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

65

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. DINOWITZ -- 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:

Section 1. Subdivision 2 of section 634 of the executive law, as amended by section 26 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

2. Acceptance of an award made pursuant to this article shall create a lien in favor of the state on the proceeds of any recovery from the person or persons liable for the injury or death giving rise to the award by the office, whether by judgment, settlement or otherwise, after the deduction of the reasonable and necessary expenditures, including attorney's fees, incurred in effecting such recovery, to the total amount of the award made by the office. Such lien shall attach to any moneys received or to be received by the claimant or victim on account of losses resulting from the crime. Should the claimant or victim secure a recovery from the person or persons liable for the injury or death giving rise to the award by the office, whether by judgment, settlement or otherwise, such claimant may, upon notice to the office, apply to the court in which the action was instituted, or to any court of competent jurisdiction if no action was instituted, for an order apportioning the reasonable and necessary expenditures, including attorney's fees, incurred in effecting such recovery. Such expenditures shall be equitably apportioned by the court between the claimant and the office. A copy of such lien shall be mailed to the clerk of the county within which the crime occurred and such clerk will file the copy in accordance with the duties of such clerk as set forth in section five hundred twen-

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

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ty-five of the county law. The amount of such lien may be compromised or settled by the office provided the office finds that such action is in the best interests of the state, or payment of the full amount of the lien to the state would cause undue hardship for the victim. NOTWITHSTANDING ANY OTHER CONTRARY PROVISION OF LAW, SUCH LIEN SHALL NOT BE INCLUDED IN ANY COMPILATION OF SUCH VICTIM'S CONSUMER CREDIT REPORT OR CALCULATION OF A CREDIT SCORE OR ASSESSMENT OF ELIGIBILITY FOR CONSUMER CREDIT OR REAL ESTATE MORTGAGE.

S 2. This act shall take effect immediately.