

1 SB56
2 178287-1
3 By Senator Allen
4 RFD: Judiciary
5 First Read: 07-FEB-17
6 PFD: 02/06/2017

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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 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

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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) of
14 this section shall be used to satisfy any costs or damages
15 awarded for the claim.

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

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

25 b. For cases in which the amount in controversy,
26 exclusive of interest, costs, and attorney's fees, is
27 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, ownership, or joint ownership interest shall not be
22 affected by a forfeiture or other disposition under this act
23 unless the state, person, or private entity proves that the
24 violation of Article 7, Chapter 10, Title 13A, Code of Alabama
25 1975, was committed with the knowledge and consent of each
26 person or entity against which the forfeiture or other
27 disposition is sought to be enforced.

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

4 (1) The cost to satisfy any judgements under Section
5 2 for persons injured as a result of the criminal offense
6 under Article 7, Chapter 10, Title 13A, Code of Alabama 1975.

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

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

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

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

25 (4) The costs of investigation shall be paid on a
26 pro rata basis to a law enforcement agency that was not fully

1 reimbursed under paragraph c. of subdivision (1) of this
2 subsection.

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

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

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

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

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

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

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

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

27 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 in his or her
11 person, property, or business by reason of a criminal offense
12 under Article 7, Chapter 10, Title 13A, Code of Alabama 1975,
13 or his or her estate, survivors, or heirs, may file an action
14 for damages in circuit court against the person who committed
15 the act of terrorism.

16 (b) In addition to actual damages, a person who
17 files an action under this section may recover punitive
18 damages, which in no case shall be less than three times the
19 actual damages sustained. The burden of proof shall be a
20 preponderance of the evidence. A person shall also be entitled
21 to attorney's fees in the trial and appellate courts if the
22 person prevails in the claim. The rights and remedies provided
23 by this section are in addition to any other rights and
24 remedies provided by law.

25 (c) A person who receives a judgment under this
26 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.