

House Amendment 5035

Amendment Text

PAG LIN

1 1 Amend [Senate File 482](#), as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. Page 3, lines 15 and 16, by striking the words
1 4 ", if enacted by [Senate File 446](#)".
1 5 #2. Page 3, lines 18 and 19, by striking the words
1 6 "if enacted by [Senate File 446](#)".
1 7 #3. Page 7, line 14, by inserting after the word
1 8 "manner" the following: "pursuant to this section".
1 9 #4. Page 8, by striking lines 8 through 12 and
1 10 inserting the following: "court a surety bond or cash
1 11 in an amount determined by the court to be reasonable
1 12 in light of the fair market value of the property.
1 13 Property shall not be released if any of the following
1 14 apply:
1 15 a. The owner fails to post the required bond."
1 16 #5. Page 10, line 12, by striking the word
1 17 "either" and inserting the following: "any".
1 18 #6. Page 10, by inserting after line 16 the
1 19 following:
1 20 "(3) A request for an extension of time in which
1 21 to file a claim or petition for recognition of
1 22 exemption."
1 23 #7. Page 10, by striking line 18 and inserting the
1 24 following: "only be granted for good cause shown for
1 25 mistake, inadvertence, surprise, excusable neglect, or
1 26 unavoidable casualty."
1 27 #8. Page 13, line 4, by inserting after the word
1 28 "practical" the following: ", but not later than ten
1 29 days,".
1 30 #9. Page 14, line 17, by inserting after the word
1 31 "days" the following: "of such notice".
1 32 #10. Page 16, line 1, by inserting after the word
1 33 "mail" the following: "or other service which
1 34 indicates the date on which the claim was received by
1 35 the seizing agency and prosecuting attorney".
1 36 #11. Page 16, line 3, by striking the words "not
1 37 be granted" and inserting the following: "only be
1 38 granted for good cause shown for mistake,
1 39 inadvertence, surprise, excusable neglect, or
1 40 unavoidable casualty".
1 41 #12. Page 18, line 17, by striking the word
1 42 "claimant," and inserting the following: "claimant."
1 43 #13. Page 18, by striking lines 18 and 19 and
1 44 inserting the following: "However, once the claimant
1 45 comes forward with some evidence supporting the
1 46 existence of the exemption, the state must provide
1 47 some evidence to negate the assertion of the
1 48 exemption. The state's evidence must be substantial,
1 49 though not necessarily rising to the level of a
1 50 preponderance of the evidence, and more than a simple
2 1 assertion of the claimant's interest in the property."
2 2 #14. Page 18, by inserting before line 20 the
2 3 following: "The agency or political subdivision
2 4 bringing the forfeiture action shall pay the
2 5 reasonable attorneys fees and costs, as determined by
2 6 the court, incurred by a claimant who prevails on a
2 7 claim for exemption in a proceeding under this

2 8 chapter."
2 9 #15. Page 18, line 33, by striking the word "A"
2 10 and inserting the following: "Subject to the
2 11 exemptions contained in section 809A.5, a".
2 12 #16. By striking page 18, line 35, through page
2 13 19, line 1, and inserting the following: "establishes
2 14 any of the following:".
2 15 #17. Page 21, by striking lines 13 through 26 and
2 16 inserting the following:
2 17 "5. The answer shall be filed within twenty days
2 18 after service on the claimant of the civil in rem
2 19 complaint."
2 20 #18. Page 26, line 24, by inserting after the word
2 21 "holder" the following: "or interest holder".
2 22 #19. Page 26, line 26, by inserting after the word
2 23 "holder" the following: "or interest holder".
2 24 #20. Page 26, line 29, by inserting after the word
2 25 "holder's" the following: "or interest holder's".
2 26 #21. Page 26, line 31, by inserting after the word
2 27 "holder" the following: "or interest holder".
2 28 #22. Page 26, line 32, by inserting after the word
2 29 "holder's" the following: "or interest holder's".
2 30 #23. Page 27, line 1, by inserting after the word
2 31 "holder" the following: "or interest holder".
2 32 #24. Page 27, line 7, by inserting after the word
2 33 "holder" the following: "or interest holder".
2 34 #25. Page 27, line 9, by inserting after the word
2 35 "holder" the following: "or interest holder".
2 36 #26. Page 27, line 11, by inserting after the word
2 37 "holder's" the following: "or interest holder's".
2 38 #27. Page 27, line 12, by inserting after the word
2 39 "the" the following: "regulated interest holder or".
2 40 #28. Page 46, line 25, by striking the words "five
2 41 thousand" and inserting the following: "seven
2 42 thousand five hundred".
2 43 #29. By striking page 49, line 34, through page
2 44 50, line 7.
2 45 #30. Page 53, by inserting before line 28 the
2 46 following:
2 47 "Sec. _____. Section [22.7](#), Code Supplement 1995, is
2 48 amended by adding the following new subsection:
2 49 NEW SUBSECTION. 33. A record required under the
2 50 Iowa financial transaction reporting Act listed in
3 1 section 529.2, subsection 10."
3 2 #31. Page 54, by striking lines 25 through 35 and
3 3 inserting the following:
3 4 "Sec. _____. Section 321J.4B, subsection 12, Code
3 5 Supplement 1995, is amended to read as follows:
3 6 12. Operating a motor vehicle on a street or
3 7 highway in this state in violation of an order of
3 8 impoundment or immobilization is a serious
3 9 misdemeanor. A motor vehicle which is subject to an
3 10 order of impoundment or immobilization that is
3 11 operated on a street or highway in this state in
3 12 violation of the order shall be seized and forfeited
3 13 to the state under

~~chapter~~

- chapters 809 and 809A."

3 14 #32. Page 55, by inserting before line 1 the
3 15 following:
3 16 "Sec. _____. Section [321J.4B](#), subsections 13 and 16,
3 17 Code Supplement 1995, are amended to read as follows:
3 18 13. Once the period of impoundment or
3 19 immobilization has expired, the owner of the motor
3 20 vehicle shall have thirty days to claim the motor
3 21 vehicle and pay the fees and charges imposed under

3 22 this section. If the owner or the owner's designee
3 23 has not claimed the vehicle and paid the fees and
3 24 charges imposed under this section within seven days
3 25 from the date of expiration of the period, the clerk
3 26 shall send written notification to the motor vehicle
3 27 owner, at the owner's last known address, notifying
3 28 the owner of the date of expiration of the period of
3 29 impoundment or immobilization and of the period in
3 30 which the motor vehicle must be claimed. If the motor
3 31 vehicle owner fails to claim the motor vehicle and pay
3 32 the fees and charges imposed within the thirty-day
3 33 period, the motor vehicle shall be forfeited to the
3 34 state under

~~chapter~~

- chapters 809 and 809A.

3 35 16. Notwithstanding the requirements of this
3 36 section, the holder of a security interest in a
3 37 vehicle which is impounded or immobilized pursuant to
3 38 this section or forfeited in the manner provided in
3 39

~~chapter~~

- chapters 809 and 809A shall be notified of the

3 40 impoundment, immobilization, or forfeiture within
3 41 seventy-two hours of the seizure of the vehicle and
3 42 shall have the right to claim the motor vehicle
3 43 without payment of any fees or surcharges unless the
3 44 value of the vehicle exceeds the value of the security
3 45 interest held by the creditor."

3 46 #33. Page 55, line 35, by inserting after the word
3 47 "Code" the following: "Supplement".

3 48 #34. Page 56, by inserting after line 1, the
3 49 following:

3 50 "Sec. ____ . Section 809.4, Code 1995, is amended to
4 1 read as follows:

4 2 809.4 HEARING & APPEAL.

4 3 An application for the return of seized property
4 4 shall be set for hearing not less than five nor more
4 5 than thirty days after the filing of the application
4 6 and shall be tried to the court. All claims to the
4 7 same property shall be heard in one proceeding unless
4 8 it is shown that the proceeding would result in
4 9 prejudice to one or more of the parties. If the total
4 10 value of the property sought to be returned is less
4 11 than five thousand dollars, the proceeding may be
4 12 conducted by a magistrate or a district associate
4 13 judge with appeal to be as in the case of small
4 14 claims. In all other cases, the hearing shall be
4 15 conducted by a district judge, with appeal as provided
4 16 in section

~~809.12~~

- 809.12A.

4 17 Sec. ____ . NEW SECTION. 809.12A APPEALS.

4 18 An appeal from a denial of an application for the
4 19 return of seized property or from an order for the
4 20 return of seized property shall be made within thirty
4 21 days after the entry of a judgment order. The
4 22 appellant, other than the state, shall post a bond of
4 23 a reasonable amount as the court may fix and approve,
4 24 conditioned to pay all costs of the proceedings if the
4 25 appellant is unsuccessful on appeal. The appellant,
4 26 other than the state, may be required to post a
4 27 supersedeas bond or other security, as the court finds
4 28 to be reasonable, in order to stay the operation of a
4 29 forfeiture order under section 809A.16.

4 30 Sec. ____ . Section [809.15](#), Code 1995, is amended to
4 31 read as follows:
4 32 809.15 COMBINING PROCEEDINGS.
4 33 In cases involving seized property and

~~forfeitable~~

4 34 property subject to forfeiture pursuant to section
4 35 809A.4, the court may order that the proceedings be
4 36 combined for purposes of this chapter."
4 37 #35. By striking page 56, line 12, through page
4 38 57, line 2.
4 39 #36. By renumbering, relettering, and correcting
4 40 internal references as necessary.

4 41

4 42

4 43 _____

4 44 COMMITTEE ON [JUDICIARY](#)
4 45 HURLEY of Fayette, Chairperson
4 46 [SF 482](#).707 76
4 47 mk/sc