

Sec. 139. **REPEALER.**

Minnesota Statutes 1988, sections 317.01; 317.02; 317.03; 317.04; 317.05; 317.06; 317.07; 317.08; 317.09; 317.10; 317.12; 317.13; 317.14; 317.15; 317.16; 317.165; 317.17; 317.175; 317.18; 317.19; 317.20; 317.201; 317.21; 317.22; 317.23; 317.24; 317.25; 317.26; 317.27; 317.271; 317.28; 317.285; 317.29; 317.30; 317.31; 317.32; 317.33; 317.34; 317.35; 317.36; 317.37; 317.38; 317.39; 317.40; 317.41; 317.42; 317.44; 317.45; 317.46; 317.47; 317.48; 317.49; 317.50; 317.51; 317.52; 317.53; 317.54; 317.55; 317.56; 317.57; 317.58; 317.59; 317.60; 317.61; 317.62; 317.63; 317.64; 317.65; 317.66; 317.67; 317.68, and 317.69, are repealed.

Section 120, subdivision 4, is repealed.

Sec. 140. **EFFECTIVE DATES.**

Sections 1 to 120 and 122 to 128 are effective August 1, 1989. Sections 121, 129 to 136, and 138 are effective January 1, 1991.

Presented to the governor May 30, 1989

Signed by the governor June 1, 1989, 11:30 p.m.

CHAPTER 305—H.F.No. 159

An act relating to crimes; providing for termination, cancellation, and forfeiture of real estate interests related to contraband or controlled substance seizures; amending Minnesota Statutes 1988, sections 566.02; 609.531; 609.5311, subdivisions 2 and 3; proposing coding for new law in Minnesota Statutes, chapters 504; 566; and 609.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[504.181] COVENANT OF LESSEE NOT TO ALLOW DRUGS.**

Subdivision 1. COVENANT NOT TO SELL DRUGS OR ALLOW DRUG SALES. In every lease or license of residential premises, whether in writing or parol, the lessee or licensee covenants that the premises, common area, and curtilage will not be used by the lessee or licensee or others acting under his or her control to manufacture, sell, give away, barter, deliver, exchange, distribute, or possess with intent to manufacture, sell, give away, barter, deliver, exchange, or distribute a controlled substance in violation of chapter 152.

Subd. 2. BREACH VOIDS RIGHT TO POSSESSION. A breach of the covenant created by subdivision 1 voids the lessee's or licensee's right to possession of the residential premises. All other provisions of the lease or license, including but not limited to the obligation to pay rent, remain in effect until the lease is terminated by the terms of the lease or operation of law.

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Subd. 3. WAIVER NOT ALLOWED. The parties to a lease or license of residential premises may not waive or modify the covenant imposed by this section.

Sec. 2. Minnesota Statutes 1988, section 566.02, is amended to read:

566.02 UNLAWFUL DETENTION OF LANDS OR TENEMENTS SUBJECT TO FINE.

When any person has made unlawful or forcible entry into lands or tenements, and detains the same, or, having peaceably entered, unlawfully detains the same, the person entitled to the premises may recover possession thereof in the manner hereinafter provided. A seizure under section 7, subdivision 1, for which there is not a defense under section 7, subdivision 3, constitutes unlawful detention by the tenant.

Sec. 3. [566.021] NOTICE OF SEIZURE PROVISION.

Landlords shall give written notice to tenants of the provision relating to seizures in section 566.02. Failure to give such notice does not subject the landlord to criminal or civil liability and is not a defense under section 7, subdivision 3.

Sec. 4. Minnesota Statutes 1988, section 609.531, is amended to read:

609.531 FORFEITURES.

Subdivision 1. **DEFINITIONS.** For the purpose of sections 609.531 to ~~609.5316~~ 609.5317, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a weapon used in the furtherance of a crime and defined as a dangerous weapon under section 609.02, subdivision 6.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the bureau of criminal apprehension, the Minnesota state patrol, a county sheriff's department, or a city or airport police department.

(f) "Designated offense" includes:

(1) For weapons used: any violation of this chapter;

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(2) For all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322, subdivision 1 or 2; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.671, subdivisions 3, 4, and 5; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; or 617.246.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Subd. 1a. **CONSTRUCTION.** Sections 609.531 to ~~609.5316~~ 609.5317 must be liberally construed to carry out the following remedial purposes:

- (1) to enforce the law;
- (2) to deter crime;
- (3) to reduce the economic incentive to engage in criminal enterprise;
- (4) to increase the pecuniary loss resulting from the detection of criminal activity; and
- (5) to forfeit property unlawfully used or acquired and divert the property to law enforcement purposes.

Subd. 4. **SEIZURE.** Property subject to forfeiture under sections 609.531 to ~~609.5316~~ 609.5317 may be seized by the appropriate agency upon process issued by any court having jurisdiction over the property. Property may be seized without process if:

- (1) the seizure is incident to a lawful arrest or a lawful search;
- (2) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this chapter; or
- (3) the appropriate agency has probable cause to believe that the delay occasioned by the necessity to obtain process would result in the removal or destruction of the property and that:
 - (i) the property was used or is intended to be used in commission of a felony; or
 - (ii) the property is dangerous to health or safety.

If property is seized without process under clause (3), subclause (i), the county attorney must institute a forfeiture action under section 609.5313 as soon as is reasonably possible.

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Subd. 5. RIGHT TO POSSESSION VESTS IMMEDIATELY; CUSTODY OF SEIZED PROPERTY. All right, title, and interest in property subject to forfeiture under sections 609.531 to ~~609.5316~~ 609.5317 vests in the appropriate agency upon commission of the act or omission giving rise to the forfeiture. Any property seized under sections 609.531 to 609.5316 is not subject to replevin, but is deemed to be in the custody of the appropriate agency subject to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is so seized, the appropriate agency may:

- (1) place the property under seal;
- (2) remove the property to a place designated by it;
- (3) in the case of controlled substances, require the state board of pharmacy to take custody of the property and remove it to an appropriate location for disposition in accordance with law; and
- (4) take other steps reasonable and necessary to secure the property and prevent waste.

Subd. 5a. BOND BY OWNER FOR POSSESSION. If the owner of property that has been seized under sections 609.531 to ~~609.5316~~ 609.5317 seeks possession of the property before the forfeiture action is determined, the owner may, subject to the approval of the appropriate agency, give security or post bond payable to the appropriate agency in an amount equal to the retail value of the seized property. On posting the security or bond, the seized property must be returned to the owner and the forfeiture action shall proceed against the security as if it were the seized property. This subdivision does not apply to contraband property.

Subd. 6a. FORFEITURE A CIVIL PROCEDURE; CONVICTION RESULTS IN PRESUMPTION. (a) An action for forfeiture is a civil in rem action and is independent of any criminal prosecution, except as provided in this subdivision. The appropriate agency handling the forfeiture has the benefit of the evidentiary presumption of section 609.5314, subdivision 1, but otherwise bears the burden of proving the act or omission giving rise to the forfeiture by clear and convincing evidence, except that in cases arising under section 609.5312, the designated offense may only be established by a felony level criminal conviction.

(b) A court may not issue an order of forfeiture under section 609.5311 while the alleged owner of the property is in custody and related criminal proceedings are pending against the alleged owner. For forfeiture of a motor vehicle, the alleged owner is the registered owner according to records of the department of public safety. For real property, the alleged owner is the owner of record. For other property, the alleged owner is the person notified by the prosecuting authority in filing the forfeiture action.

Sec. 5. Minnesota Statutes 1988, section 609.5311, subdivision 2, is amended to read:

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Subd. 2. **ASSOCIATED PROPERTY.** All property, real and personal, that has been used, or is intended for use, or has in any way facilitated, in whole or in part, the manufacturing, compounding, processing, delivering, importing, cultivating, exporting, transporting, or exchanging of contraband or a controlled substance that has not been lawfully manufactured, distributed, dispensed, and acquired is subject to forfeiture under this section, except as provided in subdivision 3.

Sec. 6. Minnesota Statutes 1988, section 609.5311, subdivision 3, is amended to read:

Subd. 3. **LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY ASSOCIATED WITH CONTROLLED SUBSTANCES.** (a) A conveyance device is subject to forfeiture under this section only if the retail value of the controlled substance is \$500 or more.

(b) Real property is subject to forfeiture under this section only if the retail value of the controlled substance or contraband is \$5,000 or more.

(c) Property used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner of the property is a consenting party to, or is privy to, the use or intended use of the property as described in subdivision 2.

(d) Property is subject to forfeiture under this section only if its owner was privy to the use or intended use described in subdivision 2, or the unlawful use or intended use of the property otherwise occurred with the owner's knowledge or consent.

(e) Forfeiture under this section of a conveyance device or real property encumbered by a bona fide security interest is subject to the interest of the secured party unless the secured party had knowledge of or consented to the act or omission upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

(f) Notwithstanding paragraphs (d) and (e), property is not subject to forfeiture based solely on the owner's or secured party's knowledge of the unlawful use or intended use of the property if the owner or secured party took reasonable steps to terminate use of the property by the offender.

Sec. 7. **[609.5317] REAL PROPERTY; SEIZURES.**

Subdivision 1. RENTAL PROPERTY. (a) When contraband or a controlled substance manufactured, distributed, or acquired in violation of chapter 152 is seized on residential rental property incident to a lawful search or arrest, the county attorney shall give the notice required by this subdivision to (1) the landlord of the property or the fee owner identified in the records of the county assessor, and (2) the agent authorized by the owner to accept service pursuant to

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section 504.22. The notice is not required during an ongoing investigation. The notice shall state what has been seized and specify the applicable duties and penalties under this subdivision. The notice shall state that the landlord who chooses to assign the right to bring an unlawful detainer action retains all rights and duties, including removal of a tenant's personal property following issuance of the writ of restitution and delivery of the writ to the sheriff for execution. The notice shall also state that the landlord may contact the county attorney if threatened by the tenant. Notice shall be sent by certified letter, return receipt requested, within 30 days of the seizure. If receipt is not returned, notice shall be given in the manner provided by law for service of summons in a civil action.

(b) Within 15 days after notice of the first occurrence, the landlord shall bring, or assign to the county attorney of the county in which the real property is located, the right to bring an unlawful detainer action against the tenant. The assignment must be in writing on a form prepared by the county attorney. Should the landlord choose to assign the right to bring an unlawful detainer action, the assignment shall be limited to those rights and duties up to and including delivery of the writ of restitution to the sheriff for execution.

(c) Upon notice of a second occurrence involving the same tenant, the property is subject to forfeiture under sections 609.531, 609.5311, 609.5313, and 609.5315, unless an unlawful detainer action has been commenced as provided in paragraph (b) or the right to bring an unlawful detainer action was assigned to the county attorney as provided in paragraph (b). If the right has been assigned and not previously exercised, or if the county attorney requests an assignment and the landlord makes an assignment, the county attorney may bring an unlawful detainer action rather than an action for forfeiture.

Subd. 2. ADDITIONAL REMEDIES. Nothing in subdivision 1 prevents the county attorney from proceeding under section 609.5311 whenever that section applies.

Subd. 3. DEFENSES. It is a defense against a proceeding under subdivision 1, paragraph (b), that the tenant had no knowledge or reason to know of the presence of the contraband or controlled substance or could not prevent its being brought onto the property.

It is a defense against a proceeding under subdivision 1, paragraph (c), that the landlord made every reasonable attempt to evict a tenant or to assign the county attorney the right to bring an unlawful detainer action against the tenant, or that the landlord did not receive notice of the seizure.

Subd. 4. LIMITATIONS. This section shall not apply if the retail value of the contraband or controlled substance is less than the amount specified in section 609.5311, subdivision 3, paragraph (b).

Sec. 8. EFFECTIVE DATE; APPLICATION.

Sections 2, 4, 5, 6, and 7 are effective on October 1, 1989, and apply to seizures of contraband or controlled substances occurring on or after that date.

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On or before September 1, 1989, landlords shall give notice to tenants of residential rental property under an existing lease or periodic rent agreement, that section 2 will become effective October 1, 1989.

All residential rental property leases or periodic rent agreements entered on or after September 1, 1989, must include the notice to the tenant required by section 3.

Presented to the governor May 30, 1989

Signed by the governor June 1, 1989, 10:49 p.m.

CHAPTER 306—H.F.No. 1181

An act relating to metropolitan government; providing standards for the development guide; regulating budget reporting; providing tax levy formulas; regulating standards and procedural requirements for determining metropolitan significance; providing for payment of environmental documents from right-of-way loans; amending Minnesota Statutes 1988, sections 473.145; 473.1623, subdivision 4, and by adding subdivisions; 473.167, subdivisions 2, 3, and 5; 473.173, subdivisions 3 and 4; and 473.249, subdivision 1; repealing Minnesota Statutes 1988, section 473.249, subdivision 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1988, section 473.145, is amended to read:

473.145 DEVELOPMENT GUIDE.

The metropolitan council shall prepare and adopt, after appropriate study and such public hearings as may be necessary, a comprehensive development guide for the metropolitan area. It shall consist of a compilation of policy statements, goals, standards, programs, and maps prescribing guides for ~~an~~ the orderly and ~~economic~~ economical development, public and private, of the metropolitan area. The comprehensive development guide shall recognize and encompass physical, social, or economic needs of the metropolitan area and those future developments which will have an impact on the entire area including but not limited to such matters as land use, parks and open space land needs, the necessity for and location of airports, highways, transit facilities, public hospitals, libraries, schools, and other public buildings.

Sec. 2. Minnesota Statutes 1988, section 473.1623, subdivision 4, is amended to read:

Subd. 4. **FINANCIAL REPORTING; BUDGETING.** ~~(a)~~ The advisory committee, with the assistance of the state auditor and the legislative auditor, shall develop uniform or consistent standards, formats, and procedures for the budgets and financial reports of the council and all metropolitan agencies. The

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