

By: Representative Watson

To: Judiciary B

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1142

1 AN ACT TO PROVIDE FOR THE SEIZURE, SALE AND DISTRIBUTION OF  
2 PROPERTY PURCHASED WITH FUNDS OBTAINED ILLEGALLY; TO PROVIDE FOR  
3 THE DISTRIBUTION OF PROCEEDS TO THE VICTIMS OF THE CRIME; AND FOR  
4 RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** (1) When any property, which has been purchased  
7 with funds obtained illegally, excluding controlled substances  
8 offenses, is seized, proceedings under this section shall be  
9 instituted within thirty (30) days from the date of seizure.

10 (2) A petition for forfeiture shall be filed in the name of  
11 the State of Mississippi, the county or the municipality and may  
12 be filed in the county in which the seizure is made, the county in  
13 which the criminal prosecution is brought or the county in which  
14 the owner of the seized property is found. Forfeiture proceedings  
15 may be brought in the circuit court or the county court if a  
16 county court exists in the county and the value of the seized  
17 property is within the jurisdictional limits of the county court  
18 as set forth in Section 9-9-21. A copy of such petition shall be  
19 served upon the following persons by service of process in the  
20 same manner as in civil cases:

21 (a) The owner of the property, if address is known;

22 (b) Any secured party who has registered his lien or  
23 filed a financing statement as provided by law, if the identity of  
24 such secured party can be ascertained by the prosecutor or the  
25 local law enforcement agency by making a good faith effort to  
26 ascertain the identity of such secured party as described in  
27 subsections (3), (4), (5), (6) and (7) of this section;



28           (c) Any other bona fide lienholder or secured party or  
29 other person holding an interest in the property in the nature of  
30 a security interest of whom the prosecutor or local law  
31 enforcement agency has actual knowledge;

32           (d) Any holder of a mortgage, deed of trust, lien or  
33 encumbrance of record, if the property is real estate, by making a  
34 good faith inquiry as described in subsection (8) of this section;  
35 and

36           (e) Any person in possession of property subject to  
37 forfeiture at the time that it was seized.

38           (3) If the property is a motor vehicle susceptible of  
39 titling under the Mississippi Motor Vehicle Title Law and if there  
40 is any reasonable cause to believe that the vehicle has been  
41 titled, the prosecutor or the local law enforcement agency shall  
42 make inquiry of the State Tax Commission as to what the records of  
43 the State Tax Commission show as to who is the record owner of the  
44 vehicle and who, if anyone, holds any lien or security interest  
45 which affects the vehicle.

46           (4) If the property is a motor vehicle and is not titled in  
47 the State of Mississippi, then the prosecutor or the local law  
48 enforcement agency shall attempt to ascertain the name and address  
49 of the person in whose name the vehicle is licensed, and if the  
50 vehicle is licensed in a state which has in effect a certificate  
51 of title law, the bureau or the local law enforcement agency shall  
52 make inquiry of the appropriate agency of that state as to what  
53 the records of the agency show as to who is the record owner of  
54 the vehicle and who, if anyone, holds any lien, security interest  
55 or other instrument in the nature of a security device which  
56 affects the vehicle.

57           (5) If the property is of a nature that a financing  
58 statement is required by the laws of this state to be filed to  
59 perfect a security interest affecting the property and if there is  
60 any reasonable cause to believe that a financing statement



61 covering the security interest has been filed under the laws of  
62 this state, the prosecutor or the local law enforcement agency  
63 shall make inquiry of the appropriate office designated in Section  
64 75-9-501, as to what the records show as to who is the record  
65 owner of the property and who, if anyone, has filed a financing  
66 statement affecting the property.

67 (6) If the property is an aircraft or part thereof and if  
68 there is any reasonable cause to believe that an instrument in the  
69 nature of a security device affects the property, then the  
70 prosecutor or the local law enforcement agency shall make inquiry  
71 of the Mississippi Department of Transportation as to what the  
72 records of the Federal Aviation Administration show as to who is  
73 the record owner of the property and who, if anyone, holds an  
74 instrument in the nature of a security device which affects the  
75 property.

76 (7) In the case of all other personal property subject to  
77 forfeiture, if there is any reasonable cause to believe that an  
78 instrument in the nature of a security device affects the  
79 property, then the prosecutor or the local law enforcement agency  
80 shall make a good faith inquiry to identify the holder of any such  
81 instrument.

82 (8) If the property is real estate, the prosecutor or the  
83 local law enforcement agency shall make inquiry of the chancery  
84 clerk of the county wherein the property is located to determine  
85 who is the owner of record and who, if anyone, is a holder of a  
86 bona fide mortgage, deed of trust, lien or encumbrance.

87 (9) In the event the answer to an inquiry states that the  
88 record owner of the property is any person other than the person  
89 who was in possession of it when it was seized, or states that any  
90 person holds any lien, encumbrance, security interest, other  
91 interest in the nature of a security interest, mortgage or deed of  
92 trust which affects the property, the prosecutor or the local law  
93 enforcement agency shall cause any record owner and also any



94 lienholder, secured party, other person who holds an interest in  
95 the property in the nature of a security interest, or holder of an  
96 encumbrance, mortgage or deed of trust which affects the property  
97 to be named in the petition of forfeiture and to be served with  
98 process in the same manner as in civil cases.

99 (10) If the owner of the property cannot be found and served  
100 with a copy of the petition of forfeiture, or if no person was in  
101 possession of the property subject to forfeiture at the time that  
102 it was seized and the owner of the property is unknown, the  
103 prosecutor or the local law enforcement agency shall file with the  
104 clerk of the court in which the proceeding is pending an affidavit  
105 to such effect, whereupon the clerk of the court shall publish  
106 notice of the hearing addressed to "the Unknown Owner of  
107 \_\_\_\_\_," filling in the blank space with a reasonably  
108 detailed description of the property subject to forfeiture.  
109 Service by publication shall contain the other requisites  
110 prescribed in Section 11-33-41, and shall be served as provided in  
111 Section 11-33-37, Mississippi Code of 1972, for publication of  
112 notice for attachments at law.

113 (11) No proceedings instituted pursuant to the provisions of  
114 this article shall proceed to hearing unless the judge conducting  
115 the hearing is satisfied that this section has been complied with.  
116 Any answer received from an inquiry required by subsections (3)  
117 through (8) of this section shall be introduced into evidence at  
118 the hearing.

119 (12) All property, real or personal, which is forfeited  
120 under this section shall be liquidated and, after deduction of  
121 court costs and expenses of liquidation, and after all liens are  
122 satisfied, the proceeds shall be returned to the victim or victims  
123 of the crime as restitution for property or monetary loss or for  
124 physical injury.

125 (13) The State Tax Commission shall issue a certificate of  
126 title to any person who purchases property under the provisions of



127 this section when a certificate of title is required under the  
128 laws of this state.

129         **SECTION 2.** This act shall take effect and be in force from  
130 and after July 1, 2003.

