

By the Committee on Appropriations; and Senator Brandes

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1 A bill to be entitled
2 An act relating to contraband forfeiture; amending s.
3 932.701, F.S.; conforming a cross-reference to changes
4 made by the act; amending s. 932.704, F.S.; requiring
5 each state or local law enforcement agency that seizes
6 property for the purpose of forfeiture to perform a
7 specified periodic review at least annually and
8 address deficiencies to ensure compliance with this
9 act; prohibiting certain compensation or benefit to
10 any law enforcement officer from being dependent upon
11 attaining a quota of seizures; requiring a seizing
12 agency to have certain written policies, procedures,
13 and training to comply with specified legal
14 requirements; requiring the probable cause for seizure
15 to be promptly reviewed by supervisory personnel;
16 requiring the seizing agency's legal counsel to be
17 timely notified and to conduct a specified review;
18 requiring each seizing agency to have specified
19 written policies and procedures for the prompt release
20 of seized property under certain circumstances;
21 requiring that settlement of any forfeiture actions be
22 consistent with certain mandates and with the seizing
23 agency's policy or directives; requiring specified
24 training and maintenance of records for such training;
25 amending s. 932.7055, F.S.; deleting a provision
26 authorizing a seizing agency to retain seized property
27 for its use; deleting an obsolete provision; requiring
28 a law enforcement agency participating in certain
29 forfeiture proceedings to submit a report to the

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30 Department of Law Enforcement on a periodic basis
31 detailing specified information; making technical
32 changes; creating s. 932.7061, F.S.; requiring each
33 state or local law enforcement agency that seizes
34 property for the purpose of forfeiture to complete an
35 annual report; requiring certain information to be
36 included in the annual report; requiring the report to
37 be kept on file with the seizing agency for public
38 access; amending ss. 322.34, 323.001, 328.07, and
39 817.625, F.S.; conforming cross-references; reenacting
40 ss. 27.3451 and 874.08, F.S., relating to the State
41 Attorney's Forfeiture and Investigative Support Trust
42 Fund, and criminal gang activity, recruitment, and
43 forfeiture, respectively, to incorporate the amendment
44 made to s. 932.704, F.S., in references thereto;
45 reenacting ss. 381.0081(5)(b), 895.09(2)(c), and
46 932.703(6)(b), F.S., relating to the allocations of
47 proceeds from the sales of property in a migrant labor
48 camp or residential migrant housing, the disposition
49 of funds obtained through forfeiture proceedings, and
50 the forfeiture of contraband articles, respectively,
51 to incorporate the amendment made to s. 932.7055,
52 F.S., in references thereto; providing an effective
53 date.

54
55 Be It Enacted by the Legislature of the State of Florida:
56

57 Section 1. Subsection (1) of section 932.701, Florida
58 Statutes, is amended to read:

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59 932.701 Short title; definitions.—

60 (1) Sections 932.701-932.7061 ~~932.706~~ shall be known and
61 may be cited as the "Florida Contraband Forfeiture Act."

62 Section 2. Subsection (11) of section 932.704, Florida
63 Statutes, is amended to read:

64 932.704 Forfeiture proceedings.—

65 (11) (a) The Department of Law Enforcement, in consultation
66 with the Florida Sheriffs Association and the Florida Police
67 Chiefs Association, shall develop guidelines and training
68 procedures to be used by state and local law enforcement
69 agencies and state attorneys in implementing the Florida
70 Contraband Forfeiture Act. Each state or local law enforcement
71 agency that seizes property for the purpose of forfeiture shall
72 periodically review seizures of assets made by the agency's law
73 enforcement officers, settlements, and forfeiture proceedings
74 initiated by the agency, to determine whether such seizures,
75 settlements, and forfeitures comply with the Florida Contraband
76 Forfeiture Act and the guidelines adopted under this subsection.
77 Such review must occur at least annually. If the review suggests
78 deficiencies, the state or local law enforcement agency shall
79 promptly move to ensure the agency's compliance with this act.

80 (b) The determination of whether an agency will file a
81 civil forfeiture action must be the sole responsibility of the
82 head of the agency or his or her designee.

83 (c) ~~(b)~~ The determination of whether to seize currency must
84 be made by supervisory personnel. The agency's legal counsel
85 must be notified as soon as possible.

86 (d) The employment, salary, promotion, or other
87 compensation of any law enforcement officer may not depend on

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88 attaining a quota of seizures.

89 (e) A seizing agency must ensure, through the use of
90 written policies, procedures, and training, compliance with all
91 applicable legal requirements regarding seizing, maintaining,
92 and forfeiting property under this act.

93 (f) When property is seized for forfeiture, the probable
94 cause supporting the seizure must be promptly reviewed by
95 supervisory personnel. The seizing agency's legal counsel must
96 be notified as soon as possible of all seizures and must conduct
97 a review to determine whether there is legal sufficiency to
98 proceed with a forfeiture action.

99 (g) Each seizing agency must have written policies and
100 procedures promoting, when there is no other legitimate basis
101 for holding seized property, the prompt release of such property
102 as may be required by the act or by agency determination. To
103 help assure that property is not wrongfully held after seizure,
104 every law enforcement agency must have written policies and
105 procedures ensuring that all asserted claims of interest in
106 seized property are promptly reviewed for potential validity.

107 (h) The settlement of any forfeiture action must be
108 consistent with the mandates of this act and in compliance with
109 agency policy or directives.

110 (i) Law enforcement agency personnel involved in the
111 seizure of property for forfeiture shall receive basic training
112 and continuing education as required by this act. Each agency
113 shall maintain records documenting every law enforcement
114 officer's compliance with these training requirements. A portion
115 of such training must address the legal aspects of forfeiture,
116 including, but not limited to, search and seizure and other

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117 constitutional considerations.

118 Section 3. Section 932.7055, Florida Statutes, is amended
119 to read:

120 932.7055 Disposition of liens and forfeited property.—

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

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

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

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

131 (2) Notwithstanding subsection (1), a seizing agency must
132 destroy any image and the medium on which the image is recorded,
133 including, but not limited to, a photograph, video tape,
134 diskette, compact disc, or fixed disk made in violation of s.
135 810.145 when the image and the medium on which it is recorded is
136 no longer needed for an official purpose. The agency may not
137 sell or retain any image.

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

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

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

145 (4) The proceeds from the sale of forfeited property shall

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146 be disbursed in the following priority:

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

149 (b) Payment of the cost incurred by the seizing agency in
150 connection with the storage, maintenance, security, and
151 forfeiture of such property.

152 (c) Payment of court costs incurred in the forfeiture
153 proceeding.

154 ~~(d) Notwithstanding any other provision of this subsection,~~
155 ~~and for the 2014-2015 fiscal year only, the funds in a special~~
156 ~~law enforcement trust fund established by the governing body of~~
157 ~~a municipality may be expended to reimburse the general fund of~~
158 ~~the municipality for moneys advanced from the general fund to~~
159 ~~the special law enforcement trust fund before October 1, 2001.~~
160 ~~This paragraph expires July 1, 2015.~~

161 (5) (a) If the seizing agency is a county or municipal
162 agency, the remaining proceeds shall be deposited in a special
163 law enforcement trust fund established by the board of county
164 commissioners or the governing body of the municipality. Such
165 proceeds and interest earned therefrom shall be used for school
166 resource officer, crime prevention, safe neighborhood, drug
167 abuse education and prevention programs, or for other law
168 enforcement purposes, which include defraying the cost of
169 protracted or complex investigations, providing additional
170 equipment or expertise, purchasing automated external
171 defibrillators for use in law enforcement vehicles, and
172 providing matching funds to obtain federal grants. The proceeds
173 and interest may not be used to meet normal operating expenses
174 of the law enforcement agency.

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175 (b) These funds may be expended upon request by the sheriff
176 to the board of county commissioners or by the chief of police
177 to the governing body of the municipality, accompanied by a
178 written certification that the request complies with the
179 provisions of this subsection, and only upon appropriation to
180 the sheriff's office or police department by the board of county
181 commissioners or the governing body of the municipality.

182 (c) An agency or organization, other than the seizing
183 agency, that wishes to receive such funds shall apply to the
184 sheriff or chief of police for an appropriation and its
185 application shall be accompanied by a written certification that
186 the moneys will be used for an authorized purpose. Such requests
187 for expenditures shall include a statement describing
188 anticipated recurring costs for the agency for subsequent fiscal
189 years. An agency or organization that receives money pursuant to
190 this subsection shall provide an accounting for such moneys and
191 shall furnish the same reports as an agency of the county or
192 municipality that receives public funds. Such funds may be
193 expended in accordance with the following procedures:

194 1. Such funds may be used only for school resource officer,
195 crime prevention, safe neighborhood, drug abuse education, or
196 drug prevention programs or such other law enforcement purposes
197 as the board of county commissioners or governing body of the
198 municipality deems appropriate.

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

201 3. After July 1, 1992, and during every fiscal year
202 thereafter, any local law enforcement agency that acquires at
203 least \$15,000 pursuant to the Florida Contraband Forfeiture Act

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204 within a fiscal year must expend or donate no less than 15
205 percent of such proceeds for the support or operation of any
206 drug treatment, drug abuse education, drug prevention, crime
207 prevention, safe neighborhood, or school resource officer
208 program(s). The local law enforcement agency has the discretion
209 to determine which program(s) will receive the designated
210 proceeds.

211
212 Notwithstanding the drug abuse education, drug treatment, drug
213 prevention, crime prevention, safe neighborhood, or school
214 resource officer minimum expenditures or donations, the sheriff
215 and the board of county commissioners or the chief of police and
216 the governing body of the municipality may agree to expend or
217 donate such funds over a period of years if the expenditure or
218 donation of such minimum amount in any given fiscal year would
219 exceed the needs of the county or municipality for such
220 program(s). Nothing in this section precludes the expenditure or
221 donation of forfeiture proceeds in excess of the minimum amounts
222 established herein.

223 (6) If the seizing agency is a state agency, all remaining
224 proceeds shall be deposited into the General Revenue Fund.
225 However, if the seizing agency is:

226 (a) The Department of Law Enforcement, the proceeds accrued
227 pursuant to the provisions of the Florida Contraband Forfeiture
228 Act shall be deposited into the Forfeiture and Investigative
229 Support Trust Fund as provided in s. 943.362 or into the
230 department's Federal Law Enforcement Trust Fund as provided in
231 s. 943.365, as applicable.

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

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233 proceeds accrued pursuant to the Florida Contraband Forfeiture
234 Act shall be deposited into the Alcoholic Beverage and Tobacco
235 Trust Fund or into the department's Federal Law Enforcement
236 Trust Fund as provided in s. 561.027, as applicable.

237 (c) The Department of Highway Safety and Motor Vehicles,
238 the proceeds accrued pursuant to the Florida Contraband
239 Forfeiture Act shall be deposited into the Department of Highway
240 Safety and Motor Vehicles Law Enforcement Trust Fund as provided
241 in s. 932.705(1)(a) or into the department's Federal Law
242 Enforcement Trust Fund as provided in s. 932.705(1)(b), as
243 applicable.

244 (d) The Fish and Wildlife Conservation Commission, the
245 proceeds accrued pursuant to the provisions of the Florida
246 Contraband Forfeiture Act shall be deposited into the State Game
247 Trust Fund as provided in ss. 379.338, 379.339, and 379.3395 or
248 into the Marine Resources Conservation Trust Fund as provided in
249 s. 379.337.

250 (e) A state attorney's office acting within its judicial
251 circuit, the proceeds accrued pursuant to the provisions of the
252 Florida Contraband Forfeiture Act shall be deposited into the
253 State Attorney's Forfeiture and Investigative Support Trust Fund
254 to be used for the investigation of crime and prosecution of
255 criminals within the judicial circuit.

256 (f) A school board security agency employing law
257 enforcement officers, the proceeds accrued pursuant to the
258 provisions of the Florida Contraband Forfeiture Act shall be
259 deposited into the School Board Law Enforcement Trust Fund.

260 (g) One of the State University System police departments
261 acting within the jurisdiction of its employing state

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262 university, the proceeds accrued pursuant to the provisions of
263 the Florida Contraband Forfeiture Act shall be deposited into
264 that state university's special law enforcement trust fund.

265 (h) The Department of Agriculture and Consumer Services,
266 the proceeds accrued pursuant to the Florida Contraband
267 Forfeiture Act shall be deposited into the General Inspection
268 Trust Fund or into the department's Federal Law Enforcement
269 Trust Fund as provided in s. 570.205, as applicable.

270 (i) The Department of Military Affairs, the proceeds
271 accrued from federal forfeiture sharing pursuant to 21 U.S.C.
272 ss. 881(e)(1)(A) and (3), 18 U.S.C. s. 981(e)(2), and 19 U.S.C.
273 s. 1616a shall be deposited into the Armory Board Trust Fund and
274 used for purposes authorized by such federal provisions based on
275 the department's budgetary authority or into the department's
276 Federal Law Enforcement Trust Fund as provided in s. 250.175, as
277 applicable.

278 (j) The Medicaid Fraud Control Unit of the Department of
279 Legal Affairs, the proceeds accrued pursuant to the provisions
280 of the Florida Contraband Forfeiture Act shall be deposited into
281 the Department of Legal Affairs Grants and Donations Trust Fund
282 to be used for investigation and prosecution of Medicaid fraud,
283 abuse, neglect, and other related cases by the Medicaid Fraud
284 Control Unit.

285 (k) The Division of State Fire Marshal in the Department of
286 Financial Services, the proceeds accrued under the Florida
287 Contraband Forfeiture Act shall be deposited into the Insurance
288 Regulatory Trust Fund to be used for the purposes of arson
289 suppression, arson investigation, and the funding of anti-arson
290 rewards.

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291 (1) The Division of Insurance Fraud of the Department of
292 Financial Services, the proceeds accrued pursuant to the
293 provisions of the Florida Contraband Forfeiture Act shall be
294 deposited into the Insurance Regulatory Trust Fund as provided
295 in s. 626.9893 or into the Department of Financial Services'
296 Federal Law Enforcement Trust Fund as provided in s. 17.43, as
297 applicable.

298 (7) If more than one law enforcement agency is acting
299 substantially to effect the forfeiture, the court having
300 jurisdiction over the forfeiture proceedings shall, upon motion,
301 equitably distribute all proceeds and other property among the
302 seizing agencies.

303 (8) Upon the sale of any motor vehicle, vessel, aircraft,
304 real property, or other property requiring a title, the
305 appropriate agency shall issue a title certificate to the
306 purchaser. Upon the request of any law enforcement agency which
307 elects to retain titled property after forfeiture, the
308 appropriate state agency shall issue a title certificate for
309 such property to said law enforcement agency.

310 (9) A ~~Neither the law enforcement agency, or nor~~ the entity
311 having budgetary control over the law enforcement agency, may
312 not shall anticipate future forfeitures or the proceeds from
313 those forfeitures therefrom in the adoption and approval of the
314 agency's budget for the law enforcement agency.

315 (10) A law enforcement agency participating in forfeiture
316 proceedings pursuant to this act shall submit a report to the
317 Department of Law Enforcement every 3 months detailing the items
318 seized through the forfeiture process and, if a final judgment
319 of forfeiture was issued for any seized property or assets, a

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320 description of how the property or assets were disposed of.

321 Section 4. Section 932.7061, Florida Statutes, is created
322 to read:

323 932.7061 Each state or local law enforcement agency that
324 seizes property for the purpose of forfeiture must complete an
325 annual report indicating whether that agency has received or
326 forfeited property under this act. The report, to be submitted
327 on a form designed by the law enforcement agency, must, at a
328 minimum, specify the type of property, its approximate value,
329 the court case number, the type of offense for which the
330 property was seized, disposition of the property, and the dollar
331 amount of the proceeds received or expended in seizing the
332 property. This report must be kept on file with the seizing
333 agency for public access.

334 Section 5. Paragraph (a) of subsection (9) of section
335 322.34, Florida Statutes, is amended to read:

336 322.34 Driving while license suspended, revoked, canceled,
337 or disqualified.—

338 (9) (a) A motor vehicle that is driven by a person under the
339 influence of alcohol or drugs in violation of s. 316.193 is
340 subject to seizure and forfeiture under ss. 932.701-932.7061
341 ~~932.706~~ and is subject to liens for recovering, towing, or
342 storing vehicles under s. 713.78 if, at the time of the offense,
343 the person's driver license is suspended, revoked, or canceled
344 as a result of a prior conviction for driving under the
345 influence.

346 Section 6. Subsection (4) of section 323.001, Florida
347 Statutes, is amended to read:

348 323.001 Wrecker operator storage facilities; vehicle

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349 holds.—

350 (4) The requirements for a written hold apply when the
351 following conditions are present:

352 (a) The officer has probable cause to believe the vehicle
353 should be seized and forfeited under the Florida Contraband
354 Forfeiture Act, ss. 932.701-932.7061 ~~932.706~~;

355 (b) The officer has probable cause to believe the vehicle
356 should be seized and forfeited under chapter 379;

357 (c) The officer has probable cause to believe the vehicle
358 was used as the means of committing a crime;

359 (d) The officer has probable cause to believe that the
360 vehicle is itself evidence that tends to show that a crime has
361 been committed or that the vehicle contains evidence, which
362 cannot readily be removed, which tends to show that a crime has
363 been committed;

364 (e) The officer has probable cause to believe the vehicle
365 was involved in a traffic accident resulting in death or
366 personal injury and should be sealed for investigation and
367 collection of evidence by a vehicular homicide investigator;

368 (f) The vehicle is impounded or immobilized pursuant to s.
369 316.193 or s. 322.34; or

370 (g) The officer is complying with a court order.

371 Section 7. Paragraph (b) of subsection (3) of section
372 328.07, Florida Statutes, is amended to read:

373 328.07 Hull identification number required.—

374 (3)

375 (b) If any of the hull identification numbers required by
376 the United States Coast Guard for a vessel manufactured after
377 October 31, 1972, do not exist or have been altered, removed,

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378 destroyed, covered, or defaced or the real identity of the
379 vessel cannot be determined, the vessel may be seized as
380 contraband property by a law enforcement agency or the division,
381 and shall be subject to forfeiture pursuant to ss. 932.701-
382 932.7061 ~~932.706~~. Such vessel may not be sold or operated on the
383 waters of the state unless the division receives a request from
384 a law enforcement agency providing adequate documentation or is
385 directed by written order of a court of competent jurisdiction
386 to issue to the vessel a replacement hull identification number
387 which shall thereafter be used for identification purposes. No
388 vessel shall be forfeited under the Florida Contraband
389 Forfeiture Act when the owner unknowingly, inadvertently, or
390 neglectfully altered, removed, destroyed, covered, or defaced
391 the vessel hull identification number.

392 Section 8. Paragraph (c) of subsection (2) of section
393 817.625, Florida Statutes, is amended to read:

394 817.625 Use of scanning device or reencoder to defraud;
395 penalties.—

396 (2)

397 (c) Any person who violates subparagraph (a)1. or
398 subparagraph (a)2. shall also be subject to the provisions of
399 ss. 932.701-932.7061 ~~932.706~~.

400 Section 9. For the purpose of incorporating the amendment
401 made by this act to section 932.704, Florida Statutes, in a
402 reference thereto, section 27.3451, Florida Statutes, is
403 reenacted to read:

404 27.3451 State Attorney's Forfeiture and Investigative
405 Support Trust Fund.—There is created for each of the several
406 state attorneys a trust fund to be known as the State Attorney's

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407 Forfeiture and Investigative Support Trust Fund. Revenues
408 received by a state attorney as a result of forfeiture
409 proceedings, as provided under s. 932.704, shall be deposited in
410 such trust fund and shall be used, when authorized by
411 appropriation or action of the Executive Office of the Governor
412 pursuant to s. 216.181(11), for the investigation of crime,
413 prosecution of criminals, or other law enforcement purposes.

414 Section 10. For the purpose of incorporating the amendment
415 made by this act to section 932.704, Florida Statutes, in a
416 reference thereto, section 874.08, Florida Statutes, is
417 reenacted to read:

418 874.08 Criminal gang activity and recruitment; forfeiture.—
419 All profits, proceeds, and instrumentalities of criminal gang
420 activity and all property used or intended or attempted to be
421 used to facilitate the criminal activity of any criminal gang or
422 of any criminal gang member; and all profits, proceeds, and
423 instrumentalities of criminal gang recruitment and all property
424 used or intended or attempted to be used to facilitate criminal
425 gang recruitment are subject to seizure and forfeiture under the
426 Florida Contraband Forfeiture Act, s. 932.704.

427 Section 11. For the purpose of incorporating the amendment
428 made by this act to section 932.7055, Florida Statutes, in a
429 reference thereto, paragraph (b) of subsection (5) of section
430 381.0081, Florida Statutes, is reenacted to read:

431 381.0081 Permit required to operate a migrant labor camp or
432 residential migrant housing; penalties for unlawful
433 establishment or operation; allocation of proceeds.—

434 (5) SEIZURE.—

435 (b) After satisfying any liens on the property, the

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436 remaining proceeds from the sale of the property seized under
437 this section shall be allocated as follows if the department
438 participated in the inspection or investigation leading to
439 seizure and forfeiture under this section:

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

443 2. One-third of the proceeds shall be allocated to the
444 department, to be used for purposes of enforcing the provisions
445 of this section.

446 3. One-third of the proceeds shall be deposited in the
447 State Apartment Incentive Loan Fund, to be used for the purpose
448 of providing funds to sponsors who provide housing for
449 farmworkers.

450 Section 12. For the purpose of incorporating the amendment
451 made by this act to section 932.7055, Florida Statutes, in a
452 reference thereto, paragraph (c) of subsection (2) of section
453 895.09, Florida Statutes, is reenacted to read:

454 895.09 Disposition of funds obtained through forfeiture
455 proceedings.—

456 (2)

457 (c) Any funds distributed to an investigating law
458 enforcement agency under paragraph (a) shall be deposited in the
459 applicable law enforcement trust fund established for that
460 agency pursuant to s. 932.7055 and expended for the purposes and
461 in the manner authorized in that section. In addition, any funds
462 distributed to an investigating law enforcement agency pursuant
463 to this section may be used to pay the costs of investigations
464 of violations of this chapter and the criminal prosecutions and

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465 civil actions related thereto, pursuant to s. 932.7055. Such
466 costs may include all taxable costs; costs of protecting,
467 maintaining, and forfeiting the property; employees' base
468 salaries and compensation for overtime; and such other costs
469 directly attributable to the investigation, prosecution, or
470 civil action.

471 Section 13. For the purpose of incorporating the amendment
472 made by this act to section 932.7055, Florida Statutes, in a
473 reference thereto, paragraph (b) of subsection (6) of section
474 932.703, Florida Statutes, is reenacted to read:

475 932.703 Forfeiture of contraband article; exceptions.—

476 (6)

477 (b) A bona fide lienholder's interest that has been
478 perfected in the manner prescribed by law prior to the seizure
479 may not be forfeited under the Florida Contraband Forfeiture Act
480 unless the seizing agency establishes by a preponderance of the
481 evidence that the lienholder had actual knowledge, at the time
482 the lien was made, that the property was being employed or was
483 likely to be employed in criminal activity. If a lienholder's
484 interest is not subject to forfeiture under the requirements of
485 this section, such interest shall be preserved by the court by
486 ordering the lienholder's interest to be paid as provided in s.
487 932.7055.

488 Section 14. This act shall take effect July 1, 2015.