

CHAPTER 22

AN ACT concerning freezing certain funds or assets relating to terrorism and supplementing Title 2C of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

N.J.S.2C:66-1 Attachment of deposited funds.

1. Attachment of deposited funds.

a. As used in this act:

"Financial institution" means a state or federally chartered bank, savings bank or savings and loan association or any other financial services company or provider, including, but not limited to, broker-dealers, investment companies, money market and mutual funds, credit unions and insurers.

b. Upon application by the Attorney General, a court may issue an attachment order directing a financial institution to freeze some or all of the funds or assets deposited with or held by the financial institution by or on behalf of an account holder when there exists a reasonable suspicion that the account holder has committed or is about to commit the crime of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2) or soliciting or providing material support or resources for terrorism in violation of section 5 of P.L.2002, c.26 (C.2C:38-5).

N.J.S.2C:66-2 Application by Attorney General.

2. Application. The application of the Attorney General required by this act shall contain:

a. a statement of the approximate financial loss caused by the account holder in the commission of the crime of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2) or soliciting or providing material support or resources for terrorism in violation of section 5 of P.L.2002, c.26 (C.2C:38-5);

b. a statement of facts relied upon by the Attorney General, including the details of the particular offense that is about to be committed or that has been committed; and

c. identification of the account holder's name and financial institution account number.

N.J.S.2C:66-3 Issuance of an order.

3. Issuance of an order. If the court finds that:

a. there exists a reasonable suspicion that the account holder has committed or is about to commit the crime of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2) or the crime of soliciting or providing material support or resources for terrorism in violation of section 5 of P.L.2002, c.26 (C.2C:38-5);

b. the accounts of the account holder are specifically identified; and

c. it is necessary to freeze the account holder's funds or assets to ensure eventual restitution to victims of the alleged offense,

the court may order the financial institution to freeze all or part of the account holder's deposited funds or assets so that the funds or assets may not be withdrawn or disposed of until further order of the court.

As part of the consideration of an application in which there is no corroborative evidence offered, the judge shall inquire in camera as to the identity of any informants or any other additional information concerning the basis upon which the Attorney General has applied for the attachment order which the judge finds relevant in order to determine if there exists a reasonable suspicion pursuant to this act.

N.J.S.2C:66-4 Duty of financial institutions.

4. Duty of financial institutions. Upon receipt of the order authorized by this act, a financial institution shall not permit any funds or assets that were frozen by the order to be withdrawn or disposed of until further order of the court.

N.J.S.2C:66-5 Release of funds.

5. Release of funds. a. The account holder may, upon notice and motion, have a hearing to contest the freezing of funds or assets and to seek the release of all or part of them.

b. The account holder is entitled to an order releasing all or part of the funds or assets by

showing:

(1) that the account holder has posted a bond or other adequate surety, guaranteeing that, upon conviction, adequate funds or assets will be available to pay complete restitution to victims of the alleged offense;

(2) that there does not exist a reasonable suspicion that the account holder has committed or is about to commit the alleged offense;

(3) that the amount of funds or assets frozen is more than is necessary to pay complete restitution to all victims of the alleged offense; or

(4) that the funds or assets should be returned in the interests of justice.

c. It is not grounds for the release of funds or assets that the particular accounts frozen do not contain funds or assets that were proceeds from or used in the commission of the crime of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2) or soliciting or providing material support or resources for terrorism in violation of section 5 of P.L.2002, c.26 (C.2C:38-5).

N.J.S.2C:66-6 Disposition of funds.

6. Disposition of funds.

a. The court may order the financial institution to remit all or part of the frozen funds or assets to the court.

b. If the account holder is acquitted or the charges are dismissed with prejudice, the court shall issue an order releasing the freeze on the funds or assets.

c. If the account holder is not acquitted or the charges are not dismissed, the frozen funds or assets shall become the property of the State and shall be used to provide restitution to victims of terrorism, to fund State law enforcement anti-terrorism programs and activities and for other law enforcement purposes.

N.J.S.2C:66-7 Time limit.

7. Time limit. The freeze permitted by this act expires 24 months after the date of the court's initial attachment order unless the time limit is extended by the court in writing upon a showing of good cause by the Attorney General.

N.J.S.2C:66-8 Notice.

8. Notice. Within ten days after a court issues an attachment order under this act, the Attorney General shall send a copy of the order to the account holder's last known address or to the account holder's attorney, if known.

N.J.S.2C:66-9 Rights and remedies of financial institution.

9. Rights and remedies of financial institution. A financial institution that is directed to block, freeze or encumber an account pursuant to this act shall be entitled during the period that the account is blocked, frozen or encumbered to exercise any right or remedy with respect to the account as provided by law, or in the deposit agreement and rules or regulations of the financial institution applicable to the account. The provision of this act shall not be construed to preclude a financial institution from exercising its right of set-off or to charge back or recoup a deposit to an account.

N.J.S.2C:66-10 No liability for freezing funds.

10. No liability for freezing funds. Notwithstanding any other law to the contrary, a financial institution shall not be liable to any person for blocking, freezing, encumbering or refusing to release any funds or assets held by the financial institution in response to an order issued by a court, or for any other action taken by the financial institution in good faith to comply with the requirements of this act. A financial institution shall not be required to give notice to an account holder or customer that the financial institution has taken any action pursuant to this act and shall not be liable for failure to provide the notice.

N.J.S.2C:66-11 Construction of act.

11. Nothing contained in this act shall be construed to abrogate or affect the status, force or operation of the forfeiture provisions of the "New Jersey Code of Criminal Justice," N.J.S.2C:64-1 et seq., or any other provision of law.

12. This act shall take effect immediately.

Approved February 27, 2003.