

2012 Kansas Statutes

60-4115. Substituted assets and supplemental remedies. (a) The court shall order the forfeiture of any other property of an owner or *in personam* defendant, up to the value of that owner's or defendant's property found by the court to be subject to forfeiture under this act, if any of the owner's or defendant's forfeitable property:

- (1) Cannot be located;
- (2) has been transferred or conveyed to, sold to, or deposited with a third party;
- (3) is beyond the jurisdiction of the court;
- (4) has been substantially diminished in value while not in the actual physical custody of the court, the seizing agency, the plaintiff's attorney, or their designee;
- (5) has been commingled with other property that cannot be divided without difficulty;
- (6) is subject to any interest of another person which interest is exempt from forfeiture under this act; or
- (7) is exempt from forfeiture due to a constitutional or statutory provision.

(b) In addition to any other remedy provided for by law, if a forfeiture lien or notice of pending forfeiture has been filed and notice given pursuant to K.S.A. 60-4109, or if a complaint alleging conduct giving rise to forfeiture has been filed and notice given pursuant to such K.S.A. 60-4109 or other applicable rule of civil procedure, the plaintiff's attorney may institute an action in the district court against any person with notice or actual knowledge who destroys, conveys, alienates, encumbers, further encumbers, disposes of, purchases, receives, removes from the jurisdiction of the court, conceals, or otherwise renders unavailable for forfeiture property alleged to be subject to forfeiture in the forfeiture lien, notice of pending forfeiture, or complaint. In such case, the court shall enter a final judgment in an amount equal to the value of the lien not to exceed the fair market value of the property, or, if the property is alleged to be subject to forfeiture, in an amount equal to the fair market value of the property, together with reasonable investigative expenses and attorney fees. If a civil proceeding under this act is pending in court, the action shall be heard by such court.

History: L. 1994, ch. 339, § 15; July 1.