

ACT 112

H.B. NO. 3724

A Bill for an Act Relating to the Forfeiture Law.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that a major purpose of the 1988 Hawaii omnibus criminal forfeiture act was to deprive criminals of the profits of certain specified criminal activities while protecting the interest of innocent third parties who hold an interest in forfeited properties. The sensitivity displayed in the original legislative history of the 1988 act towards protecting innocent owners and interest holders of real property is maintained and promoted by granting the holders of the immediate reversionary interest in real property the first option to acquire the portion of years remaining on the existing lease and any improvements built or paid for by the lessee whose interest has been forfeited.

SECTION 2. Section 712A-16, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) All property forfeited to the State under this chapter shall be transferred to the attorney general who:

- (a) May transfer property, other than currency, which shall be distributed in accordance with subsection (2) [of this section,] to any local or state government entity, municipality, or law enforcement agency within the State;

- (b) May sell forfeited property to the public by public sale; provided that for leasehold real property:
 - (i) The attorney general shall first offer the holder of the immediate reversionary interest the right to acquire the leasehold interest and any improvements built or paid for by the lessee for the then fair market value of the leasehold interest and improvements. The holder of the immediate reversionary interest shall have thirty days after receiving written notice within which to accept or reject the offer in writing; provided that the offer shall be deemed to be rejected if the holder of the immediate reversionary interest has not communicated acceptance to the attorney general within the thirty-day period. The holder of the immediate reversionary interest shall have thirty days after acceptance to tender to the attorney general the purchase price for the leasehold interest and any improvements, upon which tender the leasehold interest and improvements shall be conveyed to the holder of the immediate reversionary interest.
 - (ii) If the holder of the immediate reversionary interest fails to exercise the right of first refusal provided in subparagraph (i), the attorney general may proceed to sell the leasehold interest and any improvements by public sale.
 - (iii) Any dispute between the attorney general and the holder of the immediate reversionary interest as to the fair market value of the leasehold interest and improvements shall be settled by arbitration pursuant to chapter 658;
- (c) May sell or destroy all raw materials, products, and equipment of any kind used or intended for use in manufacturing, compounding, or processing a controlled substance;
- (d) May compromise and pay valid claims against property forfeited pursuant to this chapter; or
- (e) May make any other disposition of forfeited property authorized by law.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 27, 1992.)