

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 190

1. Deletes major portions of the bill, except that it retains the provision allowing law enforcement agencies and state attorneys to use recovered RICO proceeds to pay the cost of employee base salaries directly attributable to the civil or criminal RICO investigation or prosecution.
2. Changes the distribution schedule for RICO proceeds such that after satisfying the first three claims under current law (clerks' fees, innocent persons, and the Internal Improvement Trust Fund), the remaining funds would be divided as follows: 25% to the filing agency; 25% to the investigating law enforcement agency; 25% to HRS' Drug Abuse Trust Fund; ;and 25% to DNR's Forfeited Property Trust Fund.

Committee on Judiciary-Criminal


Staff Director

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)

BILL VOTE SHEET

(VS-88: File with Secretary of Senate)

BILL NO. SB 190

COMMITTEE ON: Judiciary-Criminal

DATE: 4/24/89

ACTION: Favorably with _____ amendments

TIME: 10:00 - 12 noon

Favorably with Committee Substitute

PLACE: Room 2-C

Unfavorably

OTHER COMMITTEE REFERENCES:
(in order shown)

Submitted as a Committee Bill

AP

Temporarily Passed

Reconsidered

Not Considered

THE VOTE WAS:

FINAL BILL VOTE		SENATORS	4/24/89		4/24/89							
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay
X		Beard										
	X	Johnson										
X		Peterson										
X		Stuart										
		MAJORITY LEADER Gordon										
		VICE-CHAIRMAN Girardeau										
X		CHAIRMAN Grant										
4	1	TOTAL	W/O	-	W/O	-						
Aye	Nay		Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay	Aye	Nay

Please Complete: The Key sponsor appeared (X)
 A Senator appeared ()
 Sponsor's aide appeared ()
 Other appearance ()

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Dugger</u>	<u>Liepshutz</u>	1. <u>JCR</u>	<u>FAV/CS</u>
2. _____	_____	2. <u>AP</u>	<u>Withdrawn</u>
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Distribution of Funds
Under RICO Act

BILL NO. AND SPONSOR:

CS/SB 190 by
Committee on Judiciary-Criminal
and Senator Casas

I. SUMMARY:

A. Present Situation:

The Florida Racketeer Influenced and Corrupt Organization Act (RICO) provides criminal penalties and civil remedies for engaging in racketeering activity. Ch. 895, F.S. The most significant civil remedy is the forfeiture of all real or personal property used in, or derived from, racketeering activities. The Department of Legal Affairs (DLA), offices of state attorneys, and other agencies with jurisdiction over prohibited conduct may institute civil forfeiture actions.

Proceeds realized from judgments of forfeiture are distributed according to the following priorities in s. 895.09:

1. statutory clerk's fees;
2. innocent third party claims;
3. claims by the Board of Trustees of the Internal Improvement Trust Fund;
4. claims of the investigative agency bringing the action (20% for the DLA or the state attorney); and
5. claims of law enforcement agencies that contributed significantly to the forfeiture, for reimbursement of actual expenses incurred in their investigations.

After this distribution, the remainder of the proceeds are divided as follows:

6. 25% to the Forfeited Property Trust Fund within the Department of Natural Resources;
7. 25% to the Drug Abuse Trust Fund of the Department of Health and Rehabilitative Services (HRS); and
8. the other 50% to the general fund of the county or municipality whose law enforcement agency contributed significantly to the forfeiture. If a state law enforcement agency was responsible for the forfeiture, however, the proceeds are distributed to the general fund of the county where the court entering the judgment of forfeiture is located.

Law enforcement agencies and state attorneys acting in an investigative capacity, may not obtain reimbursement for base salaries of agency personnel.

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B. Effect of Proposed Changes:

Under the CS/SB 190, the distribution schedule for RICO proceeds would be amended such that after satisfying the first three claims under current law (clerk's fees, innocent persons, and Internal Improvement Trust Fund), the remaining funds would be divided as follows:

1. 25% to the filing agency (DLA or the state attorney currently receives 20%);
2. 25% to the investigating law enforcement agency or agencies which significantly contributed to the forfeiture (agencies currently receive reimbursement for actual costs);
3. 25% to HRS' Drug Abuse Trust Fund (currently receives 25%); and
4. 25% to DNR's Forfeited Property Trust Fund (currently receives 25%).

Under this new distribution, county general revenue funds would no longer receive any RICO proceeds when a local law enforcement agency in that county or a state law enforcement agency contributed significantly to a forfeiture in that locality.

State attorneys and law enforcement agencies would also be authorized under the CS to use RICO proceeds that were deposited in their respective trust funds to pay the cost of employee base salaries which were directly attributable to the civil or criminal RICO investigation or prosecution.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

Although under the CS, the filing agency and the investigative law enforcement agency will receive an increased percentage of recovered RICO proceeds, the precise amount of revenue which would be received cannot be determined. The filing agency would be entitled to 25% rather than 20%, and the investigative law enforcement agency would be entitled to 25% rather than reimbursement costs. Merely because some agencies will be getting an increase in the percentage of proceeds however, does not necessarily mean that their actual recoveries under the change will be greater than under existing law. The amount of proceeds distributed will depend upon several factors, such as the number of RICO suits filed, the success and duration of the litigation, and the varying values of the forfeited property.

County general revenue funds will be negatively impacted to the extent that their percentage of recovered RICO proceeds is eliminated.

According to the DLA, during calendar year 1988, total recoveries were \$2,430,286. Actual distributions for fiscal year 1988 to present have been as follows:

Department of Legal Affairs, 20%	\$141,736.82
Department of Natural Resources, Expenses	207,765.45
Law Enforcement Agencies, Expenses	113,551.93
Department of Natural Resources, 25% of residuals	110,545.23
Department of HRS, 25% of residuals	110,545.22
County/Municipality, 50% of residuals	232,733.61

These figures do not include interest accrued prior to distribution.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.