

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4707 Notice of seizure of property or filing of lien and intent to begin forfeiture and disposal proceedings; time limitation; filing claim; civil action for forfeiture; burden of proof.

Sec. 4707. (1) If property subject to forfeiture under this chapter has a total value of less than \$100,000.00, within 28 days after the conviction of a person of a crime, the state or local unit of government seeking forfeiture of the property shall give notice of the seizure of the property or, if a lien has been filed, the filing of the lien, and the intent to begin proceedings to forfeit and dispose of the property according to this chapter to each of the persons to whom notice is required to be given under section 4704. Notice shall be given in the same manner as required under section 4704.

(2) Within 28 days after receipt of the notice or of the date of the first publication of the notice under subsection (1), a person claiming an interest in property subject to the notice may file a claim with the local unit of government or the state expressing his or her interest in the property and any objection to forfeiture. The objection shall be written, verified, and signed by the claimant, and include a description of the property interest asserted. The verification shall be notarized and include a certification stating that the undersigned has examined the claim and answer and believes it to be, to the best of his or her knowledge, true and complete.

(3) Except in the case of real property, if no claim is filed within the 28-day period as described in subsection (2), the local unit of government or the state shall declare the property forfeited and shall dispose of the property according to section 4708.

(4) If a claim is filed within the 28-day period as described in subsection (2), the local unit of government or the state shall transmit the claim with a list and description of the property to the attorney general or to the prosecuting attorney or the city or township attorney for the local unit of government in which the personal property was seized or the real property is located. The attorney general, the prosecuting attorney, or the city or township attorney shall institute a civil action for forfeiture within 28 days after the expiration of the 28-day period.

(5) If property subject to forfeiture under this chapter has a total value of more than \$100,000.00 or is real property, the attorney general, or the prosecuting attorney or the city or township attorney for the local unit of government in which the personal property was seized or the real property is located, shall institute a civil action for forfeiture within 28 days after the conviction of a person of a crime.

(6) At the forfeiture proceeding, the plaintiff shall prove all the following by a preponderance of the evidence:

(a) That the property is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime.

(b) If a person, other than the person convicted of the crime, claims an ownership or security interest in the property, that the person claiming the interest in the property had prior knowledge of, or consented to the commission of, the crime.

(c) If a person, other than the person convicted of the crime, claims an ownership or security interest in the property under section 4703(7), that the transfer occurred subsequent to the criminal conduct that gave rise to forfeiture.

(7) If the plaintiff carries the burden of proof described in subsection (6)(c), the burden of proof shifts to the claimant to prove by a preponderance of the evidence that the transfer was not void under section 4703(7).

(8) If the plaintiff fails to meet the burden of proof under subsection (6), the property shall be returned to the owner within 7 days after the court issues a dispositive order.

History: Add. 1988, Act 104, Eff. June 1, 1988;—Am. 2014, Act 333, Eff. Jan. 14, 2015.