

111TH CONGRESS
2D SESSION

S. 4005

To amend title 28, United States Code, to prevent the proceeds or instrumentalities of foreign crime located in the United States from being shielded from foreign forfeiture proceedings.

IN THE SENATE OF THE UNITED STATES

DECEMBER 2, 2010

Mr. WHITEHOUSE (for himself and Mr. CORNYN) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 28, United States Code, to prevent the proceeds or instrumentalities of foreign crime located in the United States from being shielded from foreign forfeiture proceedings.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preserving Foreign
5 Criminal Assets for Forfeiture Act of 2010”.

1 **SEC. 2. PRESERVATION OF PROPERTY SUBJECT TO FOR-**
 2 **FEITURE UNDER FOREIGN LAW.**

3 Section 2467(d)(3)(A) of title 28, United States
 4 Code, is amended to read as follows:

5 “(A) RESTRAINING ORDERS.—

6 “(i) IN GENERAL.—To preserve the
 7 availability of property subject to civil or
 8 criminal forfeiture under foreign law, the
 9 Government may apply for, and the court
 10 may issue, a restraining order at any time
 11 before or after the initiation of forfeiture
 12 proceedings by a foreign nation.

13 “(ii) PROCEDURES.—

14 “(I) IN GENERAL.—A restraining
 15 order under this subparagraph shall
 16 be issued in a manner consistent with
 17 subparagraphs (A), (C), and (E) of
 18 paragraph (1) and the procedural due
 19 process protections for a restraining
 20 order under section 983(j) of title 18.

21 “(II) APPLICATION.—For pur-
 22 poses of applying such section
 23 983(j)—

24 “(aa) references in such sec-
 25 tion 983(j) to civil forfeiture or
 26 the filing of a complaint shall be

1 deemed to refer to the applicable
2 foreign criminal or forfeiture pro-
3 ceedings; and

4 “(bb) the reference in para-
5 graph (1)(B)(i) of such section
6 983(j) to the United States shall
7 be deemed to refer to the foreign
8 nation.”.

○