

Union Calendar No. 539

114TH CONGRESS
2^D SESSION

H. R. 3798

[Report No. 114-697]

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

JULY 21, 2016

Additional sponsor: Mr. EMMER of Minnesota

JULY 21, 2016

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

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”.

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

9 (a) IN GENERAL.—The Securities Exchange Act of
10 1934 (15 U.S.C. 78a et seq.) is amended by adding at
11 the end of title I the following:

12 **“SEC. 40. PRIVATE PARTIES AUTHORIZED TO COMPEL THE**
13 **COMMISSION TO SEEK SANCTIONS BY FILING**
14 **CIVIL ACTIONS.**

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

1 “(b) CIVIL ACTION AUTHORIZED.—If a person re-
2 quires the Commission to terminate a proceeding pursuant
3 to subsection (a), the Commission may bring a civil action
4 against that person for the same remedy that might be
5 imposed.

6 “(c) STANDARD OF PROOF IN ADMINISTRATIVE PRO-
7 CEEDING.—Notwithstanding any other provision of law, in
8 the case of a proceeding brought by the Commission under
9 a securities law, to which section 554 of title 5, United
10 States Code, applies, a legal or equitable remedy may be
11 imposed on the person against whom the proceeding was
12 brought only on a showing by the Commission of clear and
13 convincing evidence that the person has violated the rel-
14 evant provision of law.”.

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

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

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