

1                   A bill to be entitled  
2           An act relating to the disposition of liens and  
3           forfeited property; amending s. 932.7055, F.S.;  
4           removing the option of a seizing agency to retain  
5           seized property for the agency's use; removing the  
6           option of a seizing agency to salvage, trade, or  
7           transfer property to a public or nonprofit  
8           organization; authorizing a seizing agency to salvage,  
9           trade, or transfer property to certain state or local  
10          governmental entities; authorizing a seizing agency to  
11          purchase or bid on certain seized property offered for  
12          sale or auction; deleting an obsolete provision;  
13          deleting provisions governing the distribution of  
14          proceeds from the sale of forfeited property and the  
15          purposes for which the proceeds may be used; deleting  
16          provisions governing the distribution and use of  
17          property seized by local governmental agencies;  
18          requiring the county commission or governing body of a  
19          municipality to expend or donate at least 50 percent  
20          of proceeds in excess of \$15,000 from the sale or  
21          auction of seized property to specified institutions  
22          or programs; adding support for public libraries to  
23          the list of permissible uses for forfeiture proceeds;  
24          requiring that funding requests be made in writing and  
25          include a certification that the expenditure meets  
26          certain requirements; specifying that such requests

27 are public records and that they must be considered at  
28 a public meeting; authorizing the county commission or  
29 governing body to consult with the local law  
30 enforcement agency in determining whether to approve  
31 requests; eliminating the authority of law enforcement  
32 agencies to make determinations regarding the funding  
33 of programs; eliminating exceptions for certain  
34 agencies of the state relating to the deposit of  
35 proceeds from seizures; conforming a provision to  
36 changes made by the act; amending s. 895.09, F.S.;  
37 conforming provisions; reenacting ss. 322.34(9)(c),  
38 381.0081(5)(b), and 932.703(6)(b), F.S., relating to  
39 the disposition of proceeds when the seizing agency  
40 obtains a final judgment granting forfeiture of a  
41 motor vehicle, the specified use of proceeds involved  
42 in a seizure, and the preservation of a certain  
43 interest by the court, respectively, to incorporate  
44 the amendments made to s. 932.7055, F.S., in a  
45 reference thereto; providing an effective date.

46  
47 Be It Enacted by the Legislature of the State of Florida:

48  
49 Section 1. Section 932.7055, Florida Statutes, is amended  
50 to read:

51 932.7055 Disposition of liens and forfeited property.—

52 (1) When a seizing agency obtains a final judgment

53 granting forfeiture of real property or personal property, it  
 54 may elect to:

55 ~~(a) Retain the property for the agency's use;~~

56 (a) ~~(b)~~ Sell the property at public auction or by sealed  
 57 bid to the highest bidder, except for real property, which must  
 58 ~~should~~ be sold in a commercially reasonable manner after  
 59 appraisal by listing on the market; or

60 (b) ~~(e)~~ Salvage, trade, or transfer the property to:

61 1. The county commission, if the seizing agency is a  
 62 county agency;

63 2. The governing body of the municipality, if the seizing  
 64 agency is a municipal agency; or

65 3. The Division of Management Services, if the seizing  
 66 agency is a state agency ~~any public or nonprofit organization.~~

67 (2) Notwithstanding subsection (1), a seizing agency must  
 68 destroy any image and the medium on which the image is recorded,  
 69 including, but not limited to, a photograph, video tape,  
 70 diskette, compact disc, or fixed disk made in violation of s.  
 71 810.145 when the image and the medium on which it is recorded is  
 72 no longer needed for an official purpose. The agency may not  
 73 sell or retain any image.

74 (3) If the forfeited property is subject to a lien  
 75 preserved by the court as provided in s. 932.703(6)(b), the  
 76 agency shall:

77 (a) Sell the property with the proceeds being used towards  
 78 satisfaction of any liens; or

79 (b) Have the lien satisfied prior to taking any action  
80 authorized by subsection (1).

81 (4) The proceeds from the sale of forfeited property shall  
82 be disbursed in the following priority:

83 (a) Payment of the balance due on any lien preserved by  
84 the court in the forfeiture proceedings.

85 (b) Payment of the cost incurred by the seizing agency in  
86 connection with the storage, maintenance, security, and  
87 forfeiture of such property.

88 (c) Payment of court costs incurred in the forfeiture  
89 proceeding.

90 ~~(d) Notwithstanding any other provision of this~~  
91 ~~subsection, and for the 2014-2015 fiscal year only, the funds in~~  
92 ~~a special law enforcement trust fund established by the~~  
93 ~~governing body of a municipality may be expended to reimburse~~  
94 ~~the general fund of the municipality for moneys advanced from~~  
95 ~~the general fund to the special law enforcement trust fund~~  
96 ~~before October 1, 2001. This paragraph expires July 1, 2015.~~

97 (5) (a) If the seizing agency is a county or municipal  
98 agency, the remaining proceeds shall be retained ~~deposited in a~~  
99 ~~special law enforcement trust fund established by the board of~~  
100 ~~county commissioners or the governing body of the municipality.~~  
101 ~~Such proceeds and interest earned therefrom shall be used for~~  
102 ~~school resource officer, crime prevention, safe neighborhood,~~  
103 ~~drug abuse education and prevention programs, or for other law~~  
104 ~~enforcement purposes, which include defraying the cost of~~

105 ~~protracted or complex investigations, providing additional~~  
106 ~~equipment or expertise, purchasing automated external~~  
107 ~~defibrillators for use in law enforcement vehicles, and~~  
108 ~~providing matching funds to obtain federal grants. The proceeds~~  
109 ~~and interest may not be used to meet normal operating expenses~~  
110 ~~of the law enforcement agency.~~

111 ~~(b) These funds may be expended upon request by the~~  
112 ~~sheriff to the board of county commissioners or by the chief of~~  
113 ~~police to the governing body of the municipality, accompanied by~~  
114 ~~a written certification that the request complies with the~~  
115 ~~provisions of this subsection, and only upon appropriation to~~  
116 ~~the sheriff's office or police department by the board of county~~  
117 ~~commissioners or the governing body of the municipality.~~

118 ~~(c) An agency or organization, other than the seizing~~  
119 ~~agency, that wishes to receive such funds shall apply to the~~  
120 ~~sheriff or chief of police for an appropriation and its~~  
121 ~~application shall be accompanied by a written certification that~~  
122 ~~the moneys will be used for an authorized purpose. Such requests~~  
123 ~~for expenditures shall include a statement describing~~  
124 ~~anticipated recurring costs for the agency for subsequent fiscal~~  
125 ~~years. An agency or organization that receives money pursuant to~~  
126 ~~this subsection shall provide an accounting for such moneys and~~  
127 ~~shall furnish the same reports as an agency of the county or~~  
128 ~~municipality that receives public funds. Such funds may be~~  
129 ~~expended in accordance with the following procedures:~~

130 ~~1. Such funds may be used only for school resource~~

131 ~~officer, crime prevention, safe neighborhood, drug abuse~~  
 132 ~~education, or drug prevention programs or such other law~~  
 133 ~~enforcement purposes as the board of county commissioners or~~  
 134 ~~governing body of the municipality deems appropriate.~~

135 ~~2. Such funds shall not be a source of revenue to meet~~  
 136 ~~normal operating needs of the law enforcement agency.~~

137 ~~(b)3. Each After July 1, 1992, and During every fiscal~~  
 138 ~~year, the county commission or municipal governing body shall~~  
 139 ~~thereafter, any local law enforcement agency that acquires at~~  
 140 ~~least \$15,000 pursuant to the Florida Contraband Forfeiture Act~~  
 141 ~~within a fiscal year must expend or donate at least 50 no less~~  
 142 ~~than 15 percent of such proceeds in excess of \$15,000 pursuant~~  
 143 ~~to the Florida Contraband Forfeiture Act for the support or~~  
 144 ~~operation of public libraries or any drug treatment, drug abuse~~  
 145 ~~education, drug prevention, crime prevention, safe neighborhood,~~  
 146 ~~or school resource officer programs program(s).~~

147 1. Funding requests by such institutions or programs must  
 148 be made in writing, must detail how the funds will be used, and  
 149 must certify that the expenditure meets the requirements of this  
 150 paragraph. Such requests are public records as defined in  
 151 chapter 119.

152 2. Funding requests shall be considered at a publicly  
 153 noticed, official meeting of the county commission or governing  
 154 body, as appropriate, which shall be open to the public and  
 155 shall accept public comment.

156 3. The county commission or governing body, as

157 appropriate, may consult with local law enforcement agencies  
158 before making a final determination on funding requests ~~The~~  
159 ~~local law enforcement agency has the discretion to determine~~  
160 ~~which program(s) will receive the designated proceeds.~~

161  
162 ~~Notwithstanding the drug abuse education, drug treatment, drug~~  
163 ~~prevention, crime prevention, safe neighborhood, or school~~  
164 ~~resource officer minimum expenditures or donations, the sheriff~~  
165 ~~and The board of county commissioners or the chief of police and~~  
166 ~~the governing body, as appropriate, of the municipality may~~  
167 ~~agree to~~ expend or donate such funds over a period of years if  
168 the expenditure or donation of the ~~such~~ minimum amount in any  
169 given fiscal year would exceed the related needs of the county  
170 or municipality ~~for such program(s)~~. Nothing in this section  
171 precludes the expenditure or donation of forfeiture proceeds in  
172 excess of the required minimum amounts ~~established herein~~.

173 (6) If the seizing agency is a state agency, all remaining  
174 proceeds shall be deposited into the General Revenue Fund.  
175 ~~However, if the seizing agency is:~~

176 ~~(a) The Department of Law Enforcement, the proceeds~~  
177 ~~accrued pursuant to the provisions of the Florida Contraband~~  
178 ~~Forfeiture Act shall be deposited into the Forfeiture and~~  
179 ~~Investigative Support Trust Fund as provided in s. 943.362 or~~  
180 ~~into the department's Federal Law Enforcement Trust Fund as~~  
181 ~~provided in s. 943.365, as applicable.~~

182 ~~(b) The Division of Alcoholic Beverages and Tobacco, the~~

183 ~~proceeds accrued pursuant to the Florida Contraband Forfeiture~~  
184 ~~Act shall be deposited into the Alcoholic Beverage and Tobacco~~  
185 ~~Trust Fund or into the department's Federal Law Enforcement~~  
186 ~~Trust Fund as provided in s. 561.027, as applicable.~~

187 ~~(c) The Department of Highway Safety and Motor Vehicles,~~  
188 ~~the proceeds accrued pursuant to the Florida Contraband~~  
189 ~~Forfeiture Act shall be deposited into the Department of Highway~~  
190 ~~Safety and Motor Vehicles Law Enforcement Trust Fund as provided~~  
191 ~~in s. 932.705(1)(a) or into the department's Federal Law~~  
192 ~~Enforcement Trust Fund as provided in s. 932.705(1)(b), as~~  
193 ~~applicable.~~

194 ~~(d) The Fish and Wildlife Conservation Commission, the~~  
195 ~~proceeds accrued pursuant to the provisions of the Florida~~  
196 ~~Contraband Forfeiture Act shall be deposited into the State Game~~  
197 ~~Trust Fund as provided in ss. 379.338, 379.339, and 379.3395 or~~  
198 ~~into the Marine Resources Conservation Trust Fund as provided in~~  
199 ~~s. 379.337.~~

200 ~~(e) A state attorney's office acting within its judicial~~  
201 ~~circuit, the proceeds accrued pursuant to the provisions of the~~  
202 ~~Florida Contraband Forfeiture Act shall be deposited into the~~  
203 ~~State Attorney's Forfeiture and Investigative Support Trust Fund~~  
204 ~~to be used for the investigation of crime and prosecution of~~  
205 ~~criminals within the judicial circuit.~~

206 ~~(f) A school board security agency employing law~~  
207 ~~enforcement officers, the proceeds accrued pursuant to the~~  
208 ~~provisions of the Florida Contraband Forfeiture Act shall be~~



209 ~~deposited into the School Board Law Enforcement Trust Fund.~~

210 ~~(g) One of the State University System police departments~~  
211 ~~acting within the jurisdiction of its employing state~~  
212 ~~university, the proceeds accrued pursuant to the provisions of~~  
213 ~~the Florida Contraband Forfeiture Act shall be deposited into~~  
214 ~~that state university's special law enforcement trust fund.~~

215 ~~(h) The Department of Agriculture and Consumer Services,~~  
216 ~~the proceeds accrued pursuant to the Florida Contraband~~  
217 ~~Forfeiture Act shall be deposited into the General Inspection~~  
218 ~~Trust Fund or into the department's Federal Law Enforcement~~  
219 ~~Trust Fund as provided in s. 570.205, as applicable.~~

220 ~~(i) The Department of Military Affairs, the proceeds~~  
221 ~~accrued from federal forfeiture sharing pursuant to 21 U.S.C.~~  
222 ~~ss. 881(e) (1) (A) and (3), 18 U.S.C. s. 981(e) (2), and 19 U.S.C.~~  
223 ~~s. 1616a shall be deposited into the Armory Board Trust Fund and~~  
224 ~~used for purposes authorized by such federal provisions based on~~  
225 ~~the department's budgetary authority or into the department's~~  
226 ~~Federal Law Enforcement Trust Fund as provided in s. 250.175, as~~  
227 ~~applicable.~~

228 ~~(j) The Medicaid Fraud Control Unit of the Department of~~  
229 ~~Legal Affairs, the proceeds accrued pursuant to the provisions~~  
230 ~~of the Florida Contraband Forfeiture Act shall be deposited into~~  
231 ~~the Department of Legal Affairs Grants and Donations Trust Fund~~  
232 ~~to be used for investigation and prosecution of Medicaid fraud,~~  
233 ~~abuse, neglect, and other related cases by the Medicaid Fraud~~  
234 ~~Control Unit.~~

235 ~~(k) The Division of State Fire Marshal in the Department~~  
 236 ~~of Financial Services, the proceeds accrued under the Florida~~  
 237 ~~Contraband Forfeiture Act shall be deposited into the Insurance~~  
 238 ~~Regulatory Trust Fund to be used for the purposes of arson~~  
 239 ~~suppression, arson investigation, and the funding of anti-arson~~  
 240 ~~rewards.~~

241 ~~(l) The Division of Insurance Fraud of the Department of~~  
 242 ~~Financial Services, the proceeds accrued pursuant to the~~  
 243 ~~provisions of the Florida Contraband Forfeiture Act shall be~~  
 244 ~~deposited into the Insurance Regulatory Trust Fund as provided~~  
 245 ~~in s. 626.9893 or into the Department of Financial Services'~~  
 246 ~~Federal Law Enforcement Trust Fund as provided in s. 17.43, as~~  
 247 ~~applicable.~~

248 ~~(7) If more than one law enforcement agency is acting~~  
 249 ~~substantially to effect the forfeiture, the court having~~  
 250 ~~jurisdiction over the forfeiture proceedings shall, upon motion,~~  
 251 ~~equitably distribute all proceeds and other property among the~~  
 252 ~~seizing agencies.~~

253 (7)(8) Upon the sale of any motor vehicle, vessel,  
 254 aircraft, real property, or other property requiring a title,  
 255 the appropriate agency shall issue a title certificate to the  
 256 purchaser. ~~Upon the request of any law enforcement agency which~~  
 257 ~~elects to retain titled property after forfeiture, the~~  
 258 ~~appropriate state agency shall issue a title certificate for~~  
 259 ~~such property to said law enforcement agency.~~

260 (8)(9) A ~~Neither the law enforcement agency, or nor the~~

261 entity having budgetary control over the law enforcement agency,  
 262 may not ~~shall~~ anticipate future forfeitures or the proceeds from  
 263 those forfeitures therefrom in the adoption and approval of the  
 264 agency's budget ~~for the law enforcement agency.~~

265 Section 2. Paragraph (c) of subsection (2) of section  
 266 895.09, Florida Statutes, is amended to read:

267 895.09 Disposition of funds obtained through forfeiture  
 268 proceedings.—

269 (2)

270 (c) Any funds to be distributed to an investigating law  
 271 enforcement agency under paragraph (a) shall be deposited into  
 272 the General Revenue Fund ~~in the applicable law enforcement trust~~  
 273 ~~fund established for that agency~~ pursuant to s. 932.7055 and  
 274 expended for the purposes and in the manner authorized in that  
 275 section. In addition, any funds distributed to an investigating  
 276 law enforcement agency pursuant to this section may be used to  
 277 pay the costs of investigations of violations of this chapter  
 278 and the criminal prosecutions and civil actions related thereto,  
 279 pursuant to s. 932.7055. Such costs may include all taxable  
 280 costs; costs of protecting, maintaining, and forfeiting the  
 281 property; employees' base salaries and compensation for  
 282 overtime; and such other costs directly attributable to the  
 283 investigation, prosecution, or civil action.

284 Section 3. For the purpose of incorporating the amendment  
 285 made by this act to section 932.7055, Florida Statutes, in a  
 286 reference thereto, paragraph (c) of subsection (9) of section

287 322.34, Florida Statutes, is reenacted to read:

288 322.34 Driving while license suspended, revoked, canceled,  
289 or disqualified.—

290 (9)

291 (c) Notwithstanding s. 932.703(1)(c) or s. 932.7055, when  
292 the seizing agency obtains a final judgment granting forfeiture  
293 of the motor vehicle under this section, 30 percent of the net  
294 proceeds from the sale of the motor vehicle shall be retained by  
295 the seizing law enforcement agency and 70 percent shall be  
296 deposited in the General Revenue Fund for use by regional  
297 workforce boards in providing transportation services for  
298 participants of the welfare transition program. In a forfeiture  
299 proceeding under this section, the court may consider the extent  
300 that the family of the owner has other public or private means  
301 of transportation.

302 Section 4. For the purpose of incorporating the amendment  
303 made by this act to section 932.7055, Florida Statutes, in a  
304 reference thereto, paragraph (b) of subsection (5) of section  
305 381.0081, Florida Statutes, is reenacted to read:

306 381.0081 Permit required to operate a migrant labor camp  
307 or residential migrant housing; penalties for unlawful  
308 establishment or operation; allocation of proceeds.—

309 (5) SEIZURE.—

310 (b) After satisfying any liens on the property, the  
311 remaining proceeds from the sale of the property seized under  
312 this section shall be allocated as follows if the department

313 participated in the inspection or investigation leading to  
314 seizure and forfeiture under this section:

315 1. One-third of the proceeds shall be allocated to the law  
316 enforcement agency involved in the seizure, to be used as  
317 provided in s. 932.7055.

318 2. One-third of the proceeds shall be allocated to the  
319 department, to be used for purposes of enforcing the provisions  
320 of this section.

321 3. One-third of the proceeds shall be deposited in the  
322 State Apartment Incentive Loan Fund, to be used for the purpose  
323 of providing funds to sponsors who provide housing for  
324 farmworkers.

325 Section 5. For the purpose of incorporating the amendment  
326 made by this act to section 932.7055, Florida Statutes, in a  
327 reference thereto, paragraph (b) of subsection (6) of section  
328 932.703, Florida Statutes, is reenacted to read:

329 932.703 Forfeiture of contraband article; exceptions.—

330 (6)

331 (b) A bona fide lienholder's interest that has been  
332 perfected in the manner prescribed by law prior to the seizure  
333 may not be forfeited under the Florida Contraband Forfeiture Act  
334 unless the seizing agency establishes by a preponderance of the  
335 evidence that the lienholder had actual knowledge, at the time  
336 the lien was made, that the property was being employed or was  
337 likely to be employed in criminal activity. If a lienholder's  
338 interest is not subject to forfeiture under the requirements of

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339 | this section, such interest shall be preserved by the court by  
340 | ordering the lienholder's interest to be paid as provided in s.  
341 | 932.7055.

342 |       Section 6. This act shall take effect July 1, 2015.