



STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

April 5, 2013

Representative Phil Barnhart
900 Court Street NE H383
Salem OR 97301

Re: House Bill 2384

Dear Representative Barnhart:

You asked about what impact, if any, passage of House Bill 2384 would have regarding the interests of rental car companies, employers and financial institutions. The answer is those entities are protected under the Oregon Constitution and the procedures set out in ORS chapter 131A. Under Article XV, section 10 (3), of the Oregon Constitution, forfeitures are prohibited without a conviction unless the person consents to the forfeiture, acquiesced in the criminal conduct, knew or should have known that the property constituted an instrumentality of the crime or took the property with intent to defeat forfeiture of the property.¹ Unless the vehicle falls within one of the narrow exceptions, a judgment of forfeiture may not be entered “until and unless the person claiming the property is convicted of a crime in Oregon or another jurisdiction[.]” Thus, assuming a rental car company or employer, or any other owner of the vehicle who is not subject to forfeiture, has not consented to the forfeiture, failed to respond or somehow acquiesced in the criminal conduct, the vehicle could not be forfeited. As for a financial institution, Article XV, section 10 (8), states that if a financial institution demonstrates an interest in the property, then that interest is not subject to forfeiture.

Please let me know if I can be of further assistance.

Very truly yours,

Heidi Elliott
Deputy Legislative Counsel

¹ Article XV, section 10 (5), of the Oregon Constitution.