

2022 Regular Session

SENATE BILL NO. 359

BY SENATOR JACKSON

SEIZURES/SALES. Provides for civil forfeiture reform. (8/1/22)

1 AN ACT

2 To amend and reenact R.S. 40:2608(A)(1), (2), and (4) and 2610(A), relative to forfeiture;  
3 to provide relative to receipt of notice of forfeiture; to provide relative to extension  
4 of time for filing of claims to seized property; to provide relative to time limits; and  
5 to provide for relative matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:2608(A)(1), (2), and (4) and 2610(A) are hereby amended and  
8 reenacted to read as follows:

9 §2608. Commencement of forfeiture proceedings; **notice of pending forfeiture;**  
10 property release requirements

11 \* \* \*

12 A. Forfeiture proceedings shall be commenced as follows:

13 (1)(a) When the district attorney intends to forfeit property, pursuant to the  
14 provisions of this Chapter, he shall provide the owner and interest holder with a  
15 written assertion within forty-five days after actual or constructive seizure, except  
16 in cases in which the property is held for evidentiary purpose, the district attorney  
17 shall institute forfeiture proceedings within forty-five days after the final disposition

1 of all criminal proceedings associated with the conduct giving rise to forfeiture.

2 (b) If the district attorney fails to initiate forfeiture proceedings against  
 3 property seized for forfeiture by serving Notice of Pending Forfeiture within one  
 4 hundred twenty days after its seizure for forfeiture or if the state fails to pursue  
 5 forfeiture of the property upon which a timely claim has been properly served by  
 6 filing a Petition for Forfeiture proceeding within ninety days after Notice of Pending  
 7 Forfeiture, or if the district attorney fails to provide a written assertion, pursuant to  
 8 the provisions of this Paragraph, the property shall be released from its seizure for  
 9 forfeiture on the request of an owner or interest holder, pending further proceedings  
 10 pursuant to the provisions of this Chapter.

11 ~~(b)~~(c) When no written assertion has been given to the claimant, within the  
 12 time delays provided herein, the claimant may file a Motion for Release of Seized  
 13 Property pursuant to the criminal jurisdiction of the court.

14 (2) If, after Notice of Pending Forfeiture, a claimant files a request for  
 15 stipulation of exemption pursuant to R.S. 40:2609 or is granted an extension to  
 16 file a claim pursuant to R.S. 40:2610, the district attorney may delay filing the  
 17 judicial forfeiture proceeding for a total of one hundred eighty days after the service  
 18 of Notice of Pending Forfeiture.

19 \* \* \*

20 (4) Notice is effective upon personal service, publication, or the receipt  
 21 ~~mailing~~ of a written notice by certified mail, whichever is earlier, and shall include  
 22 a description of the property, the date and place of seizure, the conduct giving rise  
 23 to forfeiture or the violation of law alleged, and a summary of procedures and  
 24 procedural rights applicable to the forfeiture action.

25 \* \* \*

26 §2610. Claims

27 A. Only an owner of or interest holder in property seized for forfeiture may  
 28 file a claim, and shall do so in the manner provided in this Section. The claim shall  
 29 be mailed to the seizing agency and to the district attorney by certified mail, return

1 receipt requested, within thirty days after Notice of Pending Forfeiture. ~~No extension~~  
 2 ~~of time for the filing of a claim shall be granted.~~ **The court may grant an extension**  
 3 **for good cause shown. A motion requesting an extension shall be filed within**  
 4 **sixty days after receipt of the Notice of Pending Forfeiture.**

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The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Tyler McCloud.

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#### DIGEST

SB 359 Reengrossed

2022 Regular Session

Jackson

Present law provides relative to the seizure and forfeiture of property related to certain violations of present law (Uniform Controlled Dangerous Substances Law).

Present law provides for forfeiture proceedings that includes authorizing the district attorney to delay filing the judicial forfeiture proceeding for 180 days, if a claimant files a request for a stipulation of exemption.

Proposed law retains present law and authorizes the delay if an extension to file a claim is granted.

Present law provides notice is effective upon personal service, publication, or mailing of the notice whichever is earlier. Proposed law changes effectiveness from mailing the written notice to receipt of a written notice by certified mail.

Present law requires the notice include a description of the property, the date and place of seizure, the conduct giving rise to forfeiture or the violation of law alleged, and a summary of procedures and procedural rights applicable to the forfeiture action. Proposed law retains present law.

Present law authorizes only an owner of or interest holder in property seized for forfeiture to file a claim. Further, requires the claim to be mailed to the seizing agency and to the district attorney by certified mail, return receipt requested, within 30 days after Notice of Pending Forfeiture.

Proposed law retains present law and authorizes a court to grant an extension for good cause shown and requires the motion requesting an extension to be filed within 60 days after receipt of the Notice of Pending Forfeiture.

Effective August 1, 2022.

(Amends R.S. 40: 2608(A)(1), (2), and (4) and 2610(A))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Add provision to permit an extension to be granted to file a forfeiture claim under present law.

2. Require notice to be effective upon receipt of the written notice by certified mail.
3. Add provision to permit a motion to request an extension be filed within 60 days after the receipt of the Notice of Pending Forfeiture.

Senate Floor Amendments to engrossed bill

1. Removes proposed changes to the definition of "seizure for forfeiture".
2. Removes proposed changes to conduct giving rise to forfeiture.
3. Removes proposed changes to the property subject to forfeiture.
4. Removes proposed changes to property interests exempt from forfeiture.
5. Removes proposed notice requirements.
6. Removes proposed changes providing for liens filed by the district attorney.
7. Removes proposed determinations by the district attorney of further proceedings.
8. Removes proposed postdeprivation hearing provisions.
9. Removes proposed changes to judicial forfeiture proceedings.