

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5203 PCB SAT 24-02 Property Seized by the Florida Gaming Control Commission

SPONSOR(S): State Administration & Technology Appropriations Subcommittee, Busatta Cabrera

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: State Administration & Technology Appropriations Subcommittee	12 Y, 0 N	Helping	Topp
1) Appropriations Committee	28 Y, 0 N	Helping	Pridgeon

SUMMARY ANALYSIS

The bill conforms current law to the proposed House of Representatives’ Fiscal Year 2024-2025 General Appropriation Act (GAA). The Florida Gaming Control Commission (Commission) may use the specified funds in the bill for gaming enforcement activities. The use of the funds may be requested in the Commission’s Legislative Budget Request which must be approved by the Legislature and included in the General Appropriations Act.

The Division of Gaming Enforcement (DGE) is created within the Commission. The DGE is considered a criminal justice agency. The DGE and its investigators are authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. Contraband includes any equipment, gambling device, apparatus, material of gaming, proceeds, substituted proceeds, real or personal property, Internet domain name, gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was obtained, received, used, attempted to be used, or intended to be used in violation of the gambling laws of the state.

Currently, property rights from confiscated machines and money and other things of value therein are forfeited to the county in which the seizure was made and must be placed in the fine and forfeiture fund of the county.

If the seizing agency is a state agency, the remaining proceeds after satisfaction of liens, costs incurred with the storage, maintenance, security, and forfeiture of such property, and payment of court costs incurred in a forfeiture procedure, must be deposited into the General Revenue Fund.

The bill specifies that the property rights in machines and money and other things of value therein confiscated by the Commission are forfeited to the Commission and deposited into the Pari-Mutuel Wagering Trust Fund. The bill further specifies sums received from a sale or other disposition of property that is seized by the Commission shall be deposited into the Pari-Mutuel Wagering Trust Fund.

The bill provides an exemption from the requirement that the Commission pay excess proceeds from forfeiture proceedings to the General Revenue Fund. The bill specifies that proceeds accrued pursuant to the Florida Contraband Forfeiture Act are to be deposited into the Pari-Mutual Wagering Trust Fund or into the Commission’s Federal Law Enforcement Trust Fund. The bill authorizes such proceeds to be used for the operation of the Commission.

The bill does not directly impact state revenues or expenditures. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Gaming Control Commission

Section 16.71, F.S., establishes the Florida Gaming Control Commission (Commission), within the Department of Legal Affairs (DLA). The Commission is a separate budget entity and the commissioners serve as the agency head for all purposes. The Commission is not subject to control, supervision, or direction by DLA.

The Division of Gaming Enforcement (DGE) is created within the Commission, and requires the commissioners to appoint a director of the DGE who is qualified by training and experience in law enforcement or security to supervise, direct, coordinate, and administer all activities of the DGE. The DGE is considered a criminal justice agency within the definition of s. 943.045, F.S.¹ The Division director and all investigators employed by the Division are designated law enforcement officers and have the power to detect, apprehend, and arrest for any alleged violation of chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849, F.S., or any rule adopted pursuant thereto, or any law of this state.²

DGE law enforcement officers are authorized to enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any necessary equipment.³ In any instance in which there is reason to believe that a violation has occurred, DGE law enforcement officers have the authority, without warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring, and may, consistent with the United States and Florida Constitutions, seize or take possession of any papers, records, tickets, currency, or other items related to any alleged violation.

The division and its investigators are authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. Contraband includes any equipment, gambling device, apparatus, material of gaming, proceeds, substituted proceeds, real or personal property, Internet domain name, gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was obtained, received, used, attempted to be used, or intended to be used in violation of the gambling laws of the state.⁴

Disposition of Confiscated Items

Currently, property rights in confiscated machines and money and other things of value therein are forfeited to the county in which the seizure was made and must be placed in the fine and forfeiture fund of the county.⁵ All sums received from the sale of seized property is paid into the county fine and forfeiture fund in which the seizure was made.⁶ If the seizure occurs within a municipality that has

¹ Section 119.01(4), F.S., defines a “criminal justice agency” to mean any law enforcement agency, court, or prosecutor; any other agency charged by law with criminal law enforcement duties; any agency having custody of criminal intelligence information or criminal investigative information for the purpose of assisting such law enforcement agencies in the conduct of active criminal investigation or prosecution or for the purpose of litigating civil actions under the Racketeer Influenced and Corrupt Organization Act, during the time that such agencies are in possession of criminal intelligence information or criminal investigative information pursuant to their criminal law enforcement duties; or the Department of Corrections.

² S. 16.711(3), F.S.

³ *Id.*

⁴ S. 932.701(2)(a)2, F.S.

⁵ S. 849.19, F.S.

⁶ S. 849.44, F.S.

forfeiture ordinances, the sums received from sale of the seized property is deposited into the municipality's general operating fund.⁷

Pari-Mutuel Wagering Trust Fund

Section 550.0951(5), F.S., establishes the Pari-mutuel Wagering Trust Fund (trust fund). Specified license fee revenues⁸ deposited into the trust fund and other collections are used to fund the operation of the Commission in accordance with authorized appropriations.⁹ Additionally, slot machine license fees and other specified fees are used to fund the direct and indirect operating expenses of the Commission's operations and to provide funding for law enforcement activities in accordance with authorized appropriations.¹⁰

Disposition of Liens and Forfeited Property

Under the Florida Contraband Forfeiture Act, an agency that receives final judgment granting forfeiture of real property or personal property may elect to:

- Retain the property for the agency's use;
- Sell the property at public auction or by sealed bid to the highest bidder, except for real property which should be sold in a commercially reasonable manner after appraisal by listing on the market; or
- Salvage, trade, or transfer the property to any public or nonprofit organization.¹¹

If the forfeited property is subject to a lien, the agency must sell the property and use the proceeds to satisfy any liens or may have the lien satisfied prior to taking the above actions.¹²

The proceeds from the sale of forfeited property must be disbursed in the following priority:

- Payment of the balance due on any lien preserved by the court in the forfeiture proceedings.
- Payment of the cost incurred by the seizing agency in connection with the storage, maintenance, security, and forfeiture of such property.
- Payment of court costs incurred in the forfeiture proceeding.¹³

If the seizing agency is a state agency, the remaining proceeds after satisfaction of liens, costs incurred with the storage, maintenance, security, and forfeiture of such property, and payment of court costs incurred in a forfeiture procedure, must be deposited into the General Revenue Fund.¹⁴ However, various state agencies are provided an exemption, allowing the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act to be deposited into specified trust funds created within those agencies.¹⁵ The Florida Gaming Control Commission does not currently have this exemption.

Effect of Proposed Changes

The bill amends s. 849.19, F.S., to specify that the of property rights in machines and money and other things of value therein confiscated by the Commission are forfeited to the Commission and deposited into the Pari-Mutuel Wagering Trust Fund. The bill amends s. 849.44, F.S., to specify sums received from a sale or other disposition of property that is seized by the Commission shall be deposited into the Pari-Mutuel Wagering Trust Fund.

⁷ *Id.*

⁸ S. 550.0951(1), F.S.

⁹ S. 550.135(1), F.S.

¹⁰ S. 550.135(2), F.S.

¹¹ S. 932.7055(1), F.S.

¹² S. 932.7055(3), F.S.

¹³ S. 932.7055(4), F.S.

¹⁴ S. 932.7055(6), F.S.

¹⁵ *Id.*

The bill amends s. 932.7055, F.S., to provide an exemption from the requirement that the Commission pay excess proceeds from forfeiture proceedings to the General Revenue Fund. The bill specifies that proceeds accrued pursuant to the Florida Contraband Forfeiture Act are to be deposited into the Pari-Mutuel Wagering Trust Fund or into the Commission's Federal Law Enforcement Trust Fund. The bill authorizes such proceeds to be used for the operation of the Commission.

The bill takes effect July 1, 2024.

B. SECTION DIRECTORY:

Section 1: amends s. 849.19, F.S., specifying deposits into the Pari-Mutuel Wagering Trust Fund.

Section 2: amends s. 849.44, F.S., specifying proceeds to be placed into the Pari-Mutuel Wagering Trust Fund.

Section 3: amends s. 932.7055, F.S., providing an exemption under the Florida Contraband Forfeiture Act.

Section 4: provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill does not impact state revenues or expenditures directly. However, the authorization to deposit funds into the Pari-Mutuel Trust Fund will allow funds that are acquired through the Commission's gaming enforcement activities to be used for operations of the Commission. Once there are sufficient funds within the trust fund, the commission may request budget authority to use the funds as part of their Legislative Budget Request.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES