

**Cherokee Nation Code Annotated**

**Title 22: Criminal Procedure**

**Chapter 26: RICO**

**§ 1405. Procedures for criminal forfeiture of property**

Cite as: 22 CNCA § 1405

A. Any person convicted of violating any of the provisions of 21 CNCA § 1403 shall criminally forfeit to the state, according to the procedures established in subsection B of this section, any real or personal property used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of 21 CNCA § 1403, including any property constituting an interest in or means of control or influence over the enterprise involved in the conduct in violation of 21 CNCA § 1403, including:

1. Any compensation, right, or benefit derived from a position, office, appointment, tenure, commission, or employment contract that accrued to the person during the course of conduct in violation of 21 CNCA § 1403;
2. Any interest in, security of, claim against, or property or contractual right affording the person a source of influence or control over the affairs of an enterprise that the person exercised in violation of 21 CNCA § 1403; or
3. Any amount payable or paid pursuant to any contract for goods or services that was awarded or performed in violation of 21 CNCA § 1403.

B. The criminal forfeiture procedures are as follows:

1. A judgment of criminal forfeiture shall not be entered unless a special verdict containing a finding of property subject to forfeiture, specifying the extent of such property and describing with specificity such property and the circumstances by which the property is subject to forfeiture is returned; and
2. If any property included in a special verdict of criminal forfeiture:
  - a. cannot be located,
  - b. has been sold to a bona fide purchaser for value,
  - c. has been placed beyond the jurisdiction of the court,
  - d. has been substantially diminished in value by the conduct of the defendant,
  - e. has been commingled with other property that cannot be divided without difficulty or undue injury to innocent parties,

f. is otherwise unreachable without undue injury to innocent parties, or

g. is subject to a valid security interest, to the extent of the security interest, held by a bank, savings and loan association, credit union or supervised lender licensed by the Oklahoma Administrator of Consumer Credit, acquired prior to the lien notice provided by 21 CNCA § 1412, the district court shall order forfeiture of any other property of the defendant up to the value of the property that is unreachable.

Historical Data

LA 30-21, eff. June 18, 2021.