

1 SB49  
2 170931-1  
3 By Senator Allen  
4 RFD: Finance and Taxation General Fund  
5 First Read: 04-AUG-15

2  
3  
4  
5  
6  
7  
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 or private entities involved in the investigation,  
17 prosecution, mitigation, seizure, or forfeiture  
18 process for acts of terrorism to file a claim for  
19 costs or damages to be satisfied from forfeited  
20 property.

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

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

1                   This bill would also authorize a person  
2                   injured by an act of terrorism to file an action  
3                   for damages against a person committing an act of  
4                   terrorism and would authorize the recovery of  
5                   specified damages.

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:

26                   Section 1. (a) Notwithstanding any other law, all  
27                   property, including money, used in the course of, intended for

1 use in the course of, derived from, or realized through  
2 conduct in violation of Article 7, Chapter 10, Title 13A, Code  
3 of Alabama 1975, is subject to civil forfeiture to the state  
4 or a private entity.

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

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

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

24 b. For cases in which the amount in controversy,  
25 exclusive of interest, costs, and attorney's fees, is  
26 anticipated to be at least one hundred thousand dollars

1 (\$100,000), but less than two hundred fifty thousand dollars  
2 (\$250,000): two hundred dollars (\$200).

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

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

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

17 (c)(1) A forfeiture or disposition under this  
18 section shall not affect the rights of a factually innocent  
19 person.

20 (2) A mortgage, lien, privilege, or other security  
21 interest or joint ownership interest shall not be affected by  
22 a forfeiture or other disposition under this section unless  
23 the state or private entity proves that the violation of  
24 Article 7, Chapter 10, Title 13A, Code of Alabama 1975, was  
25 committed or omitted with the knowledge and consent of the  
26 owner of the mortgage, lien, privilege, or other security  
27 interest or joint owner of property.

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

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

7 b. If more than one law enforcement agency equally  
8 conducted the investigation, the costs of investigation shall  
9 be paid equally to the law enforcement agencies or entities  
10 conducting the investigation.

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

18 (2) A reasonable amount, as agreed between the  
19 parties, of the proceeds plus the costs of prosecution or all  
20 of the remaining proceeds shall be paid to the prosecuting  
21 attorney's office.

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

25 (4) The costs of mitigation, seizure, or forfeiture  
26 shall be paid on a pro rata basis to a law enforcement agency

1 that participated in the mitigation, seizure, or forfeiture  
2 process.

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

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

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

12 a. The seizure is incident to a lawful arrest or  
13 search.

14 b. The property subject to seizure has been the  
15 subject of a prior judgment in favor of the state in a  
16 forfeiture proceeding based on this section.

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

19 b. Property taken or detained under this section is  
20 not subject to sequestration or attachment but is deemed to be  
21 in the custody of the law enforcement agency making the  
22 seizure, subject only to the order of the court.

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

26 1. Place the property under seal.

1                   2. Remove the property to a place designated by the  
2 court.

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

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

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

14                  (b) The limitation period for an action under this  
15 section is five years from the date of discovery of the  
16 violation of Article 7, Chapter 10, Title 13A, Code of Alabama  
17 1975.

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

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