

1 SB6
2 166631-3
3 By Senator Allen
4 RFD: Judiciary
5 First Read: 03-MAR-15
6 PFD: 01/15/2015

1 SB6

2
3
4 ENGROSSED

5
6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

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

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. (a) Notwithstanding any other law, all
2 property, including money, used in the course of, intended for
3 use in the course of, derived from, or realized through
4 conduct in violation of Article 7, Chapter 10, Title 13A, Code
5 of Alabama 1975, is subject to civil forfeiture to the state
6 or a private entity.

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

18 (2) In addition to any filing or other fee required
19 under Section 12-19-71, Code of Alabama 1975, or any other
20 law, a person initiating an action under subdivision (1) shall
21 pay the following additional fees upon the filing of the
22 action:

23 a. For cases in which the amount in controversy,
24 exclusive of interest, costs, and attorney's fees, is
25 anticipated to be less than one hundred thousand dollars
26 (\$100,000): one hundred dollars (\$100).

1 b. For cases in which the amount in controversy,
2 exclusive of interest, costs, and attorney's fees, is
3 anticipated to be at least one hundred thousand dollars
4 (\$100,000), but less than two hundred fifty thousand dollars
5 (\$250,000): two hundred dollars (\$200).

6 c. For cases in which the amount in controversy,
7 exclusive of interest, costs, and attorney's fees, is
8 anticipated to be at least two hundred fifty thousand dollars
9 (\$250,000), but is less than five hundred thousand dollars
10 (\$500,000): three hundred dollars (\$300).

11 d. For cases in which the amount in controversy,
12 exclusive of interest, costs, and attorney's fees, is
13 anticipated to be five hundred thousand dollars (\$500,000) or
14 more: four hundred dollars (\$400).

15 (3) The additional fees collected under subdivision
16 (2) shall be distributed to the Presiding Circuit Judge's
17 Judicial Administration Fund established in Section 12-19-310,
18 Code of Alabama 1975, and such funds shall be used as provided
19 in subsection (e) of Section 12-19-310, Code of Alabama 1975.

20 (c) (1) A forfeiture or disposition under this
21 section shall not affect the rights of a factually innocent
22 person.

23 (2) A mortgage, lien, privilege, or other security
24 interest or joint ownership interest shall not be affected by
25 a forfeiture or other disposition under this section unless
26 the state or private entity proves that the violation of

1 Article 7, Chapter 10, Title 13A, Code of Alabama 1975, was
2 committed or omitted with the knowledge and consent of the
3 owner of the mortgage, lien, privilege, or other security
4 interest or joint owner of property.

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

8 (1)a. The costs of investigation shall be paid to
9 the law enforcement agency, the governmental agency, or
10 private entity that conducted the investigation.

11 b. If more than one law enforcement agency equally
12 conducted the investigation, the costs of investigation shall
13 be paid equally to the law enforcement agencies or entities
14 conducting the investigation.

15 c. If one law enforcement agency or private entity
16 primarily conducted the investigation, the costs of
17 investigation first shall be paid to that law enforcement
18 agency and actual vouchered costs shall be reimbursed on a pro
19 rata basis to the other law enforcement agencies participating
20 in the investigation, not to exceed 10 percent of the costs of
21 investigation allocated to the primary law enforcement agency.

22 (2) A reasonable amount, as agreed between the
23 parties, of the proceeds plus the costs of prosecution or all
24 of the remaining proceeds shall be paid to the prosecuting
25 attorney's office.

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

5 (4) The costs of mitigation, seizure, or forfeiture
6 shall be paid on a pro rata basis to a law enforcement agency
7 that participated in the mitigation, seizure, or forfeiture
8 process.

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

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

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

18 a. The seizure is incident to a lawful arrest or
19 search.

20 b. The property subject to seizure has been the
21 subject of a prior judgment in favor of the state in a
22 forfeiture proceeding based on this section.

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

25 b. Property taken or detained under this section is
26 not subject to sequestration or attachment but is deemed to be

1 in the custody of the law enforcement agency making the
2 seizure, subject only to the order of the court.

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

6 1. Place the property under seal.

7 2. Remove the property to a place designated by the
8 court.

9 3. Request another agency authorized by law to take
10 custody of the property and remove it to an appropriate
11 location.

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

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

20 (b) The limitation period for an action under this
21 section is five years from the date of discovery of the
22 violation of Article 7, Chapter 10, Title 13A, Code of Alabama
23 1975.

24 (c) A person who receives a judgment under this
25 section may seek satisfaction of the judgment under Section 1.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

Senate

Read for the first time and referred to the Senate committee on Judiciary.....	03-MAR-15
Read for the second time and placed on the calen- dar with 1 substitute and.....	02-APR-15
Read for the third time and passed as amended	14-APR-15

Yeas 34
Nays 0

Patrick Harris
Secretary