

CHAPTER 32-14

ACTIONS TO RECOVER FORFEITURES

32-14-01. What forfeitures recoverable in civil action.

In all cases not otherwise specially provided for by law, when a forfeiture shall be incurred by any person, and the act or omission for which the same is imposed shall not be a misdemeanor, such forfeiture may be sued for and recovered in a civil action. When such act or omission is punishable by fine and imprisonment, or by fine or imprisonment, or is specially declared by law to be a misdemeanor, it shall be deemed a misdemeanor within the meaning of this chapter. The word forfeiture as used in this chapter shall include any penalty in money or goods, other than a fine, imposed by law as a punishment for crime.

32-14-02. By whom action brought.

Such action shall be brought as follows:

1. If the entire recovery is payable to the state, by the attorney general or the state's attorney of the proper county in the name of the state.
2. If the entire recovery is payable to a public corporation, by its proper legal officer in the name of such corporation.
3. If the recovery is payable partly to the state or a public corporation and partly to an individual, by such individual or by the state or public corporation, as the case may be, or by such individual and the state or public corporation.

32-14-03. What complaint to allege - Attachment.

It shall be sufficient to allege in the complaint that the defendant is indebted to the plaintiff in the amount of the forfeiture claimed according to the provisions of the statute which imposes it, specifying the section and chapter containing such statute. When such section imposes a forfeiture for several offenses or delinquencies, it shall specify the particular offense or delinquency for which the action is brought, with a demand for judgment for the amount of such forfeiture. In case the defendant is not a resident of the state, an attachment may be issued in such action as in an ordinary civil action against nonresidents. Any such action may be brought for and the judgment therein may include as many forfeitures as the defendant may have incurred prior to its commencement.

32-14-04. Complaint for forfeited goods.

In an action brought to recover goods or other things forfeited by the provisions of any statute, it shall be sufficient to allege in the complaint that such goods or other things have been forfeited, specifying the section and chapter containing such statute, with a demand of judgment for the delivery of such goods or other things or the value thereof.

32-14-05. When forfeiture is not for specific amount.

When a forfeiture is imposed, not exceeding a specific sum, or when it is not less than one sum nor more than another, the action may be brought for the highest sum specified. A judgment may be rendered for such sum as the court or jury shall assess or determine to be proportionate to the offense.

32-14-06. Judgment includes costs - Commitment - Execution.

In each case when judgment is recovered pursuant to this chapter, it also shall include the costs of the action, and it shall direct that if the same is not paid, the defendant shall be committed to the county jail of the proper county there to be imprisoned for a specified time, not exceeding six months. Such period shall be fixed by the court in view of all the circumstances of the case, or until otherwise discharged pursuant to law. In such case a commitment shall issue as in an ordinary criminal action. This section shall not prevent the enforcement of any such judgment by execution at any time within one year from its rendition.

32-14-07. Forfeitures - How recovered by city, corporation, or limited liability company.

All forfeitures imposed by any bylaw, ordinance, or regulation of any city or of any corporation or limited liability company organized under the laws of this state, when special provision is not otherwise made by law for their recovery nor punishment provided for the act or omission for which they are imposed, may be sued for and recovered pursuant to this chapter. It shall be sufficient to allege in the complaint that the defendant is indebted to the plaintiff in the amount of the forfeiture claimed, specifying the bylaw, ordinance, or regulation which imposes it. And when such bylaw, ordinance, or regulation imposes a penalty or forfeiture for several offenses or delinquencies, it shall specify the particular offense or delinquency for which the action brought, with a demand for a judgment for the amount of such forfeiture. All money collected on such judgment shall be paid to the city auditor or the treasurer of the corporation or limited liability company.

32-14-08. To whom moneys collected paid.

All moneys collected on account of any judgment under the provisions of this chapter, except such as are payable by law to an individual, shall be paid by the officer collecting the same to the state treasurer, county treasurer, or city auditor entitled thereto, as the case may be, within twenty days after its collection or receipt by that officer, and in case of any neglect or failure in such payment the official to whom such money should be paid may sue and collect the same from such officer by action in the name of the officer's office and upon the official bond of such officer, if any the officer has given, with interest at the rate of twelve percent per annum from the time it should have been so paid.

32-14-09. Auditor to collect forfeiture from municipal judges.

Every city auditor shall demand of and recover from each municipal judge of the city all moneys received by such judge upon judgments rendered by such judge in actions under this chapter, and every such judge on demand of such auditor shall produce to the auditor the judge's docket for examination and all process and papers concerning or in such actions. In case of refusal or neglect by such judge to pay over moneys promptly upon such demand, such auditor shall institute an action therefor in the name of the office of the city auditor against such judge and the sureties upon the judge's official bond.

32-14-10. Property forfeited to state.

Whenever by the provisions of law any property, real or personal, shall be forfeited to the state, or to any officer for its use, an action for the recovery of such property alleging the ground of the forfeiture may be brought by the attorney general or by the state's attorney of the county in which the action is triable, in any court having jurisdiction thereof.