



396278

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2016	.	
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Appropriations Subcommittee on Criminal and Civil Justice
(Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 54 - 94
and insert:

(c)1. At the time of seizure, the state acquires
provisional title to the seized property. Property may not be
seized under the Florida Contraband Forfeiture Act until an
owner of such property is arrested for a criminal offense that
renders the property a contraband article. However, property may
be immediately seized if:



396278

11 a. The owner of the contraband article cannot be readily
12 identified;

13 b. There is probable cause to arrest an individual, but he
14 or she is a fugitive or dies before an arrest is made; or

15 c. The owner of property subject to seizure agrees to
16 cooperate as a confidential informant in lieu of an arrest. The
17 confidential informant status must be agreed upon between the
18 seizing agency and the property owner, and the property owner
19 must actively participate as a confidential informant in
20 gathering criminal intelligence or investigative information for
21 an active criminal investigation. The seizing agency may not use
22 the threat of property seizure or forfeiture when offering the
23 property owner the status of confidential informant in lieu of
24 an arrest. If charges are not brought against the property
25 owner, the property must be returned to the owner at the
26 conclusion of the active criminal investigation or the cessation
27 of the status of criminal informant. Final forfeiture of
28 property may be included as a component of the agreement to
29 serve as a confidential informant.

30 2. If a seizure is made under one of the exceptions
31 specified in subparagraph 1., the law enforcement agency that
32 seizes the contraband article, vessel, motor vehicle, aircraft,
33 other personal property, or real property used in violation of
34 the Florida Contraband Forfeiture Act shall, within 10 business
35 days, apply to a court of competent jurisdiction for an order
36 determining whether probable cause exists for the seizure of the
37 property. The application for the probable cause determination
38 must establish probable cause that the property that has been
39 seized is subject to seizure under the Florida Contraband



396278

40 Forfeiture Act and may be filed by reliable electronic means. If
41 the court finds that probable cause exists for the seizure, it
42 shall enter a written order to that effect and order that the
43 property be held until the issue of a determination of title is
44 resolved pursuant to the procedures established in the Florida
45 Contraband Forfeiture Act. Upon a finding of good cause shown,
46 the court may order that the court order finding probable cause
47 be sealed for as long as reasonably necessary to preserve the
48 integrity of an active criminal investigation. If the court
49 determines that probable cause does not exist for the seizure,
50 any forfeiture hold, lien, lis pendens, or other civil
51 encumbrance must be released.

52 3. If, after 90 days after the date of the initial seizure,
53 the seizing agency cannot find the owner of the seized property
54 after a diligent effort, the seized property is deemed a
55 contraband article and forfeited subject to s. 932.704. However,
56 if the seizing agency finds the owner within 90 days after the
57 date of the initial seizure, the seizing agency shall return the
58 property to the owner within 5 days after:

59 a. The court finding that the owner had a bona fide
60 security interest;

61 b. The court finding that the owner was an innocent owner;

62 c. The acquittal or dismissal of the owner of the criminal
63 charge that was the basis of the forfeiture proceedings; or

64 d. The disposal of the criminal charge that was the basis
65 of the forfeiture proceedings by nolle prosequi. The seizing
66 agency is responsible for any damage, storage fee, and related
67 cost applicable to the property.

68 4. A forfeiture under the Florida Contraband Forfeiture Act



396278

69 is not final, and title or other indicia of ownership, other
70 than provisional title, does not pass to the state or
71 jurisdiction seeking forfeiture until the owner of the seized
72 property is prosecuted and convicted of or pleads guilty or nolo
73 contendere to a criminal offense, without regard to whether
74 adjudication is withheld, that renders the property a contraband
75 article.

76 5. This paragraph is in addition to all other requirements
77 and rights in the Florida Contraband Forfeiture Act and does not
78 affect any other requirement or right set forth in this act.
79 This paragraph does not affect any party's discovery obligations
80 under the Florida Rules of Civil Procedure ~~All rights to,~~
81 ~~interest in, and~~

82
83 ===== T I T L E A M E N D M E N T =====

84 And the title is amended as follows:

85 Delete lines 9 - 24

86 and insert:

87 article; providing exceptions; prohibiting the seizing
88 law enforcement agency from threatening a property
89 owner with property seizure or forfeiture under
90 certain circumstances; requiring a seizing law
91 enforcement agency to follow specified procedures
92 under certain circumstances; requiring a court to
93 issue a written order finding probable cause under
94 certain circumstances; authorizing a court to order
95 that the written order of probable cause be sealed
96 under certain circumstances; providing that the
97 property is deemed a contraband article and forfeited



396278

98 subject to forfeiture proceedings under certain
99 circumstances; requiring the return of property by the
100 seizing law enforcement agency to the property owner
101 under certain circumstances; prohibiting a forfeiture
102 under the Florida Contraband Forfeiture Act from being
103 final until the owner of the seized property is
104 prosecuted and convicted of or pleads guilty or nolo
105 contendere to a criminal offense that renders the
106 property a contraband article; providing construction;
107 deleting