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

412

2015-2016 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2015

Introduced by M. of A. ROSENTHAL -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to the disposition of abused farm animals

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

Section 1. Paragraphs d, g and subparagraph 2 of paragraph f of subdivision 8 of section 374 of the agriculture and markets law, as added by chapter 569 of the laws of 1995 and such subdivision as renumbered by chapter 479 of the laws of 2009, are amended to read as follows:

d. In the case of farm animals, the court may, in addition to the forfeiture to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four and three hundred fifty-seven of this article, order the farm animals which were the basis of the conviction to be sold. In no case shall farm animals which are the basis of the conviction be redeemed by the convicted person who is the subject of the order of forfeiture or by any person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act. [The] IN NO CASE SHALL THE CONVICTED PERSON OR ANY PERSON DWELLING IN THE SAME HOUSEHOLD WHO CONSPIRED, AIDED OR ABETTED IN THE UNLAWFUL ACT WHICH WAS THE BASIS OF THE CONVICTION, OR WHO KNEW OR SHOULD HAVE KNOWN OF THE UNLAWFUL ACT BE ENTITLED TO ANY MONIES GENERATED FROM THE SALE OF FARM ANIMALS WHICH WERE THE BASIS OF THE CONVICTION. EXCEPT AS OTHERWISE PROVIDED HEREIN OR IN SECTION THREE HUNDRED SEVENTY-THREE OF THIS ARTICLE, THE court shall reimburse [the convicted person and] any duly determined interested persons, pursuant to paragraph f of this subdivision, any money earned by the sale of the farm animals less any costs including, but not limit-

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

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ed to, veterinary and custodial care, and any fines or penalties imposed by the court. The court may order that the subject animals be provided with appropriate care and treatment pending the hearing and the disposition of the charges. Any farm animal ordered forfeited but not sold shall be remanded to the custody and charge of a duly incorporated society for the prevention of cruelty to animals or duly incorporated humane society or its authorized agent thereof and disposed of pursuant to paragraph e of this subdivision.

(2) [All] EXCEPT AS OTHERWISE PROVIDED HEREIN OR IN SECTION THREE HUNDRED SEVENTY-THREE OF THIS ARTICLE, ALL interested persons shall be provided an opportunity at the hearing to redeem their interest as determined by the court in the subject farm animals and to purchase the interest of the convicted person. The convicted person OR ANY PERSON DWELLING IN THE SAME HOUSEHOLD WHO CONSPIRED, AIDED OR ABETTED IN THE UNLAWFUL ACT WHICH WAS THE BASIS OF THE CONVICTION, OR WHO KNEW OR SHOULD HAVE KNOWN OF THE UNLAWFUL ACT shall NOT be entitled to be reimbursed his interest in the farm animals[, less any costs, fines or penalties imposed by the court, as specified under paragraph d of this subdivision]. In no case shall the court award custody or control of the animals to any interested person who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act.

g. Nothing in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any farm animal described in this section[. This] EXCEPT THAT THE CONVICTED PERSON OR ANY PERSON DWELLING IN THE SAME HOUSEHOLD WHO CONSPIRED, AIDED OR ABETTED IN THE UNLAWFUL ACT WHICH WAS THE BASIS OF THE CONVICTION, OR WHO KNEW OR SHOULD HAVE KNOWN OF THE UNLAWFUL ACT SHALL NOT BE ENTITLED TO BE REIMBURSED HIS INTEREST IN THE FARM ANIMALS. EXCEPT AS OTHERWISE PROVIDED HEREIN OR IN SECTION THREE HUNDRED SEVENTY-THREE OF THIS ARTICLE, THIS section expressly does not impair or subordinate the rights of such a secured lender having a security interest in farm animals or in the proceeds from the sale of such farm animals.

S 2. Subparagraphs 3 and 4 of paragraph b of subdivision 6 of section 373 of the agriculture and markets law, as added by chapter 256 of the laws of 1997, are amended to read as follows:

(3) In the case of an animal other than a companion animal or pet, if a person ordered to post security fails to do so, the court may, in addition to the forfeiture to a duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four, three hundred fifty-seven and three hundred seventy-four of this article, order the animal which was the basis of the order to be sold, provided that all interested persons shall first be provided the opportunity to redeem their interest in the animal and to purchase the interest of the person ordered to post security, subject to such conditions as the court deems appropriate to assure proper care and treatment of the animal. The court [may] SHALL NOT reimburse the person ordered to post security [and] OR ANY PERSON DWELLING IN THE SAME HOUSEHOLD WHO CONSPIRED, AIDED OR ABETTED IN THE UNLAWFUL ACT WHICH WAS THE BASIS OF THE CONVICTION OR WHO KNEW OR SHOULD HAVE KNOWN OF THE UNLAWFUL ACT ANY MONEY EARNED BY THE SALE OF THE ANIMAL BUT MAY REIMBURSE any OTHER interested persons any money earned by the sale of the animal less any costs including, but not limited to, veterinary and custodial care. Any animal determined by the court to be maimed, diseased, disabled or infirm so as to be unfit for sale or any

useful purpose shall be forfeited to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and be available for adoption or shall be euthanized subject to section three hundred seventy-four of this article.

(4) [Nothing] EXCEPT AS OTHERWISE PROVIDED HEREIN OR IN SECTION THREE HUNDRED SEVENTY-FOUR OF THIS ARTICLE, NOTHING in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any animal described in this section. [This] EXCEPT AS OTHERWISE PROVIDED HEREIN OR IN SECTION THREE HUNDRED SEVENTY-FOUR OF THIS ARTICLE, THIS section expressly does not impair or subordinate the rights of such a secured lender having a security interest in the animal or in the proceeds from the sale of such animal.

S 3. This act shall take effect immediately.