

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.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 2015

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

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## 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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