

809A.4 Property subject to forfeiture.

The following are subject to forfeiture:

1. All controlled substances, raw materials, controlled substance analogs, counterfeit controlled substances, imitation controlled substances, or precursor substances, that have been manufactured, distributed, dispensed, possessed, or acquired in violation of the laws of this state.

2. *a.* All property, except as provided in paragraph “*b*”, including the whole of any lot or tract of land and any appurtenances or improvements to real property, including homesteads that are otherwise exempt from judicial sale pursuant to section 561.16, that is either:

(1) Furnished or intended to be furnished by a person in an exchange that constitutes conduct giving rise to forfeiture.

(2) Used or intended to be used in any manner or part to facilitate conduct giving rise to forfeiture.

b. If the only conduct giving rise to forfeiture is a violation of section 124.401, subsection 5, real property is not subject to forfeiture and other property subject to forfeiture pursuant to paragraph “*a*”, subparagraph (2), may be forfeited only pursuant to section 809A.14.

3. All proceeds of any conduct giving rise to forfeiture.

4. All weapons possessed, used, or available for use in any manner to facilitate conduct giving rise to forfeiture.

5. Any interest or security in, claim against, or property or contractual right of any kind affording a source of control over any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct or through conduct giving rise to forfeiture.

6. *a.* Any property of a person up to the value of property which is either of the following:

(1) Described in subsection 2 that the person owned or possessed for the purpose of a use described in subsection 2.

(2) Described in subsection 3 and is proceeds of conduct engaged in by the person or for which the person is criminally responsible.

b. Property described in this subsection may be seized for forfeiture pursuant to a constructive seizure or an actual seizure pursuant to section 809A.6. Actual seizure may only be done pursuant to a seizure warrant issued on a showing, in addition to the showing of probable cause for the forfeiture of the subject property, that the subject property is not available for seizure for reasons described in section 809A.15, subsection 1, and that the value of the property to be seized is not greater than the total value of the subject property, or pursuant to a constructive seizure. If property of a defendant up to the total value of all interests in the subject property is not seized prior to final judgment in an action under this section, the remaining balance shall be ordered forfeited as a personal judgment against the defendant.

7. As used in this section, “*facilitate*” means to have a substantial connection between the property and the conduct giving rise to forfeiture.

96 Acts, ch 1133, §4; 98 Acts, ch 1074, §39, 40; 98 Acts, ch 1100, §87

Referred to in §809.15, 809A.5