

SENATE BILL NO. 359

BY SENATOR JACKSON

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

* * *

A. Forfeiture proceedings shall be commenced as follows:

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

(b) If the district attorney fails to initiate forfeiture proceedings against property seized for forfeiture by serving Notice of Pending Forfeiture within one hundred twenty days after its seizure for forfeiture or if the state fails to pursue

1 forfeiture of the property upon which a timely claim has been properly served by
 2 filing a Petition for Forfeiture proceeding within ninety days after Notice of Pending
 3 Forfeiture, or if the district attorney fails to provide a written assertion, pursuant to
 4 the provisions of this Paragraph, the property shall be released from its seizure for
 5 forfeiture on the request of an owner or interest holder, pending further proceedings
 6 pursuant to the provisions of this Chapter.

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

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

15 * * *

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

21 * * *

22 §2610. Claims

23 A. Only an owner of or interest holder in property seized for forfeiture may
 24 file a claim, and shall do so in the manner provided in this Section. The claim shall
 25 be mailed to the seizing agency and to the district attorney by certified mail, return
 26 receipt requested, within thirty days after Notice of Pending Forfeiture. ~~No extension~~
 27 ~~of time for the filing of a claim shall be granted.~~ **The court may grant an extension**
 28 **of time for the filing of a claim pursuant to this Section for good cause shown.**
 29 **Incarceration of an owner or interest holder during the original thirty-day**
 30 **period shall create a rebuttable presumption of good cause as to the owner or**

