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

10900

I N A S S E M B L Y

April 29, 2010

Introduced by M. of A. TEDISCO -- Multi-Sponsored by -- M. of A. CROUCH -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to extending forfeiture provisions to crimes of obscenity

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

Section 1. Subdivision 5 of section 1310 of the civil practice law and rules, as added by chapter 669 of the laws of 1984, is amended to read as follows:

5. "Post-conviction forfeiture crime" means ANY MISDEMEANOR OR FELONY DEFINED IN ARTICLE TWO HUNDRED THIRTY-FIVE OF THE PENAL LAW OR any felony defined in ANY OTHER PROVISION OF the penal law or any other chapter of the consolidated laws of the state.

S 2. Paragraph (a) of subdivision 1 of section 1311 of the civil practice law and rules, as added by chapter 669 of the laws of 1984, is amended to read as follows:

(a) Actions relating to post-conviction forfeiture crimes. An action relating to a post-conviction forfeiture crime must be grounded upon a conviction of a MISDEMEANOR OR felony defined in subdivision five of section one thousand three hundred ten of this article, or upon criminal activity arising from a common scheme or plan of which such a conviction is a part, or upon a count of an indictment or information alleging SUCH a MISDEMEANOR OR felony which was dismissed at the time of a plea of guilty to a MISDEMEANOR OR felony in satisfaction of such count. A court may not grant forfeiture until such conviction has occurred. However, an action may be commenced, and a court may grant a provisional remedy provided under this article, prior to such conviction having occurred. An action under this paragraph must be dismissed at any time after sixty days of the commencement of the action unless the conviction upon which the action is grounded has occurred, or an indictment or information upon which the asserted conviction is to be based is pending in a superior court. An action under this paragraph shall be stayed during the pendency of a criminal action which is related to it; provided, however, that such stay shall not prevent the granting or continuance of any

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

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provisional remedy provided under this article or any other provisions of law.

S 3. This act shall take effect on the sixtieth day after it shall have become a law.