

## Union Calendar No. 885

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

# H. R. 2128

[Report No. 115–1118]

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

APRIL 25, 2017

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

JANUARY 2, 2019

Additional sponsor: Mr. EMMER

JANUARY 2, 2019

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 2017”.

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

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



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