

Act 252 of the 1989 Regular Session.

Act 252

HB1324

By: Representative Davis

"AN ACT TO AMEND THE UNIFORM CONTROLLED SUBSTANCES ACT TO PROVIDE THAT FORFEITED PROPERTY CANNOT BE SOLD AT A PRIVATE SALE UNTIL IT HAS FIRST BEEN OFFERED FOR SALE AT A PUBLIC SALE; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code 5-64-505 (a)(7)(iv) is hereby amended to read as follows:

"(iv) Upon conviction, when the circuit court having jurisdiction over the real property seized finds upon a hearing by a preponderance of the evidence that grounds for a forfeiture exist under this section, the court shall enter an order to:

(A) Permit the law enforcement agency or the prosecuting attorney for the judicial circuit in which the real property was seized to retain the real property for official use; or

(B) Permit the law enforcement agency to sell the real property at a public sale to the highest responsible bidder, and if not sold at the public sale the court may permit a private sale. In the event of a sale, the court shall provide by order that the proceeds be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of investigation, seizure, maintenance of custody, advertising, and court costs. All proceeds from the sale of forfeited real property under this section in excess of proper expenses shall be distributed as follows:

(I) Forty percent (40%) to be deposited into the State Treasury as special revenues to the credit of the Department of Arkansas State Police Fund;

(II) Forty percent (40%) to the law enforcement agency which perfected the arrest, provided that if a federal agency perfected the arrest this forty percent (40%) shall be distributed to the county sheriff's office of the county responsible for the prosecution;

(III) Twenty percent (20%) to the county sheriff's office of the county responsible for the prosecution."

SECTION 2. Arkansas Code 5-64-505 (e) is hereby amended to read as follows:

"(e) When the circuit court having jurisdiction over the property seized finds upon a hearing by a preponderance of the evidence that grounds for a forfeiture exist under subchapters 1-6 of this chapter, the court shall enter an appropriate order. The court may:

(1) Permit the proper law enforcement agency or the prosecuting attorney for the judicial district in which the property was seized to retain the property for official use;

(2) Permit the proper law enforcement agency to sell at public sale to the highest responsible bidder, and if not sold at the public sale the court may permit a private sale that which is not required by law to be destroyed and which is not harmful to the public. In the event of a sale, the court shall provide by appropriate order that the proceeds be used for payment

of all proper expenses of the proceedings for forfeiture and sale, including expenses of investigation, seizure, maintenance of custody, advertising, and court costs. All proceeds from the sale of forfeited property in excess of proper expenses shall be paid into the county general fund of the county where the property was seized.

(3) Require the director to take custody of the property and remove it for disposition in accordance with law."

SECTION 3. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 4. All laws and parts of laws in conflict with this Act are hereby repealed.

APPROVED: February 24, 1989

---