

Regular Session, 2010

# ACT No. 976

HOUSE BILL NO. 8

BY REPRESENTATIVE WILLIAMS

1 AN ACT

2 To enact Code of Criminal Procedure Article 228.4, relative to the disposal of  
3 noncontraband unclaimed property seized in certain criminal investigations; to  
4 provide for the disposal of noncontraband unclaimed property seized in criminal  
5 investigations; to provide for the procedure for petitioning the court for the disposal  
6 of the noncontraband unclaimed property; to provide for the distribution of proceeds  
7 derived from the disposal of the noncontraband unclaimed property; and to provide  
8 for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Code of Criminal Procedure Article 228.4 is hereby enacted to read as  
11 follows:

12 Art. 228.4. Disposal of noncontraband unclaimed property seized in criminal  
13 investigations

14 Any noncontraband unclaimed property seized in connection with any  
15 criminal investigation under the jurisdiction of any district attorney, municipal police  
16 department, or state investigative agency shall, if it remains unclaimed for more than  
17 one year after its seizure and provided it is not needed in any criminal proceeding,  
18 be disposed of in the following manner:

19 (1) After the lapse of one year, the district attorney of the parish in which the  
20 noncontraband property is located is authorized to petition any court in that parish  
21 having proper jurisdiction for the disposal of the property in any lawful manner.  
22 Any petition filed pursuant to this Article shall be without cost and on behalf of the  
23 district attorney, municipal police department, or state investigative agency which  
24 has custody of the noncontraband property.

1           (2)(a) Before any district attorney petitions the court, he shall cause an  
2           advertisement of his intention to seek approval of the court to be placed in the  
3           newspaper designated as the official journal of the parish one time at least ten days  
4           prior to filing of his petition, and he shall mail a copy of the advertisement to the last  
5           known owner of the property at his last known address, postage prepaid, if the owner  
6           is known. If the owner of the property is unknown, no such notice shall be mailed.  
7           In the petition for disposal, the district attorney shall set forth a brief description of  
8           the property to be disposed of, the court in which the proceedings will be filed, the  
9           title of the proceedings, and method or methods of intended disposal.

10           (b) The district attorney shall have a duty to determine if any of the property  
11           for which disposal is sought is subject to a prior recorded mortgage, lien or security  
12           interest held by a federally insured financial institution defined herein as an “interest  
13           holder”. If an “interest holder's” name and address are required by law to be recorded  
14           with the parish clerk of court, the motor vehicle division of the Department of Public  
15           Safety and Corrections, the vessel division of the Department of Wildlife and  
16           Fisheries, or another state or federal agency to perfect an interest in the property, and  
17           the “interest holder's” current address is not known, he shall mail a copy of the notice  
18           by certified mail, return receipt requested, to any address of record with any of the  
19           described agencies, or if the “interest holder's” address is not on record, he shall  
20           notify the “interest holder” by publication as required in Subparagraph (a) of this  
21           Paragraph.

22           (3) The petition of the district attorney shall make specific recommendations  
23           as to the manner of disposal for each item of unclaimed noncontraband property and  
24           pray for the court to order its disposal.

25           (4) The court shall order the disposal of the noncontraband property  
26           according to the specific recommendations contained in the district attorney's  
27           petition or in any legal manner within the sole discretion of the court. If the manner  
28           of disposal ordered by the court is not in accordance with the manner contained in  
29           the district attorney's petition, the district attorney may withdraw the petition.

1                   (5) All items of property designated by the court for sale shall be sold either  
2                   by public sale, without appraisal, or by public auction conducted by a licensed  
3                   auctioneer, without appraisal.

4                   (6) If the manner of disposal ordered by the court generates any direct  
5                   revenue, the proceeds shall be distributed in the following order of priority:

6                   (a) For satisfaction of the costs of the proceedings to dispose of  
7                   noncontraband unclaimed property.

8                   (b) Thirty percent to the district attorney to defer the expenses of bringing  
9                   any such action before the court.

10                  (c) The remaining funds to the investigative agency that stored, maintained,  
11                  insured, or bore the administrative costs as is related to maintaining the property  
12                  seized in criminal investigations.

13                  (7) Weapons released to the district attorney, municipal police department,  
14                  or state investigative agency by the court pursuant to this Article shall become the  
15                  property of that office, department, or agency and may be disposed of or issued in  
16                  any manner which that office, department, or agency deems appropriate.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_