

Effective 5/4/2022

Renumbered 5/3/2023

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)
 - (a) "Agency" means an agency of this state or a political subdivision of this state.
 - (b) "Agency" includes a law enforcement agency or a multijurisdictional task force.
- (4) "Claimant" means:
 - (a) an owner of property as defined in this section;
 - (b) an interest holder as defined in this section; or
 - (c) an individual or entity who asserts a claim to any property seized for forfeiture under this title.
- (5) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
- (6) "Complaint" means a civil or criminal 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.
 - (b) "Computer" includes any device that is used for the storage of digital or electronic files, flash memory, software, or other electronic information.
 - (c) "Computer" does not mean a computer server of an Internet or electronic service provider, or the service provider's employee, if used to comply with the requirements under 18 U.S.C. Sec. 2258A.
- (8) "Constructive seizure" means a seizure of property where the property is left in the control of the owner and an 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) "Contraband" includes:
 - (i) a controlled substance that is possessed, transferred, distributed, or offered for distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act; or
 - (ii) a computer that:
 - (A) 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
 - (B) contains the personal identifying information of another individual, as defined in Subsection 76-6-1102(1), whether that individual 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) "Forfeit" means to divest a claimant of an ownership interest in property seized under this title.
- (11) "Innocent owner" means a claimant who:

- (a) held an ownership interest in property at the time of the commission of an offense subjecting the property to forfeiture under this title, and:
 - (i) did not have actual knowledge of the offense subjecting the property to forfeiture; or
 - (ii) upon learning of the commission of the offense, took reasonable steps to prohibit the use of the property in the commission of the offense; or
 - (b) acquired an ownership interest in the property and had no knowledge that the commission of the offense subjecting the property to forfeiture under this title 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 an individual, 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.
- (12)
- (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:
 - (i) who holds property for the benefit of or as an agent or nominee for another person; or
 - (ii) who is not in substantial compliance with any statute requiring an interest in property to be:
 - (A) recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value; or
 - (B) held in control by a secured party, as defined in Section 70A-9a-102, in accordance with Section 70A-9a-314 in order to perfect the interest against a good faith purchaser for value.
- (13) "Known address" means any address provided by a claimant to the peace officer or agency at the time the property is 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.
- (14) "Legal costs" means the costs and expenses incurred by a party in a forfeiture action.
- (15) "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.
- (16) "Multijurisdictional task force" means a law enforcement task force or other agency comprised of individuals who are employed by or acting under the authority of different governmental entities, including federal, state, county, or municipal governments, or any combination of federal, state, county, or municipal agencies.
- (17) "Owner" means an individual or entity, other than an interest holder, that possesses a bona fide legal or equitable interest in real or personal property.
- (18) "Peace officer" means an employee:
- (a) of an agency;
 - (b) whose duties consist primarily of the prevention and detection of violations of laws of this state or a political subdivision of this state; and
 - (c) who is authorized by the agency to seize property under this title.

(19)

(a) "Proceeds" means:

- (i) property of any kind that is obtained directly or indirectly as a result of the commission of an offense; or
- (ii) any property acquired directly or indirectly from, produced through, realized through, or caused by an act or omission regarding property under Subsection (19)(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 (19)(a)(i).

(c) "Proceeds" is not limited to the net gain or profit realized from the offense that subjects the property to forfeiture.

(20) "Program" means the State Asset Forfeiture Grant Program created in Section 24-4-117.

(21)

(a) "Property" means all property, whether real or personal, tangible or intangible.

(b) "Property" does not include contraband.

(22) "Prosecuting attorney" means:

(a) the attorney general and an assistant attorney general;

(b) a district attorney or deputy district attorney;

(c) a county attorney or assistant county attorney; and

(d) an attorney authorized to commence an action on behalf of the state under this title.

(23) "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.

(24) "Real property" means land, including any building, fixture, improvement, appurtenance, structure, or other development that is affixed permanently to land.