

By Senator Brandes

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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 deleting a provision authorizing a seizing agency to
5 retain seized property for its use; deleting an
6 obsolete provision; revising the distribution and the
7 use of proceeds from the sales of forfeited property
8 seized by a county or municipal agency; authorizing an
9 agency or organization, other than a seizing agency,
10 to apply for funds from specified proceeds; requiring
11 that funding requests be made in writing and include a
12 certification that the expenditure meets certain
13 requirements; specifying that such requests are public
14 records; deleting a provision relating to certain
15 expenditure or donation of forfeiture proceeds;
16 requiring certain proceeds to be deposited into the
17 Crimes Compensation Trust Fund, rather than the
18 General Revenue Fund; deleting provisions that exempt
19 certain agencies of the state from depositing proceeds
20 from seizures into the General Revenue Fund; making
21 technical changes; reenacting ss. 381.0081(5)(b),
22 895.09(2)(c), and 932.703(6)(b), F.S., relating to the
23 allocations of proceeds from the sales of property in
24 a migrant labor camp or residential migrant housing,
25 the disposition of funds obtained through forfeiture
26 proceedings, and the forfeiture of contraband
27 articles, respectively, to incorporate the amendment
28 made to s. 932.7055, F.S., in references thereto;
29 providing an effective date.

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

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

932.7055 Disposition of liens and forfeited property.—

(1) When a seizing agency obtains a final judgment granting forfeiture of real property or personal property, it may elect to:

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

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

(b) ~~(c)~~ Salvage, trade, or transfer the property to any public or nonprofit organization.

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

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

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

(b) Have the lien satisfied prior to taking any action

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59 authorized by subsection (1).

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

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

64 (b) Payment of the cost incurred by the seizing agency in
65 connection with the storage, maintenance, security, and
66 forfeiture of such property.

67 (c) Payment of court costs incurred in the forfeiture
68 proceeding.

69 ~~(d) Notwithstanding any other provision of this subsection,~~
70 ~~and for the 2014-2015 fiscal year only, the funds in a special~~
71 ~~law enforcement trust fund established by the governing body of~~
72 ~~a municipality may be expended to reimburse the general fund of~~
73 ~~the municipality for moneys advanced from the general fund to~~
74 ~~the special law enforcement trust fund before October 1, 2001.~~
75 ~~This paragraph expires July 1, 2015.~~

76 (5) (a) If the seizing agency is a county or municipal
77 agency, 50 percent of the ~~remaining~~ proceeds shall be deposited
78 into ~~in~~ a special law enforcement trust fund established by the
79 board of county commissioners or the governing body of the
80 municipality. Such proceeds and interest earned therefrom shall
81 be used for school resource officer, crime prevention, safe
82 neighborhood, or drug abuse education and prevention programs.
83 The remaining 50 percent of the proceeds shall be deposited into
84 the Crimes Compensation Trust Fund, ~~or for other law enforcement~~
85 ~~purposes, which include defraying the cost of protracted or~~
86 ~~complex investigations, providing additional equipment or~~
87 ~~expertise, purchasing automated external defibrillators for use~~

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88 ~~in law enforcement vehicles, and providing matching funds to~~
89 ~~obtain federal grants. The proceeds and interest may not be used~~
90 ~~to meet normal operating expenses of the law enforcement agency.~~

91 (b) These funds may be expended upon request by the sheriff
92 to the board of county commissioners or by the chief of police
93 to the governing body of the municipality, accompanied by a
94 written certification that the request complies with the
95 provisions of this subsection, and only upon appropriation to
96 the sheriff's office or police department by the board of county
97 commissioners or the governing body of the municipality.

98 (c) An agency or organization, other than the seizing
99 agency, which ~~that~~ wishes to receive such funds shall apply to
100 the sheriff or chief of police for an appropriation. The ~~and its~~
101 application shall be accompanied by a written certification that
102 the moneys will be used for an authorized purpose. Such requests
103 for expenditures shall include a statement describing
104 anticipated recurring costs for the agency for subsequent fiscal
105 years. An agency or organization that receives money pursuant to
106 this subsection shall provide an accounting for such moneys and
107 shall furnish the same reports as an agency of the county or
108 municipality that receives public funds. Such funds may be
109 ~~expended in accordance with the following procedures:~~

110 ~~1. Such funds may be used only for school resource officer,~~
111 ~~crime prevention, safe neighborhood, drug abuse education, or~~
112 ~~drug prevention programs or such other law enforcement purposes~~
113 ~~as the board of county commissioners or governing body of the~~
114 ~~municipality deems appropriate.~~

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

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117 (d)3. After July 1, 1992, and During each every fiscal year
118 ~~thereafter~~, any local law enforcement agency that acquires at
119 least \$15,000 pursuant to the Florida Contraband Forfeiture Act
120 within a fiscal year must expend or donate 50 ~~no less than 15~~
121 percent of such proceeds in excess of \$15,000 pursuant to the
122 Florida Contraband Forfeiture Act for the support or operation
123 of ~~any~~ drug treatment, drug abuse education, drug prevention,
124 crime prevention, safe neighborhood, or school resource officer
125 programs ~~program(s)~~. An agency or organization, other than the
126 seizing agency, which wishes to receive such funds must apply to
127 the seizing local law enforcement agency for an appropriation.
128 Funding requests by such agencies or organizations must be
129 accompanied by a written certification stating that the moneys
130 will be used for an authorized purpose, detailing how the funds
131 will be used, and affirming that the expenditure will be used
132 for only the support of drug treatment, drug abuse education,
133 drug prevention, crime prevention, safe neighborhood, or school
134 resource officer programs. Such requests are public records as
135 defined in chapter 119. The local law enforcement agency has the
136 discretion to determine which programs ~~program(s)~~ will receive
137 the designated proceeds.

138 (e) Notwithstanding the drug abuse education, drug
139 treatment, drug prevention, crime prevention, safe neighborhood,
140 or school resource officer programs minimum expenditures or
141 donations, the sheriff and the board of county commissioners or
142 the chief of police and the governing body of the municipality
143 may agree to expend or donate such funds over a period of years
144 if the expenditure or donation of the ~~such~~ minimum amount in any
145 given fiscal year would exceed the needs of the county or

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146 municipality for such programs ~~program(s)~~. Nothing in this
147 section ~~precludes the expenditure or donation of forfeiture~~
148 ~~proceeds in excess of the minimum amounts established herein.~~

149 (6) If the seizing agency is a state agency, all remaining
150 proceeds shall be deposited into the Crimes Compensation Trust
151 Fund ~~General Revenue Fund~~. However, if the seizing agency is:

152 (a) ~~The Department of Law Enforcement, the proceeds accrued~~
153 ~~pursuant to the provisions of the Florida Contraband Forfeiture~~
154 ~~Act shall be deposited into the Forfeiture and Investigative~~
155 ~~Support Trust Fund as provided in s. 943.362 or into the~~
156 ~~department's Federal Law Enforcement Trust Fund as provided in~~
157 ~~s. 943.365, as applicable.~~

158 (b) ~~The Division of Alcoholic Beverages and Tobacco, the~~
159 ~~proceeds accrued pursuant to the Florida Contraband Forfeiture~~
160 ~~Act shall be deposited into the Alcoholic Beverage and Tobacco~~
161 ~~Trust Fund or into the department's Federal Law Enforcement~~
162 ~~Trust Fund as provided in s. 561.027, as applicable.~~

163 (c) ~~The Department of Highway Safety and Motor Vehicles,~~
164 ~~the proceeds accrued pursuant to the Florida Contraband~~
165 ~~Forfeiture Act shall be deposited into the Department of Highway~~
166 ~~Safety and Motor Vehicles Law Enforcement Trust Fund as provided~~
167 ~~in s. 932.705(1)(a) or into the department's Federal Law~~
168 ~~Enforcement Trust Fund as provided in s. 932.705(1)(b), as~~
169 ~~applicable.~~

170 (d) ~~The Fish and Wildlife Conservation Commission, the~~
171 ~~proceeds accrued pursuant to the provisions of the Florida~~
172 ~~Contraband Forfeiture Act shall be deposited into the State Game~~
173 ~~Trust Fund as provided in ss. 379.338, 379.339, and 379.3395 or~~
174 ~~into the Marine Resources Conservation Trust Fund as provided in~~

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175 ~~s. 379.337.~~

176 ~~(e) A state attorney's office acting within its judicial~~
177 ~~circuit, the proceeds accrued pursuant to the provisions of the~~
178 ~~Florida Contraband Forfeiture Act shall be deposited into the~~
179 ~~State Attorney's Forfeiture and Investigative Support Trust Fund~~
180 ~~to be used for the investigation of crime and prosecution of~~
181 ~~criminals within the judicial circuit.~~

182 ~~(f) A school board security agency employing law~~
183 ~~enforcement officers, the proceeds accrued pursuant to the~~
184 ~~provisions of the Florida Contraband Forfeiture Act shall be~~
185 ~~deposited into the School Board Law Enforcement Trust Fund.~~

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

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

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

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204 ~~(j) The Medicaid Fraud Control Unit of the Department of~~
205 ~~Legal Affairs, the proceeds accrued pursuant to the provisions~~
206 ~~of the Florida Contraband Forfeiture Act shall be deposited into~~
207 ~~the Department of Legal Affairs Grants and Donations Trust Fund~~
208 ~~to be used for investigation and prosecution of Medicaid fraud,~~
209 ~~abuse, neglect, and other related cases by the Medicaid Fraud~~
210 ~~Control Unit.~~

211 ~~(k) The Division of State Fire Marshal in the Department of~~
212 ~~Financial Services, the proceeds accrued under the Florida~~
213 ~~Contraband Forfeiture Act shall be deposited into the Insurance~~
214 ~~Regulatory Trust Fund to be used for the purposes of arson~~
215 ~~suppression, arson investigation, and the funding of anti-arson~~
216 ~~rewards.~~

217 ~~(l) The Division of Insurance Fraud of the Department of~~
218 ~~Financial Services, the proceeds accrued pursuant to the~~
219 ~~provisions of the Florida Contraband Forfeiture Act shall be~~
220 ~~deposited into the Insurance Regulatory Trust Fund as provided~~
221 ~~in s. 626.9893 or into the Department of Financial Services'~~
222 ~~Federal Law Enforcement Trust Fund as provided in s. 17.43, as~~
223 ~~applicable.~~

224 (7) If more than one law enforcement agency is acting
225 substantially to effect the forfeiture, the court having
226 jurisdiction over the forfeiture proceedings shall, upon motion,
227 equitably distribute all proceeds and other property among the
228 seizing agencies.

229 (8) Upon the sale of any motor vehicle, vessel, aircraft,
230 real property, or other property requiring a title, the
231 appropriate agency shall issue a title certificate to the
232 purchaser. Upon the request of any law enforcement agency which

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233 elects to retain titled property after forfeiture, the
 234 appropriate state agency shall issue a title certificate for
 235 such property to said law enforcement agency.

236 (9) A ~~Neither the law enforcement agency, or nor~~ the entity
 237 having budgetary control over the law enforcement agency, may
 238 not shall anticipate future forfeitures or the proceeds from
 239 those forfeitures therefrom in the adoption and approval of the
 240 agency's budget ~~for the law enforcement agency.~~

241 Section 2. For the purpose of incorporating the amendment
 242 made by this act to section 932.7055, Florida Statutes, in a
 243 reference thereto, paragraph (b) of subsection (5) of section
 244 381.0081, Florida Statutes, is reenacted to read:

245 381.0081 Permit required to operate a migrant labor camp or
 246 residential migrant housing; penalties for unlawful
 247 establishment or operation; allocation of proceeds.-

248 (5) SEIZURE.-

249 (b) After satisfying any liens on the property, the
 250 remaining proceeds from the sale of the property seized under
 251 this section shall be allocated as follows if the department
 252 participated in the inspection or investigation leading to
 253 seizure and forfeiture under this section:

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

257 2. One-third of the proceeds shall be allocated to the
 258 department, to be used for purposes of enforcing the provisions
 259 of this section.

260 3. One-third of the proceeds shall be deposited in the
 261 State Apartment Incentive Loan Fund, to be used for the purpose

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262 of providing funds to sponsors who provide housing for
263 farmworkers.

264 Section 3. For the purpose of incorporating the amendment
265 made by this act to section 932.7055, Florida Statutes, in a
266 reference thereto, paragraph (c) of subsection (2) of section
267 895.09, Florida Statutes, is reenacted to read:

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

270 (2)

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

285 Section 4. For the purpose of incorporating the amendment
286 made by this act to section 932.7055, Florida Statutes, in a
287 reference thereto, paragraph (b) of subsection (6) of section
288 932.703, Florida Statutes, is reenacted to read:

289 932.703 Forfeiture of contraband article; exceptions.—

290 (6)

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291 (b) A bona fide lienholder's interest that has been
292 perfected in the manner prescribed by law prior to the seizure
293 may not be forfeited under the Florida Contraband Forfeiture Act
294 unless the seizing agency establishes by a preponderance of the
295 evidence that the lienholder had actual knowledge, at the time
296 the lien was made, that the property was being employed or was
297 likely to be employed in criminal activity. If a lienholder's
298 interest is not subject to forfeiture under the requirements of
299 this section, such interest shall be preserved by the court by
300 ordering the lienholder's interest to be paid as provided in s.
301 932.7055.

302 Section 5. This act shall take effect July 1, 2015.