

1 SB21
2 172905-1
3 By Senator Allen
4 RFD: Judiciary
5 First Read: 02-FEB-16
6 PFD: 01/13/2016

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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
16 additional fees; to provide for distribution of the fees; to
17 provide for the allocation of proceeds from a forfeiture and
18 disposition; to provide a limitation period for asserting a
19 claim against forfeited property; to authorize a person
20 injured by an act of terrorism to file an action for damages
21 against a person committing an act of terrorism; and to
22 provide for damages.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. (a) Notwithstanding any other law, all
25 property, including money, used in the course of, intended for
26 use in the course of, derived from, or realized through
27 conduct in violation of Article 7, Chapter 10, Title 13A, Code

1 of Alabama 1975, is subject to civil forfeiture to the state
2 or a private entity.

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

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

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

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

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

1 b. If more than one law enforcement agency equally
2 conducted the investigation, the costs of investigation shall
3 be paid equally to the law enforcement agencies conducting the
4 investigation.

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

12 (2) Twenty-five percent of the proceeds plus the
13 costs of prosecution or all of the remaining proceeds,
14 whichever is less, shall be paid to the prosecuting attorney's
15 office.

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

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

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

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

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

6 a. The seizure is incident to a lawful arrest or
7 search.

8 b. The property subject to seizure has been the
9 subject of a prior judgment in favor of the state in a
10 forfeiture proceeding based on this section.

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

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

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

20 1. Place the property under seal.

21 2. Remove the property to a place designated by the
22 court.

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

26 (f) The limitation period for a claim brought under
27 this section is five years from the date of the discovery of

1 the violation of Article 7, Chapter 10, Title 13A, Code of
2 Alabama 1975.

3 Section 2. (a) A person injured in his or her
4 person, property, or business by reason of a criminal offense
5 under Article 7, Chapter 10, Title 13A, Code of Alabama 1975,
6 or his or her estate, survivors, or heirs, may file an action
7 for damages in circuit court.

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

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

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

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