

114TH CONGRESS
1ST SESSION

H. R. 3798

To amend the Securities Exchange Act of 1934 to permit private persons to compel the Securities and Exchange Commission to seek legal or equitable remedies in a civil action, instead of an administrative proceeding, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 2015

Mr. GARRETT introduced the following bill; which was referred to the
Committee on Financial Services

A BILL

To amend the Securities Exchange Act of 1934 to permit private persons to compel the Securities and Exchange Commission to seek legal or equitable remedies in a civil action, instead of an administrative proceeding, 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 “Due Process Restora-
5 tion Act of 2015”.

1 **SEC. 2. PRIVATE PARTIES AUTHORIZED TO COMPEL THE**
2 **SECURITIES AND EXCHANGE COMMISSION TO**
3 **SEEK SANCTIONS BY FILING CIVIL ACTIONS.**

4 (a) IN GENERAL.—The Securities Exchange Act of
5 1934 (15 U.S.C. 78a et seq.) is amended by adding at
6 the end of title I the following:

7 **“SEC. 40. PRIVATE PARTIES AUTHORIZED TO COMPEL THE**
8 **COMMISSION TO SEEK SANCTIONS BY FILING**
9 **CIVIL ACTIONS.**

10 “(a) TERMINATION OF ADMINISTRATIVE PRO-
11 CEEDING.—In the case of any person who is a party to
12 a proceeding brought by the Commission under a securi-
13 ties law, to which section 554 of title 5, United States
14 Code, applies, and against whom an order imposing a
15 cease and desist order and a penalty may be issued at
16 the conclusion of the proceeding, that person may, not
17 later than 20 days after receiving notice of such pro-
18 ceeding, and at that person’s discretion, require the Com-
19 mission to terminate the proceeding.

20 “(b) CIVIL ACTION AUTHORIZED.—If a person re-
21 quires the Commission to terminate a proceeding pursuant
22 to subsection (a), the Commission may bring a civil action
23 against that person for the same remedy that might be
24 imposed.

25 “(c) STANDARD OF PROOF IN ADMINISTRATIVE PRO-
26 CEEDING.—Notwithstanding any other provision of law, in

1 the case of a proceeding brought by the Commission under
2 a securities law, to which section 554 of title 5, United
3 States Code, applies, a legal or equitable remedy may be
4 imposed on the person against whom the proceeding was
5 brought only on a showing by the Commission of clear and
6 convincing evidence that the person has violated the rel-
7 evant provision of law.”.

8 (b) CLERICAL AMENDMENT.—The table of contents
9 of the Securities Exchange Act of 1934 (15 U.S.C. 78a
10 et seq.) is amended by inserting after the item relating
11 to section 39 the following:

“40. Private parties authorized to compel the Commission to seek sanctions by
filing civil actions.”.

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