

Cherokee Nation Code Annotated

Title 22: Criminal Procedure

Chapter 26: RICO

§ 1410. Disposition of forfeited property

Cite as: 22 CNCA § 1410

A. Upon approval of the court, the Attorney General shall dispose of all property ordered forfeited in any criminal proceeding pursuant to the provisions of the Cherokee Nation Racketeer-Influenced and Corrupt Organizations Act as soon as feasible, making due provisions for the rights of innocent parties, by:

1. Public sale;
2. Transfer to a governmental agency of the Nation for official use;
3. Sale or transfer to an innocent party; or
4. Destruction, if the property is not needed for evidence in any pending criminal or civil proceeding.

B. Any property right not exercisable by, or transferable for value to the Nation shall not revert to the defendant. No defendant or any person acting in concert with the defendant or on behalf of the defendant shall be eligible to purchase forfeited property from the Nation.

C. With respect to property ordered forfeited in any criminal proceeding pursuant to the provisions of the Cherokee Nation Racketeer-Influenced and Corrupt Organizations Act, the Attorney General is authorized to:

1. Compromise claims;
2. Award compensation to persons providing information resulting in a forfeiture pursuant to the provisions of the Cherokee Nation Racketeer-Influenced and Corrupt Organizations Act; and
3. Petition the court to mitigate or remit a forfeiture or to restore forfeited property to victims of a violation of 21 CNCA § 1403.

D. The proceeds of any sale or other disposition of forfeited property imposed pursuant to the Cherokee Nation Racketeer-Influenced and Corrupt Organizations Act shall be applied as follows:

1. To a bona fide innocent purchaser, conditional sales vendor, or mortgagee of the forfeited property up to the amount of the interest held by the person in the forfeited property;
2. To the fees and costs of the forfeiture and sale, including expenses of seizure, maintenance, and custody of the property pending its disposition, advertising, and the court costs;
3. To all costs and expenses of investigation and prosecution, including costs of resources and personnel incurred in investigation and prosecution; and
4. The balance to the credit of the Attorney General or law enforcement agencies in such proportions as are represented by the costs and expenses of investigation and prosecution as provided in the Cherokee Nation Racketeer-Influenced and Corrupt Organizations Act.

Historical Data

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