



General Assembly

**Substitute Bill No. 6339**

January Session, 2009

\*          HB06339FIN          050409          \*

**AN ACT CONCERNING THE FORFEITURE OF PROPERTY OBTAINED BY SECURITIES FRAUD.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective from passage*) (a) All moneys or property  
2       constituting, or derived from, the proceeds obtained, directly or  
3       indirectly, from a violation of section 36b-4 or 36b-5 of the general  
4       statutes shall be subject to forfeiture to the state pursuant to subsection  
5       (b) of this section.

6       (b) Not later than ninety days after the seizure of moneys or  
7       property subject to forfeiture pursuant to subsection (a) of this section,  
8       in connection with a lawful criminal arrest or a lawful search, the Chief  
9       State's Attorney or a deputy chief state's attorney, state's attorney or  
10      assistant or deputy assistant state's attorney may petition the court in  
11      the nature of a proceeding in rem to order forfeiture of such moneys or  
12      property. Such proceeding shall be deemed a civil suit in equity in  
13      which the state shall have the burden of proving all material facts by  
14      clear and convincing evidence. The court shall identify the owner of  
15      such moneys or property and any other person as appears to have an  
16      interest therein, and order the state to give notice to such owner and  
17      any interested person by certified or registered mail. The court shall  
18      promptly, but not less than two weeks after such notice, hold a hearing  
19      on the petition, except that, for good cause shown, the court may delay

20 the holding of such hearing. No testimony offered or evidence  
21 produced by such owner or interested person at such hearing and no  
22 evidence discovered as a result of or otherwise derived from such  
23 testimony or evidence may be used against such owner or interested  
24 person in any proceeding, except that no such owner or interested  
25 person shall be immune from prosecution for perjury or contempt  
26 committed while giving such testimony or producing such evidence.  
27 At such hearing, the court shall hear evidence and make findings of  
28 fact and enter conclusions of law and shall issue a final order from  
29 which the parties shall have such right of appeal as from a decree in  
30 equity.

31 (c) No moneys or property shall be forfeited under this section to  
32 the extent of the interest of an owner or lienholder by reason of any act  
33 or omission committed by another person if such owner or lienholder  
34 did not know and could not have reasonably known that such moneys  
35 or property was being used or was intended to be used in, or was  
36 derived from, criminal activity.

37 (d) Any property ordered forfeited pursuant to subsection (b) of this  
38 section shall be sold at public auction conducted by the Commissioner  
39 of Administrative Services or the commissioner's designee.

40 (e) The proceeds from any sale of property under subsection (d) of  
41 this section and any moneys forfeited under this section shall be  
42 applied: (1) To payment of the balance due on any lien preserved by  
43 the court in the forfeiture proceedings; (2) to payment of any costs  
44 incurred for the storage, maintenance, security and forfeiture of any  
45 such property; and (3) to payment of court costs. The balance, if any,  
46 shall be deposited in the securities fraud restitution account  
47 established under subsection (f) of this section.

48 (f) There is established a securities fraud restitution account which  
49 shall be a separate, nonlapsing account within the General Fund. The  
50 account shall contain any moneys required by law to be deposited in  
51 the account. The funds in the account shall be expended by the

52 Department of Banking to make restitution to persons who have been  
53 victims of a violation of section 36b-4 or 36b-5 of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>from passage</i>	New section
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**JUD**      *Joint Favorable Subst.*

**FIN**      *Joint Favorable*