

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1382

By: Fisher

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5  
6 AS INTRODUCED

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

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

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:

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

B. A person, other than the offender, who is injured as a  
result of a criminal offense under the Oklahoma Antiterrorism Act

1 and a law enforcement agency or other governmental agency that  
2 participated in the investigation, mitigation, seizure, or  
3 forfeiture process for a criminal offense under the Oklahoma  
4 Antiterrorism Act may file a claim for costs or damages, and the  
5 property described in subsection A of this section shall be used to  
6 satisfy any costs or damages awarded for the claim.

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

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

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

3           2. Second, the costs of investigation shall be paid to the law  
4 enforcement agency or governmental agency that conducted the  
5 investigation.

6           a. If more than one law enforcement agency or  
7 governmental agency equally conducted the  
8 investigation, the costs of investigation shall be  
9 paid equally to the law enforcement agencies and  
10 governmental agencies conducting the investigation.

11           b. If one law enforcement agency or governmental agency  
12 primarily conducted the investigation, the costs of  
13 investigation first shall be paid to that law  
14 enforcement agency or governmental agency, with actual  
15 vouchered costs reimbursed on a pro rata basis to the  
16 other law enforcement agencies or governmental  
17 agencies participating in the investigation, not to  
18 exceed ten percent (10%) of the costs of investigation  
19 allocated to the primary law enforcement agency or  
20 governmental agency;

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

1           4. Fourth, the costs of investigation shall be paid on a pro  
2 rata basis to a law enforcement agency or governmental agency that  
3 was not fully reimbursed under paragraph 2 of this subsection;

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

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

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

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

16           a. the seizure is incident to a lawful arrest or search,  
17 or

18           b. the property subject to seizure has been the subject  
19 of a prior judgment in favor of the state in a  
20 forfeiture proceeding based on this section.

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

23           b. Property taken or detained under this section is not  
24 subject to sequestration or attachment but is deemed

1 to be in the custody of the law enforcement officer  
2 making the seizure, subject only to the order of the  
3 court.

4 c. When property is seized under this section, pending  
5 forfeiture and final disposition, the law enforcement  
6 officer making the seizure may:

7 (1) place the property under seal,

8 (2) remove the property to a place designated by the  
9 court, or

10 (3) request another agency authorized by law to take  
11 custody of the property and remove it to an  
12 appropriate location.

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

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

19 A. A person, other than the offender, who is injured as a  
20 result of a criminal offense under the Oklahoma Antiterrorism Act  
21 may file an action for damages against the person who violated the  
22 Oklahoma Antiterrorism Act.

23 B. A person who files an action under this section is entitled  
24 to recover three times the actual damages sustained or Ten Thousand

1 Dollars (\$10,000.00), whichever is greater, as well as attorney fees  
2 in the trial and appellate courts if the person prevails in the  
3 claim.

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

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

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

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

13 SECTION 4. This act shall become effective November 1, 2015.

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15 55-1-6138 SD 01/14/15  
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