

6733

2009-2010 Regular Sessions

I N   A S S E M B L Y

March 11, 2009

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Introduced by M. of A. SKARTADOS -- read once and referred to the  
Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to author-  
izing a claiming authority to retain electronic equipment for law  
enforcement purposes

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. The opening paragraph of subdivision 2 of section 1349 of  
2     the civil practice law and rules, as added by chapter 655 of the laws of  
3     1990, is amended to read as follows:  
4     If any other provision of law expressly governs the manner of disposi-  
5     tion of property subject to the judgment or order of forfeiture, that  
6     provision of law shall be controlling. Upon application by a claiming  
7     agent for reimbursement of moneys directly expended by a claiming agent  
8     in the underlying criminal investigation for the purchase of contraband  
9     which were converted into a non-monetary form or which have not been  
10    otherwise recovered, the court shall direct such reimbursement from  
11    money forfeited pursuant to this article. Upon application of the claim-  
12    ing agent, the court may direct that any vehicles, ELECTRONIC EQUIPMENT  
13    OR DEVICES, SURVEILLANCE EQUIPMENT, vessels or aircraft forfeited pursu-  
14    ant to this article be retained by the claiming agent for law enforce-  
15    ment purposes, unless the court determines that such property is subject  
16    to a perfected lien, in which case the court may not direct that the  
17    property be retained unless all such liens on the property to be  
18    retained have been satisfied or pursuant to the court's order will be  
19    satisfied. In the absence of an application by the claiming agent, the  
20    claiming authority may apply to the court to retain such property for  
21    law enforcement purposes. Upon such application, the court may direct  
22    that such property be retained by the claiming authority for law  
23    enforcement purposes, unless the court determines that such property is  
24    subject to a perfected lien. If not so retained, the judgment or order

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 shall direct the claiming authority to sell the property in accordance  
2 with article fifty-one of this chapter, and that the proceeds of such  
3 sale and any other moneys realized as a consequence of any forfeiture  
4 pursuant to this article shall be apportioned and paid in the following  
5 descending order of priority:

6 S 2. This act shall take effect immediately.