

Representative Brian M. Greene proposes the following substitute bill:

ASSET FORFEITURE REVISIONS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian M. Greene

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Forfeiture and Disposition of Property Act regarding civil forfeiture procedures.

Highlighted Provisions:

This bill:

- ▶ modifies the elements of qualifying as an innocent owner regarding property subject to forfeiture;
- ▶ requires a direct nexus of the property to a specific alleged criminal exchange or transaction, in order for the property to be forfeited;
- ▶ requires the prosecutor to bring an action for civil forfeiture in a timely manner;
- ▶ provides that any person may assert an interest in seized property or file an answer to a forfeiture complaint without posting bond;
- ▶ provides that the hardship provisions include use of funds to allow an individual to obtain a legal defense in the forfeiture proceeding or the related criminal proceeding;
- ▶ provides that prejudgment interest shall be awarded, in addition to the current postjudgment interest;
- ▶ removes the cap of 20% of the value of the property subject to forfeiture when



26 awarding legal costs and attorney fees; and

27 ▶ modifies the obligations of a claimant regarding illegal use of the property subject to
28 forfeiture.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 24-1-102, as last amended by Laws of Utah 2014, Chapter 112

36 24-4-102, as enacted by Laws of Utah 2013, Chapter 394

37 24-4-103, as enacted by Laws of Utah 2013, Chapter 394

38 24-4-104, as last amended by Laws of Utah 2014, Chapter 112

39 24-4-107, as enacted by Laws of Utah 2013, Chapter 394

40 24-4-108, as enacted by Laws of Utah 2013, Chapter 394

41 24-4-109, as enacted by Laws of Utah 2013, Chapter 394

42 24-4-110, as last amended by Laws of Utah 2014, Chapter 112



44 *Be it enacted by the Legislature of the state of Utah:*

45 Section 1. Section 24-1-102 is amended to read:

46 **24-1-102. Definitions.**

47 As used in this title:

48 (1) "Account" means the Criminal Forfeiture Restricted Account created in Section
49 24-4-116.

50 (2) (a) "Acquittal" means a finding by a jury or a judge at trial that a claimant is not
51 guilty.

52 (b) An acquittal does not include:

53 (i) a verdict of guilty on a lesser or reduced charge;

54 (ii) a plea of guilty to a lesser or reduced charge; or

55 (iii) dismissal of a charge as a result of a negotiated plea agreement.

56 (3) "Agency" means any agency of municipal, county, or state government, including

57 law enforcement agencies, law enforcement personnel, and multijurisdictional task forces.

58 (4) "Claimant" means any:

59 (a) owner of property as defined in this section;

60 (b) interest holder as defined in this section; or

61 (c) person or entity who asserts a claim to any property seized for forfeiture under this
62 title.

63 (5) "Commission" means the Utah Commission on Criminal and Juvenile Justice.

64 (6) "Complaint" means a civil in rem complaint seeking the forfeiture of any real or
65 personal property under this title.

66 (7) "Constructive seizure" means a seizure of property where the property is left in the
67 control of the owner and the seizing agency posts the property with a notice of intent to seek
68 forfeiture.

69 (8) (a) "Contraband" means any property, item, or substance that is unlawful to
70 produce or to possess under state or federal law.

71 (b) All controlled substances that are possessed, transferred, distributed, or offered for
72 distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act, are
73 contraband.

74 (9) "Innocent owner" means a claimant who:

75 (a) held an ownership interest in property at the time the conduct subjecting the
76 property to forfeiture occurred, and:

77 [~~(i) did not have actual knowledge of the conduct subjecting the property to forfeiture;~~
78 ~~or]~~

79 [~~(ii) upon learning of the conduct subjecting the property to forfeiture, took reasonable~~
80 ~~steps to prohibit the illegal use of the property; or]~~

81 (i) did not give permission for the conduct or participate in the conduct;

82 (ii) did not directly commit the offense; and

83 (iii) did not solicit, request, command, encourage, or intentionally aid another person to
84 engage in the conduct; or

85 (b) acquired an ownership interest in the property and who had no knowledge that the
86 illegal conduct subjecting the property to forfeiture had occurred or that the property had been
87 seized for forfeiture, and:

88 (i) acquired the property in a bona fide transaction for value;

89 (ii) was a person, including a minor child, who acquired an interest in the property
90 through probate or inheritance; or

91 (iii) was a spouse who acquired an interest in property through dissolution of marriage
92 or by operation of law.

93 (10) (a) "Interest holder" means a secured party as defined in Section 70A-9a-102, a
94 mortgagee, lien creditor, or the beneficiary of a security interest or encumbrance pertaining to
95 an interest in property, whose interest would be perfected against a good faith purchaser for
96 value.

97 (b) "Interest holder" does not mean a person who holds property for the benefit of or as
98 an agent or nominee for another person, or who is not in substantial compliance with any
99 statute requiring an interest in property to be recorded or reflected in public records in order to
100 perfect the interest against a good faith purchaser for value.

101 (11) "Known address" means any address provided by a claimant to the agency at the
102 time the property was seized, or the claimant's most recent address on record with a
103 governmental entity if no address was provided at the time of the seizure.

104 (12) "Legal costs" means the costs and expenses incurred by a party in a forfeiture
105 action.

106 (13) "Legislative body" means:

107 (a) (i) the Legislature, county commission, county council, city commission, city
108 council, or town council that has fiscal oversight and budgetary approval authority over an
109 agency; or

110 (ii) the agency's governing political subdivision; or

111 (b) the lead governmental entity of a multijurisdictional task force, as designated in a
112 memorandum of understanding executed by the agencies participating in the task force.

113 (14) "Multijurisdictional task force" means a law enforcement task force or other
114 agency comprised of persons who are employed by or acting under the authority of different
115 governmental entities, including federal, state, county or municipal governments, or any
116 combination of these agencies.

117 (15) "Owner" means any person or entity, other than an interest holder, that possesses a
118 bona fide legal or equitable interest in real or personal property.

119 (16) (a) "Proceeds" means:

120 (i) property of any kind that is obtained directly [~~or indirectly~~] as a result of the
121 commission of an offense that gives rise to forfeiture; or

122 (ii) any property acquired directly [~~or indirectly~~] from, produced through, realized
123 through, or caused by an act or omission regarding property under Subsection (16)(a)(i).

124 (b) "Proceeds" includes any property of any kind without reduction for expenses
125 incurred in the acquisition, maintenance, or production of that property, or any other purpose
126 regarding property under Subsection (16)(a)(i).

127 (c) "Proceeds" is not limited to the net gain or profit realized from the offense that
128 gives rise to forfeiture.

129 (17) "Program" means the State Asset Forfeiture Grant Program established in Section
130 [24-4-117](#).

131 (18) "Property" means all property, whether real or personal, tangible or intangible, but
132 does not include contraband.

133 (19) "Prosecuting attorney" means:

134 (a) the attorney general and any assistant attorney general;

135 (b) any district attorney or deputy district attorney;

136 (c) any county attorney or assistant county attorney; and

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

139 (20) "Public interest use" means a:

140 (a) use by a government agency as determined by the legislative body of the agency's
141 jurisdiction; or

142 (b) donation of the property to a nonprofit charity registered with the state.

143 (21) "Real property" means land and includes any building, fixture, improvement,
144 appurtenance, structure, or other development that is affixed permanently to land.

145 Section 2. Section **24-4-102** is amended to read:

146 **24-4-102. Property subject to forfeiture.**

147 (1) Except as provided in Subsection (3), all property that has been used to directly
148 facilitate the commission of a federal or state offense and any direct proceeds of criminal
149 activity may be forfeited under this chapter, including:

150 (a) real property, including things growing on, affixed to, and found in land; and

151 (b) tangible and intangible personal property, including money, rights, privileges,
152 interests, claims, and securities of any kind.

153 (2) If the property is used to facilitate a violation of Section 76-10-1204, 76-10-1205,
154 76-10-1206, or 76-10-1222, the property subject to forfeiture under this section is limited to
155 property, the seizure or forfeiture of which would not constitute a prior restraint on the exercise
156 of an affected party's rights under the First Amendment to the Constitution of the United States
157 or Utah Constitution, Article I, Section 15, or would not otherwise unlawfully interfere with the
158 exercise of those rights.

159 (3) A motor vehicle used in a violation of Section 41-6a-502, 41-6a-517, a local
160 ordinance that complies with the requirements of Subsection 41-6a-510(1), Subsection
161 58-37-8(2)(g), or Section 76-5-207 may not be forfeited unless:

162 (a) the operator of the vehicle has previously been convicted of a violation, committed
163 after May 12, 2009, of:

164 (i) a felony driving under the influence violation under Section 41-6a-502;

165 (ii) a felony violation under Subsection 58-37-8(2)(g); or

166 (iii) automobile homicide under Section 76-5-207; or

167 (b) the operator of the vehicle was driving on a denied, suspended, revoked, or
168 disqualified license; and

169 (i) the denial, suspension, revocation, or disqualification under [~~Subsection (3)(c)~~]
170 Subsections (3)(b)(i)(A) through (G) was imposed because of a violation under:

171 (A) Section 41-6a-502;

172 (B) Section 41-6a-517;

173 (C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

174 (D) Section 41-6a-520;

175 (E) Subsection 58-37-8(2)(g);

176 (F) Section 76-5-207; or

177 (G) a criminal prohibition that the person was charged with violating as a result of a
178 plea bargain after having been originally charged with violating one or more of the sections or
179 ordinances described in Subsections (3)(b)(i)(A) through (F); or

180 (ii) the denial, suspension, revocation, or disqualification described in Subsections

181 (3)(b)(i)(A) through (G):

182 (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension,
183 revocation, or disqualification; and

184 (B) the original denial, suspension, revocation, or disqualification was imposed
185 because of a violation described in Subsections (3)(b)(i)(A) through (G).

186 Section 3. Section 24-4-103 is amended to read:

187 **24-4-103. Initiating forfeiture proceedings -- Notice of intent to seek forfeiture.**

188 (1) (a) Within 30 days from the date that property is seized, an agency seeking to forfeit
189 property shall serve a notice of intent to seek forfeiture upon any claimants known to the
190 agency.

191 (b) The notice of intent to seek forfeiture shall describe the:

192 (i) date of the seizure;

193 (ii) property seized;

194 (iii) alleged relationship of the seized property to the conduct giving rise to forfeiture;

195 [~~(iii)~~] (iv) claimant's rights and obligations under this chapter, including the availability
196 of hardship relief in appropriate circumstances; and

197 [~~(iv)~~] (v) statutory basis for the forfeiture, including the judicial proceedings by which
198 property may be forfeited under this chapter.

199 (c) The notice of intent to seek forfeiture shall be served by:

200 (i) certified mail, return receipt requested, to the claimant's known address; or

201 (ii) personal service.

202 (d) The court may void any forfeiture made without notice under Subsection (1)(a),
203 unless the agency demonstrates:

204 (i) good cause for the failure to give notice to the claimant; or

205 (ii) that the claimant had actual notice of the seizure.

206 (2) (a) Once the agency has served each claimant with a notice of intent to seek
207 forfeiture, but no later than 60 days from the date that property is seized, the agency shall
208 present a written request for forfeiture to the prosecuting attorney.

209 (b) The written request shall:

210 (i) describe the property to be forfeited; and

211 (ii) include a copy of all reports, supporting documents, and other evidence necessary

212 for the prosecuting attorney to determine the legal sufficiency for filing a forfeiture action.

213 Section 4. Section **24-4-104** is amended to read:

214 **24-4-104. Civil forfeiture procedure.**

215 (1) (a) ~~[The]~~ A law enforcement agency shall promptly return seized property, and the
216 prosecuting attorney may take no further action to effect the forfeiture of the property, unless
217 within ~~[75]~~ 60 days after the property is seized the prosecuting attorney:

218 (i) files a criminal forfeiture indictment or information under Subsection 24-4-105(2);

219 (ii) obtains a restraining order under Subsection 24-4-105(3);

220 (iii) files a petition under Subsection 24-4-114(1); or

221 (iv) files a civil forfeiture complaint.

222 (b) The prosecutor shall take all reasonable steps to ensure a forfeiture proceeding
223 initiated under this section is concluded in a timely manner.

224 ~~[(b)-A]~~ (2) The complaint for civil forfeiture under Subsection (1)(c) shall describe
225 with reasonable particularity [the]:

226 ~~[(i)]~~ (a) the property that is the subject of the forfeiture proceeding;

227 (b) a direct nexus between the seized property and the conduct giving rise to the
228 forfeiture under Subsection 24-4-102(2);

229 ~~[(ii)]~~ (c) date and place of seizure; and

230 ~~[(iii)]~~ (d) factual allegations that constitute a basis for forfeiture.

231 ~~[(2)]~~ (3) (a) After a complaint for civil forfeiture is filed in compliance with the
232 requirements of Subsections (1) and (2), the prosecuting attorney shall serve a copy of the
233 complaint and summons upon each claimant known to the prosecuting attorney within 30 days.

234 (b) The prosecuting attorney is not required to serve a copy of the complaint or the
235 summons upon any claimant who has disclaimed, in writing, an ownership interest in the
236 seized property.

237 (c) Service of the complaint and summons shall be by:

238 (i) personal service;

239 (ii) certified mail, return receipt requested, to the claimant's known address; or

240 (iii) service by publication, if the prosecuting attorney demonstrates to the court that
241 service cannot reasonably be made by personal service or certified mail.

242 (d) Service by publication shall be by publication of two notices, in two successive

243 weeks, of the forfeiture proceeding:

244 (i) in a newspaper of general circulation in the county in which the seizure occurred;

245 and

246 (ii) on [~~Utah's Public Legal Notice Website~~] the public legal notice website established

247 in Subsection ~~45-1-101~~(2)(b).

248 (e) Service is effective upon the earlier of:

249 (i) personal service;

250 (ii) mailing of a written notice; or

251 (iii) publication.

252 (f) Upon motion of the prosecuting attorney and a showing of good cause, the court

253 may extend the period to complete service under this section for an additional 60 days.

254 (g) An answer made by a claimant under this Subsection (3) shall be filed within 30

255 days after the complaint is served upon the claimant under this Subsection (3).

256 [~~(3)(a)~~] (4) In any case where the prosecuting attorney files a complaint for civil

257 forfeiture, [~~a claimant may file an answer to the complaint~~] any person may assert an interest in

258 seized property or file an answer to a complaint for civil forfeiture without posting bond with

259 respect to the property which is the subject of the seizure or forfeiture action.

260 [~~(b) The answer shall be filed within 30 days after the complaint is served upon the~~

261 ~~claimant as provided in Subsection (2)(b).]~~

262 [~~(4)~~] (5) Except as otherwise provided in this chapter, forfeiture proceedings are

263 governed by the Utah Rules of Civil Procedure.

264 [~~(5)~~] (6) The court shall take all reasonable steps to expedite civil forfeiture

265 proceedings and shall give these proceedings the same priority as is given to criminal cases.

266 [~~(6)~~] (7) In all suits or actions brought under this section for the civil forfeiture of any

267 property, the burden of proof is on the prosecuting attorney to establish by clear and convincing

268 evidence the extent to which, if any, the property is subject to forfeiture.

269 [~~(7)~~] (8) A claimant may file an answer to a complaint for civil forfeiture without

270 posting bond with respect to the property subject to forfeiture.

271 Section 5. Section ~~24-4-107~~ is amended to read:

272 **24-4-107. Innocent owners.**

273 (1) An innocent owner's interest in property may not be forfeited under any provision

274 of state law.

275 (2) In a forfeiture proceeding [~~under this chapter~~] regarding property belonging to a
276 claimant other than a person charged or convicted for a crime subjecting that property to
277 forfeiture, the prosecuting attorney has the burden of establishing by clear and convincing
278 evidence that [a] the claimant:

279 (a) is responsible for the conduct giving rise to the forfeiture, subject to Subsection (4);

280 (b) knew of the conduct giving rise to the forfeiture, and allowed the property to be
281 used in furtherance of the conduct, subject to Subsection (4);

282 (c) acquired the property with notice of its actual or constructive seizure for forfeiture
283 under this chapter;

284 (d) acquired the property knowing the property was subject to forfeiture under this
285 chapter; or

286 (e) acquired the property in an effort to conceal, prevent, hinder, or delay its lawful
287 seizure or forfeiture under any provision of state law.

288 (3) [~~(a)~~] A claimant [~~under this chapter is not required to~~] does not have an obligation
289 under this section to take steps to prevent illegal use or criminal activity regarding the seized
290 property [that the claimant reasonably believes would be likely to result in physical harm or
291 danger to any person].

292 [(b)] (4) A claimant may demonstrate that the claimant was not responsible for the
293 conduct giving rise to forfeiture or did not allow the property to be used in the furtherance of
294 the conduct by providing evidence that the claimant took reasonable action to prohibit the
295 illegal use of the property by:

296 [(i)] (a) making a timely notification to a law enforcement agency of information that
297 led the claimant to know that conduct subjecting the property to seizure would occur, was
298 occurring, or has occurred;

299 [(ii)] (b) timely revoking or attempting to revoke permission to use the property
300 regarding those engaging in the illegal conduct; or

301 [(iii)] (c) taking reasonable actions to discourage or prevent the illegal use of the
302 property.

303 [(4)] (5) If the state relies on Subsection (2)(a) to establish that a claimant is not an
304 innocent owner, and if the claimant is criminally charged with the conduct giving rise to the

305 forfeiture and is acquitted of that charge on the merits:

306 (a) the property subject to the forfeiture or the open market value of the property, if the
307 property has been disposed of under Subsection 24-4-108(13), shall be returned to the
308 claimant; and

309 (b) any payments required under this chapter regarding holding the property shall be
310 paid to the claimant.

311 ~~[(5)]~~ (6) A person may not assert under this chapter an ownership interest in
312 contraband.

313 ~~[(6) Property is presumed to be subject to forfeiture under this chapter if the
314 prosecuting attorney establishes that:]~~

315 ~~[(a) the claimant has engaged in conduct giving cause for forfeiture;]~~

316 ~~[(b) the property was acquired by the claimant during that period of the conduct giving
317 cause for forfeiture or within a reasonable time after that period; and]~~

318 ~~[(c) there was no likely source for the purchase or acquisition of the property other than
319 the conduct giving cause for forfeiture.]~~

320 ~~[(7) A finding that property is the proceeds of conduct giving cause for forfeiture does
321 not require proof that the property was the proceeds of any particular exchange or transaction.]~~

322 Section 6. Section 24-4-108 is amended to read:

323 **24-4-108. Release of property held for forfeiture on certain grounds.**

324 (1) After the seizing agency gives notice that the property is to be held for forfeiture, a
325 person or entity may not alienate, convey, sequester, or attach that property until the court
326 issues a final order of dismissal or an order of forfeiture regarding the property.

327 (2) The seizing agency or the prosecuting attorney may authorize the release of
328 property held for forfeiture to a claimant if retention of actual custody is unnecessary.

329 (3) With the consent of a court of competent jurisdiction, the prosecuting attorney may
330 discontinue forfeiture proceedings and transfer the action to another state or federal agency that
331 has initiated forfeiture proceedings involving the same property.

332 (4) Property held for forfeiture is considered to be in the custody of the district court
333 and subject only to:

334 (a) the orders and decrees of the court having jurisdiction over the property or the
335 forfeiture proceedings; and

336 (b) the acts of the agency that possesses the property or the prosecuting attorney
337 pursuant to this chapter.

338 (5) (a) A claimant may obtain release of property held for forfeiture by posting with the
339 district court a surety bond or cash in an amount equal to the current fair market value of the
340 property as determined by the court or by the parties' stipulation.

341 (b) The district court may refuse to order the release of the property if:

342 (i) the bond tendered is inadequate;

343 (ii) the property is contraband or is retained as evidence; or

344 (iii) the property is particularly altered or designed for use in conduct giving cause for
345 forfeiture.

346 (c) If a surety bond or cash is posted and the court later determines that the property is
347 subject to forfeiture, the court shall order the forfeiture of the surety bond or cash in lieu of the
348 property.

349 (6) A claimant is entitled to the immediate release of property held for forfeiture
350 pending the final determination of forfeiture if:

351 (a) the claimant had a possessory interest in the property at the time of seizure;

352 (b) continued possession by the agency or the state pending the final disposition of the
353 forfeiture proceedings will cause substantial hardship to the claimant, such as:

354 (i) preventing the functioning of a legitimate business;

355 (ii) preventing any individual from working;

356 (iii) preventing any child from attending elementary or secondary school;

357 (iv) preventing or hindering any person from receiving necessary medical care;

358 (v) hindering the care of an elderly or disabled dependent child or adult;

359 (vi) leaving any individual homeless; [~~or~~]

360 (vii) preventing an owner from retaining counsel to provide a defense in the forfeiture
361 proceeding or related criminal proceeding; or

362 [~~(vii)~~] (viii) any other condition that the court determines causes a substantial hardship;

363 (c) the hardship from the continued possession of the property by the agency outweighs
364 the risk that the property will be destroyed, damaged, lost, concealed, or transferred if it is
365 returned to the claimant during the pendency of the proceeding; and

366 (d) determination of substantial hardship under this Subsection (6) is based upon the

367 property's use prior to the seizure.

368 (7) After the seizing agency gives notice that the property is to be held for forfeiture, a
369 claimant may file a motion for hardship release:

370 (a) in the court in which forfeiture proceedings have commenced; or

371 (b) in any district court having jurisdiction over the property, if forfeiture proceedings
372 have not yet commenced.

373 (8) The motion for hardship release shall also be served upon the prosecuting attorney
374 or the seizing agency within 10 days after filing the motion.

375 (9) The court shall render a decision on a motion for hardship filed under this section
376 not later than 20 days after the date of filing, or 10 days after service upon the prosecuting
377 attorney or seizing agency, whichever is earlier, unless this period is extended by the agreement
378 of both parties or by the court for good cause shown.

379 (10) (a) If the claimant demonstrates substantial hardship pursuant to this section, the
380 court shall order the property immediately released to the claimant pending completion of
381 proceedings by the government to obtain forfeiture of the property.

382 (b) The court may place conditions on release of the property as it finds necessary and
383 appropriate to preserve the availability of the property or its equivalent for forfeiture.

384 (11) The hardship release under this section does not apply to:

385 (a) contraband;

386 (b) currency or other monetary instrument or electronic funds~~[-or]~~, unless any of these:

387 (i) are used to pay for the reasonable costs of defending against the forfeiture
388 proceedings or related criminal proceedings; or

389 (ii) constitute the assets of a legitimate business; or

390 (c) property that is likely to be used to commit additional illegal acts if returned to the
391 claimant.

392 (12) (a) The court may order property that is held for forfeiture to be sold, as allowed
393 by Subsection (13), leased, rented, or operated to satisfy a specified interest of any claimant, or
394 to preserve the interests of any party on motion of that party.

395 (b) The court may enter orders under Subsection (12)(a) after written notice to persons
396 known to have an interest in the property, and after an opportunity for a hearing.

397 (13) (a) A sale may be ordered under Subsection (12) when the property is liable to

398 perish, waste, or be significantly reduced in value, or when the expenses of maintaining the
399 property are disproportionate to its value.

400 (b) A third party designated by the court shall dispose of the property by commercially
401 reasonable public sale and distribute the proceeds in the following order of priority:

402 (i) first, for the payment of reasonable expenses incurred in connection with the sale;

403 (ii) second, for the satisfaction of any interests, including those of interest holders, in
404 the order of their priority as determined by Title 70A, Uniform Commercial Code; and

405 (iii) third, any balance of the proceeds shall be preserved in the actual or constructive
406 custody of the court, in an interest-bearing account, subject to further proceedings under this
407 chapter.

408 Section 7. Section **24-4-109** is amended to read:

409 **24-4-109. Prejudgment and postjudgment interest.**

410 In any proceeding to forfeit currency or other negotiable instruments under this chapter,
411 the court shall award a prevailing ~~[party]~~ claimant prejudgment and postjudgment interest on
412 the currency or negotiable instruments at the interest rate established under Section 15-1-4.

413 Section 8. Section **24-4-110** is amended to read:

414 **24-4-110. Attorney fees and costs.**

415 (1) In any forfeiture proceeding under this chapter, the court shall award a prevailing
416 ~~[property owner]~~ claimant reasonable:

417 (a) legal costs; and

418 (b) attorney fees.

419 ~~[(2) The legal costs and attorney fees awarded by the court to the prevailing party may
420 not exceed 20% of the value of the property.]~~

421 ~~[(3)]~~ (2) A ~~[property owner]~~ claimant that prevails only in part is entitled to recover
422 reasonable legal costs and attorney fees only on those issues on which the party prevailed, as
423 determined by the court.