



General Assembly

Substitute Bill No. 7164

January Session, 2007

* HB07164FIN 050807 *

AN ACT CONCERNING SEIZED CURRENCY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 54-36a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2007*):

4 (b) (1) Whenever property is seized in connection with a criminal
5 arrest or seized pursuant to a search warrant without an arrest, the law
6 enforcement agency seizing such property shall file, on forms
7 provided for this purpose by the Office of the Chief Court
8 Administrator, an inventory of the property seized. The inventory,
9 together with the uniform arrest report, in the case of an arrest, shall be
10 filed with the clerk of the court for the geographical area in which the
11 criminal offense is alleged to have been committed; except, when the
12 property is stolen property and, in the opinion of the law enforcement
13 officer, does not exceed two hundred fifty dollars in value, or when an
14 attempt was made to steal the property but the property at all times
15 remained on the premises in a sealed container, the filing of an
16 inventory shall not be required and such property may be returned to
17 the owner. In the case of property seized in connection with a search
18 warrant without an arrest, the inventory shall be attached to the
19 warrant and shall be filed with the clerk of the court for the
20 geographical area in which the search warrant was issued. If any

21 criminal proceeding is transferred to another court location, then the
22 clerk with whom the inventory is filed shall transfer such inventory to
23 the clerk of the court location to which such action is transferred.

24 (2) If the seized property is stolen property, within ten days of the
25 seizure, the law enforcement agency seizing the property shall notify
26 the owner of the property if known, or, if the owner of the property is
27 unknown at the time of seizure, such agency shall within ten days of
28 any subsequent ascertainment of the owner notify such owner, and, on
29 a form prescribed by the Office of the Chief Court Administrator,
30 advise the owner of such owner's rights concerning the property and
31 the location of the property. Such written notice shall include a request
32 form for the return of the property. The owner may request the return
33 of the property by filing such request form with such law enforcement
34 agency, and upon receipt of such request, the law enforcement agency
35 shall forward it to the clerk of the court for the geographical area in
36 which the criminal offense is alleged to have been committed. The
37 clerk of the court shall notify the defendant or defendants of the
38 request to return the property. The court shall order the return of the
39 property within thirty days of the date of filing such return request by
40 the owner, except that for good cause shown, the court may order
41 retention of the property for a period to be determined by the court.
42 Any secondary evidence of the identity, description or value of such
43 property shall be admissible in evidence against such defendant in the
44 trial of such case. The fact that the evidence is secondary in nature may
45 be shown to affect the weight of such evidence, but not to affect its
46 admissibility. If the stolen property is a motor vehicle, a photograph of
47 the motor vehicle and a sworn affidavit attesting to the vehicle
48 identification number of such motor vehicle shall be sufficient
49 evidence of the identity of the motor vehicle. For the purposes of this
50 subdivision, "motor vehicle" means a passenger or commercial motor
51 vehicle or a motorcycle, as defined in section 14-1, and includes
52 construction equipment, agricultural tractors and farm implements.

53 (3) (A) If the seized property is currency and is stolen property, the
54 law enforcement agency seizing the currency shall follow the

55 procedures set forth in subdivision (2) of this subsection.

56 (B) If the seized property is currency and is not stolen property, the
57 law enforcement agency seizing the currency shall, [within] not later
58 than ten days [of] after such seizure, notify the defendant or
59 defendants, if such currency was seized in connection with a criminal
60 arrest, or the person or persons having a possessory interest in the
61 premises from which such currency was seized, if such currency was
62 seized pursuant to a search warrant without an arrest, that such
63 defendant or person has the right to a hearing before the Superior
64 Court on the disposition of the currency. Such defendant or person
65 may, not later than thirty days after receiving such notice, file a motion
66 for the return of the seized currency or a motion for the retention of the
67 seized currency and request a hearing before the Superior Court. [The
68 court may, after any such hearing, order that the law enforcement
69 agency, after taking reasonable measures to preserve the evidentiary
70 value of the currency, deposit the currency in a deposit account in the
71 name of the law enforcement agency as custodian for evidentiary
72 funds at a financial institution in this state or order, for good cause
73 shown, that the currency be retained for a period to be determined by
74 the court. If such defendant or person does not request a hearing,] If
75 such a motion is filed, the law enforcement agency shall retain the
76 currency pending an order of the court to return or retain the seized
77 currency. If such a motion is not filed, the law enforcement agency
78 may, after taking reasonable measures to preserve the evidentiary
79 value of the currency, deposit the currency in a deposit account in the
80 name of the law enforcement agency as custodian for evidentiary
81 funds at a financial institution in this state and in accordance with the
82 provisions of subsection (a) of section 51-81c, as amended by this act.

83 (C) If the currency is deposited in a deposit account at a financial
84 institution in this state pursuant to subparagraph (B) of this
85 subdivision, the financial institution at which such deposit account is
86 established shall not be required to segregate the currency deposited in
87 such deposit account. No funds may be withdrawn from such deposit
88 account except pursuant to a court order, [directed to the financial

89 institution. Any withdrawal of funds from such deposit account shall
90 be in the form of a check issued by the financial institution to the law
91 enforcement agency or to such other payee as the court may order.]
92 The financial institution shall not be liable in any controversy arising
93 over the deposit or withdrawal of the funds. Nothing in this
94 subdivision shall prohibit a financial institution from charging a fee for
95 the maintenance and administration of such deposit account and for
96 the review of the court order.

97 (D) If the currency is deposited in a deposit account at a financial
98 institution in this state pursuant to subparagraph (B) of this
99 subdivision, any secondary evidence of the identity, description or
100 value of such currency shall be admissible in evidence against a
101 defendant in the trial of a criminal offense. The fact that the evidence is
102 secondary in nature may be shown to affect the weight of such
103 evidence, but not to affect its admissibility.

104 Sec. 2. Subsection (a) of section 51-81c of the general statutes is
105 repealed and the following is substituted in lieu thereof (*Effective*
106 *October 1, 2007*):

107 (a) A program for the use of interest earned on lawyers' clients'
108 funds accounts is hereby established. The organization administering
109 the program shall use such interest to provide funding for (1) the
110 delivery of legal services to the poor by nonprofit corporations whose
111 principal purpose is providing legal services to the poor, and (2) law
112 school scholarships based on financial need. Each lawyer and law firm
113 having a clients' funds account shall participate in the program. On
114 and after July 1, 2005, each entity, other than a borrower, having an
115 account established to receive loan proceeds from a mortgage lender,
116 as defined in this subsection, shall participate in the program. On and
117 after October 1, 2007, each law enforcement agency that deposits
118 seized currency in a deposit account pursuant to subparagraph (B) of
119 subdivision (3) of subsection (b) of section 54-36a, as amended by this
120 act, shall participate in the program. Under the program, funds in
121 accounts established to receive [such] loan proceeds from a mortgage

122 lender, regardless of the amount or period held, seized currency,
123 regardless of the amount or period held, and clients' funds that are less
124 than ten thousand dollars in amount or expected to be held for a
125 period of not more than sixty business days, shall be deposited by
126 participating lawyers, law firms, [and] entities and law enforcement
127 agencies in interest-bearing accounts specifically established pursuant
128 to the program. Funds deposited in such accounts shall be subject to
129 withdrawal upon request by the depositor and without delay, except
130 as provided in subparagraph (C) of subdivision (3) of subsection (b) of
131 section 54-36a, as amended by this act. The interest earned on such
132 accounts shall be paid to an organization qualified under Section
133 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent
134 corresponding internal revenue code of the United States, as from time
135 to time amended, which shall be designated to administer the program
136 by the judges of the Superior Court pursuant to subsection (b) of this
137 section. Nothing in this section shall prevent (A) a lawyer or law firm
138 from depositing a client's funds, regardless of the amount of such
139 funds or the period for which such funds are expected to be held, in a
140 separate interest-bearing account established on behalf of and for the
141 benefit of the client, or (B) an entity from depositing a person's loan
142 proceeds, regardless of the amount of such proceeds or the period for
143 which such proceeds are expected to be held, in a separate interest-
144 bearing account established on behalf of and for the benefit of the
145 person. The organization administering the program shall mail to each
146 lawyer, law firm, [and] entity and law enforcement agency
147 participating in the program a detailed annual report of all funds
148 disbursed under the program including the amount disbursed to each
149 recipient of funds. Any recipient of funds under the program which,
150 using program funds, represents a party in an action filed after July 1,
151 1992, against the state or any officer or agency thereof and is awarded
152 attorney's fees in such action by the court, shall reimburse the program
153 for the amount of attorney's fees received in proportion to the
154 percentage of program funds used for the litigation. No recipient of
155 funds under the program may use such funds to pay the occupational
156 tax imposed pursuant to section 51-81b on behalf of any attorney. As

157 used in this section, "mortgage lender" means any person engaged in
158 the business of making first mortgage loans or secondary mortgage
159 loans, including, but not limited to, a bank, out-of-state bank,
160 Connecticut credit union, federal credit union, out-of-state credit
161 union, first mortgage lender required to be licensed under sections
162 36a-485 to 36a-498a, inclusive, or secondary mortgage lender required
163 to be licensed under sections 36a-510 to 36a-524, inclusive.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	54-36a(b)
Sec. 2	<i>October 1, 2007</i>	51-81c(a)

JUD *Joint Favorable Subst.*

FIN *Joint Favorable*