

12-402. POSTHEARING ORDERS.

(A) ORDER FOR RELEASE.

AFTER A FULL HEARING, IF THE COURT DETERMINES THAT THE PROPERTY SHOULD NOT BE FORFEITED, THE COURT SHALL ORDER THAT THE PROPERTY BE RELEASED.

(B) ORDER FOR FORFEITURE.

SUBJECT TO § 12-403(B) OF THIS SUBTITLE, IF THE COURT DETERMINES THAT THE PROPERTY SHOULD BE FORFEITED, THE COURT SHALL ORDER THAT THE PROPERTY BE FORFEITED TO THE APPROPRIATE GOVERNING BODY.

(C) PROPERTY SUBJECT TO LIEN.

IF THE COURT DETERMINES THAT THE FORFEITED PROPERTY IS SUBJECT TO A VALID LIEN CREATED WITHOUT ACTUAL KNOWLEDGE OF THE LIENHOLDER THAT THE PROPERTY WAS BEING OR WAS TO BE USED IN VIOLATION OF THE CONTROLLED DANGEROUS SUBSTANCES LAW, THE COURT SHALL ORDER THAT THE PROPERTY BE RELEASED WITHIN 5 DAYS TO THE FIRST PRIORITY LIENHOLDER.

(D) APPLICATION OF PROCEEDS FROM SALE.

(1) THE LIENHOLDER SHALL SELL THE PROPERTY IN A COMMERCIALY REASONABLE MANNER.

(2) THE PROCEEDS OF THE SALE SHALL BE APPLIED AS FOLLOWS:

(I) TO THE COURT COSTS OF THE FORFEITURE PROCEEDING;

(II) TO THE BALANCE DUE THE LIENHOLDER, INCLUDING ALL REASONABLE COSTS INCIDENT TO THE SALE;

(III) TO PAYMENT OF ALL OTHER EXPENSES OF THE PROCEEDINGS FOR FORFEITURE, INCLUDING EXPENSES OF SEIZURE OR MAINTENANCE OF CUSTODY; AND

(IV) EXCEPT AS PROVIDED IN § 12-403(B) OF THIS SUBTITLE, TO THE GENERAL FUND OF THE STATE OR OF THE POLITICAL SUBDIVISION THAT SEIZED THE PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 297(k)(2) and (3)(i) through (iv) and (r)(4)(ii).

Defined terms: "Controlled Dangerous Substances law" § 12-101

"Governing body" § 12-101

"Lien" § 12-101

"Lienholder" § 12-101

"Proceeds" § 12-101

"Property" § 12-101