

809A.7 Property management and preservation.

1. Property seized for forfeiture under this chapter is not subject to alienation, conveyance, sequestration, attachment, or an application for return of seized property under chapter 809.

2. The seizing agency or the prosecuting attorney may authorize the release of the seizure for forfeiture on the property if forfeiture or retention of actual custody is unnecessary.

3. The prosecuting attorney may discontinue forfeiture proceedings and transfer the action to another state or federal agency or prosecuting attorney who has initiated forfeiture proceedings.

4. Property seized for forfeiture under this chapter is deemed to be in the custody of the district court subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings and to the acts of the seizing agency or the prosecuting attorney pursuant to this chapter.

5. An owner of property seized for forfeiture under this chapter may obtain release of the property by posting with the court a surety bond or cash in an amount determined by the court to be reasonable in light of the fair market value of the property. Property shall not be released if any of the following apply:

- a. The owner fails to post the required bond.
- b. The property is retained as contraband or as evidence.
- c. The property is particularly altered or designed for use in conduct giving rise to forfeiture.

If a surety bond or cash is posted and the property is forfeited, the court shall forfeit the surety bond or cash in lieu of the property.

6. If property is seized for forfeiture under this chapter, the prosecuting attorney, subject to any need to retain the property as evidence, may do any of the following:

- a. Remove the property to an appropriate place designated by the district court.
- b. Place the property under constructive seizure.
- c. Remove the property to a storage area for safekeeping or, if the property is a negotiable instrument or money, deposit it in an interest-bearing account.
- d. Provide for another agency or custodian, including an owner, secured party, mortgagee, or lienholder, to take custody of the property and service, maintain, and operate it as reasonably necessary to maintain its value, in any appropriate location within the jurisdiction of the court.
- e. Require the seizing agency to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

7. As soon as practicable after seizure for forfeiture, the seizing agency shall conduct a written inventory and estimate the value of the property seized.

8. The court may order property which has been seized for forfeiture sold, leased, rented, or operated to satisfy a specified interest of any interest holder, or to preserve the interests of any party on motion of such party. The court may enter orders under this subsection after notice to persons known to have an interest in the property, and an opportunity for a hearing, if either of the following exists:

- a. The interest holder has timely filed a proper claim and is a regulated interest holder.
- b. The interest holder has an interest which the prosecuting attorney has stipulated is exempt from forfeiture.

9. A sale may be ordered under subsection 8 if the property is liable to perish, to waste, or to be foreclosed upon or significantly reduced in value, or if the expenses of maintaining the property are disproportionate to its value. A third party designated by the court shall dispose of the property by commercially reasonable public sale and distribute the proceeds in the following order of priority:

- a. For the payment of reasonable expenses incurred in connection with the sale or disposal.
- b. For the satisfaction of exempt interests in the order of their priority.
- c. Any balance of the proceeds shall be preserved in the actual or constructive custody of the court, in an interest-bearing account, subject to the proceedings under this chapter.

96 Acts, ch 1133, §7