

1 SB228
2 154847-1
3 By Senator Allen
4 RFD: Judiciary
5 First Read: 21-JAN-14

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8 SYNOPSIS: This bill would provide for expanded civil
9 liability for injuries resulting from acts of
10 terrorism.

11 This bill would provide for the forfeiture
12 of all property used in the course of, or derived
13 from, an act of terrorism.

14 This bill would authorize a person injured
15 by an act of terrorism and law enforcement agencies
16 involved in the investigation, prosecution,
17 mitigation, seizure, or forfeiture process for acts
18 of terrorism to file a claim for costs or damages
19 to be satisfied from forfeited property.

20 This bill would provide for the allocation
21 of proceeds from a forfeiture and disposition, and
22 would specify that investigation expenses must be
23 paid first.

24 This bill would provide a limitation period
25 for asserting a claim against forfeited property.

26 This bill would also authorize a person
27 injured by an act of terrorism to file an action

1 for damages against a person committing an act of
2 terrorism, and would authorize the recovery of
3 specified damages.

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5 A BILL
6 TO BE ENTITLED
7 AN ACT

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9 Relating to acts of terrorism, to provide for
10 expanded civil liability for injuries resulting from acts of
11 terrorism; to provide for the forfeiture of all property used
12 in the course of, or derived from, an act of terrorism; to
13 authorize a person injured by an act of terrorism and certain
14 law enforcement agencies to file a claim for costs or damages
15 to be satisfied from forfeited property; to provide for the
16 allocation of proceeds from a forfeiture and disposition; to
17 provide a limitation period for asserting a claim against
18 forfeited property; to authorize a person injured by an act of
19 terrorism to file an action for damages against a person
20 committing an act of terrorism; and to provide for damages.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. (a) Notwithstanding any other law, all
23 property, including money, used in the course of, intended for
24 use in the course of, derived from, or realized through
25 conduct in violation of Article 7, Chapter 10, Title 13A, Code
26 of Alabama 1975, is subject to civil forfeiture to the state.

1 (b) A person injured as a result of a criminal
2 offense under Article 7, Chapter 10, Title 13A, Code of
3 Alabama 1975, and a law enforcement agency or other
4 governmental agency that participated in the investigation,
5 mitigation, seizure, or forfeiture process for a criminal
6 offense under Article 7, Chapter 10, Title 13A, Code of
7 Alabama 1975, may file a claim with the Alabama Board of
8 Adjustment for costs or damages, and the property described in
9 subsection (a) of this section shall be used to satisfy any
10 costs or damages awarded for the claim.

11 (c) (1) A forfeiture or disposition under this
12 section shall not affect the rights of a factually innocent
13 person.

14 (2) A mortgage, lien, privilege, or other security
15 interest or joint ownership interest shall not be affected by
16 a forfeiture under this section if the owner of the mortgage,
17 lien, privilege, or other security interest or joint owner
18 establishes that he or she is a factually innocent person.

19 (d) The allocation of proceeds from a forfeiture and
20 disposition under this section shall be paid to claimants
21 under subsection (b) of this section in the following order:

22 (1)a. The costs of investigation shall be paid to
23 the law enforcement agency or governmental agency that
24 conducted the investigation.

25 b. If more than one law enforcement agency equally
26 conducted the investigation, the costs of investigation shall

1 be paid equally to the law enforcement agencies conducting the
2 investigation.

3 c. If one law enforcement agency primarily conducted
4 the investigation, the costs of investigation first shall be
5 paid to that law enforcement agency and actual vouchered costs
6 shall be reimbursed on a pro rata basis to the other law
7 enforcement agencies participating in the investigation, not
8 to exceed 10 percent of the costs of investigation allocated
9 to the primary law enforcement agency.

10 (2) Twenty-five percent of the proceeds plus the
11 costs of prosecution or all of the remaining proceeds,
12 whichever is less, shall be paid to the prosecuting attorney.

13 (3) The costs of investigation shall be paid on a
14 pro rata basis to a law enforcement agency that was not fully
15 reimbursed under paragraph c. of subdivision (1) of this
16 subsection.

17 (4) The costs of mitigation, seizure, or forfeiture
18 shall be paid on a pro rata basis to a law enforcement agency
19 that participated in the mitigation, seizure, or forfeiture
20 process.

21 (5) Any remaining proceeds shall be paid on a pro
22 rata basis to satisfy any judgments under Section 2 for
23 persons injured as a result of the criminal offense under
24 Article 7, Chapter 10, Title 13A, Code of Alabama 1975.

25 (e)(1) Property subject to forfeiture under this
26 section may be seized by a law enforcement officer upon the
27 issuance of a court order.

1 (2) Seizure without a court order may be made if
2 either of the following is satisfied:

3 a. The seizure is incident to a lawful arrest or
4 search.

5 b. The property subject to seizure has been the
6 subject of a prior judgment in favor of the state in a
7 forfeiture proceeding based on this section.

8 (3)a. A forfeiture action resulting from a seizure
9 under this subsection shall be instituted promptly.

10 b. Property taken or detained under this section is
11 not subject to sequestration or attachment but is deemed to be
12 in the custody of the law enforcement agency making the
13 seizure, subject only to the order of the court.

14 c. When property is seized under this section,
15 pending forfeiture and final disposition, the law enforcement
16 agency making the seizure may do any of the following:

17 1. Place the property under seal.

18 2. Remove the property to a place designated by the
19 court.

20 3. Request another agency authorized by law to take
21 custody of the property and remove it to an appropriate
22 location.

23 (f) The limitation period for a claim brought under
24 this section is five years from the date of the discovery of
25 the violation of Article 7, Chapter 10, Title 13A, Code of
26 Alabama 1975.

1 Section 2. (a) A person injured as a result of a
2 criminal offense under Article 7, Chapter 10, Title 13A, Code
3 of Alabama 1975, may file an action for damages in circuit
4 court against the person who committed the violation.

5 (b) A person who files an action under this section
6 is entitled to recover three times the actual damages
7 sustained or ten thousand dollars (\$10,000), whichever is
8 greater, as well as attorney's fees in the trial and appellate
9 courts if the person prevails in the claim.

10 (c) The limitation period for an action under this
11 section is five years from the date of discovery of the
12 violation of Article 7, Chapter 10, Title 13A, Code of Alabama
13 1975.

14 (d) A person who receives a judgment under this
15 section may seek satisfaction of the judgment under Section 1.

16 Section 3. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.