of this subsection, the court
43 may release from the CAFA lien notice any real property or beneficial interest
44 upon the posting by such person of such security as is equal to the value of the
45 real property or beneficial interest owned by such person.

46 5. In the event a civil proceeding is pending against a person named in
47 a CAFA lien notice, the court, upon motion by said person, may grant the relief
48 set forth herein.

49 6. Upon acquittal or dismissal of a criminal action against a person also
50 named in a CAFA action, the civil action shall be dismissed.]

✓