

103^D CONGRESS
1ST SESSION

H. R. 3347

To reform the laws relating to forfeitures.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 1993

Mr. CONYERS introduced the following bill; which was referred jointly to the Committees on Ways and Means, the Judiciary, and Energy and Commerce

A BILL

To reform the laws relating to forfeitures.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Asset Forfeiture
5 Justice Act”.

6 **SEC. 2. REQUIRE CONVICTION.**

7 (a) TARIFF ACT OF 1930.—Section 604 of the Tariff
8 Act of 1930 (19 U.S.C. 1604) is amended by adding at
9 the end the following new sentence: “Proceedings for the
10 forfeiture of property, other than of merchandise upon
11 which the duties have not been paid or which has been
12 otherwise brought into the United States unlawfully, shall

1 be conducted only upon conviction of the owner of such
2 property for the crime upon which the forfeiture is
3 based.”.

4 (b) TITLE 18, UNITED STATES CODE.—Subsection
5 (c) of section 1082 of title 18, United States Code, is
6 amended to read as follows:

7 “(c) Whoever, being (1) the owner of an American
8 vessel, or (2) the owner of any vessel under or within the
9 jurisdiction of the United States, or (3) the owner of any
10 vessel and being an American citizen, uses, or knowingly
11 permits the use of, such vessel in violation of this section
12 shall upon conviction, in addition to any other penalties
13 provided by this chapter, forfeit such vessel, together with
14 her tackle, apparel, and furniture, to the United States.”.

15 **SEC. 3. NOTICE.**

16 Section 607(a) of the Tariff Act of 1930 (19 U.S.C.
17 1607(a)) is amended by adding at the end the following
18 new sentence: “Such notice shall be sent not later than
19 60 days after the seizure to any possessor, owner, or other
20 interested party (including any lienholder).”.

21 **SEC. 4. BURDEN OF PROOF.**

22 Section 615 of the Tariff Act of 1930 (19 U.S.C.
23 1615) is amended to read as follows:

1 **“SEC. 615. BURDEN OF PROOF IN FORFEITURE PROCEED-**
2 **INGS.**

3 “In—

4 “(1) all suits or actions (other than those aris-
5 ing under section 592) brought for forfeiture of any
6 vessel, vehicle, aircraft, merchandise, or baggage
7 seized under the provisions of any law relating to the
8 collection of duties on imports or tonnage; and

9 “(2) in all suits or actions brought for the re-
10 covery of the value of any vessel, vehicle, aircraft,
11 merchandise, or baggage, because of violation of any
12 such law;

13 the burden of proof is on the United States Government
14 to establish, by clear and convincing evidence, that the
15 property was subject to forfeiture.”.

16 **SEC. 5. PRELIMINARY HEARING.**

17 (a) CONTROLLED SUBSTANCES ACT.—Section
18 511(b) of the Controlled Substances Act (21 U.S.C.
19 881(b)) is amended to read as follows:

20 “(b)(1) Any property subject to civil forfeiture to the
21 United States under this section may be seized by the At-
22 torney General upon order of the District Court of the
23 United States in which the property is located or the
24 owner of such property is found.

25 “(2) The court may issue an order under subsection
26 (a)(1) if it determines, after notice to persons appearing

1 to have an interest in the property and opportunity for
2 hearing, that—

3 “(A) there is a substantial probability that the
4 United States will prevail on the issue of forfeiture
5 and that failure to enter the order will result in the
6 property being destroyed, removed from the jurisdic-
7 tion of the court, or otherwise made unavailable for
8 forfeiture; and

9 “(B) the need to preserve the availability of the
10 property through the entry of the requested order
11 outweighs the hardship to any party of interest.

12 “(3) A seizure without such order may be made
13 when—

14 “(A) the seizure is incident to an arrest or a
15 search under a search warrant or an inspection
16 under an administrative inspection warrant;

17 “(B) the property subject to seizure has been
18 the subject of a prior judgment in favor of the
19 United States in a criminal injunction or forfeiture
20 proceeding under this subchapter;

21 “(C) there is probable cause to believe that the
22 property is directly or indirectly dangerous to health
23 or safety; or

24 “(D) there is probable cause to believe that the
25 delay occasioned by the need to secure an order will

1 frustrate the seizure. Any officer having made a sei-
2 zure under the authority of this subparagraph shall,
3 as practicable thereafter, apply for an order under
4 subsection (b)(1); the property must be released to
5 the owner of such property immediately if the order
6 is denied.”.

7 (b) TITLE 18, UNITED STATES CODE.—Section
8 981(b) of title 18, United States Code, is amended to read
9 as follows:

10 “(b)(1) Any property subject to civil forfeiture to the
11 United States under subsection (a)(2) may be seized by
12 the Attorney General upon order of the District Court of
13 the United States in which the property is located or the
14 owner of such property is found.

15 “(2) The court may issue an order under subsection
16 (b)(1) if it determines, after notice to persons appearing
17 to have an interest in the property and opportunity for
18 hearing, that—

19 “(A) there is a substantial probability that the
20 United States will prevail on the issue of forfeiture
21 and that failure to enter the order will result in the
22 property being destroyed, removed from the jurisdic-
23 tion of the court, or otherwise made unavailable for
24 forfeiture; and

1 “(B) the need to preserve the availability of the
2 property through the entry of the requested order
3 outweighs the hardship to any party of interest.

4 “(3) A seizure without such order may be made
5 when—

6 “(A) the seizure is incident to an arrest or a
7 search under a search warrant or an inspection
8 under an administrative inspection warrant;

9 “(B) the property subject to seizure has been
10 the subject of a prior judgment in favor of the
11 United States in a criminal injunction or forfeiture
12 proceeding under this subchapter;

13 “(C) there is probable cause to believe that the
14 property is directly or indirectly dangerous to health
15 or safety; or

16 “(D) there is probable cause to believe that the
17 delay occasioned by the need to secure an order will
18 frustrate the seizure. Any officer having made a sei-
19 zure under the authority of this subparagraph shall,
20 as practicable thereafter, apply for an order under
21 subsection (b)(1); the property must be released to
22 the owner of such property immediately if the order
23 is denied.”.

1 (c) TARIFF ACT OF 1930.—(1) Section 603(a) of the
2 Tariff Act of 1930 (19 U.S.C. 1603(a)) is amended to
3 read as follows:

4 “(a) PROCESS FOR SEIZURE.—

5 “(1) IN GENERAL.—Any property which is sub-
6 ject to forfeiture to the United States for violations
7 of the customs law and which is not subject to
8 search and seizure in accordance with provisions of
9 section 595, may be seized by the appropriate officer
10 or person upon process issued under paragraph (2).

11 “(2) PROCEDURES.—

12 “(A) SEIZURE UNDER ORDER.—Any prop-
13 erty subject to forfeiture under the customs
14 laws of the United States may be seized by the
15 Attorney General upon order of the District
16 Court of the United States in which the prop-
17 erty is located or the owner of such property is
18 found.

19 “(B) DETERMINATIONS.—The court may
20 issue an order under paragraph (1) if it deter-
21 mines, after notice to persons appearing to have
22 an interest in the property and opportunity for
23 hearing, that—

24 “(i) there is a substantial probability
25 that the United States will prevail on the

1 issue of forfeiture and that failure to enter
2 the order will result in the property being
3 destroyed, removed from the jurisdiction of
4 the court, or otherwise made unavailable
5 for forfeiture; and

6 “(ii) the need to preserve the avail-
7 ability of the property through the entry of
8 the requested order outweighs the hardship
9 to any party of interest.

10 “(C) SEIZURE WITHOUT ORDER.—A sei-
11 zure without such order may be made when—

12 “(i) the seizure is incident to an ar-
13 rest or a search under a search warrant or
14 an inspection under an administrative in-
15 spection warrant;

16 “(ii) the property subject to seizure
17 has been the subject of a prior judgment
18 in favor of the United States in a criminal
19 injunction or forfeiture proceeding under
20 this subchapter;

21 “(iii) there is probable cause to believe
22 that the property is directly or indirectly
23 dangerous to health or safety; or

1 “(iv) there is probable cause to believe
2 that the delay occasioned by the need to
3 secure an order will frustrate the seizure.
4 Any officer having made a seizure under the
5 authority of this subparagraph shall, as prac-
6 ticable thereafter, apply for an order under
7 paragraph (1). Any property so seized must be
8 released to the owner of such property imme-
9 diately if the order is denied.”.

10 (2) Section 595(a)(1) of the Tariff Act of 1930 (19
11 U.S.C. 1595(a)(1)) is amended by adding at the end the
12 following: “Any seizure of property described in paragraph
13 (1)(B) of this section must be authorized under section
14 603(a).

15 **SEC. 6. ELIMINATION OF BOND; ADEQUATE REPRESENTA-**
16 **TION.**

17 Section 608 of the Tariff Act of 1930 (19 U.S.C.
18 1608) is amended to read as follows:

19 **“SEC. 608. SEIZURE; CLAIMS.**

20 “(a) Any person claiming such vessel, vehicle, air-
21 craft, merchandise, or baggage may at any time within
22 60 days from the date of the first publication of the notice
23 of seizure, file with the appropriate customs officer a claim
24 stating his interest therein. Upon the filing of such claim,
25 the customs officer shall transmit such claim, with a

1 duplicate list and description of the articles seized, to the
2 United States attorney for the district in which seizure
3 was made, who shall proceed to a condemnation of the
4 merchandise or other property in the manner prescribed
5 by law.

6 “(b) If the person filing a claim under subsection (a),
7 or a claim regarding seized property under any other pro-
8 vision of law that incorporates by reference the seizure,
9 forfeiture, and condemnation procedures of the customs
10 laws, is financially unable to obtain representation of
11 counsel, the court may appoint appropriate counsel to rep-
12 resent that person with respect to the claim. The court
13 shall set the compensation for that representation, which
14 shall—

15 “(1) be equivalent to that provided for court-ap-
16 pointed representation under section 3006A of title
17 18, United State Code, and

18 “(2) be paid from the Justice Assets Forfeiture
19 Fund established under section 524 of title 28,
20 United States Code.”.

21 **SEC. 7. RIGHT TO JURY TRIALS.**

22 Section 610 of the Tariff Act of 1930 (19 U.S.C.
23 1610) is amended to read as follows:

1 **“SEC. 610. SEIZURE; JUDICIAL FORFEITURE PROCEEDINGS;**
2 **TIMELINESS; RIGHT TO JURY TRIALS.**

3 “(a) If any vessel, vehicle, aircraft, merchandise, or
4 baggage is not subject to section 607, or in any case upon
5 the filing of a claim pursuant to section 608 of this Act,
6 the appropriate customs officer shall transmit a report of
7 the case, with the names of available witnesses, to the
8 United States Attorney for the district in which the sei-
9 zure was made, or in which the property is located or the
10 owner of such property is found, for the institution of the
11 proper proceedings for the condemnation of such property.

12 “(b) No action to forfeit property shall be brought
13 more than 1 year from the date of the offense that is the
14 basis for the forfeiture, or when a stay has been granted
15 during the pendency of criminal proceedings, from the
16 date of the completion of such proceedings.

17 “(c) In the proceedings in such cases, either party
18 may demand trial by jury of any issue of fact joined in
19 the case.”.

20 **SEC. 8. ATTORNEYS’ FEES.**

21 (a) TITLE 18, UNITED STATES CODE.—(1) Section
22 981(a)(2) of title 18, United States Code, is amended to
23 read as follows:

24 “(2) No property shall be forfeited under this section
25 to the extent of the interest of an owner or lienholder by
26 reason of any act or omission established by that owner

1 or lienholder to have been committed without the knowl-
2 edge of that owner or lienholder; nor shall any property
3 which has been paid or pledged as bona fide attorneys'
4 fees be forfeited under this section.”.

5 (2) Section 1963(c) of title 18, United States Code,
6 is amended by—

7 (A) striking the period at the end and inserting
8 a comma; and

9 (B) adding at the end the following: “or that he
10 received or has been pledged the property as bona
11 fide attorneys’ fees.”.

12 (3) Section 1963(l)(6)(B) of title 18, United States
13 Code, is amended by inserting before the semicolon at the
14 end the following: “or the petitioner received or has been
15 pledged the property as bona fide attorneys’ fees”.

16 (b) CONTROLLED SUBSTANCES ACT.—

17 (1) Section 413(n)(6)(B) of the Controlled Sub-
18 stances Act (21 U.S.C. 853(n)(6)(B)) is amended by
19 adding at the end the following: “or the petitioner
20 received or has been pledged the property as bona
21 fide attorneys’ fees;”.

22 (2) Section 511(a) of the Controlled Substances
23 Act (21 U.S.C. 881(a)), as amended by section 13,
24 is further amended by adding at the end the follow-
25 ing new paragraph:

1 “(12) No property received or pledged as bona
2 fide attorneys’ fees shall be forfeited under this sec-
3 tion.”.

4 **SEC. 9. IN PERSONAM.**

5 Section 1082(c) of title 18, United States Code, is
6 amended to read as follows:

7 “(c) Whoever, being (1) the owner of an American
8 vessel, or (2) the owner of any vessel under or within the
9 jurisdiction of the United States, or (3) the owner of any
10 vessel and being an American citizen, shall use, or know-
11 ingly permit the use of, such vessel in violation of any pro-
12 vision of this section shall upon conviction, in addition to
13 any other penalties provided by this chapter, forfeit such
14 vessel, together with her tackle, apparel, and furniture, to
15 the United States. The Attorney General may institute
16 proceedings against the owner to recover such vessel and
17 her tackle, apparel, and furniture in the United States
18 District Court for the district in which the owner is or
19 in which the vessel is located.”.

20 **SEC. 10. FILING DEADLINE.**

21 Paragraph (6) of Rule C of the Supplemental Rules
22 for Certain Admiralty and Maritime Claims to the Federal
23 Rules of Civil Procedures (28 U.S.C. Appendix) is amend-
24 ed by striking out “10 days” and inserting “60 days”.

1 **SEC. 11. PROPORTIONALITY.**

2 (a) CIVIL FORFEITURES UNDER THE CONTROLLED
3 SUBSTANCES ACT.—Section 511(a) of the Controlled Sub-
4 stances Act (21 U.S.C. 881(a)), as amended by section
5 13, is further amended by striking “The” and inserting:
6 “Except that the value of the property forfeited under this
7 section may not exceed the pecuniary gain derived from
8 the offense or the pecuniary loss caused by the offense,
9 the”.

10 (b) CRIMINAL FORFEITURES UNDER THE CON-
11 TROLLED SUBSTANCES ACT.—Section 413(a) of the Con-
12 trolled Substance Act (21 U.S.C. 853(a)) is amended by
13 striking the last sentence and inserting the following:
14 “The value of the property forfeited under this section
15 may not exceed the pecuniary gain derived from the of-
16 fense or the pecuniary loss caused by the offense.”.

17 **SEC. 12. ELIMINATION OF THE RELATION-BACK DOCTRINE.**

18 (a) GENERAL TITLE 18, CIVIL FORFEITURE.—Sec-
19 tion 981(f) of title 18, United States Code, is amended
20 to read as follows:

21 “(f) All right, title, and interest in property described
22 in subsection (a) of this section shall vest in the United
23 States upon administrative or judicial declaration of for-
24 feiture.”.

25 (b) RICO FORFEITURES.—Section 1963(c) of title
26 18, United States Code, is amended to read as follows:

1 “(c) All right, title, and interest in property described
2 in subsection (a) of this section shall vest in the United
3 States upon return of a special verdict of forfeiture.”.

4 (c) CONTROLLED SUBSTANCES ACT.—(1) Section
5 413(c) of the Controlled Substances Act (21 U.S.C.
6 853(c)) is amended to read as follows:

7 “(c) VESTING OF TITLE IN THE UNITED STATES.—
8 All right, title, and interest in property described in sub-
9 section (a) of this section vests in the United States upon
10 return of a special verdict of forfeiture.”.

11 (2) Section 511(h) of the Controlled Substances Act
12 (21 U.S.C. 881(h)) is amended to read as follows:

13 “(h) VESTING OF TITLE IN THE UNITED STATES.—
14 All right, title, and interest in property described in sub-
15 section (a) of this section shall vest in the United States
16 upon administrative or judicial declaration of forfeiture.”.

17 **SEC. 13. PROPERTY SUBJECT TO SEIZURE.**

18 (a) CRIMINAL FORFEITURE UNDER CONTROLLED
19 SUBSTANCES ACT.—Section 413(a)(2) of the Controlled
20 Substances Act (21 U.S.C. 853(a)(2)) is amended to read
21 as follows:

22 “(2) any of the person’s property primarily
23 used to commit such violation; and”.

24 (b) CIVIL FORFEITURE UNDER CONTROLLED SUB-
25 STANCES ACT.—Section 511(a) of the Controlled Sub-

1 stance Act (21 U.S.C. 881(a)) is amended to read as fol-
2 lows:

3 “(a) PROPERTY SUBJECT TO SEIZURE.—The follow-
4 ing shall be subject to forfeiture to the United States upon
5 conviction of the owner of such property of a violation of
6 this title and no property right shall exist in them:

7 “(1) All controlled substances which have been
8 manufactured, distributed, dispensed, or acquired in
9 violation of this title.

10 “(2) All raw materials, products, and equip-
11 ment of any kind which are used, or intended for
12 use, in manufacturing, compounding, processing, de-
13 livering, importing, or exporting any controlled sub-
14 stance in violation of this title.

15 “(3) All property which is used, or intended for
16 use, as a container for property described in para-
17 graph (1).

18 “(4) All conveyances, including aircraft, vehi-
19 cles, or vessels, which are used primarily to trans-
20 port or concealment of property described in para-
21 graph (1), except that—

22 “(A) no conveyance used by any person as
23 a common carrier in the transaction of business
24 as a common carrier shall be forfeited under
25 the provisions of this section unless it shall ap-

1 pear that the owner or other person in charge
2 of such conveyance was a consenting party or
3 privy to a violation of this title or title II;

4 “(B) no conveyance shall be forfeited
5 under the provisions of this section by reason of
6 any act or omission established by the owner
7 thereof to have been committed or omitted by
8 any person other than such owner while such
9 conveyance was unlawfully in the possession of
10 a person other than the owner in violation of
11 the criminal laws of the United States, or of
12 any State; and

13 “(C) no conveyance shall be forfeited under
14 this paragraph to the extent of an interest of an
15 owner, by reason of any act or omission estab-
16 lished by that owner to have been committed or
17 omitted without the knowledge, consent, or will-
18 ful blindness of the owner.

19 “(5) All books, records, and research, including
20 formulas, microfilm, tapes, and data which are used,
21 or intended for use, in violation of this title.

22 “(6) All moneys, negotiable instruments, securi-
23 ties, or other things of value furnished or intended
24 to be furnished by any person in exchange for a con-
25 trolled substance in violation of this title, and all

1 proceeds traceable to such exchange, except that no
2 property shall be forfeited under this paragraph, to
3 the extent of the interest of an owner, by reason of
4 any act or omission established by that owner to
5 have been committed or omitted without the knowl-
6 edge or consent of that owner.

7 “(7) All parts of real property used primarily to
8 commit a violation of this title punishable by more
9 than 1 year’s imprisonment, except that no property
10 shall be forfeited under this paragraph, to the extent
11 of an interest of an owner, by reason of any act or
12 omission established by that owner to have been
13 committed or omitted without the knowledge or con-
14 sent of that owner.

15 “(8) All controlled substances which have been
16 possessed in violation of this title.

17 “(9) All listed chemicals, all drug manufactur-
18 ing equipment, all tableting machines, all encap-
19 sulating machines, and all gelatin capsules, which
20 have been imported, exported, manufactured, pos-
21 sessed, distributed, or intended to be distributed, im-
22 ported, or exported, in violation of a felony provision
23 of this title or title II.

1 “(10) Any drug paraphernalia (as defined in
2 section 1822 of the Anti-Drug Abuse Act of 1986
3 (21 U.S.C. 863)).

4 “(11) Any firearm (as defined in section 921 of
5 title 18) used or intended to be used to facilitate the
6 transportation, sale, receipt, possession, or conceal-
7 ment of property described in paragraph (1) or (2)
8 and any proceeds traceable to such property.”.

9 **SEC. 14. FORFEITURE PROCEEDS TO STATE TREASURIES.**

10 (a) TARIFF ACT OF 1930.—Section 616(c)(1)(B)(ii)
11 of the Tariff Act of 1930 (19 U.S.C. 1616a(c)(1)(B)(ii)
12 is amended to read as follows:

13 “(ii) any State or local law enforce-
14 ment agency that participated directly or
15 indirectly in the seizure or forfeiture of the
16 property for disposition according to State
17 law.”.

18 (b) TITLE 18, UNITED STATES CODE.—Section
19 981(e)(2) of title 18, United States Code, is amended to
20 read as follows:

21 “(2) to any State or local enforcement agency,
22 which participated directly in any of the acts which
23 lead to the seizure or forfeiture of the property, for
24 disposition according to State law.”.

1 (c) CONTROLLED SUBSTANCES ACT.—Section
2 511(e)(1)(A) of the Controlled Substances Act (21 U.S.C.
3 881(e)(1)(A)) is amended to read as follows:

4 “(A) retain the property for official use or,
5 in the manner provided with respect to trans-
6 fers under section 616 of the Tariff Act of
7 1930 (19 U.S.C. 1616a), transfer the property
8 to any Federal agency, or to any State or local
9 law enforcement agency which participated di-
10 rectly in the seizure or forfeiture of the prop-
11 erty for disposition according to State law;”.

12 **SEC. 15. EXPANDED USES OF FORFEITURE PROCEEDS.**

13 Section 524(c) of title 28, United States Code, is
14 amended by adding at the end the following new para-
15 graph:

16 “(13)(A) In addition to the purposes under para-
17 graph (1), the fund shall be available to the Attorney Gen-
18 eral for community-based crime control programs (includ-
19 ing private, nonprofit programs) for drug education, pre-
20 vention, and treatment, with amounts for such programs
21 to be distributed, in accordance with criteria determined
22 by the State, with priority given to the communities in
23 which the assets involved are seized.

24 “(B) Not less than 50 percent of the total of the
25 amounts disbursed for all purposes under this section in

1 a fiscal year shall be for programs referred to in subpara-
2 graph (A). Not more than 10 percent of the total dis-
3 bursed for such programs may be used for administrative
4 costs.”.

5 **SEC. 16. PAYMENT OF INFORMANTS.**

6 (a) TARIFF ACT OF 1930.—(1) Section 619(c) of the
7 Tariff Act of 1930 (19 U.S.C. 1619(c)) is amended to
8 read as follows:

9 “(c) DOLLAR LIMITATION.—No person may be
10 awarded or paid more than \$250,000 in any year under
11 this section.”.

12 (2) Section 413(i)(3) of the Controlled Substances
13 Act (21 U.S.C. 853(i)(3)), is amended by inserting before
14 the semicolon at the end the following: “, except that, no
15 person may be awarded or paid more than \$250,000 in
16 any year under this section”.

17 (b) TITLE 18, UNITED STATES CODE.—Section
18 1963(g)(3) of title 18, United States Code, is amended
19 by inserting after “section” the following: “, except that
20 no person may be awarded or paid more than \$250,000
21 in any year under this section, or any other law of the
22 United States providing for moieties or awards of com-
23 pensation to informers in cases involving forfeiture”.

1 (c) TITLE 28, UNITED STATES CODE.—Section
2 524(c)(2) of title 28, United States Code, is amended to
3 read as follows:

4 “(2) Any award paid from the Fund for infor-
5 mation, as provided in paragraph (1)(B) or (C),
6 shall be paid at the discretion of the Attorney Gen-
7 eral or his delegate, under existing departmental del-
8 egation policies for the payment of awards, except
9 that no person may be awarded or paid more than
10 \$250,000 in any year under this section. The Attor-
11 ney General shall publish data annually regarding
12 amounts of awards paid by the United States.”.

13 (d) TITLE 31, UNITED STATES CODE.—Section
14 9703(b) of title 31, United States Code, is amended by
15 adding following new subsection:

16 “(6) No person may be awarded or paid more
17 than \$250,000 in any year under subsection
18 (a)(1)(C) or (a)(2)(A), or any law of the United
19 States providing for moieties or awards of com-
20 pensation to informers in criminal cases.”.

21 **SEC. 17. ADOPTIVE SEIZURE.**

22 (a) CONTROLLED SUBSTANCES ACT.—Section
23 511(e)(3) of the Controlled Substances Act (21 U.S.C
24 881(e)(3)) is amended—

1 (1) by striking “and” at the end of subpara-
2 graph (A);

3 (2) by striking the period and inserting “; and”
4 at the end of subparagraph (B); and

5 (3) by inserting after subparagraph (B) the fol-
6 lowing:

7 “(C) is not so transferred to circumvent
8 any requirement of State law that prohibits for-
9 feiture or limits use or disposal of property for-
10 feited to State or local agencies.”.

11 (b) TITLE 31, UNITED STATES CODE.—Section
12 9703(b)(4) of title 31, United States Code, is amended—

13 (1) by striking “and” at the end of subpara-
14 graph (A);

15 (2) by striking the period and inserting “; and”
16 at the end of subparagraph (B); and

17 (3) by inserting after subparagraph (B) the fol-
18 lowing:

19 “(C) is not so transferred to circumvent
20 any requirement of State law that prohibits for-
21 feiture or limits use or disposal or property for-
22 feited to State or local agencies.”.

23 **SEC. 18. REPORTING REQUIREMENTS.**

24 Section 616(c) of the Tariff Act of 1930 (19 U.S.C.
25 1616a(c)) is amended by adding at the end the following:

1 “(4) The Secretary shall maintain individual records
2 concerning property transferred under paragraph
3 (1)(B)(ii) demonstrating, with particularity—

4 “(A) the circumstances of the investigation and
5 seizure of the forfeiture, including the race, national
6 origin, gender, and age of those with an interest in
7 the property prior to seizure; and

8 “(B) the disposition of the property after trans-
9 fer by each State.”.

10 **SEC. 19. MAINTENANCE OF SEIZED PROPERTY.**

11 (a) IN GENERAL.—Section 2465 of title 28, United
12 States Code, is amended to read as follows:

13 **“§ 2465. Return of property to claimant**

14 “Upon the entry of judgment for the claimant in any
15 proceeding to condemn or forfeit property seized under
16 this Act of Congress or one year after the seizure of such
17 property if no such proceeding has been initiated, such
18 property shall be returned forthwith to the claimant or
19 his agent. At such time, interest shall be paid on any
20 seized coins, currency or negotiable obligations at a rate
21 equal to the greater of 6 percent or the prevailing market
22 rate. Compensation for any other injury to property,
23 caused by or occurring subsequent to its seizure, shall also
24 be paid.”.

1 (b) CLERICAL AMENDMENT.—The item relating to
2 section 2465 in the table of sections at the beginning of
3 chapter 163 of title 28, United States Code, is amended
4 to read as follows:

“2465. Return of property to claimant.”.

5 **SEC. 20. ADMINISTRATIVE AND CONTRACTING EXPENSES.**

6 Section 524(c) of title 28, United States Code, as
7 amended by section 15, is further amended by adding at
8 the end the following:

9 “(14) The total of amounts paid from the Fund with
10 respect to a fiscal year for administrative and contracting
11 expenses under paragraph (1)(A) may not exceed 10 per-
12 cent of the total of amounts paid from the Fund for all
13 purposes with respect to such fiscal year.”.

14 **SEC. 21. REPORT TO CONGRESS.**

15 Section 524(c)(6) of title 28, United States Code, is
16 amended—

17 (1) by striking “and” at the end of subpara-
18 graph (B);

19 (2) by striking the period at the end of sub-
20 paragraph (C) and inserting “; and”; and

21 (3) by adding at the end the following:

22 “(D) a report for such fiscal year containing a
23 description of the administrative and contracting ex-
24 penses paid from the Fund under paragraph
25 (1)(A).”.

1 **SEC. 22. NOMINAL CONSIDERATION SALES OF LOW VALUE**
2 **REAL PROPERTY.**

3 Section 511(e) of the Controlled Substances Act (21
4 U.S.C. 881(e)) is amended—

5 (1) in paragraph (1)(B), by striking “(4)” and
6 inserting “(4) or (5)”; and

7 (2) by adding at the end the following:

8 “(5)(A) If any property referred to in para-
9 graph (1)(B) is low value real property located in a
10 metropolitan statistical area, the Attorney General
11 shall offer such property for sale, for nominal con-
12 sideration to tax-exempt organizations that provide
13 direct services furthering community-based crime
14 control, housing, or education efforts in such area.

15 “(B) As used in this paragraph—

16 “(i) the term ‘low value real property’
17 means, with respect to a metropolitan statistical
18 area, real property that is appraised at less
19 than 40 percent of the median value of com-
20 parable real property in the metropolitan statis-
21 tical area;

22 “(ii) the term ‘tax-exempt organization’
23 means an organization described in section
24 501(c)(3) of the Internal Revenue Code of
25 1986, and exempt from tax under section
26 501(a) of such Code; and

1 “(iii) the term ‘nominal consideration’
2 means minimal recompense not to exceed 1.5
3 percent of the value of the property, and shall
4 not include, directly or indirectly, equitable
5 sharing or any other cost, expense or payment
6 associated with the seizure, forfeiture, care or
7 maintenance of the property, or with the ad-
8 ministration of any fund or program, other
9 than the costs of the sale to the extent that
10 such sales costs do not exceed 1.5 percent of
11 the value of the property.”.

12 **SEC. 23. ACTIONS UNDER THE TORT CLAIMS ACT.**

13 Section 2680(c) of title 28, United States Code, is
14 amended by inserting before the period the following: “ex-
15 cept that this chapter and section 1346(b) of this title
16 shall apply to any claim based—

17 “(1) on the negligent destruction, injury,
18 or loss of goods or merchandise (including real
19 property) while in the possession of any officer
20 of customs or excise or any other law enforce-
21 ment officer, or

22 “(2) on the destruction, injury, or loss of
23 goods or merchandise (including real property)
24 caused by the misfeasance, malfeasance, or non-
25 feasance of any customs or excise or any other

1 law enforcement officer while in the possession
2 of such officer”.

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