

26 subsection (2) and paragraph (d) of subsection (3) of that
 27 section are amended, to read:

28 932.703 Forfeiture of contraband article; exceptions.—

29 (1)(a) A contraband article, vessel, motor vehicle,
 30 aircraft, other personal property, or real property used in
 31 violation of any provision of the Florida Contraband Forfeiture
 32 Act, or in, upon, or by means of which any violation of the
 33 Florida Contraband Forfeiture Act has taken or is taking place,
 34 may be seized and shall be forfeited subject to the Florida
 35 Contraband Forfeiture Act. A seizure may occur only if the owner
 36 of the property is arrested for a criminal offense that forms
 37 the basis for determining that the property is a contraband
 38 article under s. 932.701, or one or more of the following
 39 circumstances apply:

40 1. The owner of the property cannot be identified after a
 41 diligent search, or the person in possession of the property
 42 denies ownership and the owner of the property cannot be
 43 identified by means that are available to the employee or agent
 44 of the seizing agency at the time of the seizure;

45 2. The owner of the property is a fugitive from justice or
 46 is deceased;

47 3. An individual who does not own the property is arrested
 48 for a criminal offense that forms the basis for determining that
 49 the property is a contraband article under s. 932.701 and the
 50 owner of the property had actual knowledge of the criminal

51 activity. Evidence that an owner received written notification
52 from a law enforcement agency and acknowledged receipt of the
53 notification in writing, that the seized asset had been used in
54 violation of the Florida Contraband Forfeiture Act on a prior
55 occasion by the arrested person, may be used to establish actual
56 knowledge;

57 4. The owner of the property agrees to be a confidential
58 informant as defined in s. 914.28. The seizing agency may not
59 use the threat of property seizure or forfeiture to coerce the
60 owner of the property to enter into a confidential informant
61 agreement. The seizing agency shall return the property to the
62 owner if criminal charges are not filed against the owner and
63 the active criminal investigation ends or if the owner ceases
64 being a confidential informant, unless the agency includes the
65 final forfeiture of the property as a component of the
66 confidential informant agreement; or

67 5. The property is a monetary instrument. For purposes of
68 this subparagraph, the term "monetary instrument" means coin or
69 currency of the United States or any other country; a traveler's
70 check; a personal check; a bank check; a cashier's check; a
71 money order; a bank draft of any country; an investment security
72 or negotiable instrument in bearer form or in other form such
73 that title passes upon delivery; a prepaid or stored value card
74 or other device that is the equivalent of money and can be used
75 to obtain cash, property, or services; or gold, silver, or

76 | platinum bullion or coins.

77 | (2)

78 | (c) If the court finds that the requirements specified in
 79 | paragraph (1)(a) were satisfied and that probable cause exists
 80 | for the seizure, the forfeiture may proceed as set forth in the
 81 | Florida Contraband Forfeiture Act, and no additional probable
 82 | cause determination is required unless the claimant requests an
 83 | adversarial preliminary hearing as set forth in the act. Upon
 84 | such a finding, the court shall issue a written order finding
 85 | probable cause for the seizure and order the property held until
 86 | the issue of a determination of title is resolved pursuant to
 87 | the procedures defined in the act. However, subsequent to the
 88 | written order finding probable cause for the seizure, the
 89 | forfeiture action may be stayed as provided in s. 932.704(6)(d).

90 | (3)

91 | (d) If the court determines that probable cause exists to
 92 | believe that such property was used in violation of the Florida
 93 | Contraband Forfeiture Act, the court shall order the property
 94 | restrained by the least restrictive means to protect against
 95 | disposal, waste, or continued illegal use of such property
 96 | pending final disposition of the forfeiture proceeding. The
 97 | court may order the claimant to post a bond or other adequate
 98 | security equivalent to the value of the property.

99 | Section 2. Subsection (1) and paragraph (b) of subsection
 100 | (6) of section 932.704, Florida Statutes, are amended, and

101 paragraph (d) is added to subsection (6) of that section, to
 102 read:

103 932.704 Forfeiture proceedings.—

104 (1) It is the policy of this state that law enforcement
 105 agencies shall use ~~utilize the provisions of~~ the Florida
 106 Contraband Forfeiture Act to deter and prevent the continued use
 107 of contraband articles for criminal purposes, to protect while
 108 ~~protecting~~ the proprietary interests of innocent owners and
 109 lienholders, to respect the due process rights of the accused,
 110 and to authorize such law enforcement agencies to use the
 111 proceeds collected under the Florida Contraband Forfeiture Act
 112 as supplemental funding for authorized purposes. The potential
 113 for obtaining revenues from forfeitures must not override
 114 fundamental considerations such as public safety, the safety of
 115 law enforcement officers, or the investigation and prosecution
 116 of criminal activity. It is also the policy of this state that
 117 law enforcement agencies ensure that, in all seizures made under
 118 the Florida Contraband Forfeiture Act, their officers adhere to
 119 federal and state constitutional limitations regarding an
 120 individual's right to be free from unreasonable searches and
 121 seizures, including, but not limited to, the illegal use of
 122 stops based on a pretext, coercive-consent searches, or a search
 123 based solely upon an individual's race or ethnicity.

124 (6)

125 (b) The complaint must, in addition to stating that which

126 is required by s. 932.703(3) (a) and (b), as appropriate,
127 describe the property; state the county, place, and date of
128 seizure; state the name of the law enforcement agency holding
129 the seized property; ~~and~~ state the name of the court in which
130 the complaint will be filed; and, if available, state the
131 criminal case number and the name of the court in which any
132 criminal charge associated with the underlying activity forming
133 the basis for the forfeiture action are filed against any
134 claimant.

135 (d)1. If a criminal charge associated with the underlying
136 activity forming the basis for the forfeiture action is filed
137 against any claimant, the forfeiture action must be stayed by
138 the court presiding over the forfeiture action until the
139 disposition of the underlying criminal case. If associated
140 criminal charges are filed after the complaint for forfeiture is
141 filed, the attorney for the seizing agency must notify, in
142 writing, the court presiding over the forfeiture action within 3
143 days after any such criminal charge is filed.

144 2. If an associated criminal charge is filed, the
145 forfeiture action may only proceed after the claimant is
146 convicted of or pleads guilty or nolo contendere to, regardless
147 of adjudication, a criminal charge forming the basis for the
148 forfeiture action. The attorney for the seizing agency must
149 notify, in writing, the court presiding over the forfeiture
150 action of the final disposition of any associated criminal

151 charges within 3 days after a final judgment and sentence is
152 entered, but may notify the court immediately upon the
153 claimant's conviction or plea, regardless of whether the
154 claimant has been sentenced. Upon written notification by the
155 attorney for the seizing agency, the stay shall be lifted and
156 the forfeiture action may proceed as set forth in the Florida
157 Contraband Forfeiture Act.

158 3. If an associated criminal charge against a claimant is
159 disposed of by dismissal, nolle prosequi, or acquittal, the
160 attorney for the seizing agency must notify, in writing, the
161 court presiding over the forfeiture action within 3 days after
162 the associated criminal charge is disposed of by dismissal,
163 nolle prosequi, or acquittal.

164 4. If all associated criminal charges against all
165 claimants are disposed of by dismissal, nolle prosequi, or
166 acquittal, the seizing agency must immediately release the
167 seized property to the person entitled to possession of the
168 property as determined by the court presiding over the
169 forfeiture action. Under such circumstances, the seizing agency
170 may not assess any towing charges, storage fees, administrative
171 costs, or maintenance costs against the claimant with respect to
172 the seized property or the forfeiture action.

173
174 This paragraph does not prohibit a forfeiture pursuant to a
175 lawful plea agreement which resolves a criminal charge and a

176 forfeiture action arising from the same activity. However,
177 seized property may not be used in bargaining to dismiss or
178 nolle prosequi criminal charges, obtain a guilty plea, or affect
179 criminal sentencing recommendations.

180 Section 3. Section 932.7071, Florida Statutes, is created
181 to read:

182 932.7071 Forfeiture adoption under federal law.—

183 (1) PROHIBITION OF FEDERAL ADOPTION.—A local, county, or
184 state law enforcement agency or other seizing agency may not
185 refer, transfer, or otherwise relinquish possession of property
186 seized under state law to a federal agency by way of adoption of
187 the seized property or other means by the federal agency for the
188 purpose of the property's forfeiture under the federal
189 Controlled Substances Act, Pub. L. No. 91-513, 21 U.S.C. ss. 801
190 et seq.

191 (2) JOINT TASK FORCES.—

192 (a) In a case in which the aggregate net equity value of
193 the property and currency seized is \$100,000 or less, excluding
194 the value of contraband, a local, county, or state law
195 enforcement agency or other seizing agency participating in a
196 joint task force or other multijurisdictional collaboration with
197 the federal government or an agency thereof shall transfer
198 responsibility for the seized property to the local, county, or
199 state seizing agency.

200 (b) If the federal government prohibits the transfer of

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201 seized property and currency to the local, county, or state
202 seizing agency as required under paragraph (a) and instead
203 requires that the property be transferred to the federal
204 government for forfeiture under federal law, the local, county,
205 or state seizing agency is prohibited from accepting payment of
206 any kind or distribution of forfeiture proceeds from the federal
207 government.

208 (c) Paragraphs (a) and (b) do not restrict a local,
209 county, or state seizing agency from transferring responsibility
210 to the federal government for forfeiture of seized property and
211 currency that has an aggregate net equity value of greater than
212 \$100,000, excluding the value of contraband.

213 (3) SEIZURE LAWS UNCHANGED.—Subsections (1) and (2) do not
214 restrict a local, county, or state law enforcement agency or
215 other seizing agency from seizing contraband or property if the
216 agency would otherwise be lawfully permitted to do so.

217 (4) FEDERAL GOVERNMENT.—Subsections (1) and (2) do not
218 prohibit the federal government, acting without the involvement
219 of a local, county, or state law enforcement agency or other
220 seizing agency, from seizing property and seeking forfeiture
221 under federal law.

222 Section 4. This act shall take effect July 1, 2023.