

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE BILL 1716

Short Title: State to Retain Custody/Forfeited Property. (Public)

Sponsors: Representatives Love and Glazier (Primary Sponsors).

Referred to: Judiciary II.

April 19, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A STATE OR LOCAL LAW ENFORCEMENT AGENCY THAT SEIZES PROPERTY SHALL RETAIN CUSTODY OF THE PROPERTY FOR THE STATE TO ENSURE THAT THE CLEAR PROCEEDS OF ANY FORFEITURES ARE PAID TO THE PUBLIC SCHOOLS AS REQUIRED BY THE STATE CONSTITUTION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 15-11.1 is amended by adding a new subsection to read:

"(a1) When a law enforcement agency seizes property in any law enforcement activity pursuant to this section, including drug raids or other law enforcement activities to enforce the State's controlled substances laws, the law enforcement agency shall retain custody of the property on behalf of the State as provided by this section, and shall not request the federal Drug Enforcement Administration or any other federal agency to adopt the seizure, or otherwise propose or agree to the transfer of the seized property to a federal agency, without specific authorization of either the senior resident superior court judge or the chief district court judge in the district where the seizure occurred. The judge shall not authorize a transfer to a federal agency of property seized pursuant to this section unless the law enforcement agency shows to the court that the seizure in fact was pursuant to a joint local-federal enforcement action in which the federal agency took the dominant role. The purpose of this subsection is to ensure that public schools receive the clear proceeds of all penalties and forfeitures as required by Section 7 of Article IX of the State Constitution."

**SECTION 2.** G.S. 90-112 is amended by adding a new subsection to read:

"(d2) When a law enforcement agency seizes property that is subject to forfeiture under this Article, including property seized in drug raids or other law enforcement activities to enforce the State's controlled substances laws, the law enforcement agency shall retain custody of the property on behalf of the State as provided by this section, and shall not request the federal Drug Enforcement Administration or any other federal agency to adopt the seizure, or otherwise propose or agree to the transfer of the seized

1 property to a federal agency, without specific authorization of either the senior resident  
2 superior court judge or the chief district court judge in the district where the seizure  
3 occurred. The judge shall not authorize a transfer to a federal agency of property seized  
4 pursuant to this section unless the law enforcement agency shows to the court that the  
5 seizure in fact was pursuant to a joint local-federal enforcement action in which the  
6 federal agency took the dominant role. The purpose of this subsection is to ensure that  
7 public schools receive the clear proceeds of all penalties and forfeitures as required by  
8 Section 7 of Article IX of the State Constitution."

9           **SECTION 3.** This act is effective when it becomes law.