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2015-2016 Regular Sessions

I N A S S E M B L Y

January 8, 2015

Introduced by M. of A. GUNTHER, SKARTADOS, HOOPER, MONTESANO -- Multi-Sponsored by -- M. of A. RIVERA -- read once and referred to the Committee on Codes

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

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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, vessels [or],
13 aircraft, ELECTRONIC, TELECOMMUNICATIONS OR SURVEILLANCE EQUIPMENT OR
14 DEVICES, COMPUTERS AS DEFINED IN SUBDIVISION ONE OF SECTION 156.00 OF
15 THE PENAL LAW OR OFFICE EQUIPMENT forfeited pursuant to this article be
16 retained by the claiming agent for law enforcement purposes, unless the
17 court determines that such property is subject to a perfected lien, in
18 which case the court may not direct that the property be retained unless
19 all such liens on the property to be retained have been satisfied or
20 pursuant to the court's order will be satisfied. In the absence of an
21 application by the claiming agent, the claiming authority may apply to
22 the court to retain such property for law enforcement purposes. Upon
23 such application, the court may direct that such property be retained by

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

LBD01125-01-5

1 the claiming authority for law enforcement purposes, unless the court
2 determines that such property is subject to a perfected lien. If not so
3 retained, the judgment or order shall direct the claiming authority to
4 sell the property in accordance with article fifty-one of this chapter,
5 and that the proceeds of such sale and any other moneys realized as a
6 consequence of any forfeiture pursuant to this article shall be appor-
7 tioned and paid in the following descending order of priority:
8 S 2. This act shall take effect on the thirtieth day after it shall
9 have become a law and shall apply to forfeiture actions commenced on or
10 after such date.