

05/20/2014 07:12:51 PM

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB2851

By: Fisher of the House and Shortey of the Senate

Title: The Oklahoma Antiterrorism Act; providing for forfeiture and private cause of action;
effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its Senate amendments; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

HB2851 CCR (A)
HOUSE CONFEREES

Biggs, Scott R.		Echols, Jon	
Grau, Randy		Inman, Scott	<hr/>
Johnson, Dennis		Jordan, Fred	
Martin, Steve		McCall, Charles A.	
McCullough, Mark	<hr/>	Morrisette, Richard	<hr/>
Newell, Tom		O'Donnell, Terry	
Russ, Todd		Sherrer, Ben	<hr/>
Stiles, Aaron		Virgin, Emily	<hr/>
Williams, Cory T.	<hr/>		

HB2851 CCR A

SENATE CONFEREES

Shortey

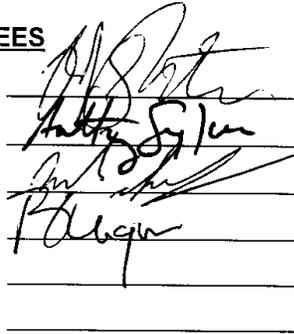
Sykes

Schulz

Bingman

Ivester

Shumate

Handwritten signatures of Senate conferees: Shortey, Sykes, Schulz, Bingman, Ivester, and Shumate. Each signature is written over a horizontal line.

House Action _____ Date _____ Senate Action _____ Date _____

House Action _____ Date _____ Senate Action _____ Date _____

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2851

By: Fisher, Bennett, Stiles,
Walker, Kern and Ritze of
the House

7 and

8 Shortey of the Senate
9
10

11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to the Oklahoma Antiterrorism Act;
13 making certain property subject to forfeiture;
14 providing limitations on forfeiture; providing for
15 allocation of proceeds; providing procedure for
16 forfeiture; providing statute of limitations;
17 providing for private action for damages; providing
18 amount of recovery; providing statute of limitations;
19 providing for incorporation of act into the Oklahoma
20 Antiterrorism Act; providing for codification;
21 providing for noncodification; and providing an
22 effective date.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1268.9 of Title 21, unless there
is created a duplication in numbering, reads as follows:

1 A. All property, including but not limited to money, used in
2 the course of, intended for use in the course of, derived from, or
3 realized through conduct in violation of the Oklahoma Antiterrorism
4 Act is subject to civil forfeiture to the state.

5 B. A person, other than the offender, who is injured as a
6 result of a criminal offense under the Oklahoma Antiterrorism Act
7 and a law enforcement agency or other governmental agency that
8 participated in the investigation, mitigation, seizure, or
9 forfeiture process for a criminal offense under the Oklahoma
10 Antiterrorism Act may file a claim for costs or damages, and the
11 property described in subsection A of this section shall be used to
12 satisfy any costs or damages awarded for the claim.

13 C. The claimant of any right, title, or interest in the
14 property may prove a lien, mortgage, deed, or sales contract gives
15 the claimant a bona fide or innocent ownership interest and that
16 such right, title, or interest was created without any knowledge or
17 reason to believe that the property was being, or was to be, used
18 for the purpose charged. In the event of such proof, the court
19 shall order the property returned to the claimant if the amount due
20 to the claimant is equal to or in excess of the value of the
21 property on the date of the seizure. The claimant shall not be
22 responsible for any storage fees for the property if the claimant
23 reclaims the property within thirty (30) days of the court order.
24 If the amount due to the claimant is less than the value of the

1 property on the date of the seizure, the claimant shall receive an
2 allocation from the sale of the property equal to the value of the
3 claimant's interest.

4 D. The allocation of proceeds from a forfeiture and disposition
5 under this section shall be paid to claimants under subsections B
6 and C of this section in the following order:

7 1. First, to a claimant having an interest pursuant to
8 subsection C of this section;

9 2. Second, the costs of investigation shall be paid to the law
10 enforcement agency or governmental agency that conducted the
11 investigation.

12 a. If more than one law enforcement agency or
13 governmental agency equally conducted the
14 investigation, the costs of investigation shall be
15 paid equally to the law enforcement agencies and
16 governmental agencies conducting the investigation.

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

1 allocated to the primary law enforcement agency or
2 governmental agency;

3 3. Third, twenty-five percent (25%) of the proceeds plus the
4 costs of prosecution or all of the remaining proceeds, whichever is
5 less, shall be paid to the office of the prosecuting district
6 attorney;

7 4. Fourth, the costs of investigation shall be paid on a pro
8 rata basis to a law enforcement agency or governmental agency that
9 was not fully reimbursed under paragraph 1 of this subsection;

10 5. Fifth, the costs of mitigation, seizure, or forfeiture shall
11 be paid on a pro rata basis to a law enforcement agency or
12 governmental agency that participated in the mitigation, seizure, or
13 forfeiture process; and

14 6. Sixth, any remaining proceeds shall be paid on a pro rata
15 basis to satisfy any judgments under Section 2 of this act for
16 persons injured as a result of a criminal offense under the Oklahoma
17 Antiterrorism Act.

18 E. 1. Property subject to forfeiture under this section may be
19 seized by a law enforcement officer upon the issuance of a court
20 order.

21 2. Seizure without a court order may be made if:

- 22 a. the seizure is incident to a lawful arrest or search,
23 or
24

1 b. the property subject to seizure has been the subject
2 of a prior judgment in favor of the state in a
3 forfeiture proceeding based on this section.

4 3. a. A forfeiture action resulting from a seizure under
5 this subsection shall be instituted promptly.

6 b. Property taken or detained under this section is not
7 subject to sequestration or attachment but is deemed
8 to be in the custody of the law enforcement officer
9 making the seizure, subject only to the order of the
10 court.

11 c. When property is seized under this section, pending
12 forfeiture and final disposition, the law enforcement
13 officer making the seizure may:

14 (1) place the property under seal,

15 (2) remove the property to a place designated by the
16 court, or

17 (3) request another agency authorized by law to take
18 custody of the property and remove it to an
19 appropriate location.

20 F. The limitations period for a claim brought under this
21 section is five (5) years from the date of the discovery of the
22 violation of the Oklahoma Antiterrorism Act.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1268.10 of Title 21, unless
3 there is created a duplication in numbering, reads as follows:

4 A. A person, other than the offender, who is injured as a
5 result of a criminal offense under the Oklahoma Antiterrorism Act
6 may file an action for damages against the person who violated the
7 Oklahoma Antiterrorism Act.

8 B. A person who files an action under this section is entitled
9 to recover three times the actual damages sustained or Ten Thousand
10 Dollars (\$10,000.00), whichever is greater, as well as attorney fees
11 in the trial and appellate courts if the person prevails in the
12 claim.

13 C. The limitations period for an action under this section is
14 five (5) years from the date of discovery of the violation of the
15 Oklahoma Antiterrorism Act.

16 D. A person who receives a judgment under this section may seek
17 satisfaction of the judgment under Section 1 of this act.

18 SECTION 3. NEW LAW A new section of law not to be
19 codified in the Oklahoma Statutes reads as follows:

20 Sections 1 and 2 of this act are hereby incorporated into and
21 deemed to be included in the Oklahoma Antiterrorism Act.

22 SECTION 4. This act shall become effective November 1, 2014.

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24 54-2-10976 SD 05/05/14

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