

Senate Study Bill 1014 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED ATTORNEY GENERAL
BILL)

A BILL FOR

1 An Act relating to procedural requirements in in rem forfeiture
2 proceedings.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 809A.13, subsection 3, Code 2011, is
2 amended to read as follows:

3 3. ~~Only an owner of or an interest holder in the property~~
4 ~~who has timely filed a proper claim pursuant to section 809A.11~~
5 ~~may file an answer in an action in rem.~~ For the purposes of
6 this section, an owner of or interest holder in property who
7 has filed a claim and an answer shall be referred to as a
8 claimant.

9

EXPLANATION

10 This bill relates to procedural requirements in in rem
11 forfeiture proceedings.

12 Code section 809A.13 provides that an in rem forfeiture
13 action may be brought by a prosecuting attorney by serving a
14 notice of pending forfeiture on the owner or interested party
15 or by filing a verified complaint of forfeiture in court. In
16 a case where the owner or interested party is served notice
17 of the pending forfeiture, Code section 809A.11 provides that
18 the owner or interested property owner can file, within 30
19 days after the effective notice date, a claim in the property.
20 No similar notice or claim requirements exist if the in rem
21 forfeiture action is commenced through the filing of a verified
22 complaint. The bill eliminates the procedural limitation that
23 only allows an owner or an interest holder in property that is
24 the subject of an in rem forfeiture action who has been served
25 notice of the pending forfeiture and who has filed a timely
26 claim to file an answer in the action.

27 The bill is in response to an Iowa Supreme Court decision
28 filed on April 9, 2010 (In re Young, 780 N.W.2d 726), in which
29 the court held this statutory provision unconstitutional
30 because the plain meaning of the statute precludes an aggrieved
31 property owner or interested party from filing an answer to the
32 state's in rem forfeiture complaint in violation of state and
33 federal due process guarantees.