

1 SB7
2 187793-2
3 By Senator Allen
4 RFD: Judiciary
5 First Read: 09-JAN-18
6 PFD: 08/10/2017

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4 ENGROSSED

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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, relating to an act of terrorism, is subject
4 to civil forfeiture to the state 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 a court of
12 competent jurisdiction for costs or damages, and the property
13 described in subsection (a) shall be used to satisfy any costs
14 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, ownership, or joint ownership interest shall not be
22 forfeited or otherwise affected under this act for any act or
23 omission unless the state, person, or private entity proves
24 that the violation of Article 7, Chapter 10, Title 13A, Code
25 of Alabama 1975, relating to an act of terrorism, was
26 committed with the knowledge and consent of each person or

1 entity against which the forfeiture or other disposition is
2 sought to be enforced.

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

6 (1) The cost to satisfy any judgments under Section
7 2 for persons injured as a result of the criminal offense
8 under Article 7, Chapter 10, Title 13A, Code of Alabama 1975,
9 relating to an act of terrorism.

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

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

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

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

1 (4) 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 (5) Any remaining proceeds shall be paid on a pro
6 rata basis to cover the costs of mitigation, seizure, or
7 forfeiture to a law enforcement agency that participated in
8 the mitigation, seizure, or forfeiture process.

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

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

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

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

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

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

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

- 1 1. Place the property under seal.
- 2 2. Remove the property to a place designated by the
- 3 court.
- 4 3. Request another agency authorized by law to take
- 5 custody of the property and remove it to an appropriate
- 6 location.

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

11 (g) For the purposes of this act, the following
12 terms shall have the following meanings:

13 (1) ACT OF TERRORISM. An act or acts constituting a
14 specified offense as defined in subdivision (2) for which a
15 person may be convicted in the criminal courts of this state,
16 or an act or acts constituting an offense in any other
17 jurisdiction within or outside the territorial boundaries of
18 the United States which contains all of the essential elements
19 of a specified offense, that is intended to do the following:

20 a. Intimidate or coerce a civilian population, which
21 is a mass of people and not one individual.

22 b. Influence the policy of a unit of government by
23 intimidation or coercion.

24 c. Affect the conduct of a unit of government by
25 murder, assassination, or kidnapping.

26 (2) SPECIFIED OFFENSE. A Class A felony,
27 manslaughter, kidnapping in the second degree, assault in the

1 first or second degree, stalking, intimidating a witness,
2 criminal tampering, endangering the food supply, endangering
3 the water supply or any attempt or conspiracy to commit any of
4 these offenses.

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

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

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

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

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 09-JAN-18

Read for the second time and placed on the calen-
dar 1 amendment..... 18-JAN-18

Read for the third time and passed as amended 30-JAN-18

Yeas 31
Nays 0

Patrick Harris,
Secretary.