

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations

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BILL: SPB 2508

INTRODUCER: For consideration by Appropriation Committee

SUBJECT: Seized Property

DATE: January 30, 2024

REVISED: \_\_\_\_\_

ANALYST

STAFF DIRECTOR

REFERENCE

ACTION

Davis

Sadberry

**Pre-meeting**

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## I. Summary:

SPB 2508 specifies that the property rights in machines and money and other things of value therein seized by the Florida Gaming Control Commission (Commission) are forfeited to the Commission and deposited into the Pari-Mutuel Wagering Trust Fund. In addition, the bill specifies sums received from a sale or other disposition of property that is seized by the Commission must be deposited into the Pari-Mutuel Wagering Trust Fund.

The bill provides an exemption from the requirement that the Commission pay excess proceeds from forfeiture proceedings to the General Revenue Fund. The bill specifies that proceeds accrued pursuant to the Florida Contraband Forfeiture Act are to be deposited into the Pari-Mutuel Wagering Trust Fund.

The bill takes effect July 1, 2024.

## II. Present Situation:

### Florida Gaming Control Commission

Section 16.71, F.S., establishes the Commission, within the Department of Legal Affairs (DLA). The Commission is a separate budget entity and the commissioners serve as the agency head for all purposes. The Commission is not subject to control, supervision, or direction by the DLA.

The Division of Gaming Enforcement (DGE) is created within the Commission, and requires the commissioners to appoint a director of the DGE who is qualified by training and experience in law enforcement or security to supervise, direct, coordinate, and administer all activities of the DGE.<sup>1</sup> The DGE is considered a criminal justice agency within the definition of s. 943.045, F.S.<sup>2</sup>

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<sup>1</sup> Section 16.711, F.S.

<sup>2</sup> Section 119.011(4), F.S., defines a “criminal justice agency” to mean any law enforcement agency, court, or prosecutor; any other agency charged by law with criminal law enforcement duties; any agency having custody of criminal intelligence information or criminal investigative information for the purpose of assisting such law enforcement agencies in the conduct of active criminal investigation or prosecution or for the purpose of litigating civil actions under the Racketeer Influenced and

The DGE director and all investigators employed by DGE are designated law enforcement officers and have the power to detect, apprehend, and arrest for any alleged violation of ch. 24, part II of ch. 285, ch. 546, ch. 550, ch. 551, or ch. 849, F.S., or any rule adopted pursuant thereto, or any law of this state.<sup>3</sup>

The DGE law enforcement officers are authorized to enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any necessary equipment.<sup>4</sup> In any instance in which there is reason to believe that a violation has occurred, the DGE law enforcement officers have the authority, without warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring, and may, consistent with the U.S. and Florida Constitutions, seize or take possession of any papers, records, tickets, currency, or other items related to any alleged violation.<sup>5</sup>

The DGE and its investigators are authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. Contraband includes any equipment, gambling device, apparatus, material of gaming, proceeds, substituted proceeds, real or personal property, Internet domain name, gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was obtained, received, used, attempted to be used, or intended to be used in violation of the gambling laws of the state.<sup>6</sup>

### **Pari-Mutuel Wagering Trust Fund**

Section 550.0951(5), F.S., establishes the Pari-mutuel Wagering Trust Fund (trust fund). Specified license fee revenues<sup>7</sup> deposited into the trust fund and other collections are used to fund the operation of the Commission in accordance with authorized appropriations.<sup>8</sup> Additionally, slot machine license fees and other specified fees are used to fund the direct and indirect operating expenses of the Commission's operations and to provide funding for law enforcement activities in accordance with authorized appropriations.<sup>9</sup>

### **Florida Contraband Forfeiture Act**

The Florida Contraband Forfeiture Act, ss. 932.701 through 932.7062, F.S., prescribes procedures for law enforcement agencies to follow when seizing, forfeiting, and disposing of property under the act. Section. 932.703, F.S., provides that any contraband article, vessel, motor vehicle, aircraft, other personal property, or real property used in violation of the act, or in, upon, or by means of which any violation of the act has taken or is taking place, may be seized and shall be forfeited subject to the provisions of the act.<sup>10</sup>

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Corrupt Organization Act, during the time that such agencies are in possession of criminal intelligence information or criminal investigative information pursuant to their criminal law enforcement duties; or the Department of Corrections.

<sup>3</sup> Section 16.711(3), F.S.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Section 932.701(2)(a)2., F.S.

<sup>7</sup> Section 550.0951(1), F.S.

<sup>8</sup> Section 550.135(1), F.S.

<sup>9</sup> Section 550.135(2), F.S.

<sup>10</sup> Section 932.703(1), F.S. The constitutionality of the act was upheld by the Florida Supreme Court in *Department of Law Enforcement v. Real Property*, 588 So.2d 957 (Fla. 1991).

### **Disposition of Confiscated Items**

Currently, property rights in confiscated machines and money and other things of value therein are forfeited to the county in which the seizure was made and must be placed in the fine and forfeiture fund of the county.<sup>11</sup> All sums received from the sale of seized property is paid into the county fine and forfeiture fund in which the seizure was made.<sup>12</sup> If the seizure occurs within a municipality that has forfeiture ordinances, the sums received from sale of the seized property is deposited into the municipality's general operating fund.<sup>13</sup>

### **Disposition of Liens and Forfeited Property**

Under the Florida Contraband Forfeiture Act, an agency that receives final judgment granting forfeiture of real property or personal property may elect to:

- Retain the property for the agency's use;
- Sell the property at public auction or by sealed bid to the highest bidder, except for real property which should be sold in a commercially reasonable manner after appraisal by listing on the market; or
- Salvage, trade, or transfer the property to any public or nonprofit organization.<sup>14</sup>

If the forfeited property is subject to a lien, the agency must sell the property and use the proceeds to satisfy any liens or may have the lien satisfied prior to taking the above actions.<sup>15</sup>

The proceeds from the sale of forfeited property must be disbursed in the following priority:

- Payment of the balance due on any lien preserved by the court in the forfeiture proceedings;
- Payment of the cost incurred by the seizing agency in connection with the storage, maintenance, security, and forfeiture of such property; and then
- Payment of court costs incurred in the forfeiture proceeding.<sup>16</sup>

If the seizing agency is a state agency, the remaining proceeds after satisfaction of liens, costs incurred with the storage, maintenance, security, and forfeiture of such property, and payment of court costs incurred in a forfeiture procedure, must be deposited into the General Revenue Fund.<sup>17</sup> However, various state agencies are provided an exemption, allowing the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act to be deposited into specified trust funds created within those agencies.<sup>18</sup> The Florida Gaming Control Commission does not currently have this exemption.

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<sup>11</sup> Section 849.19, F.S.

<sup>12</sup> Section 849.44, F.S.

<sup>13</sup> *Id.*

<sup>14</sup> Section 932.7055(1), F.S.

<sup>15</sup> Section 932.7055(3), F.S.

<sup>16</sup> Section 932.7055(4), F.S.

<sup>17</sup> Section 932.7055(6), F.S.

<sup>18</sup> *Id.*

**III. Effect of Proposed Changes:**

This bill specifies that the property rights in machines and money and other things of value therein seized by the Commission are forfeited to the Commission and deposited into the Pari-Mutuel Wagering Trust Fund. In addition, the bill specifies sums received from a sale or other disposition of property that is seized by the Commission must be deposited into the Pari-Mutuel Wagering Trust Fund.

The bill provides an exemption from the requirement that the Commission pay excess proceeds from forfeiture proceedings to the General Revenue Fund. The bill specifies that proceeds accrued pursuant to the Florida Contraband Forfeiture Act are to be deposited into the Pari-Mutuel Wagering Trust Fund.

The bill takes effect July 1, 2014.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill does not directly impact state revenues or expenditures. However, additional funds from seized property acquired through the Commission's gaming enforcement activities are to be deposited into the Pari-Mutuel Wagering Trust Fund. Once there are sufficient funds within the trust fund, the Commission may request budget authority to use the funds as part of its Legislative Budget Request.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 849.19, 849.44, and 932.7055.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.