

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 62

SPONSOR: Appropriations Subcommittee on Article V Implementation and Judiciary and Senator Wise

SUBJECT: Forfeited Property Sale / Proceeds

DATE: March 26, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cooper	Yeatman	CP	Favorable
2.	Martin	Martin	AAV	Favorable/CS
3.			AP	Withdrawn: Fav CS
4.				
5.				
6.				

I. Summary:

This bill specifies that counties and municipalities may fund drug court programs with proceeds from the sale of forfeited property.

This bill amends s. 932.7055, Florida Statutes.

II. Present Situation:

Sections 932.701 through 932.707, F.S., constitute the Florida Contraband Forfeiture Act. The act is designed to impose severe penalties on criminals and their organizations. Law enforcement agencies are empowered to seize anything that was used in, or acquired with proceeds of, felonious criminal actions. The seizure is accomplished through a civil process, as opposed to the underlying criminal law-based prosecution. The act prescribes procedures for law enforcement to implement when seizing, forfeiting, and disposing of property. The constitutionality of the act has been upheld by the Florida Supreme Court.¹

Section 932.7055, F.S., provides for the disposition of liens and forfeited property. When a seizing agency obtains a final judgment granting forfeiture of real or personal property, it may retain the property for the agency's use; sell the property; or salvage, trade, or transfer the property to any public or nonprofit organization. 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 payment of court costs incurred in the forfeiture proceeding.

¹ *Department of Law Enforcement v. Real Property*, 588 So.2d 957 (Fla. 1991).

Section 932.7055(4)(a), F.S., provides that if the seizing agency is a county or municipal agency, the remaining proceeds must be deposited in a special law enforcement trust fund established by the board of county commissioners or the governing body of the municipality. Such proceeds and interest earned on the proceeds must be used for school resource officers; crime prevention; safe neighborhood; drug abuse education and prevention programs; or for other law enforcement purposes, which include defraying the cost of protracted or complex investigations, providing additional equipment or expertise and providing matching funds to obtain federal grants. The proceeds and interest may not be used to meet normal operating expenses of the law enforcement agency.

Local law enforcement agencies that acquire at least \$15,000 in forfeiture proceeds within a fiscal year must expend or donate “no less than 15 percent of such proceeds” for the support or operation of any drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer program(s).² The local law enforcement agency has the discretion to determine which program(s) will receive the designated proceeds. In addition, the proceeds may be expended or donated over a period of years if the expenditure or donation of such minimum amount in any given fiscal year exceeds the needs of the county or municipality for such program(s).

FDLE reports that for local fiscal year 2000/01, \$42.2 million was collected on behalf of local law enforcement agencies from contraband forfeiture proceeds statewide. After deducting lien satisfactions, storage and maintenance costs, agency costs, and court costs, \$30.6 million was disbursed to local law enforcement agencies.

For local fiscal year 2000/01, local law enforcement agencies report spending contraband forfeiture proceeds for the following:³

Local Agency Contraband Forfeiture Expenditures, FY 2000/01

Complex/Protracted Investigations	\$3,160,414
Technical Equipment	\$8,529,637
Technical Expertise	\$1,487,317
Match Funds for Federal Grants	\$5,722,520
Other	\$7,317,972
School Resource Officer Program	\$1,640,979
Safe Neighborhood Program	\$1,153,163
Crime Prevention Program	\$9,977,258
Drug Abuse Education Program	\$1,141,813
Drug Prevention Program	\$992,691

² In FY 2000/01, 130 of 763 local law enforcement agencies acquired at least \$15,000 in forfeiture proceeds.

³ Expenditures exceed disbursements because law enforcement agencies used previously disbursed moneys to fund programs.

Drug Treatment Program	\$49,214
	\$38,012,564

III. Effect of Proposed Changes:

Section 1 amends s. 932.7055(4)(a), F.S., to specifically authorize counties and municipalities to fund drug court programs with proceeds from the sale of forfeited property. While such expenditures were likely authorized under the “other law enforcement purposes” deemed appropriate by the county commission or governing board of the municipality, this use of the fund is made explicit by the bill.

Section 2 provides that the act will take effect July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
