

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§818, 827 (R.S. §§970, 979).

Section consolidates sections 818 and 827 of title 28, U.S.C., 1940 ed., with changes of phraseology necessary to effect the consolidation.

The words “in any proceeding to condemn or forfeit property” were inserted in conformity with the uniform course of judicial decisions. See *Hammel v. Little*, App.D.C. 1936, 87 F.2d 907, and cases there cited.

The qualifying language of section 827 of title 28, U.S.C., 1940 ed., requiring the claimant to pay his own costs before the return of his property was omitted as unnecessary and involving a matter more properly for regulation by rule of court. (See sections 1913, 1914, and 1925 of this title.)

(See also section 2006 of this title with respect to actions against internal revenue officers and their liability for acts in the performance of official duties.)

AMENDMENTS

2000—Pub. L. 106-185 amended section catchline and text generally. Prior to amendment, text read as follows: “Upon the entry of judgment for the claimant in any proceeding to condemn or forfeit property seized under any Act of Congress, such property shall be returned forthwith to the claimant or his agent; but if it appears that there was reasonable cause for the seizure, the court shall cause a proper certificate thereof to be entered and the claimant shall not, in such case, be entitled to costs, nor shall the person who made the seizure, nor the prosecutor, be liable to suit or judgment on account of such suit or prosecution.”

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-185 applicable to any forfeiture proceeding commenced on or after the date that is 120 days after Apr. 25, 2000, see section 21 of Pub. L. 106-185, set out as a note under section 1324 of Title 8, Aliens and Nationality.

§ 2466. Fugitive disentitlement

(a) A judicial officer may disallow a person from using the resources of the courts of the United States in furtherance of a claim in any related civil forfeiture action or a claim in third party proceedings in any related criminal forfeiture action upon a finding that such person—

(1) after notice or knowledge of the fact that a warrant or process has been issued for his apprehension, in order to avoid criminal prosecution—

(A) purposely leaves the jurisdiction of the United States;

(B) declines to enter or reenter the United States to submit to its jurisdiction; or

(C) otherwise evades the jurisdiction of the court in which a criminal case is pending against the person; and

(2) is not confined or held in custody in any other jurisdiction for commission of criminal conduct in that jurisdiction.

(b) Subsection (a) may be applied to a claim filed by a corporation if any majority shareholder, or individual filing the claim on behalf of the corporation is a person to whom subsection (a) applies.

(Added Pub. L. 106-185, §14(a), Apr. 25, 2000, 114 Stat. 219; amended Pub. L. 107-56, title III, §322, Oct. 26, 2001, 115 Stat. 315; Pub. L. 109-162, title XI, §1171(c), Jan. 5, 2006, 119 Stat. 3123; Pub. L. 109-177, title IV, §406(a)(1), Mar. 9, 2006, 120 Stat. 244.)

AMENDMENTS

2006—Pub. L. 109-177 directed amendment of directory language of Pub. L. 107-56, §322, identical to amendment by Pub. L. 109-162. See below.

Pub. L. 109-162 amended directory language of Pub. L. 107-56, §322. See 2001 Amendment note below.

2001—Pub. L. 107-56, §322, as amended by Pub. L. 109-162, designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-162, title XI, §1171(c), Jan. 5, 2006, 119 Stat. 3123, provided in part that the amendment made by section 1171(c) of Pub. L. 109-162 is effective Oct. 26, 2001.

EFFECTIVE DATE

Pub. L. 106-185, §14(c), Apr. 25, 2000, 114 Stat. 219, provided that: “The amendments made by this section [enacting this section] shall apply to any case pending on or after the date of the enactment of this Act [Apr. 25, 2000].”

§ 2467. Enforcement of foreign judgment

(a) DEFINITIONS.—In this section—

(1) the term “foreign nation” means a country that has become a party to the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (referred to in this section as the “United Nations Convention”) or a foreign jurisdiction with which the United States has a treaty or other formal international agreement in effect providing for mutual forfeiture assistance; and

(2) the term “forfeiture or confiscation judgment” means a final order of a foreign nation compelling a person or entity—

(A) to pay a sum of money representing the proceeds of an offense described in Article 3, Paragraph 1, of the United Nations Convention, any violation of foreign law that would constitute a violation or an offense for which property could be forfeited under Federal law if the offense were committed in the United States, or any foreign offense described in section 1956(c)(7)(B) of title 18, or property the value of which corresponds to such proceeds; or

(B) to forfeit property involved in or traceable to the commission of such offense.

(b) REVIEW BY ATTORNEY GENERAL.—

(1) IN GENERAL.—A foreign nation seeking to have a forfeiture or confiscation judgment registered and enforced by a district court of the United States under this section shall first submit a request to the Attorney General or the designee of the Attorney General, which request shall include—

(A) a summary of the facts of the case and a description of the proceedings that resulted in the forfeiture or confiscation judgment;

(B) certified¹ copy of the forfeiture or confiscation judgment;

(C) an affidavit or sworn declaration establishing that the foreign nation took steps, in accordance with the principles of due process, to give notice of the proceedings to all persons with an interest in the property in sufficient time to enable such persons to defend against the charges and that the judg-

¹ So in original. Probably should be preceded by “a”.