

## 2012 Kansas Statutes

### **60-4102. Definitions.** As used in this act:

- (a) "Contraband" means any property the possession of which is illegal.
- (b) "Conveyance" includes any vehicle, trailer, vessel, aircraft or other means of transportation.
- (c) "Covered offense" means any crime set forth in K.S.A. 60-4104 or any other offense for which forfeiture is provided by the law relating to a particular offense.
- (d) "Facilitate" means any act or omission broadly construed to encompass any use or intended use of property which makes an act giving rise to forfeiture less difficult and laborious.
- (e) "Interest holder" means a secured party within the meaning of the uniform commercial code, a mortgagee, lien creditor, judgment creditor or the beneficiary of a security interest or encumbrance pertaining to an interest in property, whose interest would be perfected against a good faith purchaser for value. A person who holds property the benefit of or as an agent or nominee for another person, or who is not in substantial compliance with any statute requiring an interest in property to be recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value, is not an interest holder.
- (f) "Law enforcement officer" means any public servant, whether employed by the state of Kansas or subdivisions thereof or by the United States, vested by law with a duty to maintain public order, to make arrests for offenses, or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses.
- (g) "Notice of pending forfeiture" means a written statement by the plaintiff's attorney following a seizure of property but prior to the filing of a judicial complaint against such property allowing for an administrative resolution to claims or recognition of exemptions.
- (h) "Notice of seizure for forfeiture" means a written statement by a law enforcement agency that property has been seized and may be proceeded against pursuant to this act, and providing information concerning the property, the seizure, and the law enforcement agency.
- (i) "Omission" means a failure to perform an act the performance of which is required by law.
- (j) "Owner" means a person, other than an interest holder, who has an interest in property. A person who holds property for the benefit of or as an agent or nominee for another person, or who is not in substantial compliance with any statute requiring an interest in property to be recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value, is not an owner. An owner with power to convey property binds other owners, and a spouse binds the person's spouse, by any act or omission.
- (k) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property.
- (l) "Personal service" means service as defined by K.S.A. 60-304 and 60-308, and amendments thereto.
- (m) "Plaintiff's attorney" means a county or district attorney, or the attorney general, such attorney's assistant, or another attorney approved, pursuant to subsections (h) and (i) of K.S.A. 60-4107, employed by a law enforcement agency to litigate a forfeiture on behalf of the agency.
- (n) "Proceeds" means anything of value, derived directly or indirectly from or realized through unlawful activity, including any monies used or intended to be used, or facilitate or intended to facilitate, the purchase, manufacture, cultivation, transportation, storage, distribution, sale, or possession of controlled substances or contraband.
- (o) "Property" means anything of value, and includes any interest in property, including any benefit, privilege, claim or right with respect to anything of value, whether real or personal, tangible or intangible.
- (p) "Recognition of exemption" means a written statement by the plaintiff's attorney stipulating to an interest in property exempt from forfeiture.
- (q) "Regulated interest holder" means an interest holder that is a business authorized to do business in this state and is under the jurisdiction of a state or federal regulatory agency relating to banking, securities, insurance or real estate.
- (r) "Seizing agency" means any department or agency of this state or its political subdivisions which regularly employs law enforcement officers and which employed the law enforcement officer who seized property for forfeiture, or such other agency as the seizing agency may designate in a particular case.
- (s) "Seizure for forfeiture" means seizure of property by a law enforcement officer including a constructive seizure coupled with an assertion by the seizing agency or a plaintiff's attorney that the property is subject to forfeiture.
- (t) "Statement of nonexempt interests" means a written statement by the plaintiff's attorney refusing to recognize that a particular interest or interests in property are exempt from forfeiture.

**History:** L. 1994, ch. 339, § 2; July 1.