

**FLOOR AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1516  
Page 6 Section 2 Lines 10  
Of the printed Bill  
Of the Engrossed Bill

By inserting a new Section 2 to read as follows:

(see attached)

and by renumbering the subsequent section of the bill.

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: Scott Biggs

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 "SECTION 2. AMENDATORY 21 O.S. 2011, Section 2002, as  
2 amended by Section 2, Chapter 409, O.S.L. 2014 (21 O.S. Supp. 2014,  
3 Section 2002), is amended to read as follows:

4 Section 2002. A. Any commissioned peace officer of this state  
5 is authorized to seize any currency, negotiable instrument, monetary  
6 instrument, equipment or property used or involved in, used to  
7 facilitate, ~~delivered~~ derived from or traceable to a violation of  
8 Section 2001 of this title. The seized item may be held as evidence  
9 until a forfeiture has been declared or a release ordered.  
10 Forfeiture actions under this section may be brought by the district  
11 attorney or Attorney General in the proper county of venue as  
12 petitioner; provided, in the event the district attorney or Attorney  
13 General elects not to file such action, or fails to file such action  
14 within ninety (90) days of the date of the seizure of the item, the  
15 item shall be returned to the owner.

16 B. Notice of seizure and intended forfeiture proceeding shall  
17 be filed in the office of the clerk of the district court for the  
18 county wherein the item is seized and shall be given all owners and  
19 parties in interest.

20 C. Notice shall be given according to one of the following  
21 methods:

22 1. Upon each owner, lienholder, or party in interest whose name  
23 and address is known, served in the manner of service of process in  
24

1 civil cases prescribed by Section 2004 of Title 12 of the Oklahoma  
2 Statutes; or

3 2. Upon all other owners, whose addresses are unknown, but who  
4 are believed to have an interest in the property by one publication  
5 in a newspaper of general circulation in the county where the  
6 seizure was made.

7 D. Within sixty (60) days after the mailing or publication of  
8 the notice, the owner of the property and any other party in  
9 interest or claimant may file a verified answer and claim to the  
10 item described in the notice of seizure and of the intended  
11 forfeiture proceeding.

12 E. If at the end of sixty (60) days after the notice has been  
13 mailed or published there is no verified answer on file, the court  
14 shall hear evidence upon the fact of the unlawful use and may order  
15 the item forfeited to the state, if such fact is proven.

16 F. If a verified answer is filed, the forfeiture proceeding  
17 shall be set for hearing.

18 G. Proceedings under this section shall be special proceedings.

19 H. At the hearing the petitioner shall prove by a preponderance  
20 of the evidence that property was used in the attempt or commission  
21 of an act specified in subsection A of this section with knowledge  
22 by the owner of the item.

23 I. The claimant of any right, title, or interest in the item  
24 may prove the lien, mortgage, or conditional sales contract to be

1 bona fide and that the right, title, or interest created by the item  
2 was created without any knowledge or reason to believe that the item  
3 was being, or was to be, used for the purpose charged.

4 J. In the event of such proof, the court may order the item  
5 released to the bona fide or innocent owner, lienholder, mortgagee,  
6 or vendor if the amount due such person is equal to, or in excess  
7 of, the value of the item as of the date of the seizure, it being  
8 the intention of this section to forfeit only the right, title, or  
9 interest of the purchaser.

10 K. If the amount due to such person is less than the value of  
11 the item, or if no bona fide claim is established, the item may be  
12 forfeited to the state and may be sold pursuant to judgment of the  
13 court, as on sale upon execution, and as provided in Section 2-508  
14 of Title 63 of the Oklahoma Statutes, except as otherwise provided  
15 for by law.

16 L. A seized item taken or detained pursuant to this section  
17 shall not be repleviable, but shall be deemed to be in the custody  
18 of the petitioner or in the custody of the law enforcement agency.  
19 The petitioner shall release the seized item to the owner of the  
20 item if it is determined that the owner had no knowledge of the  
21 illegal use of the item or if there is insufficient evidence to  
22 sustain the burden of showing illegal use of the item. If the owner  
23 of the property stipulates to the forfeiture and waives the hearing,  
24 the petitioner may determine if the value of the item is equal to or

1 less than the outstanding lien. If such lien exceeds the value of  
2 the item, the item may be released to the lienholder. A seized item  
3 which has not been released by the petitioner shall be subject to  
4 the orders and decrees of the court or the official having  
5 jurisdiction thereof.

6 M. Attorney fees shall not be assessed against the state or the  
7 petitioner for any actions or proceeding pursuant to this section.

8 N. The proceeds of the sale of any property shall be  
9 distributed as follows, in the order indicated:

10 1. To the bona fide or innocent purchaser, conditional sales  
11 vendor, or mortgagee of the item, if any, up to the amount of the  
12 interest of that person in the property, when the court declaring  
13 the forfeiture orders a distribution to such person;

14 2. To the payment of the actual reasonable expenses of  
15 preserving the item;

16 3. To the victim of the crime to compensate the victim for any  
17 loss incurred as a result of the act for which the item was  
18 forfeited; and

19 4. The balance to a revolving fund in the office of the county  
20 treasurer of the county wherein the property was seized, to be  
21 distributed as follows: one-half (1/2) to the investigating law  
22 enforcement agency and one-half (1/2) to the district attorney to be  
23 used to defray any lawful expenses of the office of the district  
24 attorney. If the petitioner is not the district attorney, then the

1 one-half (1/2) which would have been designated to that office shall  
2 be distributed to the petitioner.

3 O. If the court finds that the item was not used in the attempt  
4 or commission of an act specified in subsection A of this section  
5 and was not an item subject to forfeiture pursuant to subsection B  
6 of this section, the court shall order the item released to the  
7 owner as the right, title, or interest as determined by the court.

8 P. No vehicle, airplane, or vessel used by a person as a common  
9 carrier in the transaction of business as a common carrier shall be  
10 forfeited pursuant to the provisions of this section unless it shall  
11 be proven that the owner or other person in charge of such  
12 conveyance was a consenting party or privy to the attempt or  
13 commission of an act specified in subsection A or B of this section.  
14 No item shall be forfeited pursuant to the provisions of this  
15 section by reason of any act or omission established by the owner  
16 thereof to have been committed or omitted without the knowledge or  
17 consent of such owner, and by any person other than such owner while  
18 the item was unlawfully in the possession of a person other than the  
19 owner in violation of the criminal laws of the United States or of  
20 any state.

21 Q. Whenever any item is forfeited pursuant to this section, the  
22 district court having jurisdiction of the proceeding may order that  
23 the forfeited item may be retained for its official use by the  
24

1 state, county, or municipal law enforcement agency which seized the  
2 item."

3  
4 55-1-6914 GRS 02/18/15  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24