

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 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

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

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

7 S 2. This act shall take effect immediately.