

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

A Bill

SENATE BILL 630

4
5 By: Senator Rapert
6 By: Representative D. Meeks

For An Act To Be Entitled

9 AN ACT PROVIDING FOR ENHANCED CIVIL LIABILITY
10 RESULTING FROM ACTS OF TERRORISM; AND FOR OTHER
11 PURPOSES.

Subtitle

14 PROVIDING FOR ENHANCED CIVIL LIABILITY
15 RESULTING FROM ACTS OF TERRORISM.

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

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

Chapter 127

CIVIL LIABILITY FOR ACTS OF TERROR

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27 16-127-101. Forfeiture of and claims against property used to further
28 an act of terrorism.

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

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



1 be used to satisfy any costs or damages awarded for the claim.

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

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

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

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

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

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

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

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

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

35 (5) Fifth, any remaining proceeds shall be paid on a pro rata
36 basis to satisfy any judgments under § 16-127-102 for persons injured as a

1 result of the criminal offense under § 5-54-201 et seq.

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

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

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

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

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

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

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

19 (i) Place the property under seal;

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

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

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

27
 28 16-127-102. Civil action by person injured by an act of terrorism.

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

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

36 (c) The limitations period for an action under this section is five (5)

1 years from the date of discovery of the violation of § 5-54-201 et seq.

2 (d) A person who receives a judgment under this section may seek

3 satisfaction of the judgment under § 16-127-101.

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