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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. DINOWITZ -- Multi-Sponsored by -- M. of A. WALKER
-- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to prohibiting any negative impact on a crime victim's credit rating from a lien created under section 634 of such law

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

1 Section 1. Subdivision 2 of section 634 of the executive law, as added
2 by chapter 513 of the laws of 1982, is amended to read as follows:
3 2. Acceptance of an award made pursuant to this article shall create a
4 lien in favor of the state on the proceeds of any recovery from the
5 person or persons liable for the injury or death giving rise to the
6 award by the board, whether by judgment, settlement or otherwise, after
7 the deduction of the reasonable and necessary expenditures, including
8 attorney's fees, incurred in effecting such recovery, to the total
9 amount of the award made by the board. Such lien shall attach to any
10 moneys received or to be received by the claimant or victim on account
11 of losses resulting from the crime. Should the claimant or victim
12 secure a recovery from the person or persons liable for the injury or
13 death giving rise to the award by the board, whether by judgment,
14 settlement or otherwise, such claimant may, upon notice to the board,
15 apply to the court in which the action was instituted, or to any court
16 of competent jurisdiction if no action was instituted, for an order
17 apportioning the reasonable and necessary expenditures, including attorney's
18 fees, incurred in effecting such recovery. Such expenditures shall
19 be equitably apportioned by the court between the claimant and the
20 board. A copy of such lien shall be mailed to the clerk of the county
21 within which the crime occurred and such clerk will file the copy in
22 accordance with the duties of such clerk as set forth in section five
23 hundred twenty-five of the county law. The amount of such lien may be

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

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1 compromised or settled by the board provided the board finds that such
2 action is in the best interests of the state, or payment of the full
3 amount of the lien to the state would cause undue hardship for the
4 victim. NOTWITHSTANDING ANY OTHER CONTRARY PROVISION OF LAW, SUCH LIEN
5 SHALL NOT BE INCLUDED IN ANY COMPILATION OF SUCH VICTIM'S CONSUMER CRED-
6 IT REPORT OR CALCULATION OF A CREDIT SCORE OR ASSESSMENT OF ELIGIBILITY
7 FOR CONSUMER CREDIT OR REAL ESTATE MORTGAGE.
8 S 2. This act shall take effect immediately.