

2022 Regular Session

HOUSE BILL NO. 569

BY REPRESENTATIVE EMERSON

PROPERTY: Provides for the forfeiture of property

1 AN ACT

2 To amend and reenact R.S. 40:2601(5) and 2616(D) and to enact R.S. 40:2601(6) through  
3 (8), 2605(7) and (8), and 2616(E) through (I), relative to property forfeiture; to  
4 provide relative to the legislative auditor; to provide for reporting requirements; to  
5 provide for definitions; to provide for exemptions; to provide relative to public  
6 records; to provide for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 40:2601(5) and 2616(D) are hereby amended and reenacted and R.S.  
9 40:2601(6) through (8), 2605(7) and (8), and 2616(E) through (I) are hereby enacted to read  
10 as follows:

11 §2601. Definitions

12 As used in this Chapter, the following words and phrases shall have the  
13 following meanings:

14 \* \* \*

15 (5) "~~Seizure for forfeiture~~" ~~means seizure of property by a law enforcement~~  
16 ~~officer designated by the district attorney accompanied by a written assertion by the~~  
17 ~~seizing agency or by a district attorney that the property is seized for forfeiture~~  
18 means any property lawfully taken and held by a law enforcement agency without  
19 the explicit consent of the property owner.



1 ~~Chapter during the previous calendar year.~~ The legislative auditor shall establish and  
2 maintain a case tracking system and searchable public website that includes the  
3 following information about property seized and forfeited under this Chapter:

4 (1) Name of the law enforcement agency that seized the property or, if seized  
5 by a multijurisdictional task force, the name of the lead agency.

6 (2) Date, type, place, and estimated value of the seizure, including currency  
7 and property other than currency.

8 (a) Property other than currency shall include a description. If the property  
9 is an automobile, the report shall include make, model, and year.

10 (b) Place of seizure shall indicate whether the seizure occurred at a home,  
11 business, or traffic stop.

12 (3) State or federal criminal offense alleged or suspected that led to the  
13 seizure.

14 (4) Crime for which the suspect was charged, including the criminal case  
15 number and court which the case was filed.

16 (5) The outcome of the suspect's case, including if the charges were filed or  
17 dropped, if the suspect was acquitted of the charges, if the suspect entered a plea  
18 agreement, or if the suspect was convicted by a jury conviction, or any other  
19 outcome.

20 (6) Forfeiture case number and court in which the case was filed.

21 (7) If a property owner filed a claim or counterclaim and whether the claim  
22 was filed by the suspect, an innocent owner, a joint owner, or a third party owner.

23 (8) Method of final forfeiture proceeding, including criminal, civil,  
24 administrative, including the date of the forfeiture order and the existence of a  
25 forfeiture settlement agreement.

26 (9) The disposition and date of disposition of the property, including whether  
27 it was returned to the owner, partially returned to the owner, sold, destroyed, retained  
28 by a law enforcement agency, or is pending disposition.

1           (10) Total value of the property forfeited under state law, including currency  
2           and proceeds from the sale of non-currency property excluding the value of  
3           contraband.

4           (11) Market value of property forfeited under state law that was retained,  
5           destroyed, or donated, excluding the value of contraband.

6           (12) Estimate of total costs related to storing, litigating, and selling or  
7           disposing of the property, including agency costs to store the property, district  
8           attorney costs for time and expenses to litigate forfeiture cases, and the cost to sell  
9           or dispose of the forfeited property.

10           (13) Amount of attorney fees awarded to property owners.

11           (14) If the property is retained by a law enforcement agency, the purpose of  
12           retaining the property.

13           (15) The total value of seized and forfeited property held by the law  
14           enforcement agency, district attorney's office, and courts at the end of the reporting  
15           period.

16           E.(1)(a) The law enforcement agency that seizes property and the district  
17           attorney's office and courts responsible for forfeiture proceedings shall provide the  
18           legislative auditor with the information specified in Subsections D and E of this  
19           Section.

20           (b) The commander of a multijurisdictional task force may appoint one  
21           agency to report its seizures.

22           (c) If an agency did not make any seizures or a district attorney's office or  
23           court has not been involved in a forfeiture proceeding during the previous year, a  
24           report shall be filed by the agency, office, or court, certifying that it did not engage  
25           in seizures or forfeitures under this Chapter during the reporting period.

26           (2) Notwithstanding any other provision of law, the legislative auditor shall,  
27           no later than March first of each year, submit to the governor, president of the  
28           Senate, speaker of the House of Representatives, members of the House Committee  
29           on the Administration of Criminal Justice and Senate Committee on Judiciary B, and

1 the chief judge of each district court, a written report summarizing activity in the  
2 state, for the preceding calendar year, the type, approximate value, and disposition  
3 of the property seized and the amount of any proceeds received or expended at the  
4 state and local levels. The report shall provide a categorized accounting of all  
5 proceeds expended. The summary data on seizures, forfeitures, and expenditures  
6 shall be disaggregated by law enforcement agency, district attorney office, and court.  
7 The legislative auditor shall post the report on the legislative auditor's website.

8 (3) The legislative auditor may include in its report recommendations to  
9 improve rules, regulations, and laws to better ensure that property seizures,  
10 forfeitures, and expenditures associated with seized or forfeited property are  
11 conducted and reported in a manner that is transparent and responsive to the needs  
12 of victims of crime, innocent property owners, secured interest holders, citizens,  
13 peace officers, and taxpayers.

14 (4) The legislative auditor shall identify, within the annual report, any law  
15 enforcement agency, district attorney office, or court that fails to submit the  
16 information required pursuant to Subsections D and E of this Section. No  
17 expenditures from the proceeds of funds of forfeited property shall be made for the  
18 benefit of any reporting entity that has failed to submit required information until  
19 such information has been received.

20 F. The legislative auditor may audit any law enforcement agency, district  
21 attorney office, or court pursuant to the generally accepted government auditing  
22 standards of records submitted to the legislative auditor related to inventory of seized  
23 property and expenditures of forfeiture proceeds.

24 G.(1) The legislative auditor shall consult with law enforcement agencies,  
25 district attorney offices, and courts to establish, on or before January 1, 2024, a  
26 uniform method of collecting and reporting the total amount of funds expended from  
27 property seized, forfeited, and reported in this Section for the following purposes:

28 (a) Drug abuse, crime, gang prevention, and other community programs.

29 (b) Victim reparations.

1           (c) Costs of investigation, including controlled buys, forensics, informant  
2           fees, and witness protection.

3           (d) Expenses related to seized property, including storage, maintenance,  
4           repairs, and return of property.

5           (e) Expenses related to forfeiture litigation, including court fees and  
6           expenses related to auditing, discovery, court reports, printing, postage, filing,  
7           witnesses, outside counsel, and attorney fees awarded to opposing counsel.

8           (f) Government personnel costs, including salaries, overtime, and benefits,  
9           as permitted by law.

10          (g) Government travel and training, including conferences, continuing  
11          education, entertainment, and meals.

12          (h) Government administrative and operating expenses, including office  
13          supplies, postage, printing, utilities, repairs, and maintenance of vehicles and other  
14          equipment.

15          (i) Government capital expenditures, including appliances, canines,  
16          computers, equipment, firearms, furniture, and vehicles.

17          (j) An itemized list of other expenditures of forfeiture proceeds, including  
18          payments to trade associations and lobbyists and transfers to other agencies.

19          (2) The legislative auditor shall include an update on the implementation of  
20          these provisions in the annual report required in this Section.

21          H. The legislative auditor may adopt rules and regulations pursuant to the  
22          Administrative Procedures Act to implement this Chapter.

23          I. Any information, data, and reports compiled and prepared in accordance  
24          with this Chapter shall be subject to the Public Records Act, pursuant to Article XII,  
25          Section 3 of the Constitution of Louisiana.

26          Section 2. This Act shall become effective on January 1, 2023.

---

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

HB 569 Original

2022 Regular Session

Emerson

**Abstract:** Provides that the legislative auditor shall establish a case tracking system and searchable public website and report on property seized and forfeited under the Seizure and Controlled Dangerous Substances Property Forfeiture Act.

Present law (R.S. 40:2601) defines "interest holder", "owner", "proceeds", "property", and "seizure for forfeiture".

Proposed law changes present law and defines "seizure", "forfeiture", "law enforcement agency", and "contraband".

Present law (R.S. 40:2605) provides for property interests that are exempt from forfeiture if the owner or holder establishes all of the following:

- (1) That the owner or holder is not legally accountable for the conduct giving rise to the property's forfeiture, did not consent to the conduct, and could not reasonable have known of the conduct or that it was likely to occur.
- (2) That the owner or holder had not acquired and did not stand to acquire substantial proceeds from the conduct other than as an interest holder in a bona fide commercial transaction.
- (3) For transportation conveyances only, that the owner or holder did not hold the property jointly, in common, or in community with the person whose conduct gave rise to its forfeiture.
- (4) That the owner or holder does not hold the property for the benefit of or as an agent of any person whose conduct gave rise to its forfeiture. If the owner or holder acquired the interest through any such person, it was acquired as a bona fide purchaser and the owner or holder did not knowingly take part in an illegal transaction.
- (5) That no person whose conduct gave rise to the forfeiture of the property had the authority to convey the interest to a bona fide purchaser at the time of the conduct.
- (6) That the owner or holder acquired the interest after the completion of the conduct giving rise to the property's forfeiture and the owner or holder acquired the interest under all the following:
  - (a) As a bona fide purchaser who did not knowingly take part in an illegal transaction.
  - (b) Before the filing of the forfeiture lien and before the effective date of the Notice of Pending Forfeiture relating to it and without notice of its seizure for forfeiture.
  - (c) At the time the interest was acquired, there was no reasonable cause to believe that the property was or likely to become subject to forfeiture.

Proposed law retains present law and provides for two additional exemptions: (1) residential immovable property valued at less than \$100,000 according to the most recent property tax assessment, and (2) the property is valued at less than \$50,000.

Present law (R.S. 40:2616) provides for the allocation of forfeited property. Present law (R.S. 40:2616(D)) provides that the district attorney shall submit a report that lists the total amount of seized funds or estimated value of property seized and the amounts of funds or property distributed to any entity, agency, or fund. Present law provides that the report shall be submitted to the governor, president of the Senate, speaker of the House of Representatives, chief judge and clerk of court of the judicial district where the district attorney has jurisdiction, or, in the case for Orleans Parish, to the chief judge of the Orleans Parish Criminal District Court and the clerk of the court by March 1st of each year.

Proposed law changes present law and provides that the legislative auditor shall establish and maintain a case tracking system and searchable public website that includes information on property seized and forfeited. The information shall include:

- (1) Name of law enforcement agency or lead agency, if multijurisdictional, that seized the property.
- (2) Date, type, place, and estimated value of seizure.
- (3) State, or federal criminal offense alleged or suspected that led to the seizure.
- (4) Crime for which the suspect was charged, including case number and court that case was filed in.
- (5) Outcome of the suspect's case.
- (6) Forfeiture case number and court in which the case was filed.
- (7) If the property owner filed a claim or counterclaim and whether the claim was filed by a suspect, innocent owner, joint owner, or a third party owner.
- (8) Method of final forfeiture proceeding, including date of order and existence of a settlement agreement.
- (9) Disposition and date of disposition of the property.
- (10) Total value of the property forfeited under state law, including currency and proceeds from the sale of non-currency property.
- (11) Market value of property forfeited that was retained, destroyed, or donated.
- (12) Estimate of total costs related to storing, litigating, and selling or disposing of the property.
- (13) Amount of attorney fees awarded to property owners.
- (14) If retained by a law enforcement agency, the purpose of retaining the property.
- (15) The total value of seized and forfeited property held by the law enforcement agency, district attorney's office, and courts at the end of the reporting period.

Proposed law (R.S. 40:2616(E)) provides that law enforcement agencies, district attorneys' offices, and courts shall provide the legislative auditor with the information required for reporting.

Proposed law provides that if no seizures or forfeiture proceedings occurred during the previous year, the agency, office, or court shall file a report certifying that no seizures or forfeiture proceedings occurred.

Proposed law provides that the legislative auditor shall submit a written report to the governor, president of the Senate, speaker of the House of Representatives, members of the House Committee on the Administration of Criminal Justice and Senate Committee on Judiciary B, and the chief judge of each district court by March 1st of each year. The written report shall summarize activity in the state for the seizing of property and amount of proceeds received or expended at the state and local levels. The report shall include a categorized accounting of proceeds expended and the summary data on seizures, forfeiture, and expenditures shall be categorized by law enforcement agency, district attorney office, and court.

Proposed law provides that the legislative auditor shall post the report on its website.

Proposed law provides that the legislative auditor may include recommendations in its report.

Proposed law provides that the legislative auditor shall identify any agency, office, or court that failed to submit the required information in the annual report.

Proposed law provides that no expenditures from the proceeds of funds of forfeited property shall be made for the benefit of any reporting entity that failed to submit the required information.

Proposed law (R.S. 40:2616(F)) provides that the legislative auditor may audit any agency, office, or court pursuant to the generally accepted government auditing standards of records.

Proposed law (R.S. 40:2616(G)) provides that the legislative auditor shall consult with law enforcement agencies, district attorney offices, and courts to establish a uniform method of reporting on the expenditure of funds for the following: community prevention and other programs; victim reparations; investigative costs; expenses related to seized property; litigation costs; government personnel, travel, training, administrative, and capital expenditures; and other expenditures of forfeiture proceeds by Jan. 1, 2024.

Proposed law (R.S. 40:2616(H)) provides that the legislative auditor may adopt rules pursuant to the Administrative Procedures Act to implement proposed law.

Proposed law (R.S. 40:2616(I)) provides that any information, data, and reports compiled and prepared pursuant to proposed law shall be subject to the Public Records Act.

Effective Jan. 1, 2023.

(Amends R.S. 40:2601(5) and 2616(D); Adds R.S. 40:2601(6)-(8), 2605(7) and (8), and 2616(E)-(I))