

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: S3/28/13

A Bill

SENATE BILL 630

5 By: Senator Rapert
6 By: Representative D. Meeks
7

For An Act To Be Entitled

8
9 *AN ACT PROVIDING FOR ENHANCED CIVIL LIABILITY*
10 *RESULTING FROM ACTS OF TERRORISM; TO BE KNOWN AS*
11 *ANDY'S LAW; AND FOR OTHER PURPOSES.*
12
13

Subtitle

14
15 *PROVIDING FOR ENHANCED CIVIL LIABILITY*
16 *RESULTING FROM ACTS OF TERRORISM; AND TO*
17 *BE KNOWN AS ANDY'S LAW.*
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code Title 16 is amended to add a new chapter to
23 read as follows:
24

Chapter 127

CIVIL LIABILITY FOR ACTS OF TERROR

25
26
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28 16-127-101. Forfeiture of and claims against property used to further
29 an act of terrorism.

30 (a) All property, including money, used in the course of, intended for
31 use in the course of, derived from, or realized through conduct in violation
32 of § 5-54-201 et seq., is subject to civil forfeiture to the state.

33 (b) A person injured as a result of a criminal offense under § 5-54-
34 201 et seq. and a law enforcement agency or other governmental agency that
35 participated in the investigation, mitigation, seizure, or forfeiture process
36 for a criminal offense under § 5-54-201 et seq. may file a claim for costs or



1 damages, and the property described in subsection (a) of this section shall
2 be used to satisfy any costs or damages awarded for the claim.

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

5 (2) A mortgage, lien, privilege, other security interest, or
6 joint ownership interest shall not be affected by a forfeiture under this
7 section if the owner of the mortgage, lien, privilege, other security
8 interest or joint owner establishes that he or she is a factually innocent
9 person.

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

13 (1)(A) First, the costs of investigation shall be paid to the law
14 enforcement agency or governmental agency that conducted the investigation.

15 (B) If more than one (1) law enforcement agency or
16 governmental agency equally conducted the investigation, the costs of
17 investigation shall be paid equally to the law enforcement agencies and
18 governmental agencies conducting the investigation.

19 (C) If one (1) law enforcement agency or governmental
20 agency primarily conducted the investigation, the costs of investigation
21 first shall be paid to that law enforcement agency or governmental agency,
22 with actual vouchered costs reimbursed on a pro rata basis to the other law
23 enforcement agencies or governmental agencies participating in the
24 investigation, not to exceed ten percent (10%) of the costs of investigation
25 allocated to the primary law enforcement agency or governmental agency;

26 (2) Second, twenty-five percent (25%) of the proceeds plus the
27 costs of prosecution or all of the remaining proceeds, whichever is less,
28 shall be paid to the prosecuting attorney;

29 (3) Third, the costs of investigation shall be paid on a pro rata
30 basis to a law enforcement agency or governmental agency that was not fully
31 reimbursed under subdivision (d)(1)(C) of this section;

32 (4) Fourth, the costs of mitigation, seizure, or forfeiture shall
33 be paid on a pro rata basis to a law enforcement agency or governmental
34 agency that participated in the mitigation, seizure, or forfeiture process;
35 and

36 (5) Fifth, any remaining proceeds shall be paid on a pro rata

1 basis to satisfy any judgments under § 16-127-102 for persons injured as a
2 result of the criminal offense under § 5-54-201 et seq.

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

5 (2) Seizure without a court order may be made if:

6 (A) The seizure is incident to a lawful arrest or search;

7 or

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

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

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

17 (C) When property is seized under this section, pending
18 forfeiture and final disposition, the law enforcement officer making the
19 seizure may:

20 (i) Place the property under seal;

21 (ii) Remove the property to a place designated by
22 the court; or

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

25 (f) The limitations period for a claim brought under this section is
26 five (5) years from the date of the discovery of the violation of § 5-54-201
27 et seq.

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29 16-127-102. Civil action by person injured by an act of terrorism.

30 (a) A person injured as a result of a criminal offense under § 5-54-201
31 et seq. may file an action for damages against the person who violated § 5-
32 54-201 et seq.

33 (b) A person who files an action under this section is entitled to
34 recover three (3) times the actual damages sustained or ten thousand dollars
35 (\$10,000), whichever is greater, as well as attorney fees in the trial and
36 appellate courts if the person prevails in the claim.

