

HOUSE FLOOR AMENDMENT EXPLANATION



Bill Number: **HB 2324**

Weninger Floor Amendment

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1. Adds that the first \$300,000 from the sale of any forfeited digital asset be paid to the Attorney General and any remaining monies be divided as follows:
 - a. 50% to the Attorney General;
 - b. 25% to the state General Fund; and
 - c. 25% to the Bitcoin and Digital Assets Reserve Fund.
 2. Removes language relating to depositing 10% of the digital assets held in the Bitcoin and Digital Assets Reserve Fund into the state General Fund.
 3. Modifies the definition of *digital asset*.
 4. Makes clarifying changes.

Amendment explanation prepared by Paul Benny

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2/27/2025

WENINGER FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2324
(Reference to COMMERCE S/E Committee amendment)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.

[Green underlining in brackets] indicates text added to new session law or text restoring existing law.

[GREEN STRIKEOUT IN BRACKETS] indicates new text removed from statute or previously enacted session law.

[Green strikeout in brackets] indicates text removed from existing statute, previously enacted session law or new session law.

<<Green carets>> indicate a section added to the bill.

<<Green strikeout in carets>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 Strike everything after then enacting clause and insert:

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

5 13-4301. Definitions

6 In this chapter, unless the context otherwise requires:

7 1. "Abandoned THE property":

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

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

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

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

20 4. "DIGITAL ASSET" [MEANS ANY OF THE FOLLOWING THAT CONFERS
21 ECONOMIC, PROPRIETARY OR ACCESS RIGHTS OR POWERS]:

22 ~~[(a) MEANS A DIGITAL REPRESENTATION OF VALUE, RIGHTS OR OWNERSHIP~~
23 ~~THAT IS RECORDED AND TRANSFERRED ELECTRONICALLY USING BLOCKCHAIN~~
24 ~~TECHNOLOGY OR OTHER DISTRIBUTED SYSTEMS.~~

25 ~~(b) INCLUDES ANY OF THE FOLLOWING:~~

26 ~~(i) CRYPTOCURRENCY.~~

27 ~~(ii) A NONFUNGIBLE TOKEN.~~

28 ~~(iii) TOKENIZED REAL-WORLD ASSETS.~~

29 ~~(iv) AN AIRDROP.~~

30 ~~(v) A FORKED TOKEN.~~

31 ~~(vi) DECENTRALIZED FINANCE REWARDS OR TOKENS.~~

~~(vii) VIRTUAL CURRENCY. FOR THE PURPOSES OF THIS ITEM, "VIRTUAL CURRENCY" HAS THE SAME MEANING PRESCRIBED IN SECTION 43-1028.~~

~~(viii) OTHER DIGITAL REPRESENTATIONS THAT MAY HOLD ECONOMIC, UTILITY OR OWNERSHIP VALUE.]~~

[(a) VIRTUAL CURRENCY.]

[(b) CRYPTOCURRENCY.]

[(c) ANY OTHER DIGITAL-ONLY ASSET.]

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

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

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

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

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

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

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

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

(b) The property has no evidentiary value.

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

3 13-4304. Property subject to forfeiture; exemptions; innocent
4 owner

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

9 1. The owner is convicted of an offense to which forfeiture
10 applies.

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

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

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

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

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

29 2. Was not committed for financial gain.

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

32 1. Property **THAT** the person acquired through the commission of the
33 offense.

34 2. Property that is directly traceable to property acquired through
35 the commission of the offense.

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

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

41 **5. ANY DIGITAL ASSET USED IN, ACQUIRED THROUGH OR TRACEABLE TO THE**
42 **COMMISSION OF AN OFFENSE.**

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

49 1. Died.

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

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

4 4. Fled the jurisdiction of this state.

5 5. Abandoned the property.

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

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

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

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

17 I. If a person establishes that the person is an innocent owner
18 pursuant to subsection H of this section and the state pursues a
19 forfeiture proceeding with respect to that person's property, other than
20 property described in section 13-3413 to successfully forfeit the
21 property, the state shall prove by clear and convincing evidence that the
22 innocent owner had actual knowledge of the underlying crime that gave rise
23 to the forfeiture.

24 J. If the state is unable to prove the person is not an innocent
25 owner as provided in subsections H and I of this section, the court shall
26 find that the person is an innocent owner and order the state to
27 relinquish all claims of title to the property and return the property to
28 the innocent owner.

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

31 13-4305. Seizure of property

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

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

36 2. By making a seizure for forfeiture on property seized on process
37 issued pursuant to law, including sections 13-3911, 13-3912, 13-3913,
38 13-3914 and 13-3915.

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

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

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

47 (c) The peace officer has probable cause to believe that the
48 property is subject to forfeiture and that the delay occasioned by the

1 need to obtain a court order would result in the removal or destruction of
2 the property or otherwise frustrate the seizure.

3 4. BY MAKING A SEIZURE OF A DIGITAL ASSET BY:

4 (a) GAINING ACCESS TO A PRIVATE KEY, PASSPHRASE OR OTHER ACCESS
5 MECHANISM.

6 (b) SECURING A DIGITAL WALLET THROUGH BLOCKCHAIN TECHNOLOGY.

7 (c) TRANSFERRING THE DIGITAL ASSET TO A STATE-APPROVED, SECURE
8 DIGITAL WALLET OR PLATFORM.

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

15 C. The court shall determine probable cause for seizure before
16 property may be seized for forfeiture as a substitute asset pursuant to
17 section 13-2314, subsection D or ~~[E]~~, or pursuant to section 13-4313,
18 subsection A. The court may issue a seizure warrant for such property if
19 it determines that there is probable cause to believe that the property is
20 subject to forfeiture and is not available for seizure for forfeiture for
21 any reason described in section 13-4313, subsection A. The determinations
22 shall be made ex parte unless real property is to be seized and subsection
23 B of this section requires notice and an opportunity to appear.

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

28 1. Conduct giving rise to forfeiture occurred.

29 2. The person acquired the property during the period of the
30 conduct giving rise to forfeiture or within a reasonable time after that
31 period.

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

34 E. The presence or possession of United States currency, debit
35 cards or credit cards, without other indicia of a crime that subjects
36 property to forfeiture, is insufficient probable cause for seizure of
37 United States currency, debit cards or credit cards.

38 F. A DIGITAL ASSET THAT IS SEIZED PURSUANT TO THIS CHAPTER MUST BE
39 STORED IN A STATE-APPROVED, SECURE DIGITAL WALLET SYSTEM THAT IS MANAGED
40 BY AUTHORIZED PERSONNEL TO PREVENT LOSS, THEFT OR UNAUTHORIZED ACCESS.

41 Sec. 4. Section 13-4315, Arizona Revised Statutes, is amended to
42 read:

43 13-4315. Allocation of forfeited property

44 A. Any property, including all interests in property, forfeited to
45 the state under this title shall be transferred as requested by the
46 attorney for the state to the seizing agency or to the agency or political
47 subdivision employing the attorney for the state, which may do any of the
48 following:

1 1. Sell, lease, lend or transfer the property to any local or state
2 government entity or agency or political subdivision, any law enforcement
3 agency or prosecutorial agency or any federal law enforcement agency that
4 operates within this state for official federal, state or political
5 subdivision use within this state, with expenses for keeping and
6 transferring such property to be paid by the recipient. Property may not
7 be allocated for official use if the fair market value of the property
8 substantially exceeds the agency's probable cost of purchasing other
9 property equally suited for the intended official use. Property that is
10 allocated for official use may not be assigned for use by any person who
11 supervised or exercised discretion in its forfeiture unless the use is
12 approved in writing by the head of the agency.

13 2. Sell forfeited property by public or otherwise commercially
14 reasonable sale with expenses of keeping and selling the property and the
15 amount of all valid interests established by claimants paid out of the
16 proceeds of the sale with the balance paid into the anti-racketeering
17 revolving fund of the state or of the county in which the political
18 subdivision seizing the property or prosecuting the action is located. A
19 sale of forfeited property may not be made to any employee of the seizing
20 agency, any person who participated in the forfeiture, any employee of a
21 contractor selling the property on behalf of the seizing agency or any
22 member of the immediate family of any of these employees or persons.

23 3. ~~SELL A FORFEITED DIGITAL ASSET BY PUBLIC OR OTHERWISE~~
24 ~~COMMERCIALY REASONABLE SALE WITH EXPENSES OF KEEPING AND SELLING THE~~
25 ~~DIGITAL ASSET AND THE AMOUNT OF ALL VALID INTERESTS ESTABLISHED BY~~
26 ~~CLAIMANTS[. INCLUDING ANY RESTITUTION THAT WAS ORDERED BY A COURT.] PAID~~
27 ~~OUT OF THE PROCEEDS OF THE SALE. [THE FIRST \$300,000 OF ANY FORFEITED~~
28 ~~DIGITAL ASSET SHALL BE PAID TO THE OFFICE OF THE ATTORNEY GENERAL. IF THE~~
29 ~~FORFEITED DIGITAL ASSET IS MORE THAN \$300,000, THE REMAINING BALANCE SHALL~~
30 ~~BE DIVIDED UP BY PAYING] FIFTY PERCENT [OF THE REMAINING BALANCE] [TO THE~~
31 ~~OFFICE OF THE ATTORNEY GENERAL, TWENTY-FIVE PERCENT] SHALL BE DEPOSITED IN~~
32 ~~THE STATE GENERAL FUND AND THE REMAINING [FIFTY] [TWENTY-FIVE] PERCENT~~
33 ~~SHALL BE DEPOSITED IN THE BITCOIN AND DIGITAL ASSETS RESERVE FUND~~
34 ~~ESTABLISHED BY SECTION 41-180. DIGITAL ASSETS MUST BE SOLD THROUGH~~
35 ~~STATE-APPROVED CRYPTOCURRENCY EXCHANGES OR OTHER SECURE PLATFORMS TO~~
36 ~~ENSURE ACCURATE VALUATION AND TRANSPARENCY. A DIGITAL ASSET MAY REMAIN IN~~
37 ~~ITS NATIVE FORM. [THIS PARAGRAPH APPLIES TO A FORFEITURE THAT INVOLVES~~
38 ~~ONLY DIGITAL ASSETS.]~~

39 ~~3-~~ 4. Destroy or use for investigative purposes any illegal or
40 controlled substances or other contraband at any time more than twenty
41 days after seizure, on written approval of the attorney for the state,
42 preserving only such material as may be necessary for evidence.

43 ~~4-~~ 5. Sell, use or destroy all raw materials, products and
44 equipment of any kind used or intended for use in manufacturing,
45 compounding or processing a controlled substance.

46 ~~5-~~ 6. Compromise and pay claims against property forfeited
47 pursuant to any provision of this section.

1 ~~6.~~ 7. Make any other disposition of forfeited property authorized
2 by law for the disposition of property of the state, government entity,
3 agency or political subdivision.

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

6 1. If the property forfeited is money, and a law enforcement agency
7 can specifically identify monies as being from its investigative funds or
8 as being exchanged for property from its investigative property, the
9 monies shall be remitted to the investigative fund. If there are
10 additional forfeited monies or monies tendered on satisfaction by an
11 interest holder that cannot be specifically identified, the court shall
12 order the monies returned to each law enforcement agency that makes a
13 showing of costs or expenses that it incurred in connection with the
14 investigation and prosecution of the matter and shall order all excess
15 monies remaining after such returns deposited in the anti-racketeering
16 revolving fund of this state or of the county in which the political
17 subdivision seizing the monies or prosecuting the action is located,
18 established pursuant to section 13-2314.01 or 13-2314.03.

19 2. If the property declared forfeited is an interest in a vehicle,
20 the court shall order it forfeited to the local, state or other law
21 enforcement agency seizing the vehicle for forfeiture or to the seizing
22 agency.

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

26 1. The payment of any expenses necessary to seize, detain,
27 appraise, inventory, protect, maintain, preserve the availability of,
28 advertise or sell property that is subject to forfeiture and that is
29 seized, detained or forfeited pursuant to this title or of any other
30 necessary expenses incident to the seizure, detention, preservation or
31 forfeiture of the property. The payments may include payments for
32 contract services and payments to reimburse any federal, state or local
33 agency for any expenditures made to perform the investigative, storage and
34 maintenance functions associated with the property held by the seizing
35 agency.

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

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

40 D. Each attorney for the state shall submit a copy of each
41 forfeiture judgment, including each order of forfeiture, to the Arizona
42 criminal justice commission within sixty days after the forfeiture
43 judgment becomes final or after the conclusion of appellate review, if
44 any.

45 Sec. 5. Title 41, chapter 1, article 4, Arizona Revised Statutes,
46 is amended by adding section 41-180, to read:

47 41-180. Bitcoin and digital assets reserve fund; definition

48 A. THE BITCOIN AND DIGITAL ASSETS RESERVE FUND IS ESTABLISHED TO
49 STORE, MANAGE AND ALLOCATE DIGITAL ASSETS SECURELY. THE FUND CONSISTS OF

1 FORFEITED DIGITAL ASSETS SEIZED OR DEPOSITED PURSUANT TO SECTIONS 13-4305
2 AND 13-4315. THE STATE TREASURER SHALL ADMINISTER THE FUND. MONIES IN
3 THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION. THE FORFEITED DIGITAL
4 ASSET MAY BE IN THE FORMS OF A DIGITAL ASSET AND BITCOIN.

5 ~~[B. ON APPROVAL OF THE LEGISLATURE, TEN PERCENT OF THE DIGITAL~~
6 ~~ASSETS HELD IN THE FUND SHALL BE DEPOSITED IN THE STATE GENERAL FUND. THE~~
7 ~~LEGISLATURE MAY NOT DEPOSIT BITCOIN INTO THE STATE GENERAL FUND.]~~

8 ~~[C.] [B.] FOR THE PURPOSES OF THIS SECTION[.][.]~~

9 ~~1. "AIRDROP" MEANS THE RECEIPT OF VIRTUAL CURRENCY THROUGH A MEANS~~
10 ~~OF DISTRIBUTION OF VIRTUAL CURRENCY TO THE DISTRIBUTED LEDGER ADDRESSES OF~~
11 ~~MULTIPLE TAXPAYERS.~~

12 ~~2.] "DIGITAL ASSET" [MEANS ANY OF THE FOLLOWING THAT CONFERS~~
13 ~~ECONOMIC, PROPRIETARY OR ACCESS RIGHTS OR POWERS]:~~

14 ~~[(a) MEANS A DIGITAL REPRESENTATION OF VALUE, RIGHTS OR OWNERSHIP~~
15 ~~THAT IS RECORDED AND TRANSFERRED ELECTRONICALLY USING BLOCKCHAIN~~
16 ~~TECHNOLOGY OR OTHER DISTRIBUTED SYSTEMS.~~

17 ~~(b) INCLUDES ANY OF THE FOLLOWING:~~

18 ~~(i) CRYPTOCURRENCY.~~

19 ~~(ii) A NONFUNGIBLE TOKEN.~~

20 ~~(iii) TOKENIZED REAL-WORLD ASSETS.~~

21 ~~(iv) AN AIRDROP.~~

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23 ~~(vi) DECENTRALIZED FINANCE REWARDS OR TOKENS.~~

24 ~~(vii) VIRTUAL CURRENCY. FOR THE PURPOSES OF THIS ITEM, "VIRTUAL~~
25 ~~CURRENCY" HAS THE SAME MEANING PRESCRIBED IN SECTION 43-1028.~~

26 ~~(viii) OTHER DIGITAL REPRESENTATIONS THAT MAY HOLD ECONOMIC,~~
27 ~~UTILITY OR OWNERSHIP VALUE.~~

28 ~~3. "NON-FUNGIBLE TOKEN" HAS THE SAME MEANING PRESCRIBED IN SECTION~~
29 ~~43-1028.]~~

30 ~~[1. VIRTUAL CURRENCY.~~

31 ~~2. CRYPTOCURRENCY.~~

32 ~~3. ANY OTHER DIGITAL-ONLY ASSET.]"~~

33 Enroll and engross to conform

34 Amend title to conform

JEFF WENINGER

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02/27/2025

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