

§ 15B-34. Civil action to recover profits or funds; responsibilities of the Commission.

(a) Civil Action. – Notwithstanding any inconsistent provision of law with respect to the timely bringing of an action, an eligible person may, within three years of the discovery of any profit from crime or funds of an offender, bring a civil action in a court of competent jurisdiction against an offender for damages arising out of the offense for which the offender was convicted.

(b) Notice by Eligible Persons. – Upon filing an action under subsection (a) of this section, the eligible person shall give notice to the Commission of the filing by delivering a copy of the summons and complaint to the Commission. The eligible person may also give notice to the Commission prior to filing the action so as to allow the Commission to apply for any appropriate provisional remedies, which are otherwise authorized to be invoked prior to the commencement of an action.

(c) Responsibilities of Commission. – Upon receipt of a copy of a summons and complaint, or upon receipt of notice from the eligible person prior to filing an action, the Commission shall immediately take action to:

- (1) Notify all other known eligible persons of the filing of the civil action by certified mail, return receipt requested, where the eligible persons' names and addresses are known to the Commission.
- (2) Provide, in its discretion, for additional notice as it deems necessary.
- (3) Avoid the wasting of the assets identified in the complaint as the profit from crime or funds of an offender in any manner consistent with subsection (d) of this section.

(d) Standing; Authority to Avoid Wasting of Assets. – The Commission has standing and, acting on its own behalf or on behalf of all eligible persons, shall have the right to apply for any and all provisional remedies that are also otherwise available to the plaintiff in the civil action brought under subsection (a) of this section, including attachment, injunction, constructive trust, and receivership. On a motion for a provisional remedy, the moving party shall state whether any other provisional remedy has previously been sought in the same action against the same defendant. The court may require the moving party to elect between those remedies to which it would otherwise be entitled. (2004-159, s. 2.)