

1 AN ACT relating to law enforcement seizure and forfeiture of money and other
2 property, making an appropriation therefor, and declaring an emergency.

3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

4 ➔Section 1. KRS 218A.440 is amended to read as follows:

5 (1) ***(a)*** Each law enforcement agency~~[seizing money or property pursuant to KRS~~
6 ~~218A.415]~~ shall, ***within thirty (30) days following***~~[at]~~ the close of each fiscal
7 year, ***electronically submit an asset seizure-and-forfeiture reporting form***
8 ~~to~~~~[file a statement with]~~ the~~[Auditor of Public Accounts, and with the~~
9 ~~secretary of]~~ Justice and Public Safety ***Cabinet***~~[containing]~~, ***declaring***
10 ***whether or not the law enforcement agency seized or forfeited money or***
11 ***property pursuant to KRS 218A.415.***

12 ***(b) If the law enforcement agency did seize or forfeit money or property***
13 ***pursuant to KRS 218A.415, the asset seizure-and-forfeiture reporting form***
14 ***shall contain for the preceding fiscal year*** a detailed listing of all money and
15 property seized in that fiscal year and the ***forfeiture or*** disposition thereof.
16 The listing shall identify all ***money and*** property~~[so]~~ seized~~[.]~~ ***and shall***
17 ***include for each seizure:***

18 ***1. The date of seizure;***

19 ***2. A description of the seized money or property, including the amount of***
20 ***the money or estimated value of the property;***

21 ***3. A statement as to whether the seizure occurred at a residence,***
22 ***business, during a traffic stop, or other location, and, if from a traffic***
23 ***stop on an interstate or state highway, the direction in which the***
24 ***vehicle was traveling;***

25 ***4. The alleged criminal offense associated with the seizure and the court***
26 ***case number for the offense;***

27 ***5. The disposition of any criminal action related to the seizure, including***

1 whether the defendant was charged with an offense, if charges were
2 dismissed, and if the defendant was acquitted, entered into a plea
3 agreement, or was convicted;

4 6. Information on the final disposition of the seized property, including
5 whether the money or property was returned to the owner, destroyed,
6 sold, or converted to government use, and the date of the disposition;
7 and

8 7. If forfeiture occurred:

9 a. Whether forfeiture resulted from a seizure made by a federal
10 agency or a joint task force composed of local, state, and federal
11 law enforcement agencies;

12 b. The court case number for and method of forfeiture, including
13 whether the forfeiture occurred via an administrative action,
14 civil action, or criminal action;

15 c. Whether a defendant, owner, joint owner, or third-party owner
16 made a claim or counterclaim for the seized money or property;

17 d. Whether there was a settlement or plea agreement that included
18 the forfeiture of property;

19 e. The date of the forfeiture; and

20 f. The estimated total value of the forfeiture.

21 (c) The Justice and Public Safety Cabinet shall develop an asset seizure-and-
22 forfeiture reporting form that shall be available on its Web site to be
23 completed and submitted by law enforcement agencies electronically to the
24 cabinet.

25 (2) Within ninety (90) days following the close of each fiscal year, the Justice and
26 Public Safety Cabinet shall:

27 (a) Notify, in writing or electronically, any law enforcement agency that has

1 not filed an asset seizure-and-forfeiture reporting form pursuant to
2 subsection (1) of this section. The notification shall include a link to the
3 form, along with directions about how to electronically submit the form,
4 and a statement that the law enforcement agency shall not expend any
5 forfeiture proceeds until the form is submitted to the cabinet. The law
6 enforcement agency shall have thirty (30) days from the date of notification
7 to electronically submit the form to the cabinet. If the law enforcement
8 agency does not electronically submit the form within thirty (30) days, the
9 law enforcement agency shall pay a late filing fee of five hundred dollars
10 (\$500) to the cabinet for deposit in the general fund. The cabinet shall
11 promulgate administrative regulations to establish the process for
12 notification and remittance of late filing fees. No expenditures from any of
13 the law enforcement agency's forfeiture proceeds shall be made until the
14 form is electronically submitted to the cabinet;

15 (b) Provide a report that includes the detailed information required by
16 subsection (1)(b) of this section to the Attorney General, the Legislative
17 Research Commission, and the Interim Joint Committee on Judiciary; and

18 (c) Make the information included in the report available to the public by
19 publishing it on its Web site.

20 (3) Ninety (90) days after the asset seizure-and-forfeiture reporting forms required by
21 subsection (1) of this section are due, the Justice and Public Safety Cabinet shall
22 submit a written report to the Attorney General, the Legislative Research
23 Commission, and the Interim Joint Committee on Judiciary that lists all law
24 enforcement agencies that have failed to electronically submit the form required
25 by subsection (1) of this section. At that time, any law enforcement agency that
26 fails~~[failing]~~ to electronically submit the form~~[report as required by this section]~~
27 shall be liable to the state for the full value of all property and money so seized

1 ~~and~~ the Attorney General shall institute civil actions for recovery of money or
2 property obtained or retained in violation of KRS 218A.405 to 218A.460.

3 ~~(4)(3)~~ The Auditor of Public Accounts, the secretary of ~~the~~ Justice and Public Safety
4 Cabinet, or the Attorney General may at any time initiate an inquiry to determine
5 compliance with ~~that property is being forfeited as required by~~ KRS 218A.405 to
6 218A.460.

7 ➔ Section 2. KRS 218A.405 is amended to read as follows:

8 The following definitions apply in KRS 218A.405 to 218A.460 unless the context
9 otherwise requires:

10 (1) "Interest in property" includes:

11 (a) The interest of a person as a beneficiary under a trust, in which the trustee of
12 the trust holds legal or record title of the personal or real property;

13 (b) The interest of a person or a beneficiary under any other trust arrangement
14 under which any other person holds legal or record title to personal or real
15 property for the benefit of the person; or

16 (c) The interest of a person under any other form of express fiduciary
17 arrangement under which any other person holds legal or record title to
18 personal or real property for the benefit of the person.

19 (d) Real property or an interest in real property shall be deemed to be located
20 where the real property is located. Personal property or an interest in personal
21 property shall be deemed to be located where the trustee is located, the
22 personal property is located, or the instrument evidencing the right is located.

23 (2) "Forfeiture lien notice" means the notice provided for in KRS 218A.450.

24 (3) "Law enforcement agency" means any lawfully organized investigative agency,
25 sheriff's office, police unit, or police force of state, county, urban-county
26 government, charter county, city, consolidated local government, unified local
27 government, public university, or a combination of these, responsible for the

1 *detection of crime and the enforcement of the general criminal state laws. "Law*
 2 *enforcement agency" includes constables and the Division of Law Enforcement*
 3 *within the Department of Fish and Wildlife Resources. "Law enforcement*
 4 *agency" does not include Commonwealth's or county attorneys.*

5 **(4)** "Property" means everything which is the subject of ownership, corporeal or
 6 incorporeal, tangible or intangible, visible or invisible, real or personal, easements,
 7 franchises, incorporeal hereditaments, or any interest therein.

8 ~~**(5)**~~ "Real property" means any real property located in the Commonwealth or any
 9 interest in real property, including any lease of, or mortgage upon, real property.

10 ~~**(6)**~~ "Trustee" includes:

- 11 (a) Any person acting as trustee under a trust in which the trustee holds legal or
 12 record title to personal or real property;
- 13 (b) Any person who holds legal or record title to personal or real property in
 14 which any other person has an interest; or
- 15 (c) Any successor trustee.

16 The term "trustee" shall not include an assignee or trustee for an insolvent debtor, a
 17 guardian under the Uniform Veterans' Guardianship Act, or an executor,
 18 administrator, administrator with will annexed, testamentary trustee, curators,
 19 guardians, or committees, appointed by, or under control of, or accountable to a
 20 District Court.

21 ➔Section 3. The restrictions of KRS 6.945(1) shall not apply to Section 1 of this
 22 Act.

23 ➔Section 4. Whereas current reporting requirements for asset seizure and
 24 forfeiture are inadequate and law enforcement agencies will need time to meet the new
 25 reporting requirements and deadlines of this Act, an emergency is declared to exist, and
 26 this Act takes effect upon its passage and approval by the Governor or upon its otherwise
 27 becoming a law.