

Representative Brian M. Greene proposes the following substitute bill:

CIVIL ASSET FORFEITURE REVISIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Eric K. Hutchings

LONG TITLE

General Description:

This bill modifies the Forfeiture and Disposition of Property Act regarding forfeiture and the claiming of property.

Highlighted Provisions:

This bill:

- ▶ amends specified definitions;
- ▶ amends provisions regarding the determination that property is subject to forfeiture;
- ▶ amends civil forfeiture procedures to provide for seized property to be returned to the claimant in specified circumstances;
- ▶ provides that when property valued at less than \$10,000 is seized, the property shall be returned to the claimant;
- ▶ provides that when property is determined to be subject to forfeiture, and the claimant is then acquitted of the offense giving rise to the forfeiture, the property shall be returned; and
- ▶ facilitates the return of seized property to an innocent owner.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **24-1-102**, as last amended by Laws of Utah 2014, Chapter 112

30 **24-2-103**, as enacted by Laws of Utah 2013, Chapter 394

31 **24-4-102**, as enacted by Laws of Utah 2013, Chapter 394

32 **24-4-103**, as enacted by Laws of Utah 2013, Chapter 394

33 **24-4-104**, as last amended by Laws of Utah 2014, Chapter 112

34 **24-4-107**, as enacted by Laws of Utah 2013, Chapter 394

35 **24-4-110**, as last amended by Laws of Utah 2014, Chapter 112

36 **24-4-117**, as last amended by Laws of Utah 2015, Chapter 134



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

39 Section 1. Section **24-1-102** is amended to read:

40 **24-1-102. Definitions.**

41 As used in this title:

42 (1) "Account" means the Criminal Forfeiture Restricted Account created in Section
43 **24-4-116**.

44 (2) (a) [~~"Acquittal"~~] "Acquitted" means a finding by a jury or a judge at trial that a
45 claimant is not guilty.

46 (b) [~~An acquittal~~] "Acquitted" does not include:

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

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

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

50 (3) "Agency" means any agency of municipal, county, or state government, including
51 law enforcement agencies, law enforcement personnel, and multijurisdictional task forces.

52 (4) "Claimant" means any:

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

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

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

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

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

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

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

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

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

69 (a) held an ownership interest in property at the time the conduct subjecting the
70 property to forfeiture occurred, and~~[(t)]~~ did not have actual knowledge of the conduct
71 subjecting the property to forfeiture; or

72 (ii) upon learning of the conduct subjecting the property to forfeiture, took reasonable
73 steps to prohibit the illegal use of the property; or

74 (b) acquired an ownership interest in the property and [~~who~~] had no knowledge that the
75 illegal conduct subjecting the property to forfeiture had occurred or that the property had been
76 seized for forfeiture, and:

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

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

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

82 (10) (a) "Interest holder" means a secured party as defined in Section [70A-9a-102](#), a
83 party with a right of offset, a mortgagee, lien creditor, or the beneficiary of a security interest or
84 encumbrance pertaining to an interest in property, whose interest would be perfected against a
85 good faith purchaser for value.

86 (b) "Interest holder" does not mean a person who holds property for the benefit of or as
87 an agent or nominee for another person, or who is not in substantial compliance with any

88 statute requiring an interest in property to be recorded or reflected in public records in order to
89 perfect the interest against a good faith purchaser for value.

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

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

95 (13) "Legislative body" means:

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

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

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

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

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

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

109 (i) property of any kind that is obtained directly or indirectly as a result of the
110 commission of an offense that gives rise to forfeiture; or

111 (ii) any property acquired directly or indirectly from, produced through, realized
112 through, or caused by an act or omission regarding property under Subsection (16)(a)(i).

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

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

118 (17) "Program" means the State Asset Forfeiture Grant Program established in Section

119 24-4-117.

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

122 (19) "Prosecuting attorney" means:

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

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

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

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

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

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

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

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

134 Section 2. Section 24-2-103 is amended to read:

135 **24-2-103. Property seized by a peace officer -- Custody and control of property.**

136 (1) (a) When property is seized by a peace officer, the peace officer or the officer's
137 employing agency shall provide a receipt to the person from whom the property was seized.

138 (b) The receipt shall describe the:

139 (i) property seized;

140 (ii) date of seizure; and

141 (iii) name and contact information of the officer's employing agency.

142 (c) In addition to the receipt, the person from whom the property was seized shall be
143 provided with information regarding the forfeiture process, including:

144 (i) important time periods in the forfeiture process;

145 (ii) what happens to the property upon conviction or acquittal; and

146 (iii) how to make a claim for the return of the property.

147 [~~e~~] (d) A copy of the receipt shall be maintained by the agency.

148 [~~d~~] (e) If custody of the property is transferred to another agency, a copy of the receipt
149 under Subsection (1)(a) shall be provided with the property.

- 150 (2) The agency responsible for maintaining the property shall:
- 151 (a) hold all seized property in safe custody until it can be disposed of as provided in
- 152 this title; and
- 153 (b) maintain a record of the property that includes:
- 154 (i) a detailed inventory of all property seized;
- 155 (ii) the name of the person from whom it was seized; and
- 156 (iii) the agency's case number.
- 157 (3) Property seized under this title is not recoverable by replevin, but is considered in
- 158 the agency's custody subject only to the orders of the court or the official having jurisdiction.
- 159 (4) All controlled substances or other contraband that is seized by a peace officer may
- 160 be processed for evidentiary or investigative purposes, including sampling or other preservation
- 161 procedure prior to disposal or destruction.
- 162 (5) (a) An agency shall deposit property in the form of cash or other readily negotiable
- 163 instruments into a separate, restricted, interest-bearing account maintained by the agency solely
- 164 for the purpose of managing and protecting the property from commingling, loss, or
- 165 devaluation.
- 166 (b) Each agency shall have written policies for the identification, tracking,
- 167 management, and safekeeping of seized property, which shall include a prohibition against the
- 168 transfer, sale, or auction of seized property to any employee of the agency.
- 169 (6) If a peace officer or the officer's employing agency records an interview of a minor
- 170 child during an investigation of a violation of Section [76-5-402.1](#), [76-5-402.3](#), [76-5-403.1](#), or
- 171 [76-5-404.1](#), the agency shall retain a copy of the recording for 18 years following the date of
- 172 the last recording unless the prosecuting attorney requests in writing that the recording be
- 173 retained for an additional period of time.
- 174 (7) Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction
- 175 Information Act, governs the disposition of property held by a pawn or secondhand business in
- 176 the course of its business.

177 Section 3. Section **24-4-102** is amended to read:

178 **24-4-102. Property subject to forfeiture.**

- 179 (1) Except as provided in Subsection [~~(3)~~] (4), all property that has been used to
- 180 facilitate the commission of a federal or state criminal offense and any proceeds of criminal

181 activity may be forfeited under this chapter, including:

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

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

185 (2) Property that is subject to forfeiture under this chapter may be forfeited if the
186 prosecuting attorney establishes that:

187 (a) the claimant has engaged in conduct giving rise to forfeiture;

188 (b) the property was acquired by the claimant during that portion of the conduct that
189 gives rise to forfeiture, or within a reasonable time after that conduct is committed; and

190 (c) there is no likely source for the purchase or acquisition of the property other than
191 the conduct that gives rise to forfeiture.

192 [~~2~~] (3) If the property is used to facilitate a violation of Section 76-10-1204,
193 76-10-1205, 76-10-1206, or 76-10-1222, the property subject to forfeiture under this section is
194 limited to property, the seizure or forfeiture of which would not constitute a prior restraint on
195 the exercise of an affected party's rights under the First Amendment to the Constitution of the
196 United States or Utah Constitution, Article I, Section 15, or would not otherwise unlawfully
197 interfere with the exercise of those rights.

198 [~~3~~] (4) A motor vehicle used in a violation of Section 41-6a-502, 41-6a-517, a local
199 ordinance that complies with the requirements of Subsection 41-6a-510(1), Subsection
200 58-37-8(2)(g), or Section 76-5-207 may not be forfeited unless:

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

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

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

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

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

208 (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii)
209 was imposed because of a violation under:

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

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

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

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

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

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

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

219 (ii) the denial, suspension, revocation, or disqualification described in Subsections
220 (3)(b)(i)(A) through (G):

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

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

225 Section 4. Section 24-4-103 is amended to read:

226 **24-4-103. Initiating forfeiture proceedings -- Notice of intent to seek forfeiture.**

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

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

231 (i) date of the seizure;

232 (ii) property seized;

233 (iii) claimant's rights and obligations under this chapter, including the availability of
234 hardship relief in appropriate circumstances; and

235 (iv) statutory basis for the forfeiture, including the judicial proceedings by which
236 property may be forfeited under this chapter.

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

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

239 (ii) personal service.

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

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

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

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

247 (b) The written request shall:

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

249 (ii) include a copy of all reports, supporting documents, and other evidence necessary
250 for the prosecuting attorney to determine the legal sufficiency for filing a forfeiture action.

251 (3) If a law enforcement agency does not notify claimants and present a request for
252 forfeiture in compliance with Subsections (1) and (2), the law enforcement agency shall
253 promptly return the seized property to the claimant or claimants.

254 (4) A prosecuting attorney may take no further action to effect the forfeiture of the
255 seized property, unless within 75 days after the property is seized the prosecuting attorney:

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

257 (b) files a petition under Subsection 24-4-114(1) regarding transfer or sharing of
258 forfeiture proceeds; or

259 (c) files a civil forfeiture complaint under Section 24-4-104.

260 Section 5. Section **24-4-104** is amended to read:

261 **24-4-104. Civil forfeiture procedure.**

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

265 ~~[(i) files a criminal forfeiture indictment or information under Subsection 24-4-105(2);]~~

266 ~~[(ii) obtains a restraining order under Subsection 24-4-105(3);]~~

267 ~~[(iii) files a petition under Subsection 24-4-114(1); or]~~

268 ~~[(iv) files a civil forfeiture complaint.]~~

269 ~~[(b)]~~ (1) A complaint for civil forfeiture shall describe with reasonable particularity
270 the:

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

272 ~~[(ii)]~~ (b) date and place of seizure; and

273 ~~[(iii)]~~ (c) factual allegations that constitute a basis for forfeiture.

274 (2)(a) After a civil forfeiture complaint is filed, the prosecuting attorney shall serve a
275 copy of the complaint and summons upon each claimant known to the prosecuting attorney
276 within 30 days.

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

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

281 (i) personal service;

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

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

285 (d) Service by publication shall be by publication of two notices, in two successive
286 weeks, of the forfeiture proceeding:

287 (i) in a newspaper of general circulation in the county in which the seizure occurred;
288 and

289 (ii) on Utah's Public Legal Notice Website established in Subsection [45-1-101\(2\)\(b\)](#).

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

291 (i) personal service;

292 (ii) mailing of a written notice; or

293 (iii) publication.

294 (f) Upon motion of the prosecuting attorney and a showing of good cause, the court
295 may extend the period to complete service under this section for an additional 60 days.

296 (3) (a) In any case where the prosecuting attorney files a complaint for forfeiture, a
297 claimant may file an answer to the complaint.

298 (b) The answer shall be filed within 30 days after the complaint is served upon the
299 claimant as provided in Subsection (2)(b).

300 (c) The agency that has custody of the property subject to forfeiture shall return the
301 property to the claimant if the property is valued at less than \$10,000 in United States currency,
302 and:

303 (i) (A) the prosecuting attorney has filed a forfeiture complaint, and the claimant has
304 filed an answer through an attorney or pro se, in accordance with Subsections (3)(a) and (b);

305 and

306 (B) the prosecuting attorney has not filed an information or indictment for criminal
307 conduct giving rise to the forfeiture within 60 days after the date that service of the complaint
308 on the claimant was completed; or

309 (ii) the information or indictment for criminal conduct giving rise to the forfeiture was
310 dismissed and the prosecuting attorney has not refiled the information or indictment within
311 seven days of the dismissal.

312 (d) The return of property to the claimant under Subsection (3)(c) does not include any
313 expenses, costs, or attorney fees.

314 (e) If the property subject to forfeiture is not returned under the provisions of
315 Subsection (3)(c) and the claimant is subsequently successful in an action to recover the
316 property, notwithstanding Subsection 24-4-110(2), the claimant shall be entitled to recover
317 costs and attorney fees incurred in the action to recover the property.

318 (4) (a) Upon motion of the prosecuting attorney, the court may extend the time limit in
319 Subsection (3)(c)(i)(B) for a reasonable time period if:

320 (a) the value of the property has yet to be determined; or

321 (b) the investigation into the criminal conduct giving rise to the forfeiture has not been
322 completed.

323 ~~[(4)]~~ (5) Except as otherwise provided in this chapter, forfeiture proceedings are
324 governed by the Utah Rules of Civil Procedure.

325 ~~[(5)]~~ (6) The court shall take all reasonable steps to expedite civil forfeiture
326 proceedings and shall give these proceedings the same priority as is given to criminal cases.

327 ~~[(6)]~~ (7) In all suits or actions brought under this section for the civil forfeiture of any
328 property, the burden of proof is on the prosecuting attorney to establish by clear and convincing
329 evidence ~~[the extent to which, if any, the property is subject to forfeiture]~~ that the claimant
330 engaged in conduct giving rise to the forfeiture.

331 ~~[(7)]~~ (8) A claimant may file an answer to a complaint for civil forfeiture without
332 posting bond with respect to the property subject to forfeiture.

333 (9) A finding by the court that property is the proceeds of conduct giving rise to
334 forfeiture does not require proof that the property was the proceeds of any particular exchange
335 or transaction.

336 (10) If the prosecutor establishes that the property is subject to forfeiture, but the
337 claimant is subsequently criminally charged with the conduct giving rise to the forfeiture and is
338 acquitted of that charge on the merits:

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

342 (b) any payments required under this chapter regarding the costs of holding the
343 property shall be paid to the claimant; and

344 (c) court costs and reasonable attorney fees incurred in defending against the civil
345 forfeiture action shall be paid to the claimant, as provided in this chapter.

346 Section 6. Section 24-4-107 is amended to read:

347 **24-4-107. Innocent owners.**

348 (1) An innocent owner's interest in property may not be forfeited.

349 (2) In a forfeiture proceeding under this chapter, the prosecuting attorney has the
350 burden of establishing evidence that a claimant:

351 [~~(a)~~] ~~is responsible for the conduct giving rise to the forfeiture, subject to Subsection~~
352 ~~(4);]~~

353 [~~(b)~~] (a) knew of the conduct giving rise to the forfeiture, and allowed the property to be
354 used in furtherance of the conduct;

355 [~~(c)~~] (b) acquired the property with notice of its actual or constructive seizure for
356 forfeiture under this chapter;

357 [~~(d)~~] (c) acquired the property knowing the property was subject to forfeiture under this
358 chapter; or

359 [~~(e)~~] (d) acquired the property in an effort to conceal, prevent, hinder, or delay its
360 lawful seizure or forfeiture under any provision of state law.

361 (3) (a) [~~A claimant~~] An innocent owner under this chapter is not required to take steps
362 to prevent illegal use or criminal activity regarding the property that the [~~claimant~~] innocent
363 owner reasonably believes would be likely to result in physical harm or danger to any person.

364 (b) [~~A claimant~~] An innocent owner may demonstrate that the [~~claimant~~] innocent
365 owner took reasonable action to prohibit the illegal use of the property by:

366 (i) making a timely notification to a law enforcement agency of information that led the

367 [~~claimant~~] innocent owner to know that conduct subjecting the property to seizure would occur,
368 was occurring, or has occurred;

369 (ii) timely revoking or attempting to revoke permission to use the property regarding
370 those engaging in the illegal conduct; or

371 (iii) taking reasonable actions to discourage or prevent the illegal use of the property.

372 [~~(4) If the state relies on Subsection (2)(a) to establish that a claimant is not an
373 innocent owner, and if the claimant is criminally charged with the conduct giving rise to the
374 forfeiture and is acquitted of that charge on the merits:]~~

375 [~~(a) the property subject to the forfeiture or the open market value of the property, if
376 the property has been disposed of under Subsection 24-4-108(13), shall be returned to the
377 claimant; and]~~

378 [~~(b) any payments required under this chapter regarding holding the property shall be
379 paid to the claimant.]~~

380 [~~(5)~~] (4) A person may not assert under this chapter an ownership interest in
381 contraband.

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

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

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

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

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

391 (5) (a) An innocent owner other than a defendant may recover possession of seized
392 property that is subject to forfeiture by contacting the seizing agency or prosecuting attorney
393 within 30 days of the seizure and providing to the seizing agency or prosecuting attorney:

394 (i) evidence that establishes proof of ownership; and

395 (ii) a brief description of the date, time, and place that the innocent owner mislaid or
396 relinquished possession of the seized property.

397 (b) A seizing agency or prosecuting attorney who receives a claim from a potentially

398 innocent owner utilizing the procedure in Subsection (5)(a) shall issue a written response to
399 that claim within 45 days of receipt, indicating whether the claim has been granted, denied on
400 the merits, or denied for failure to provide the information required by statute subject to the
401 following:

402 (i) if the claim is denied for failure to provide the information required by statute, the
403 potentially innocent owner has 15 days from the date of denial to submit additional information
404 before the prosecuting attorney may commence a civil action seeking to forfeit the property;
405 and

406 (ii) if the seizing agency or prosecuting attorney fails to issue a written response within
407 45 days the property shall be returned.

408 (c) Any property returned under Subsection (5)(b), either because the claim was
409 granted or because the seizing agency or prosecuting attorney failed to respond within 45 days
410 may not include any expenses, costs, or attorney fees.

411 (d) Notwithstanding Subsection 24-4-110(2), an innocent owner who utilizes the
412 procedures in Subsection (5)(a) and whose claim is denied on the merits by the seizing agency
413 or prosecuting attorney, but who is later determined by a court of competent jurisdiction in a
414 civil forfeiture action to be an innocent owner within the meaning of this section, may collect
415 reasonable attorney fees and court costs from the date on which the seizing agency or
416 prosecuting attorney denied the claim.

417 Section 7. Section 24-4-110 is amended to read:

418 **24-4-110. Attorney fees and costs.**

419 (1) ~~[In]~~ Except as provided in Section 24-4-104 and 24-4-107, in any forfeiture
420 proceeding under this chapter, the court shall award a prevailing ~~[property owner]~~ claimant
421 reasonable:

- 422 (a) legal costs; and
- 423 (b) attorney fees.

424 (2) The legal costs and attorney fees awarded by the court to the prevailing party may
425 not exceed 20% of the value of the property.

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

429 Section 8. Section **24-4-117** is amended to read:

430 **24-4-117. State Asset Forfeiture Grant Program.**

431 (1) There is created the State Asset Forfeiture Grant Program.

432 (2) The program shall fund crime prevention, crime victim reparations, and law
433 enforcement activities that have the purpose of:

434 (a) deterring crime [~~by depriving criminals of the profits and proceeds of their illegal~~
435 ~~activities~~];

436 (b) weakening criminal enterprises [~~by removing the instrumentalities of crime~~];

437 (c) reducing crimes involving substance abuse by supporting the creation,
438 administration, or operation of substance use disorder treatment programs, including drug court
439 programs throughout the state;

440 (d) encouraging cooperation between local, state, and multijurisdictional law
441 enforcement agencies;

442 (e) allowing the legitimate costs and expenses of law enforcement to be defrayed by the
443 forfeited proceeds of crime;

444 (f) increasing the equitability and accountability of the use of forfeited property used to
445 assist law enforcement in reducing and preventing crime; and

446 (g) providing aid to victims of criminally injurious conduct, as defined in Section
447 [63M-7-502](#), who may be eligible for assistance under Title 63M, Chapter 7, Part 5, Utah Office
448 for Victims of Crime.

449 (3) [~~(a)~~] When property is forfeited under this chapter and transferred to the account,
450 upon appropriation the commission shall allocate and administer grants to state agencies, local
451 law enforcement agencies, multijurisdictional law enforcement agencies, or political
452 subdivisions of the state in compliance with this section and to further the program purposes
453 under Subsection (2).

454 [~~(b)~~] (4) The commission may retain up to 3% of the annual appropriation from the
455 account to pay for administrative costs incurred by the commission, including salary and
456 benefits, equipment, supplies, or travel costs that are directly related to the administration of
457 the program.

458 [~~(4)~~] (5) Agencies or political subdivisions shall apply for an award from the program
459 by completing and submitting forms specified by the commission.

460 [~~(5)~~] (6) In granting the awards, the commission shall ensure that the amount of each
461 award takes into consideration the:

- 462 (a) demonstrated needs of the agency;
- 463 (b) demonstrated ability of the agency to appropriately use the award;
- 464 (c) degree to which the agency's need is offset through the agency's participation in
465 federal equitable sharing or through other federal and state grant programs; and
- 466 (d) agency's cooperation with other state and local agencies and task forces.

467 [~~(6)~~] (7) Applying agencies or political subdivisions shall demonstrate compliance with
468 all reporting and policy requirements applicable under this chapter and under Title 63M,
469 Chapter 7, Criminal Justice and Substance Abuse, in order to qualify as a potential award
470 recipient.

471 [~~(7)~~] (8) (a) Recipient law enforcement agencies may only use award money after
472 approval by the agency's legislative body.

473 (b) The award money is nonlapsing.

474 [~~(8)~~] (9) A recipient state agency, local law enforcement agency, multijurisdictional
475 law enforcement agency, or political subdivision shall use awards only for law enforcement
476 purposes as described in this section or for victim reparations as described in Subsection (2)(g),
477 and only as these purposes are specified by the agency or political subdivision in its application
478 for the award.

479 [~~(9)~~] (10) Permissible law enforcement purposes for which award money may be used
480 include:

- 481 (a) controlled substance interdiction and enforcement activities;
- 482 (b) drug court programs;
- 483 (c) activities calculated to enhance future law enforcement investigations;
- 484 (d) law enforcement training that includes:
 - 485 (i) implementation of the Fourth Amendment to the United States Constitution and
486 Utah Constitution, Article I, Section 7, and that addresses the protection of the individual's
487 right of due process;
 - 488 (ii) protection of the rights of innocent property holders; and
 - 489 (iii) the Tenth Amendment to the United States Constitution regarding states'
490 sovereignty and the states' reserved rights;

- 491 (e) law enforcement or detention facilities;
- 492 (f) law enforcement operations or equipment that are not routine costs or operational
- 493 expenses;
- 494 (g) drug, gang, or crime prevention education programs that are sponsored in whole or
- 495 in part by the law enforcement agency or its legislative body;
- 496 (h) matching funds for other state or federal law enforcement grants; and
- 497 (i) the payment of legal costs, attorney fees, and postjudgment interest in forfeiture
- 498 actions.
- 499 ~~[(10)]~~ (11) Law enforcement purposes for which award money may not be granted or
- 500 used include:
 - 501 (a) payment of salaries, retirement benefits, or bonuses to any person;
 - 502 (b) payment of expenses not related to law enforcement;
 - 503 (c) uses not specified in the agency's award application;
 - 504 (d) uses not approved by the agency's legislative body;
 - 505 (e) payments, transfers, or pass-through funding to entities other than law enforcement
 - 506 agencies; or
 - 507 (f) uses, payments, or expenses that are not within the scope of the agency's functions.