

**67.594 Use of property as evidence -- Disposition.**

- (1) If any property in the custody of the property custodian is desired as evidence in any court, such property shall be delivered to any officer who presents an order to that effect from the court. Such property shall not be retained by the court, but shall be returned to the property clerk.
- (2) All property which has been seized and is forfeited pursuant to law shall be disposed of as provided in the court order of forfeiture.
- (3) All property that remains in the custody of the property clerk without any lawful claimant thereto, and which is contraband or which is subject to forfeiture and on which there will be no court action shall be ordered forfeited by the Circuit Court of the county not less than ninety (90) days after it comes into the possession of the property clerk. The order of forfeiture shall specify the manner of disposition of the property and shall be consistent with applicable provisions of the Kentucky Revised Statutes and federal law. If the property is ordered and sold the proceeds shall go to:
  - (a) The state if the property was seized by an agency of the state or peace officer thereof;
  - (b) The county, if the property was seized by the sheriff or an agency or peace officer of the county;
  - (c) The Department of Fish and Wildlife Resources, if the property was seized by a peace officer of the Department of Fish and Wildlife or was seized by any other officer for violation of KRS Chapter 150;
  - (d) The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the city property clerk;
  - (e) The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds) if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or
  - (f) The state, if the property was seized by any combination of agencies listed above.
- (4) All property that remains in the custody of the property custodian without any lawful claimant thereto and which is not subject to the provisions of subsections (2) or (3) of this section may be sold at public auction in a suitable room designated for such purpose, after being advertised pursuant to KRS Chapter 424. The proceeds of such sale shall be paid into the fiscal court to the credit of the agency which has custody of the property. No property shall be sold pursuant to this section unless:
  - (a) The property has been in custody for not less than ninety (90) days; and
  - (b) Reasonable efforts have been made by the property clerk or his deputy to ascertain the name of the true owner or lawful claimant of the property and to effect its return to him; and
  - (c) The sale of the property is in conformity with applicable state and federal laws and regulations.

**Effective:** July 15, 1980

**History:** Created 1980 Ky. Acts ch. 193, sec. 2, effective July 15, 1980.