

113TH CONGRESS
2D SESSION

H. R. 5212

To amend title 18, United States Code, with respect to civil asset forfeiture,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2014

Mr. WALBERG introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To amend title 18, United States Code, with respect to
civil asset forfeiture, and for other purposes.

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 “Civil Asset Forfeiture
5 Reform Act of 2014”.

6 **SEC. 2. REPRESENTATION BY ATTORNEY.**

7 Section 983(a)(1)(A)(i) of title 18, United States
8 Code, is amended by adding at the end the following: “The
9 Government shall include in any such notice that the per-

1 son receiving the notice may be able to obtain free or re-
2 duced rate legal representation under subsection (b).”.

3 **SEC. 3. BURDEN OF PROOF.**

4 Section 983(e) of title 18, United States Code, is
5 amended—

6 (1) in paragraph (1), by striking “by a prepon-
7 derance of the evidence” and inserting “by clear and
8 convincing evidence”; and

9 (2) in paragraph (2), by striking “by a prepon-
10 derance of the evidence” and inserting “by clear and
11 convincing evidence”.

12 **SEC. 4. INNOCENT OWNER DEFENSE.**

13 (a) IN GENERAL.—Section 983(d) of title 18, United
14 States Code, is amended so that paragraph (1) reads as
15 follows:

16 “(1) The innocent owner defense shall be avail-
17 able to a claimant. Where a prima facie case is made
18 for such a defense, the Government has the burden
19 of proving that the claimant knew or reasonably
20 should have known that the property was involved in
21 the illegal conduct giving rise to the forfeiture.”.

22 (b) KNOWLEDGE BY OWNER OF CRIMINAL ACTIV-
23 ITY.—Section 983(d)(2)(B) of title 18, United States
24 Code, is amended—

1 (1) in clause (i), by striking “a person may
2 show that such person did all that reasonably could
3 be expected may include demonstrating that such
4 person to the extent permitted by law” and inserting
5 “the Government may show that the property owner
6 should have had knowledge of the criminal activity
7 by demonstrating that the property owner did not”;

8 (2) in clause (i)(I), by striking “gave” and in-
9 serting “give”; and

10 (3) in clause (i)(II)—

11 (A) by striking “revoked or made” and in-
12 serting “revoke or make”; and

13 (B) by striking “took” and inserting
14 “take”.

15 **SEC. 5. PROPORTIONALITY.**

16 Section 983(g) of title 18, United States Code, is
17 amended so that paragraph (2) reads as follows:

18 “(2) In making this determination, the court
19 shall consider such factors as the seriousness of the
20 offense, the extent of the nexus of the property to
21 the offense, the range of sentences available for the
22 offense giving rise to forfeiture, the fair market
23 value of the property, and the hardship to the prop-
24 erty owner and dependents”.

1 **SEC. 6. INCREASED VISIBILITY.**

2 Section 524(c)(6)(i) of title 28, United States Code,
3 is amended by inserting “from each type of forfeiture, and
4 specifically identifying which funds were obtained from in-
5 cluding criminal forfeitures and which were obtained from
6 civil forfeitures,” after “deposits”.

7 **SEC. 7. EQUITABLE SHARING AGREEMENTS.**

8 Section 524(c) of title 28, United States Code, is
9 amended by adding at the end the following:

10 “(12) The Attorney General shall assure that any eq-
11 uitable sharing between the Department of Justice and a
12 local or State law enforcement agency was not initiated
13 for the purpose of circumventing any State law that pro-
14 hibits civil forfeiture or limits use or disposition of prop-
15 erty obtained via civil forfeiture by State or local agen-
16 cies.”.

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