

# Senate Bill 430

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## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Includes specified crimes as prohibited conduct for purposes of civil forfeiture.  
Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to civil forfeiture; creating new provisions; amending ORS 131A.005; and declaring an  
3 emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 131A.005 is amended to read:

6 131A.005. As used in this chapter:

7 (1) "All persons known to have an interest" means:

8 (a) Any person who filed a notice of interest for seized property with any public office, in the  
9 manner required or permitted by law, before the property was seized for forfeiture;

10 (b) Any person from whose custody property is seized for forfeiture; and

11 (c) Any person who has an interest in property seized for forfeiture, including all owners and  
12 occupants of the property, whose identity and address is known or is ascertainable upon diligent  
13 inquiry and whose rights and interest in the property may be affected by the action.

14 (2) "Attorney fees" has the meaning given that term in ORCP 68 A.

15 (3) "Financial institution" means any person lawfully conducting business as:

16 (a) A financial institution or trust company, as those terms are defined in ORS 706.008;

17 (b) A consumer finance company subject to the provisions of ORS chapter 725;

18 (c) A mortgage banker or a mortgage broker as those terms are defined in ORS 86A.100, a  
19 mortgage servicing company or other mortgage company;

20 (d) An officer, agency, department or instrumentality of the federal government, including but  
21 not limited to:

22 (A) The Secretary of Housing and Urban Development;

23 (B) The Federal Housing Administration;

24 (C) The United States Department of Veterans Affairs;

25 (D) Rural Development and the Farm Service Agency of the United States Department of Agri-  
26 culture;

27 (E) The Federal National Mortgage Association;

28 (F) The Government National Mortgage Administration;

29 (G) The Federal Home Loan Mortgage Corporation;

30 (H) The Federal Agricultural Mortgage Corporation; and

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

- 1 (I) The Small Business Administration;
- 2 (e) An agency, department or instrumentality of the state, including but not limited to:
- 3 (A) The Housing and Community Services Department;
- 4 (B) The Department of Veterans' Affairs; and
- 5 (C) The Public Employees Retirement System;
- 6 (f) An agency, department or instrumentality of any local government, as defined by ORS
- 7 174.116, or special government body, as defined by ORS 174.117, including but not limited to such
- 8 agencies as the Portland Development Commission;
- 9 (g) An insurer as defined in ORS 731.106;
- 10 (h) A private mortgage insurance company;
- 11 (i) A pension plan or fund or other retirement plan; and
- 12 (j) A broker-dealer or investment adviser as defined in ORS 59.015.
- 13 (4) "Forfeiting agency" means a public body that is seeking forfeiture of property under this
- 14 chapter.
- 15 (5) "Forfeiture counsel" means an attorney designated by a forfeiting agency to represent the
- 16 forfeiting agency in forfeiture proceedings.
- 17 (6) "Forfeiture proceeds" means all property that has been forfeited in a proceeding under this
- 18 chapter, including money, earnings from forfeited property and amounts realized from the sale of
- 19 forfeited property.
- 20 (7) "Instrumentality" has the meaning given in ORS 131.550.
- 21 (8) "Law enforcement agency" means any agency that employs police officers or prosecutes
- 22 criminal cases.
- 23 (9) "Motor vehicle with a hidden compartment" means a motor vehicle as defined in ORS 801.360
- 24 that has had the vehicle's original design modified by a person other than the manufacturer to cre-
- 25 ate a container, space or enclosure for the purpose of concealing, hiding or otherwise preventing
- 26 discovery of its contents and that is used or intended to be used to facilitate the commission of a
- 27 criminal offense.
- 28 (10) "Police officer" has the meaning given that term in ORS 133.525.
- 29 (11) "Proceeds of prohibited conduct" means property derived directly or indirectly from pro-
- 30 hibited conduct, or maintained by or realized through prohibited conduct. "Proceeds of prohibited
- 31 conduct" includes any benefit, interest or property of any kind, without reduction for expenses of
- 32 acquiring or maintaining the property.
- 33 (12) "Prohibited conduct" means:
- 34 (a) Violation of, solicitation to violate, attempt to violate or conspiracy to violate a provision
- 35 of ORS 475.005 to 475.285 and 475.805 to 475.980 when the conduct constitutes the commission of a
- 36 crime as described in ORS 161.515;
- 37 **(b) Violation of, solicitation to violate, attempt to violate or conspiracy to violate a pro-**
- 38 **vision of ORS 163.263, 163.264, 163.266 or 167.017; and**
- 39 *[(b)]* (c) Other conduct that constitutes the commission of a crime as described in ORS 161.515,
- 40 that provides for civil forfeiture of proceeds or instrumentalities of the conduct and that is made
- 41 subject to the provisions of this chapter under ORS 131A.010 (4) or other law.
- 42 (13) "Property" means any interest in anything of value, including the whole of any lot or tract
- 43 of land and tangible and intangible personal property, including currency, instruments or securities
- 44 or any other kind of privilege, interest, claim or right whether due or to become due.
- 45 (14) "Public body" has the meaning given in ORS 174.109.

1 (15) "Seizing agency" means a law enforcement agency that has seized property for forfeiture.

2 (16) "Weapon" means any instrument of offensive or defensive combat or anything used, or de-  
3 signed to be used, in destroying, defeating or injuring a person.

4 **SECTION 2. The amendments to ORS 131A.005 by section 1 of this 2011 Act apply to**  
5 **conduct occurring on or after the effective date of this 2011 Act.**

6 **SECTION 3. This 2011 Act being necessary for the immediate preservation of the public**  
7 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
8 **on its passage.**

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