

24-4-107 Innocent owners.

- (1) An innocent owner's interest in property may not be forfeited.
- (2) In a forfeiture proceeding under this chapter, the prosecuting attorney has the burden of establishing evidence that a claimant:
 - (a) is responsible for the conduct giving rise to the forfeiture, subject to Subsection (4);
 - (b) knew of the conduct giving rise to the forfeiture, and allowed the property to be used in furtherance of the conduct;
 - (c) acquired the property with notice of its actual or constructive seizure for forfeiture under this chapter;
 - (d) acquired the property knowing the property was subject to forfeiture under this chapter; or
 - (e) acquired the property in an effort to conceal, prevent, hinder, or delay its lawful seizure or forfeiture under any provision of state law.
- (3)
 - (a) A claimant under this chapter is not required to take steps to prevent illegal use or criminal activity regarding the property that the claimant reasonably believes would be likely to result in physical harm or danger to any person.
 - (b) A claimant may demonstrate that the claimant took reasonable action to prohibit the illegal use of the property by:
 - (i) making a timely notification to a law enforcement agency of information that led the claimant to know that conduct subjecting the property to seizure would occur, was occurring, or has occurred;
 - (ii) timely revoking or attempting to revoke permission to use the property regarding those engaging in the illegal conduct; or
 - (iii) taking reasonable actions to discourage or prevent the illegal use of the property.
- (4) If the state relies on Subsection (2)(a) to establish that a claimant is not an innocent owner, and if the claimant is criminally charged with the conduct giving rise to the forfeiture and is acquitted of that charge on the merits:
 - (a) the property subject to the forfeiture or the open market value of the property, if the property has been disposed of under Subsection 24-4-108(13), shall be returned to the claimant; and
 - (b) any payments required under this chapter regarding holding the property shall be paid to the claimant.
- (5) A person may not assert under this chapter an ownership interest in contraband.
- (6) Property is presumed to be subject to forfeiture under this chapter if the prosecuting attorney establishes that:
 - (a) the claimant has engaged in conduct giving cause for forfeiture;
 - (b) the property was acquired by the claimant during that period of the conduct giving cause for forfeiture or within a reasonable time after that period; and
 - (c) there was no likely source for the purchase or acquisition of the property other than the conduct giving cause for forfeiture.
- (7) A finding that property is the proceeds of conduct giving cause for forfeiture does not require proof that the property was the proceeds of any particular exchange or transaction.

Enacted by Chapter 394, 2013 General Session