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SENATE BILL NO. 1110

Offered January 20, 1997

A *BILL to amend and reenact § 19.2-386.3 of the Code of Virginia, relating to notice of seizure for forfeiture.*

Patrons—Stolle and Schrock

Referred to the Committee for Courts of Justice**Be it enacted by the General Assembly of Virginia:****1. That § 19.2-386.3 of the Code of Virginia is amended and reenacted as follows:**

§ 19.2-386.3. Notice of seizure for forfeiture and notice of motion for judgment.

A. If an information has not been filed, then upon seizure of any property under § 18.2-249, the agency seizing the property shall forthwith notify in writing the attorney for the Commonwealth in the county or city in which the seizure occurred, who shall, within twenty-one days of receipt of such notice, *except as provided in subsection B*, file a notice of seizure for forfeiture with the clerk of the circuit court. Such notice of seizure for forfeiture shall specifically describe the property seized, set forth in general terms the grounds for seizure, identify the date on which the seizure *for forfeiture* occurred, and identify all owners and lien holders then known or of record. The clerk shall forthwith mail by first-class mail notice of seizure for forfeiture to the last known address of all identified owners and lien holders. When property has been seized under § 18.2-249 prior to filing an information, *except as provided in subsection B*, then an information against that property shall be filed within ninety days of the date of seizure or the property shall be released to the owner or lien holder.

B. *When property has been seized pursuant to a lawfully issued search warrant or is otherwise being lawfully held as evidence in a criminal investigation or proceeding, then a notice and information for forfeiture shall be filed with the clerk of the circuit court no later than twenty-one days from the date of the conclusion of the criminal proceeding in the circuit court.*

BC. Except as to corporations, all parties defendant shall be served, in accordance with § 8.01-296, with a copy of the information and a notice to appear prior to any motion for default judgment on the information. The notice shall contain a statement warning the party defendant that his interest in the property shall be subject to forfeiture to the Commonwealth unless within thirty days after service on him of the notice, or before the date set forth in the order of publication with respect to the notice, an answer under oath is filed in the proceeding setting forth (i) the nature of the defendant's claim, (ii) the exact right, title or character of the ownership or interest in the property and the evidence thereof, and (iii) the reason, cause, exemption or defense he may have against the forfeiture of his interest in the property, including but not limited to the exemptions set forth in § 19.2-386.8. Service upon corporations shall be made in accordance with § 8.01-299 or subdivision 1 or 2 of § 8.01-301; however, if such service cannot be thus made, it shall be made by publication in accordance with § 8.01-317.

INTRODUCED

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