
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1155 Session of
2017

INTRODUCED BY HARPER, McCLINTON, MILLARD, READSHAW, DIAMOND,
FREEMAN, GILLEN, KINSEY, SOLOMON, BULLOCK, V. BROWN, RYAN AND
SIMS, APRIL 12, 2017

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 12, 2017

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in forfeitures, providing
3 for forfeiture of real property.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 42 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 6803. Forfeiture of real property.

9 (a) General rule.--Notwithstanding any other provision of
10 law to the contrary, real property may be seized prior to the
11 entry of an order of forfeiture if the following occur:

12 (1) The government notifies the court that it intends to
13 seize the property before a hearing.

14 (2) The court does the following:

15 (i) issues a notice of application for warrant,
16 causes the notice to be served on the property owner and
17 posted on the property and conducts a hearing in which
18 the property owner has a meaningful opportunity to be

1 heard; or

2 (ii) makes an ex parte determination that there is
3 probable cause for the forfeiture and that there are
4 exigent circumstances that permit the government to seize
5 the property without prior notice and an opportunity for
6 the property owner to be heard.

7 (3) For purposes of this subsection, to establish
8 exigent circumstances, the Commonwealth may show by evidence
9 satisfactory to the court that less restrictive measures,
10 including a lis pendens, restraining order or bond, would not
11 suffice to protect the Commonwealth's interests in preventing
12 the sale, destruction or continued unlawful use of the real
13 property.

14 (b) Postseizure hearing.--If the court authorizes a seizure
15 of real property under subsection (a)(2)(ii), it shall conduct a
16 prompt postseizure hearing during which the property owner shall
17 have an opportunity to contest the basis for the seizure.

18 (c) Appointment of counsel.--An owner of real property
19 against which a petition for forfeiture under section 6802
20 (relating to procedure with respect to seized property subject
21 to liens and rights of lienholders) has been filed and who is
22 not charged with an offense underlying its forfeitability may
23 request the appointment of counsel. The court shall appoint
24 counsel if it finds that the claimant is financially unable to
25 obtain counsel and that the property is being used as a primary
26 residence by the person or immediate family members who have not
27 been charged with the offense.

28 (d) Exception.--Except as provided in this section:

29 (1) Real property that is the subject of a civil
30 forfeiture action shall not be seized before entry of an

1 order of forfeiture.

2 (2) The owners or occupants of the real property shall
3 not be evicted from, or otherwise deprived of the use and
4 enjoyment of, real property that is the subject of a pending
5 forfeiture action.

6 (e) Applicability.--The following shall apply:

7 (1) This section applies only to civil forfeitures of
8 real property and interests in real property.

9 (2) This section does not apply to forfeitures of the
10 proceeds of the sale of the property or interests, or of
11 money or other assets intended to be used to acquire the
12 property or interests.

13 (3) This section shall not affect the authority of the
14 court to enter a restraining order relating to real property.

15 (4) The filing of a lis pendens and the execution of a
16 writ of entry for the purpose of conducting an inspection and
17 inventory of the property shall not be considered a seizure
18 under this subsection.

19 Section 2. This act shall take effect in 60 days.