

1 OF THIS TITLE, FOR THE DETERMINATION OF WHICH THE INSTITUTION OF
2 PROCEEDINGS IN THE SUPREME COURT IS NECESSARY, TO CAUSE THE PROPER
3 PROCEEDINGS TO BE COMMENCED AND PROSECUTED, AT ANY TIME AFTER THIRTY
4 DAYS FROM THE DATE OF THE SEIZURE, TO DECLARE SUCH FORFEITURE, UNLESS,
5 UPON INQUIRY AND EXAMINATION, SUCH DISTRICT ATTORNEY OR CORPORATION
6 COUNSEL DECIDES THAT SUCH PROCEEDINGS CAN NOT PROBABLY BE SUSTAINED OR
7 THAT THE ENDS OF PUBLIC JUSTICE DO NOT REQUIRE THAT THEY SHOULD BE
8 INSTITUTED OR PROSECUTED, IN WHICH CASE, THE DISTRICT ATTORNEY OR CORPO-
9 RATION COUNSEL SHALL CAUSE SUCH SEIZED PROPERTY TO BE RETURNED TO THE
10 OWNER THEREOF.

11 4. NOTICE OF THE INSTITUTION OF THE FORFEITURE PROCEEDING SHALL BE
12 SERVED EITHER (A) PERSONALLY ON THE OWNERS OF THE SEIZED PROPERTY, OR
13 (B) BY REGISTERED MAIL TO THE OWNERS' LAST KNOWN ADDRESS AND BY PUBLICA-
14 TION OF THE NOTICE ONCE A WEEK FOR TWO SUCCESSIVE WEEKS IN A NEWSPAPER
15 PUBLISHED OR CIRCULATED IN THE COUNTY WHEREIN THE SEIZURE WAS MADE.

16 5. FORFEITURE SHALL NOT BE ADJUDGED WHERE THE OWNERS ESTABLISH BY
17 PREPONDERANCE OF THE EVIDENCE THAT (A) THE USE OF SUCH SEIZED PROPERTY,
18 IN VIOLATION OF SECTION 165.71, 165.72, OR 165.73 OF THIS TITLE, WAS NOT
19 INTENTIONAL ON THE PART OF ANY OWNER, OR (B) SUCH SEIZED PROPERTY WAS
20 USED IN VIOLATION OF SECTION 165.71, 165.72, OR 165.73 OF THIS TITLE, BY
21 ANY PERSON OTHER THAN AN OWNER THEREOF, WHILE SUCH SEIZED PROPERTY WAS
22 UNLAWFULLY IN THE POSSESSION OF A PERSON WHO ACQUIRED POSSESSION THEREOF
23 IN VIOLATION OF THE CRIMINAL LAWS OF THE UNITED STATES, OR OF ANY STATE.

24 6. THE DISTRICT ATTORNEY OR THE POLICE DEPARTMENT HAVING CUSTODY OF
25 THE SEIZED PROPERTY, AFTER SUCH JUDICIAL DETERMINATION OF FORFEITURE,
26 SHALL, AT THEIR DISCRETION, EITHER RETAIN SUCH SEIZED PROPERTY FOR THE
27 OFFICIAL USE OF THEIR OFFICE OR DEPARTMENT, OR, BY A PUBLIC NOTICE OF AT
28 LEAST FIVE DAYS, SELL SUCH FORFEITED PROPERTY AT PUBLIC SALE. THE NET
29 PROCEEDS OF ANY SUCH SALE, AFTER DEDUCTION OF THE LAWFUL EXPENSES
30 INCURRED, SHALL BE PAID INTO THE GENERAL FUND OF THE COUNTY WHEREIN THE
31 SEIZURE WAS MADE.

32 7. WHENEVER ANY PERSON INTERESTED IN ANY PROPERTY WHICH IS SEIZED AND
33 DECLARED FORFEITED UNDER THE PROVISIONS OF THIS SECTION FILES WITH A
34 JUSTICE OF THE SUPREME COURT A PETITION FOR THE RECOVERY OF SUCH
35 FORFEITED PROPERTY, THE JUSTICE OF THE SUPREME COURT MAY RESTORE SUCH
36 FORFEITED PROPERTY UPON SUCH TERMS AND CONDITIONS AS HE DEEMS REASONABLE
37 AND JUST, IF THE PETITIONER ESTABLISHES EITHER OF THE AFFIRMATIVE
38 DEFENSES SET FORTH IN SUBDIVISION FIVE OF THIS SECTION AND THAT THE
39 PETITIONER WAS WITHOUT PERSONAL OR ACTUAL KNOWLEDGE OF THE FORFEITURE
40 PROCEEDING. IF THE PETITION IS FILED AFTER THE SALE OF THE FORFEITED
41 PROPERTY, ANY JUDGMENT IN FAVOR OF THE PETITIONER SHALL BE LIMITED TO
42 THE NET PROCEEDS OF SUCH SALE AFTER DEDUCTION OF THE LAWFUL EXPENSES AND
43 COSTS INCURRED BY THE DISTRICT ATTORNEY, POLICE DEPARTMENT OR CORPO-
44 RATION COUNSEL.

45 8. NO SUIT OR ACTION UNDER THIS SECTION FOR WRONGFUL SEIZURE SHALL BE
46 INSTITUTED UNLESS SUCH SUIT OR ACTION IS COMMENCED WITHIN TWO YEARS
47 AFTER THE TIME WHEN THE PROPERTY WAS SEIZED.

48 S 2. This act shall take effect on the first of November next succeed-
49 ing the date on which it shall have become a law.