

**Effective 5/9/2017**

**Superseded 5/5/2021**

**24-1-102 Definitions.**

As used in this title:

- (1) "Account" means the Criminal Forfeiture Restricted Account created in Section 24-4-116.
- (2)
  - (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not guilty.
  - (b) "Acquitted" does not include:
    - (i) a verdict of guilty on a lesser or reduced charge;
    - (ii) a plea of guilty to a lesser or reduced charge; or
    - (iii) dismissal of a charge as a result of a negotiated plea agreement.
- (3) "Agency" means any agency of municipal, county, or state government, including law enforcement agencies, law enforcement personnel, and multijurisdictional task forces.
- (4) "Claimant" means any:
  - (a) owner of property as defined in this section;
  - (b) interest holder as defined in this section; or
  - (c) person or entity who asserts a claim to any property seized for forfeiture under this title.
- (5) "Commission" means the Utah Commission on Criminal and Juvenile Justice.
- (6) "Complaint" means a civil in rem complaint seeking the forfeiture of any real or personal property under this title.
- (7)
  - (a) "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device that performs logical, arithmetic, and storage functions, and includes any device that is used for the storage of digital or electronic files, flash memory, software, or other electronic information.
  - (b) "Computer" does not mean a computer server of an Internet or an electronic service provider, or the service provider's employee, if used for the purpose of compliance with obligations pursuant to 18 U.S.C. 2258A.
- (8) "Constructive seizure" means a seizure of property where the property is left in the control of the owner and the seizing agency posts the property with a notice of intent to seek forfeiture.
- (9)
  - (a) "Contraband" means any property, item, or substance that is unlawful to produce or to possess under state or federal law.
  - (b) All controlled substances that are possessed, transferred, distributed, or offered for distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act, are contraband.
  - (c) A computer is contraband if it:
    - (i) contains or houses child pornography, or is used to create, download, transfer, upload to a storage account, or store any electronic or digital files containing child pornography; or
    - (ii) contains the personal identifying information of another person, as defined in Subsection 76-6-1102(1), whether that person is alive or deceased, and the personal identifying information has been used to create false or fraudulent identification documents or financial transaction cards in violation of Title 76, Chapter 6, Part 5, Fraud.
- (10) "Innocent owner" means a claimant who:
  - (a) held an ownership interest in property at the time the conduct subjecting the property to forfeiture occurred, and:
    - (i) did not have actual knowledge of the conduct subjecting the property to forfeiture; or

- (ii) upon learning of the conduct subjecting the property to forfeiture, took reasonable steps to prohibit the illegal use of the property; or
  - (b) acquired an ownership interest in the property and had no knowledge that the illegal conduct subjecting the property to forfeiture had occurred or that the property had been seized for forfeiture, and:
    - (i) acquired the property in a bona fide transaction for value;
    - (ii) was a person, including a minor child, who acquired an interest in the property through probate or inheritance; or
    - (iii) was a spouse who acquired an interest in property through dissolution of marriage or by operation of law.
- (11)
- (a) "Interest holder" means a secured party as defined in Section 70A-9a-102, a party with a right-of-offset, a mortgagee, lien creditor, or the beneficiary of a security interest or encumbrance pertaining to an interest in property, whose interest would be perfected against a good faith purchaser for value.
  - (b) "Interest holder" does not mean a person who holds property for the benefit of or as an agent or nominee for another person, or who is not in substantial compliance with any statute requiring an interest in property to be recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value.
- (12) "Known address" means any address provided by a claimant to the agency at the time the property was seized, or the claimant's most recent address on record with a governmental entity if no address was provided at the time of the seizure.
- (13) "Legal costs" means the costs and expenses incurred by a party in a forfeiture action.
- (14) "Legislative body" means:
- (a)
    - (i) the Legislature, county commission, county council, city commission, city council, or town council that has fiscal oversight and budgetary approval authority over an agency; or
    - (ii) the agency's governing political subdivision; or
  - (b) the lead governmental entity of a multijurisdictional task force, as designated in a memorandum of understanding executed by the agencies participating in the task force.
- (15) "Multijurisdictional task force" means a law enforcement task force or other agency comprised of persons who are employed by or acting under the authority of different governmental entities, including federal, state, county or municipal governments, or any combination of these agencies.
- (16) "Owner" means any person or entity, other than an interest holder, that possesses a bona fide legal or equitable interest in real or personal property.
- (17)
- (a) "Proceeds" means:
    - (i) property of any kind that is obtained directly or indirectly as a result of the commission of an offense that gives rise to forfeiture; or
    - (ii) any property acquired directly or indirectly from, produced through, realized through, or caused by an act or omission regarding property under Subsection (17)(a)(i).
  - (b) "Proceeds" includes any property of any kind without reduction for expenses incurred in the acquisition, maintenance, or production of that property, or any other purpose regarding property under Subsection (17)(a)(i).
  - (c) "Proceeds" is not limited to the net gain or profit realized from the offense that gives rise to forfeiture.
- (18) "Program" means the State Asset Forfeiture Grant Program established in Section 24-4-117.

- (19) "Property" means all property, whether real or personal, tangible or intangible, but does not include contraband.
- (20) "Prosecuting attorney" means:
- (a) the attorney general and any assistant attorney general;
  - (b) any district attorney or deputy district attorney;
  - (c) any county attorney or assistant county attorney; and
  - (d) any other attorney authorized to commence an action on behalf of the state under this title.
- (21) "Public interest use" means a:
- (a) use by a government agency as determined by the legislative body of the agency's jurisdiction; or
  - (b) donation of the property to a nonprofit charity registered with the state.
- (22) "Real property" means land and includes any building, fixture, improvement, appurtenance, structure, or other development that is affixed permanently to land.