

**ATTORNEY GENERAL[61]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 809A.25, the Attorney General hereby gives Notice of Intended Action to amend Chapter 33, “Forfeited Property,” Iowa Administrative Code.

Forfeited property may be used by the Attorney General (“the Department”) in the enforcement of the criminal law. The Department may give forfeited property to any other law enforcement agency within the state if, in the opinion of the Attorney General, it will enhance law enforcement within the state. (See Iowa Code section 809A.17.)

The proposed amendments decrease the amount of forfeited funds retained by the Department from 20 percent to 10 percent and increase the amount of forfeited funds given to local law enforcement agencies from 80 percent to 90 percent. The proposed amendments also decrease from 20 percent to 10 percent the amount of proceeds from the sale of forfeited real estate retained by the Department.

The proposed amendments correspond with the provisions of Iowa Code section 809A.17(5). The proposed amendments remove a requirement that law enforcement agencies notify the Department whenever they seize property for forfeiture, except seizure of real property. The proposed amendments also require a seizing agency to apply within ten days for a certificate of title or a junking certificate for a forfeited vehicle which has been transferred to the agency.

The proposed amendments are not subject to waiver.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 9, 2013. Such written material should be directed to Corwin Ritchie, Assistant Attorney General, Hoover State Office Building, 1305 East Walnut St., Des Moines, Iowa 50319; fax (515)281-4313. Persons who wish to convey their views orally should contact Corwin Ritchie at (515)281-5428.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 809A.

The following amendments are proposed.

ITEM 1. Amend subrule 33.3(1) as follows:

**33.3(1)** An agency which seizes real property for forfeiture must notify the department within ten days of the seizure. Notice shall include the identity of the party from whom the property was seized, the date and county of seizure, and ~~an inventory~~ a legal description of the property seized for forfeiture.

ITEM 2. Amend paragraph **33.4(4)“e”** as follows:

*e.* The department will retain ~~20~~ 10 percent of the gross sale price of the real property. The balance of the proceeds, ~~80~~ 90 percent, will be given to the seizing agency for its use or for division among law enforcement agencies and prosecutors pursuant to agreement.

ITEM 3. Adopt the following new paragraph **33.4(6)“d”**:

*d.* The seizing agency shall, within ten days of receipt of the transferred title, send to the Iowa department of transportation an application for certificate of title or a junking certificate for the vehicle.

ITEM 4. Amend subrule 33.4(7) as follows:

**33.4(7) Cash.**

*a.* The department will retain ~~20~~ 10 percent of forfeited cash. The balance of forfeited cash, ~~80~~ 90 percent, will be given to the seizing agency for its use or for division among law enforcement agencies and prosecutors pursuant to agreement.

*b.* In the event of a cash forfeiture in excess of \$400,000, amounts over \$400,000 shall be apportioned as follows: ~~40~~ 45 percent to the seizing agency or agencies; ~~40~~ 45 percent to other law enforcement agencies within the region; and ~~20~~ 10 percent to be retained by the department.