

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5502

To restore the integrity of the Fifth Amendment to the Constitution of the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2014

Mr. GARRETT (for himself, Mr. WALBERG, and Mr. CÁRDENAS) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To restore the integrity of the Fifth Amendment to the Constitution of the United States, 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 “Fifth Amendment In-  
5       tegrity Restoration Act of 2014” or the “FAIR Act”.

6       **SEC. 2. CIVIL FORFEITURE PROCEEDINGS.**

7       Section 983 of title 18, United States Code, is  
8       amended—

1 (1) in subsection (c)—

2 (A) in paragraph (1), by striking “a pre-  
3 ponderance of the evidence” and inserting  
4 “clear and convincing evidence”;

5 (B) in paragraph (2), by striking “a pre-  
6 ponderance of the evidence” and inserting  
7 “clear and convincing evidence”; and

8 (C) by striking paragraph (3) and insert-  
9 ing the following:

10 “(3) if the Government’s theory of forfeiture is  
11 that the property used to commit or facilitate the  
12 commission of a criminal offense, or was involved in  
13 the commission of a criminal offense, the Govern-  
14 ment shall establish, by clear and convincing evi-  
15 dence, that—

16 “(A) there was a substantial connection  
17 between the property and the offense; and

18 “(B) the owner of any interest in the  
19 seized property—

20 “(i) intentionally used the property in  
21 connection with the offense; or

22 “(ii) knowingly consented or was will-  
23 fully blind to the use of the property by  
24 another in connection with the offense.”;

25 and

1           (2) in subsection (d)(2)(A), by striking “an  
2           owner who” and all that follows through “upon  
3           learning” and inserting “an owner who upon learn-  
4           ing”.

5 **SEC. 3. DISPOSITION OF FORFEITED PROPERTY.**

6           (a) REVISIONS TO CONTROLLED SUBSTANCES  
7 ACT.—Section 511(e) of the Controlled Substances Act  
8 (21 U.S.C. 881(e)) is amended—

9           (1) in paragraph (1), by striking “civilly or”;

10           (2) in paragraph (2)(B), by striking “accord-  
11           ance with section 524(c) of title 28,” and inserting  
12           “the General Fund of the Treasury of the United  
13           States”; and

14           (3) in paragraph (4)(B), by striking “civilly  
15           or”.

16           (b) REVISIONS TO TITLE 18.—Section 981(e) of title  
17 18, United States Code, is amended—

18           (1) by striking “is authorized” and all that fol-  
19           lows through “or forfeiture of the property;” and in-  
20           serting “may forward to the Treasurer of the United  
21           States any proceeds of property forfeited pursuant  
22           to this section for deposit in the General Fund of  
23           the Treasury or transfer such property on such  
24           terms and conditions as such officer may deter-  
25           mine—”;

1           (2) by redesignating paragraphs (3), (4), (5),  
2           (6), and (7) as paragraphs (1), (2), (3), (4), and  
3           (5), respectively; and

4           (3) in the matter following paragraph (5), as so  
5           redesignated—

6           (A) by striking the first, second, and third  
7           sentences; and

8           (B) by striking “paragraphs (3), (4), and  
9           (5)” and inserting “paragraphs (1), (2), and  
10          (3)”.

11 **SEC. 4. DEPARTMENT OF JUSTICE ASSETS FORFEITURE**

12                           **FUND DEPOSITS.**

13          Section 524(c)(4) of title 28, United States Code, is  
14          amended—

15           (1) by striking subparagraphs (A) and (B); and

16           (2) by redesignating subparagraphs (C) and  
17           (D) as subparagraphs (A) and (B), respectively.

18 **SEC. 5. APPLICABILITY.**

19          The amendments made by this Act shall apply to—

20           (1) any civil forfeiture proceeding pending on or  
21           filed on or after the date of enactment of this Act;

22           and

1           (2) any amounts received from the forfeiture of  
2           property on or after the date of enactment of this  
3           Act.

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