

2018 Regular Session

HOUSE BILL NO. 101

BY REPRESENTATIVE ZERINGUE

CRIMINAL/FORFEITURE: Provides relative to the seizure and forfeiture of property used in the course of, derived from, or realized through a pattern of racketeering activity

1 AN ACT

2 To amend and reenact R.S. 15:1356(A)(1), relative to civil remedies under the Louisiana
3 Racketeering Act; to provide relative to the seizure and forfeiture of property used
4 in the course of, intended for use in the course of, derived from, or realized through
5 a pattern of racketeering activity; to provide for the procedures and exemptions for
6 the seizure, forfeiture, and disposal of such property; to provide for effectiveness;
7 and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 15:1356(A)(1) is hereby amended and reenacted to read as follows:

10 §1356. Civil remedies

11 A.(1) All property, immovable or movable, including money, used in the
12 course of, intended for use in the course of, derived from, or realized through,
13 conduct in violation of a provision of R.S. 15:1353 is subject to civil forfeiture to the
14 state. Except as otherwise provided by this Chapter, procedures and exceptions for
15 the seizure, forfeiture, and disposal of such property shall be pursuant to the
16 provisions of the Seizure and Controlled Dangerous Substances Property Forfeiture
17 Act of 1989. Any injured person shall have an in rem right or claim to forfeited
18 property or to the proceeds derived therefrom superior to any right or claim the state
19 has in the same property or proceeds. The state shall dispose of all forfeited property
20 as soon as commercially feasible.

21 * * *

1 Section 2. This Act shall take effect and become operative if and when the proposed
 2 amendment of Article I, Section 4(D) of the Constitution of Louisiana contained in the Act
 3 which originated as House Bill No. _____ of this 2018 Regular Session of the Legislature
 4 is adopted at a statewide election and becomes effective.

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 101 Original

2018 Regular Session

Zeringue

Abstract: Provides relative to the forfeiture of property used or intended for use in the course of, derived from, or realized through a pattern of racketeering activity.

Present law provides for the La. Racketeering Act which prohibits persons from conducting or participating in an enterprise through a pattern of racketeering activity; from receiving, using, or investing proceeds derived from a pattern of racketeering activity; and from acquiring or maintaining any interest in or control of any enterprise or immovable property through a pattern of racketeering activity.

"A pattern of racketeering activity" is defined by present law as engaging in at least two incidents of "racketeering activity" (which includes certain enumerated present law criminal offenses) that occur within five years of each other and that have the same or similar intents, results, principals, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics and are not isolated incidents.

Present law provides that all property, immovable or movable, including money, used in the course of, intended for use in the course of, derived from, or realized through, conduct in violation of the La. Racketeering Act is subject to civil forfeiture to the state.

Proposed law retains present law and provides that except as otherwise provided by the present La. Racketeering Act, procedures and exceptions for the seizure, forfeiture, and disposal of such property shall be pursuant to the provisions of present law which provide for the seizure and forfeiture of property related to the violation of the Uniform Controlled Dangerous Substances Law (R.S. 40:2601 et seq.).

Proposed law is contingently effective upon the passage and adoption of a proposed constitutional amendment which expands the type of property that may be forfeited and disposed of in a civil proceeding, as provided by law, to include all property, immovable or movable, including money, used or intended for use in the course of, derived from, or realized through a pattern of racketeering activity.

(Amends R.S. 15:1356(A)(1))