S T A T E O F N E W Y O R K

649

2009-2010 Regular Sessions

I N S E N A T E

January 12, 2009

Introduced by Sens. LARKIN, BONACIC, GOLDEN, LEIBELL, SALAND, SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

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

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

Section 1. The opening paragraph of subdivision 2 of section 1349 of the civil practice law and rules, as added by chapter 655 of the laws of 1990, is amended to read as follows:

If any other provision of law expressly governs the manner of disposition of property subject to the judgment or order of forfeiture, that provision of law shall be controlling. Upon application by a claiming agent for reimbursement of moneys directly expended by a claiming agent in the underlying criminal investigation for the purchase of contraband which were converted into a non-monetary form or which have not been otherwise recovered, the court shall direct such reimbursement from money forfeited pursuant to this article. Upon application of the claiming agent, the court may direct that any vehicles, ELECTRONIC EQUIPMENT OR DEVICES, SURVEILLANCE EQUIPMENT, vessels or aircraft forfeited pursuant to this article be retained by the claiming agent for law enforcement purposes, unless the court determines that such property is subject to a perfected lien, in which case the court may not direct that the property be retained unless all such liens on the property to be retained have been satisfied or pursuant to the court's order will be satisfied. In the absence of an application by the claiming agent, the claiming authority may apply to the court to retain such property for law enforcement purposes. Upon such application, the court may direct that such property be retained by the claiming authority for law enforcement purposes, unless the court determines that such property is

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

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subject to a perfected lien. If not so retained, the judgment or order shall direct the claiming authority to sell the property in accordance with article fifty-one of this chapter, and that the proceeds of such sale and any other moneys realized as a consequence of any forfeiture pursuant to this article shall be apportioned and paid in the following descending order of priority:

S 2. This act shall take effect immediately.