

SENATE BILL No. 259

March 6, 2003, Introduced by Senators LELAND, CROPSEY, PRUSI, BERNERO, SCHAUER, EMERSON, CHERRY, JACOBS, CLARK-COLEMAN, THOMAS, PATTERSON, CASSIS, GARCIA, TOY, GOSCHKA, CLARKE, OLSHOVE and BRATER and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 4706 and 8733 (MCL 600.4706 and 600.8733), section 4706 as added by 1988 PA 104 and section 8733 as added by 1994 PA 12, and by adding section 2974.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2974. A motor vehicle seized by the state or a local
2 unit of government that is subject to forfeiture under a law of
3 this state or an ordinance of a local unit of government shall be
4 returned to the owner within 7 days and any forfeiture fees or
5 fees for impounding the vehicle shall be waived, if 1 of the
6 following occurs:

7 (a) The owner is arrested or detained because of
8 circumstances related to the seizure of the motor vehicle and is
9 released without being charged with a crime, civil infraction, or

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1 civil violation.

2 (b) If the owner is charged with committing a crime because
3 of circumstances related to the seizure of the motor vehicle, the
4 owner is acquitted of the crime.

5 (c) If the owner is charged with committing a civil
6 infraction or civil violation because of circumstances related to
7 the seizure of the motor vehicle, the owner is found to be not
8 responsible for the civil infraction or civil violation.

9 Sec. 4706. (1) Except as otherwise provided by law, personal
10 property seized ~~pursuant to~~ **under** section 4703 shall be
11 returned to the owner, or a lien filed against real property
12 under section 4703 or against a motor vehicle under section 4705,
13 shall be discharged — within 7 days after the occurrence of any
14 of **the** following:

15 (a) A warrant is not issued against a person for the
16 commission of a crime within 7 days after the property is seized
17 or, if the property is real property, within 7 days after the
18 lien is filed.

19 (b) All charges against the consenting legal owner relating
20 to the commission of a crime are dismissed.

21 (c) The consenting legal owner charged with committing a
22 crime is acquitted of the crime.

23 (d) In the case of multiple defendants, all persons charged
24 with committing a crime are acquitted of the crime.

25 (e) Entry of a court order ~~pursuant to~~ **under** this chapter
26 for the return of the property or the discharge of the lien.

27 (2) **Section 2974 also applies to a motor vehicle that has**

1 **been seized under this chapter.**

2 Sec. 8733. (1) An authorized local official may seize and
3 impound a vehicle operated in the commission of a trailway
4 municipal civil infraction. Upon impoundment, the vehicle is
5 subject to a lien, subordinate to a prior lien of record, in the
6 amount of any fine and costs **and any expenses described in**
7 **subsection (2)** that the defendant may be ordered to pay under
8 section 8727. ~~and any expenses described in subsection (2) that~~
9 ~~the defendant may be ordered to pay under section 8727. The~~ **If**
10 **the** defendant or a person with an ownership interest in the
11 vehicle ~~may post with the court~~ **posts** a cash or surety bond in
12 the amount of \$750.00 ~~. If such a bond is posted~~ **with the**
13 **court**, the vehicle shall be released from impoundment. The
14 vehicle shall also be released, and the lien shall be discharged,
15 **if required by section 2974**, upon a judicial determination that
16 the defendant is not responsible for the trailway municipal civil
17 infraction, or upon payment of the fine, costs, and damages and
18 expenses.

19 (2) In a trailway municipal civil infraction action, an order
20 under section 8727 may require the defendant to pay 1 or both of
21 the following:

22 (a) The amount of damages to any land, water, wildlife,
23 vegetation, or other natural resource or to any facility damaged
24 by the violation of the ordinance. Money collected under this
25 subdivision shall be distributed to the governmental entity that
26 has jurisdiction over the recreational trailway.

27 (b) The reasonable expense of impoundment under subsection

1 ~~(2)~~ (1). Money collected under this subdivision shall be
2 distributed to the governmental entity employing the authorized
3 local official who impounded the vehicle involved in the trailway
4 municipal civil infraction.

5 (3) If ~~the~~ a court determines that ~~the~~ a defendant is
6 responsible for ~~the~~ a trailway municipal civil infraction and
7 the defendant defaults in the payment of the fine, costs, or
8 damages or expenses, or in any installment, as ordered pursuant
9 to section 8727, ~~any~~ a bond posted under subsection (1) shall
10 be forfeited and applied to the fine, costs, damages, expenses,
11 or installment. The court shall certify any remaining unpaid
12 amount to the attorney for the governmental entity whose
13 ordinance was violated. The attorney for the governmental entity
14 may enforce the lien by a foreclosure sale. The foreclosure sale
15 shall be conducted in the manner provided and subject to the same
16 rights ~~as that~~ apply in ~~the case of~~ execution sales under
17 sections 6031, 6032, 6041, 6042, and 6044 to 6047. ~~of the~~
18 ~~revised judicature act of 1961, Act No. 236 of the Public Acts of~~
19 ~~1961, being sections 600.6031, 600.6032, 600.6041, 600.6042, and~~
20 ~~600.6044 to 600.6047 of the Michigan Compiled Laws.~~

21 (4) Not less than 21 days before the foreclosure sale, the
22 attorney for the governmental entity whose ordinance was violated
23 shall by certified mail send written notice of the time and place
24 of the foreclosure sale to each person with a known ownership
25 interest in or lien of record on the vehicle. In addition, not
26 less than 10 days before the foreclosure sale, the attorney shall
27 twice publish notice of the time and place of the foreclosure

1 sale in a newspaper of general circulation in the county in which
2 the vehicle was seized. The proceeds of the foreclosure sale
3 shall be distributed in the following order of priority:

4 (a) To discharge any lien on the vehicle that was recorded
5 prior to the creation of the lien under subsection (1).

6 (b) To the clerk of the court for the payment of the fine,
7 costs, damages, and expenses that the defendant was ordered to
8 pay under section 8727.

9 (c) To discharge any lien on the vehicle that was recorded
10 after the creation of the lien under subsection (1).

11 (d) To the owner of the vehicle.