

Senate Engrossed House Bill

~~technical correction; unclaimed property; interest~~
(now: forfeiture; digital assets; reserve fund)

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HOUSE BILL 2324

AN ACT

AMENDING SECTIONS 13-4301, 13-4304, 13-4305, 13-4306 AND 13-4315, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 1, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-180; RELATING TO FORFEITURE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-4301, Arizona Revised Statutes, is amended to
3 read:

4 13-4301. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Abandoned ~~THE~~ property":

7 (a) Means ~~personal property~~ that the owner ~~OF PERSONAL PROPERTY~~ has
8 intentionally relinquished the right to and control over ~~THE PERSONAL~~
9 ~~PROPERTY~~.

10 (b) Does not ~~include~~ ~~APPLY TO~~ property that is obtained as a result
11 of a peace officer requesting, requiring or inducing a person to execute a
12 document that purports to disclaim an interest in or right to the property
13 or that relinquished interest in or rights to the property.

14 2. "Attorney for the state" means an attorney designated by the
15 attorney general, by a county attorney or by a city attorney to
16 investigate, commence and prosecute an action under this chapter.

17 3. "Commercially reasonable" means a sale or disposal that would be
18 commercially reasonable under title 47, chapter 9, article 6.

19 4. "DIGITAL ASSET" MEANS EITHER OF THE FOLLOWING THAT CONFERS
20 ECONOMIC, PROPRIETARY OR ACCESS RIGHTS OR POWERS:

21 (a) VIRTUAL CURRENCY.

22 (b) CRYPTOCURRENCY.

23 ~~4.~~ 5. "Injured person" means a person who has sustained economic
24 loss, including medical loss, as a result of injury to his person,
25 business or property by the conduct giving rise to the forfeiture of
26 property, and who is not an owner of or an interest holder in the
27 property. Injured person does not include a person who is responsible for
28 the conduct giving rise to forfeiture or a person whose interest would not
29 be exempt from forfeiture if the person were an owner of or interest
30 holder in the property.

31 ~~5.~~ 6. "Interest holder" means a person in whose favor there is a
32 security interest or who is the beneficiary of a perfected encumbrance
33 pertaining to an interest in property.

34 ~~6.~~ 7. "Owner" means a person who is not a secured party as defined
35 in section 47-9102 and who has an interest in property, whether legal or
36 equitable. A person who holds property for the benefit of or as agent or
37 nominee for another is not an owner. A purported interest that is not in
38 compliance with any statute requiring its recordation or reflection in
39 public records in order to perfect the interest against a bona fide
40 purchaser for value shall not be recognized as an interest against this
41 state in an action pursuant to this chapter. An owner with power to
42 convey property binds other owners, and a spouse binds his spouse, by his
43 act or omission.

1 ~~7.~~ 8. "Person known to have an interest" means a person whose
2 interest in property is reflected in the public records in which his
3 interest is required by law to be recorded or reflected in order to
4 perfect his interest. If a person's interest in property is not required
5 by law to be reflected in public records in order to perfect his interest
6 in the property, a person shall be known to have an interest only if his
7 interest can be readily ascertained at the time the forfeiture action
8 commences pursuant to this chapter.

9 ~~8.~~ 9. "Personal property" includes all interests in property, as
10 defined in section 13-105, in whatever form, except real property and
11 fixtures as defined in section 47-9102.

12 ~~9.~~ 10. "Seizing agency" means any department or agency of this
13 state or its political subdivisions that regularly employs peace officers
14 and that employs the peace officer who seizes property for forfeiture, or
15 such other agency as the seizing agency may designate in a particular case
16 by its chief executive officer or the chief executive officer's designee.

17 ~~10.~~ 11. "Seizure for forfeiture" means seizure of property by a
18 peace officer and either:

19 (a) There is an assertion by the seizing agency or by an attorney
20 for the state that the property is subject to forfeiture.

21 (b) The property has no evidentiary value.

22 Sec. 2. Section 13-4304, Arizona Revised Statutes, is amended to
23 read:

24 13-4304. Property subject to forfeiture; exemptions; innocent
25 owner

26 A. Except as provided in subsections B, C and D of this section,
27 all property, including all interests in such property, described in a
28 statute providing for its forfeiture is subject to forfeiture if both of
29 the following apply:

30 1. The owner is convicted of an offense to which forfeiture
31 applies.

32 2. The state establishes by clear and convincing evidence that the
33 property is subject to forfeiture as provided in subsection E of this
34 section.

35 B. A vehicle used by any person as a common carrier in the
36 transaction of business as a common carrier may not be forfeited under
37 this chapter unless the state proves by clear and convincing evidence that
38 the owner or other person in charge of the vehicle was a consenting party
39 or privy to the act or omission giving rise to forfeiture or knew of it.

40 C. A vehicle may not be forfeited under this chapter following a
41 conviction for any act or for an omission committed or omitted by a person
42 other than the owner while the vehicle was unlawfully in the possession of
43 a person other than the owner in violation of the criminal laws of this
44 state or of the United States.

1 D. Property may not be forfeited pursuant to section 13-3413,
2 subsection A, paragraph 1 or 3 if the conduct giving rise to the seizure
3 both:

4 1. Did not involve an amount of unlawful substance greater than the
5 statutory threshold amount as defined in section 13-3401.

6 2. Was not committed for financial gain.

7 E. After a person is convicted of an offense for which forfeiture
8 applies, a court may order the person to forfeit any of the following:

9 1. Property THAT the person acquired through the commission of the
10 offense.

11 2. Property that is directly traceable to property acquired through
12 the commission of the offense.

13 3. Any property or instrumentality that the person used in the
14 commission of the offense or to facilitate the offense.

15 4. Substitute assets as prescribed in section 13-2314, subsection
16 D, paragraph 6, subdivision (d) and in accordance with section 13-4305,
17 subsection C.

18 5. ANY DIGITAL ASSET THAT IS OWNED BY THE CONVICTED PERSON AND THAT
19 THE PERSON USED IN OR ACQUIRED THROUGH THE PERSON'S COMMISSION OF THE
20 OFFENSE OR A DIGITAL ASSET OWNED BY THE PERSON THAT IS DIRECTLY TRACEABLE
21 TO THE CONVICTED PERSON'S COMMISSION OF THE OFFENSE.

22 F. The court may waive the conviction requirement if the
23 prosecuting authority shows by clear and convincing evidence that there is
24 no known owner of the seized property, diligent efforts have been made to
25 identify the owner of the seized property and no person has asserted an
26 ownership interest in the seized property or that, before conviction, the
27 defendant or alleged criminal:

28 1. Died.

29 2. No longer resides in the United States or was deported.

30 3. Was granted immunity or reduced punishment in exchange for
31 testifying or assisting a law enforcement investigation or prosecution.

32 4. Fled the jurisdiction of this state.

33 5. Abandoned the property.

34 G. This section does not prevent property from being forfeited by
35 the terms of a plea agreement that is approved by a court or by other
36 agreement of the parties in a criminal proceeding.

37 H. A person who claims to be an innocent owner has the burden of
38 production to show that the person either:

39 1. Held a legal right, title or interest in the property seized at
40 the time the illegal conduct that gave rise to the seizure of the property
41 occurred.

42 2. Acquired as a bona fide purchaser for value a legal right, title
43 or interest in the property subject to forfeiture after the commission of
44 the crime that gave rise to the seizure of the property.

1 I. If a person establishes that the person is an innocent owner
2 pursuant to subsection H of this section and the state pursues a
3 forfeiture proceeding with respect to that person's property, other than
4 property described in section 13-3413 to successfully forfeit the
5 property, the state shall prove by clear and convincing evidence that the
6 innocent owner had actual knowledge of the underlying crime that gave rise
7 to the forfeiture.

8 J. If the state is unable to prove the person is not an innocent
9 owner as provided in subsections H and I of this section, the court shall
10 find that the person is an innocent owner and order the state to
11 relinquish all claims of title to the property and return the property to
12 the innocent owner.

13 Sec. 3. Section 13-4305, Arizona Revised Statutes, is amended to
14 read:

15 13-4305. Seizure of property

16 A. Property subject to forfeiture under this chapter may be seized
17 for forfeiture by a peace officer:

18 1. On process issued pursuant to the Arizona rules of civil
19 procedure or this title, including a seizure warrant.

20 2. By making a seizure for forfeiture on property seized on process
21 issued pursuant to law, including sections 13-3911, 13-3912, 13-3913,
22 13-3914 and 13-3915.

23 3. By making a seizure for forfeiture without court process if the
24 officer has probable cause to believe that the property is subject to
25 forfeiture and any of the following is true:

26 (a) The seizure for forfeiture is of property seized incident to a
27 lawful arrest for a crime or a lawful search.

28 (b) The property subject to seizure for forfeiture has been the
29 subject of a prior judgment in favor of this state or any other state or
30 the federal government in a forfeiture proceeding.

31 (c) The peace officer has probable cause to believe that the
32 property is subject to forfeiture and that the delay occasioned by the
33 need to obtain a court order would result in the removal or destruction of
34 the property or otherwise frustrate the seizure.

35 B. The court shall determine probable cause for seizure before real
36 property may be seized for forfeiture. The court may make its
37 determination ex parte if the state demonstrates that notice and an
38 opportunity to appear would create a risk of harm to the public safety or
39 welfare, including the risk of physical injury or the likelihood of
40 property damage or financial loss.

41 C. The court shall determine probable cause for seizure before
42 property may be seized for forfeiture as a substitute asset pursuant to
43 section 13-2314, subsection D ~~or E~~, or pursuant to section 13-4313,
44 subsection A. The court may issue a seizure warrant for such property if
45 it determines that there is probable cause to believe that the property is

1 subject to forfeiture and is not available for seizure for forfeiture for
2 any reason described in section 13-4313, subsection A. The determinations
3 shall be made ex parte unless real property is to be seized and subsection
4 B of this section requires notice and an opportunity to appear.

5 D. In establishing probable cause for seizure, a rebuttable
6 presumption exists that the property of any person is subject to
7 forfeiture if the state establishes all of the following by clear and
8 convincing evidence:

9 1. Conduct giving rise to forfeiture occurred.

10 2. The person acquired the property during the period of the
11 conduct giving rise to forfeiture or within a reasonable time after that
12 period.

13 3. There is no likely source for the property other than the
14 conduct giving rise to forfeiture.

15 E. The presence or possession of United States currency, debit
16 cards or credit cards, without other indicia of a crime that subjects
17 property to forfeiture, is insufficient probable cause for seizure of
18 United States currency, debit cards or credit cards.

19 Sec. 4. Section 13-4306, Arizona Revised Statutes, is amended to
20 read:

21 13-4306. Powers and duties of peace officers and agencies;
22 definition

23 A. If property subject to forfeiture under section 13-4305 is
24 seized, the property is deemed to be in the custody of the law enforcement
25 agency making the seizure for forfeiture. A DIGITAL ASSET THAT IS
26 LAWFULLY SEIZED FOR FORFEITURE MUST BE SECURED BY GAINING ACCESS TO A
27 PRIVATE KEY, PASSPHRASE OR OTHER ACCESS MECHANISM, SECURING A DIGITAL
28 WALLET THROUGH BLOCKCHAIN TECHNOLOGY OR TRANSFERRING THE DIGITAL ASSET TO
29 A STATE-APPROVED SECURE DIGITAL WALLET OR PLATFORM. The seizing agency or
30 the attorney for the state may authorize the release of the seizure for
31 forfeiture of the property if forfeiture or retention is unnecessary, may
32 transfer the property to any other state agency or may transfer the action
33 to another attorney for the state by discontinuing forfeiture proceedings
34 in favor of forfeiture proceedings initiated by the other agency or
35 attorney. Except as provided in subsections I and J of this section, the
36 seizing agency or the attorney for the state may not transfer or refer
37 seized property to a federal agency. An action pursuant to this chapter
38 shall be consolidated with any other action or proceeding pursuant to this
39 title relating to the same property on motion by the attorney for the
40 state in either action.

41 B. If property is seized for forfeiture under section 13-4305,
42 pending forfeiture and final disposition, the seizing agency may do any of
43 the following:

1 1. Remove the property to a storage area for safekeeping or, if the
2 property is a negotiable instrument or money, deposit it in an interest
3 bearing account.

4 2. Remove the property to a place designated by the court.

5 3. Provide for another custodian or agency to take custody of the
6 property and remove it to an appropriate location within the jurisdiction
7 of the court.

8 C. As soon as practicable after seizure for forfeiture, the seizing
9 agency shall conduct an inventory and estimate the value of the property
10 seized. Within twenty days the seizing agency or the attorney for the
11 state shall make reasonable efforts to provide notice of seizure for
12 forfeiture to all persons known to have an interest in the seized
13 property.

14 D. A person who acts in good faith and in a reasonable manner to
15 comply with an order of the court or a request of a peace officer is not
16 liable to any person for acts done in compliance with the order or
17 request.

18 E. A possessory lien of a person from whose possession property is
19 seized is not affected by the seizure.

20 F. If property subject to forfeiture under section 13-4305 is
21 seized, the seizing agency shall send to an attorney for the state a
22 written request for forfeiture within twenty days, which shall include a
23 statement of facts and circumstances of the seizure, including the names
24 of witnesses then known, the appraised or estimated value of the property
25 and a summary of the facts relied on for forfeiture.

26 G. An owner of property seized for forfeiture may obtain the
27 release of the seized property by posting with the attorney for the state
28 a surety bond or cash in an amount equal to the full fair market value of
29 the property as determined by the attorney for the state. The state may
30 refuse to release the property if any of the following applies:

31 1. The bond or cash tendered is inadequate.

32 2. The property is retained as contraband or evidence.

33 3. The property is particularly altered or designed for use in
34 conduct giving rise to forfeiture.

35 H. If an owner of property posts a surety bond or cash and the
36 property is forfeited the court shall forfeit the surety bond or cash in
37 lieu of the property.

38 I. The seizing agency or the attorney for the state may not enter
39 into any agreement to transfer or refer seized property to a federal
40 agency for the purpose of forfeiture if the property was seized pursuant
41 to an investigation that either:

42 1. Did not involve a federal agency.

43 2. Involves a violation of a state law and no violation of a
44 federal law is alleged.

1 J. Property that is seized in a joint investigation may not be
2 transferred or referred to a federal agency for the purpose of forfeiture
3 unless the gross estimated value of the seized property is more than
4 \$75,000.

5 K. This section does not prohibit:

6 1. The federal government or any of its agencies from seizing
7 property, seeking forfeiture pursuant to federal law and sharing property
8 that is forfeited pursuant to federal law with a state or local law
9 enforcement agency that participates in a joint investigation.

10 2. A state or local law enforcement agency from participating in a
11 joint investigation.

12 L. A peace officer may not request, require or in any manner induce
13 a person to execute a document that attempts to disclaim an interest in or
14 right to property or that relinquishes interests in or rights to property.

15 M. For the purposes of this section, "joint investigation" means an
16 investigation in which a state or local law enforcement agency directly
17 participates in the investigation or enforcement of a federal criminal law
18 with a federal agency and the investigation or enforcement results in a
19 seizure.

20 Sec. 5. Section 13-4315, Arizona Revised Statutes, is amended to
21 read:

22 13-4315. Allocation of forfeited property

23 A. Any property, including all interests in property, forfeited to
24 the state under this title shall be transferred as requested by the
25 attorney for the state to the seizing agency or to the agency or political
26 subdivision employing the attorney for the state, which may do any of the
27 following:

28 1. Sell, lease, lend or transfer the property to any local or state
29 government entity or agency or political subdivision, any law enforcement
30 agency or prosecutorial agency or any federal law enforcement agency that
31 operates within this state for official federal, state or political
32 subdivision use within this state, with expenses for keeping and
33 transferring such property to be paid by the recipient. Property may not
34 be allocated for official use if the fair market value of the property
35 substantially exceeds the agency's probable cost of purchasing other
36 property equally suited for the intended official use. Property that is
37 allocated for official use may not be assigned for use by any person who
38 supervised or exercised discretion in its forfeiture unless the use is
39 approved in writing by the head of the agency.

40 2. Sell forfeited property by public or otherwise commercially
41 reasonable sale with expenses of keeping and selling the property and the
42 amount of all valid interests established by claimants paid out of the
43 proceeds of the sale with the balance paid into the anti-racketeering
44 revolving fund of the state or of the county in which the political
45 subdivision seizing the property or prosecuting the action is located. A

1 sale of forfeited property may not be made to any employee of the seizing
2 agency, any person who participated in the forfeiture, any employee of a
3 contractor selling the property on behalf of the seizing agency or any
4 member of the immediate family of any of these employees or persons.

5 3. SELL A FORFEITED DIGITAL ASSET BY PUBLIC OR OTHERWISE
6 COMMERCIALY REASONABLE SALE WITH EXPENSES OF KEEPING AND SELLING THE
7 DIGITAL ASSET AND THE AMOUNT OF ALL VALID INTERESTS ESTABLISHED BY
8 CLAIMANTS, INCLUDING ANY RESTITUTION THAT WAS ORDERED BY A COURT, PAID OUT
9 OF THE PROCEEDS OF THE SALE. THE FIRST \$300,000 OF ANY FORFEITED DIGITAL
10 ASSET SHALL BE DEPOSITED IN THE ANTI-RACKETEERING REVOLVING FUND
11 ESTABLISHED BY SECTION 13-2314.01. IF THE FORFEITED DIGITAL ASSET IS MORE
12 THAN \$300,000, THE REMAINING BALANCE SHALL BE DIVIDED UP BY DEPOSITING
13 FIFTY PERCENT IN THE ANTI-RACKETEERING REVOLVING FUND ESTABLISHED BY
14 SECTION 13-2314.01, DEPOSITING TWENTY-FIVE PERCENT IN THE STATE GENERAL
15 FUND AND DEPOSITING THE REMAINING TWENTY-FIVE PERCENT IN THE BITCOIN AND
16 DIGITAL ASSETS RESERVE FUND ESTABLISHED BY SECTION 41-180. DIGITAL ASSETS
17 MUST BE SOLD THROUGH STATE-APPROVED CRYPTOCURRENCY EXCHANGES OR OTHER
18 SECURE PLATFORMS TO ENSURE ACCURATE VALUATION AND TRANSPARENCY. A DIGITAL
19 ASSET MAY REMAIN IN ITS NATIVE FORM. A DIGITAL ASSET THAT IS SEIZED
20 PURSUANT TO THIS CHAPTER MUST BE STORED IN A STATE-APPROVED, SECURE
21 DIGITAL WALLET SYSTEM THAT IS MANAGED BY AUTHORIZED PERSONNEL TO PREVENT
22 LOSS, THEFT OR UNAUTHORIZED ACCESS. THIS PARAGRAPH APPLIES TO A
23 FORFEITURE THAT INVOLVES ONLY DIGITAL ASSETS THAT ARE FORFEITED BY THE
24 OFFICE OF THE ATTORNEY GENERAL.

25 ~~3.~~ 4. Destroy or use for investigative purposes any illegal or
26 controlled substances or other contraband at any time more than twenty
27 days after seizure, on written approval of the attorney for the state,
28 preserving only such material as may be necessary for evidence.

29 ~~4.~~ 5. Sell, use or destroy all raw materials, products and
30 equipment of any kind used or intended for use in manufacturing,
31 compounding or processing a controlled substance.

32 ~~5.~~ 6. Compromise and pay claims against property forfeited
33 pursuant to any provision of this section.

34 ~~6.~~ 7. Make any other disposition of forfeited property authorized
35 by law for the disposition of property of the state, government entity,
36 agency or political subdivision.

37 B. Notwithstanding subsection A of this section or any other law to
38 the contrary:

39 1. If the property forfeited is money, and a law enforcement agency
40 can specifically identify monies as being from its investigative funds or
41 as being exchanged for property from its investigative property, the
42 monies shall be remitted to the investigative fund. If there are
43 additional forfeited monies or monies tendered on satisfaction by an
44 interest holder that cannot be specifically identified, the court shall
45 order the monies returned to each law enforcement agency that makes a

1 showing of costs or expenses that it incurred in connection with the
2 investigation and prosecution of the matter and shall order all excess
3 monies remaining after such returns deposited in the anti-racketeering
4 revolving fund of this state or of the county in which the political
5 subdivision seizing the monies or prosecuting the action is located,
6 established pursuant to section 13-2314.01 or 13-2314.03.

7 2. If the property declared forfeited is an interest in a vehicle,
8 the court shall order it forfeited to the local, state or other law
9 enforcement agency seizing the vehicle for forfeiture or to the seizing
10 agency.

11 C. Monies in any anti-racketeering revolving fund established
12 pursuant to this title may be used, in addition to any other lawful use,
13 for:

14 1. The payment of any expenses necessary to seize, detain,
15 appraise, inventory, protect, maintain, preserve the availability of,
16 advertise or sell property that is subject to forfeiture and that is
17 seized, detained or forfeited pursuant to this title or of any other
18 necessary expenses incident to the seizure, detention, preservation or
19 forfeiture of the property. The payments may include payments for
20 contract services and payments to reimburse any federal, state or local
21 agency for any expenditures made to perform the investigative, storage and
22 maintenance functions associated with the property held by the seizing
23 agency.

24 2. The payment of awards for information or assistance leading to a
25 civil or criminal proceeding under this title.

26 3. The payment of compensation from forfeited property to injured
27 persons as provided in section 13-4310, subsection P, paragraph 3.

28 D. Each attorney for the state shall submit a copy of each
29 forfeiture judgment, including each order of forfeiture, to the Arizona
30 criminal justice commission within sixty days after the forfeiture
31 judgment becomes final or after the conclusion of appellate review, if
32 any.

33 Sec. 6. Title 41, chapter 1, article 4, Arizona Revised Statutes,
34 is amended by adding section 41-180, to read:

35 41-180. Bitcoin and digital assets reserve fund; definitions

36 A. THE BITCOIN AND DIGITAL ASSETS RESERVE FUND IS ESTABLISHED TO
37 STORE, MANAGE AND ALLOCATE DIGITAL ASSETS SECURELY. THE FUND CONSISTS OF
38 FORFEITED DIGITAL ASSETS SEIZED OR DEPOSITED PURSUANT TO SECTIONS 13-4305
39 AND 13-4315. THE STATE TREASURER SHALL ADMINISTER THE FUND. MONIES IN
40 THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION.

41 B. THE STATE TREASURER MAY INVEST, REINVEST AND DIVEST ANY MONIES
42 IN THE BITCOIN AND DIGITAL ASSETS RESERVE FUND IN DIGITAL ASSETS OR
43 EXCHANGE TRADED FUNDS THAT INCLUDE DIGITAL ASSETS, AND MONIES EARNED SHALL
44 BE CREDITED TO THE FUND. ANY DIGITAL ASSETS OR EXCHANGE TRADED FUNDS ARE

1 THE PROPERTY OF THIS STATE. THE STATE TREASURER MAY CONTRACT WITH A
2 QUALIFIED CUSTODIAN TO HOLD DIGITAL ASSETS.
3 C. FOR THE PURPOSES OF THIS SECTION:
4 1. "DIGITAL ASSET" MEANS EITHER OF THE FOLLOWING THAT CONFERS
5 ECONOMIC, PROPRIETARY OR ACCESS RIGHTS OR POWERS:
6 (a) VIRTUAL CURRENCY.
7 (b) CRYPTOCURRENCY.
8 2. "QUALIFIED CUSTODIAN" MEANS ANY OF THE FOLLOWING ENTITIES THAT
9 ARE LICENSED IN THIS STATE TO SELL DIGITAL ASSETS AND OFFER CUSTODY
10 SERVICES TO CUSTOMERS:
11 (a) A COMPANY.
12 (b) A FEDERAL OR STATE CHARTERED BANK.
13 (c) A TRUST COMPANY.
14 (d) A SPECIAL PURPOSE DEPOSITORY INSTITUTION.