

As Engrossed: 3/12/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: House Judiciary Committee**

A Bill

HOUSE BILL 1054

For An Act To Be Entitled

8 "AN ACT TO PROVIDE FOR UNCONTESTED FORFEITURES; AND FOR
9 OTHER PURPOSES."

10

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

12

13 SECTION 1. *This shall be known as the Uncontested Forfeiture Act.*

14 (1) *Property may be proceeded against by uncontested forfeiture only if*
15 *said property is otherwise subject to forfeiture under Arkansas Code Annotated*
16 *5-64-505 and if its cumulative appraised value is less than one hundred*
17 *thousand dollars (\$100,000). "Appraised value" means the average retail value*
18 *of the property at the time and place of seizure.*

19 (2) *Within thirty (30) days of the seizure of the property for*
20 *forfeiture, the Prosecuting Attorney shall mail a notice to proceed by*
21 *uncontested forfeiture by registered or certified mail to all known owners and*
22 *interest holders of the seized property. Reasonable efforts shall be made to*
23 *locate all parties with any interest in the property. The Notice to Proceed*
24 *by Uncontested Forfeiture shall:*

25 (a) *describe the property, including identification, or serial numbers,*
26 *if any;*

27 (b) *state the appraised value of the property, the date, place and*
28 *cause of the seizure;*

29 (c) *state that if an owner does not within thirty (30) days from the*
30 *first date of receipt of the letter file with the Prosecuting Attorney at the*
31 *provided address a Notice for Judicial Referral of Forfeiture in order to*
32 *terminate the uncontested forfeiture proceeding and cause the referral of the*
33 *case for judicial forfeiture, the property will be forfeited without contest;*
34 *and*

35 (d) *state that an owner or interest holder may file a Notice for*

1 Judicial Referral with the Prosecuting Attorney within thirty (30) days of the
2 first date of receipt of the letter.

3 (3) If the property owner or interest holder wishes to contest, then
4 they shall file with the Prosecuting Attorney a Notice for Judicial Referral
5 of a Forfeiture containing the following:

6 (a) a statement describing the property and showing petitioner's
7 interest in the property, with supporting documents to establish such
8 interest; and

9 (b) a certification by the property owner or interest holder stating
10 that he has read the document and that this is not filed for any improper
11 reason such as delay or harassment.

12 (4) If actual notice, by registered or certified mail, is not perfected
13 as required in subsection 3, uncontested forfeiture may occur only after the
14 Prosecuting Attorney publishes a Notice of Seizure and Intent to Forfeit in a
15 newspaper of general circulation in the area of seizure once a week for three
16 (3) consecutive weeks. The publication shall:

17 (a) describe the property, including identification, or serial numbers,
18 if any;

19 (b) state the appraised value of the property, the date, place and
20 cause of the seizure;

21 (c) state that if an owner does not within thirty (30) days from the
22 first date of publication file with the Prosecuting Attorney at the provided
23 address a Notice for Judicial Referral of Forfeiture in order to terminate the
24 uncontested forfeiture proceeding and cause the referral of the case for
25 judicial forfeiture, the property will be forfeited without contest; and

26 (d) state that an owner or interest holder may file a Notice for
27 Judicial Referral with the Prosecuting Attorney within thirty (30) days of the
28 first date of publication.

29 (5) If the Prosecuting Attorney does not receive a Notice of Judicial
30 Referral from the owner of the property or from an interest holder contesting
31 ownership interest in said property within thirty (30) days of the first date
32 of publication of the Notice of Seizure and Intent to Forfeit, the seized
33 property will be deemed to be forfeited without contest. The Prosecuting
34 Attorney will then execute an Order of Forfeiture, which will include the
35 following:

- 1 (a) the date of the Order;
- 2 (b) the description of the property, including identification and
- 3 serial numbers, if any;
- 4 (c) the appraised value of the property, the date, place and cause of
- 5 the seizure;
- 6 (d) the name of the newspaper where publication was made, and the three
- 7 (3) dates of publication;
- 8 (e) statement of reasonable effort made to locate owners and interest
- 9 holders and the date the notice of seizure was mailed to owners and interest
- 10 holders;
- 11 (f) a statement that the property is declared to be forfeited since no
- 12 Notice of Judicial Referral was received by the Prosecuting Attorney within
- 13 thirty (30) days from the first date of letter or newspaper publication; and
- 14 (g) the signature of the Prosecuting Attorney.

15 The executed Order of Forfeiture will have the same force and effect as a
 16 court decree of forfeiture, and may be used by any official or private party
 17 to obtain title or registration; or to establish, transfer, or quiet title to
 18 such property. It will be filed with the circuit clerk and filed under the
 19 name of the owner.

20 (6) The disposition of the uncontested property which has been
 21 forfeited pursuant to the Order of Forfeiture shall be distributed in the same
 22 manner as is currently provided for in Arkansas Code Annotated 5-64-505(k).
 23 The property management provisions of Arkansas Code Annotated 5-64-505(j)
 24 shall apply to any pending uncontested forfeiture.

25 (7) Nothing contained herein shall preclude the property owner and/or
 26 the interest holder from entering into an agreement whereby the property is
 27 forfeited and an Order of Forfeiture is entered without the foregoing notice
 28 requirements.

30 SECTION 2. All provisions of this act of a general and permanent nature
 31 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 32 Revision Commission shall incorporate the same in the Code.

34 SECTION 3. If any provision of this act or the application thereof to
 35 any person or circumstance is held invalid, such invalidity shall not affect

1 other provisions or applications of the act which can be given effect without
2 the invalid provision or application, and to this end the provisions of this
3 act are declared to be severable.

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5 SECTION 4. All laws and parts of laws in conflict with this act are
6 hereby repealed.

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/s/ Jim Shaver

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