

**Statement of Ranking Member John Conyers, Jr. for the Markup of
H.R. 5283, the “DUE PROCESS Act,” by the Committee on the
Judiciary**

Wednesday, May 25, 2016, at 10:00 a.m.

2141 Rayburn House Office Building

H.R. 5283, the “DUE PROCESS Act,” is an important bipartisan bill intended to effectuate long-overdue reforms to our federal asset forfeiture laws.

I commend Crime Subcommittee Chairman Jim Sensenbrenner for introducing this measure.

I am pleased to be an original cosponsor of H.R. 5283 together with Chairman Bob Goodlatte, Crime Subcommittee Ranking Member Sheila Jackson Lee, and other colleagues on the Committee.

Early in this Congress, we initiated a comprehensive review of these laws that empower the government to confiscate property, often without even having to charge the property owner with a crime.

It has become increasingly apparent that the procedures in federal law, particularly with respect to civil asset forfeiture, are inadequate from the perspective of fundamental fairness.

While some of the concern relates to federal adoption of state cases and the sharing of the proceeds of forfeitures with local law enforcement, this bill focusses on the critical need to update the procedures governing forfeiture at the federal level.

Although the Civil Asset Forfeiture Reform Act enacted a number of improvements to the law in 2000, we now know they did not go far enough.

And, there has been a bipartisan group of organizations, ranging from the American Civil Liberties Union to the Heritage Foundation, calling for additional reform.

H.R. 5283 would address these concerns and update our laws to expand on the changes we made 16 years ago.

Specifically, the bill – with respect to civil asset forfeiture law – would:

- Revise timelines and the process for notification of seizures and forfeiture actions.
- Authorize a property owner to request an initial hearing to allow an earlier opportunity to challenge an inappropriate seizure or to obtain release of the property in cases of demonstrated hardship.
- Provide counsel to indigent property owners in all civil forfeiture proceedings.
- Raise the burden of proof from “preponderance of the evidence” to “clear and convincing evidence.”
- Require the Inspector General of the Justice Department to audit federal civil forfeitures.

- Allow for the expanded recovery of attorney's fees in settlement cases in which the settlement amount is greater than 50% of the seized property's value.
- Require the Justice Department to maintain databases to assist those whose property has been seized and to provide greater transparency about federal forfeiture.
- Provide additional protection for innocent owners of property the government is seeking to obtain through forfeiture.
- And, the bill gives judges greater discretion to reduce the size of forfeiture penalties based on proportionality and the factors of each case.

In addition, H.R. 5283 would make an important improvement with respect to *criminal* forfeiture law.

It would authorize a hearing to modify or rescind a seizure for a defendant in a criminal case whose assets have been seized and whose ability to pay for counsel is thereby harmed.

Asset forfeiture reform has long been a bipartisan issue, involving serious concerns about fairness and due process on both sides of the aisle.

The reforms I have outlined are overdue, and I am heartened by the continued spirit of bipartisan cooperation to significantly improve this area of the law.

Accordingly, I support this measure and yield back the balance of my time.