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2015-2016 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2015

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Introduced by Sens. KLEIN, CARLUCCI, GALLIVAN, MARCHIONE, SAVINO -- read twice and ordered printed, and when printed to be committed 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

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

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