

Sensenbrenner	Strickland	Vento
Serrano	Stump	Visclosky
Sessions	Stupak	Vitter
Shadegg	Sununu	Walden
Shaw	Sweeney	Walsh
Shays	Talent	Wamp
Sherman	Tancredo	Waters
Sherwood	Tanner	Watkins
Shimkus	Tauscher	Watt (NC)
Shows	Tauzin	Watts (OK)
Shuster	Taylor (MS)	Waxman
Simpson	Taylor (NC)	Weiner
Sisisky	Terry	Weldon (FL)
Skeen	Thomas	Weldon (PA)
Skelton	Thompson (CA)	Weller
Slaughter	Thompson (MS)	Wexler
Smith (MI)	Thornberry	Weygand
Smith (NJ)	Thune	Whitfield
Smith (TX)	Thurman	Wicker
Smith (WA)	Tiahrt	Wilson
Snyder	Tierney	Wise
Souder	Toomey	Wolf
Spence	Trafficant	Woolsey
Spratt	Turner	Wu
Stabenow	Udall (CO)	Wynn
Stark	Udall (NM)	Young (AK)
Stearns	Upton	Young (FL)
Stenholm	Velazquez	

NOT VOTING—8

Brown (CA)	Ehrlich	Rogan
Clement	Gilchrist	Towns
DeLay	Kasich	

So the motion to instruct the managers on the part of the House was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

¶70.10 APPOINTMENT OF CONFEREES—
H.R. 775

Thereupon, the SPEAKER pro tempore, Mr. PEASE, by unanimous consent, appointed the following Members as managers on the part of the House at said conference:

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

Messrs. HYDE, SENSENBRENNER, GOODLATTE, CONYERS, and Ms. LOFGREN.

From the Committee on Commerce, for consideration of section 18 of the Senate amendment, and modifications committed to conference:

Messrs. BILEY, OXLEY, and DINGELL.

Ordered, That the Clerk notify the Senate of the foregoing appointments.

¶70.11 PROVIDING FOR THE
CONSIDERATION OF H.R. 1658

Ms. PRYCE of Ohio, by direction of the Committee on Rules, called up the following resolution (H. Res. 216):

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1658) to provide a more just and uniform procedure for Federal civil forfeitures, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amend-

ment in the nature of a substitute consisting of the bill modified by the amendment recommended by the Committee on the Judiciary now printed in the bill. Each section of that amendment in the nature of a substitute shall be considered as read. Before consideration of any other amendment it shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution, which may be offered only by Representative Hyde or his designee, may amend portions of the bill not yet read for amendment, and shall be considered as read. No further amendment to the amendment in the nature of a substitute made in order as original text shall be in order except those printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII and except pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or his designee and shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

When said resolution was considered. After debate,

On motion of Ms. PRYCE of Ohio, the previous question was ordered on the resolution to its adoption or rejection and under the operation thereof, the resolution was agreed to.

A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

¶70.12 CIVIL ASSET FORFEITURE

The SPEAKER pro tempore, Mr. PEASE, pursuant to House Resolution 216 and rule XVIII, declared the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 1658) to provide a more just and uniform procedure for Federal civil forfeitures, and for other purposes.

The SPEAKER pro tempore, Mr. PEASE, by unanimous consent, designated Mr. LAHOOD as Chairman of the Committee of the Whole; and after some time spent therein,

The Committee rose informally to receive a message from the President.

The SPEAKER pro tempore, Mr. BRYANT, assumed the Chair.

¶70.13 MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr.

Sherman Williams, one of his secretaries.

The Committee resumed its sitting; and after some further time spent therein,

¶70.14 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment in the nature of a substitute submitted by Mr. HUTCHINSON:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Civil Asset Forfeiture Reform Act”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Creation of general rules relating to civil forfeiture proceedings.
- Sec. 3. Compensation for damage to seized property.
- Sec. 4. Prejudgment and postjudgment interest.
- Sec. 5. Applicability.

SEC. 2. CREATION OF GENERAL RULES RELATING TO CIVIL FORFEITURE PROCEEDINGS.

(a) **IN GENERAL.**—Chapter 46 of title 18, United States Code, is amended by inserting the following new section after section 982:

“§ 983. Civil forfeiture procedures

“(a) **ADMINISTRATIVE FORFEITURES.**—(1)(A) In any nonjudicial civil forfeiture proceeding under a civil forfeiture statute, with respect to which the agency conducting a seizure of property must send written notice of the seizure under section 607(a) of the Tariff Act of 1930 (19 U.S.C. 1607(a)), such notice together with information on the applicable procedures shall be sent not later than 60 days after the seizure to each party known to the seizing agency at the time of the seizure to have an ownership or possessory interest, including a lienholder’s interest, in the seized article. If a party’s identity or interest is not determined until after the seizure but is determined before a declaration of forfeiture is entered, such written notice and information shall be sent to such interested party not later than 60 days after the seizing agency’s determination of the identity of the party or the party’s interest.

“(B) If the Government does not provide notice of a seizure of property in accordance with subparagraph (A), it shall return the property pending the giving of such notice.

“(2) The Government may apply to a Federal magistrate judge (as defined in the Federal Rules of Criminal Procedure) in any district where venue for a forfeiture action would lie under section 1355(b) of title 28 for an extension of time in which to comply with paragraph (1)(A). Such an extension shall be granted based on a showing of good cause.

“(3) A person with an ownership or possessory interest in the seized article who failed to file a claim within the time period prescribed in subsection (b) may, on motion made not later than 2 years after the date of final publication of notice of seizure of the property, move to set aside a declaration of forfeiture entered pursuant to section 609 of the Tariff Act of 1930 (19 U.S.C. 1609). Such motion shall be granted if—

“(A) the Government failed to take reasonable steps to provide the claimant with notice of the forfeiture; and

“(B) the person otherwise had no actual notice of the seizure within sufficient time to enable the person to file a timely claim under subsection (b).

“(4) If the court grants a motion made under paragraph (3), it shall set aside the declaration of forfeiture as to the moving party’s interest pending forfeiture proceedings in accordance with section 602 et seq. of the Tariff Act of 1930 (19 U.S.C. 1602 et seq.), which proceedings shall be instituted within 60 days of the entry of the order granting the motion.

“(5) If, at the time a motion under this subsection is granted, the forfeited property has been disposed of by the Government in accordance with law, the Government shall institute forfeiture proceedings under paragraph (4). The property which will be the subject of the forfeiture proceedings instituted under paragraph (4) shall be a sum of money equal to the value of the forfeited property at the time it was disposed of plus interest.

“(6) The institution of forfeiture proceedings under paragraph (4) shall not be barred by the expiration of the statute of limitations under section 621 of the Tariff Act of 1930 (19 U.S.C. 1621) if the original publication of notice was completed before the expiration of such limitations period.

“(7) A motion made under this subsection shall be the exclusive means of obtaining judicial review of a declaration of forfeiture entered by a seizing agency.

“(b) FILING A CLAIM.—(1) Any person claiming such seized property may file a claim with the appropriate official after the seizure.

“(2) A claim under paragraph (1) may not be filed later than 30 days after—

“(A) the date of final publication of notice of seizure; or

“(B) in the case of a person receiving written notice, the date that such notice is received.

“(3) The claim shall set forth the nature and extent of the claimant’s interest in the property.

“(4) Any person may bring a direct claim under subsection (b) without posting bond with respect to the property which is the subject of the claim.

“(c) FILING A COMPLAINT.—(1) In cases where property has been seized or restrained by the Government and a claim has been filed, the Attorney General shall file a complaint for forfeiture in the appropriate court in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims not later than 90 days after the claim was filed, or return the property pending the filing of a complaint. By mutual agreement between the Government and the claimants, the 90-day filing requirement may be waived.

“(2) The Government may apply to a Federal magistrate judge (as defined in the Federal Rules of Criminal Procedure) in any district where venue for a forfeiture action would lie under section 1355(b) of title 28 for an extension of time in which to comply with paragraph (1). Such an extension shall be granted based on a showing of good cause.

“(3) Upon the filing of a civil complaint, the claimant shall file a claim and answer in accordance with the Supplemental Rules for Certain Admiralty and Maritime Claims.

“(d) APPOINTMENT OF COUNSEL.—(1) If the person filing a claim is financially unable to obtain representation by counsel and requests that counsel be appointed, the court may appoint counsel to represent that person with respect to the claim. In determining whether to appoint counsel to represent the person filing the claim, the court shall take into account—

“(A) the nature and value of the property subject to forfeiture, including the hardship to the claimant from the loss of the property seized, compared to the expense of appointing counsel;

“(B) the claimant’s standing to contest the forfeiture; and

“(C) whether the claim appears to be made in good faith or to be frivolous.

“(2) The court shall set the compensation for that representation, which shall be the equivalent to that provided for court-appointed representation under section 3006A of this title, and to pay such cost, there are authorized to be appropriated such sums as are necessary as an addition to the funds otherwise appropriated for the appointment of counsel under such section.

“(3) The determination of whether to appoint counsel under this subsection shall be made following a hearing at which the Government shall have an opportunity to present evidence and examine the claimant. The testimony of the claimant at such hearing shall not be admitted in any other proceeding except in accordance with the rules which govern the admissibility of testimony adduced in a hearing on a motion to suppress evidence. Nothing in this paragraph shall be construed to prohibit the admission of any evidence that may be obtained in the course of civil discovery in the forfeiture proceeding or through any other lawful investigative means.

“(e) BURDEN OF PROOF.—In all suits or actions brought for the civil forfeiture of any property, the burden of proof at trial is on the United States to establish, by a preponderance of the evidence, that the property is subject to forfeiture. If the Government proves that the property is subject to forfeiture, the claimant shall have the burden of establishing any affirmative defense by a preponderance of the evidence.

“(f) INNOCENT OWNERS.—(1) An innocent owner’s interest in property shall not be forfeited in any civil forfeiture action.

“(2) With respect to a property interest in existence at the time the illegal conduct giving rise to the forfeiture took place, the term ‘innocent owner’ means an owner who—

“(A) did not know of the conduct giving rise to the forfeiture; or

“(B) upon learning of the conduct giving rise to the forfeiture, did all that reasonably could be expected under the circumstances to terminate such use of the property.

“(3)(A) With respect to a property interest acquired after the conduct giving rise to the forfeiture has taken place, the term ‘innocent owner’ means a person who, at the time that person acquired the interest in the property, was a bona fide purchaser for value and was at the time of the purchase reasonably without cause to believe that the property was subject to forfeiture.

“(B) Except as provided in paragraph (4), where the property subject to forfeiture is real property, and the claimant uses the property as his or her primary residence and is the spouse or minor child of the person who committed the offense giving rise to the forfeiture, an otherwise valid innocent owner claim shall not be denied on the ground that the claimant acquired the interest in the property—

“(i) in the case of a spouse, through dissolution of marriage or by operation of law, or

“(ii) in the case of a minor child, as an inheritance upon the death of a parent, and not through a purchase. However, the claimant must establish, in accordance with subparagraph (A), that at the time of the acquisition of the property interest, the claimant was reasonably without cause to believe that the property was subject to forfeiture, and was an owner of the property, as defined in paragraph (6).

“(4) Notwithstanding any provision of this section, no person may assert an ownership interest under this section—

“(A) in contraband or other property that it is illegal to possess; or

“(B) in the illegal proceeds of a criminal act unless such person was a bona fide pur-

chaser for value who was reasonably without cause to believe that the property was subject to forfeiture.

“(5) For the purposes of paragraph (2) of this subsection a person does all that reasonably can be expected if the person takes all steps that a reasonable person would take in the circumstances to prevent or terminate the illegal use of the person’s property. There is a rebuttable presumption that a property owner took all the steps that a reasonable person would take if the property owner—

“(A) gave timely notice to an appropriate law enforcement agency of information that led to the claimant to know the conduct giving rise to a forfeiture would occur or has occurred; and

“(B) in a timely fashion, revoked permission for those engaging in such conduct to use the property or took reasonable steps in consultation with a law enforcement agency to discourage or prevent the illegal use of the property.

The person is not required to take extraordinary steps that the person reasonably believes would be likely to subject the person to physical danger.

“(6) As used in this subsection—

“(A) the term ‘civil forfeiture statute’ means any provision of Federal law (other than the Tariff Act of 1930 or the Internal Revenue Code of 1986) providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense.

“(B) the term ‘owner’ means a person with an ownership interest in the specific property sought to be forfeited, including a lien, mortgage, recorded security device, or valid assignment of an ownership interest. Such term does not include—

“(i) a person with only a general unsecured interest in, or claim against, the property or estate of another;

“(ii) a bailee unless the bailor is identified and the bailee shows a colorable legitimate interest in the property seized; or

“(iii) a nominee who exercises no dominion or control over the property;

“(C) a person shall be considered to have known that the person’s property was being used or was likely to be used in the commission of an illegal act if the person was willfully blind.

“(7) If the court determines, in accordance with this subsection, that an innocent owner had a partial interest in property otherwise subject to forfeiture, or a joint tenancy or tenancy by the entirety in such property, the court shall enter an appropriate order—

“(A) severing the property;

“(B) transferring the property to the Government with a provision that the Government compensate the innocent owner to the extent of his or her ownership interest once a final order of forfeiture has been entered and the property has been reduced to liquid assets; or

“(C) permitting the innocent owner to retain the property subject to a lien in favor of the Government, to the extent of the forfeitable interest in the property, that will permit the Government to realize its forfeitable interest if the property is transferred to another person.

To effectuate the purposes of this subsection, a joint tenancy or tenancy by the entireties shall be converted to a tenancy in common by order of the court, irrespective of state law.

“(8) An innocent owner defense under this subsection is an affirmative defense.

“(g) MOTION TO SUPPRESS SEIZED EVIDENCE.—At any time after a claim and answer are filed in a judicial forfeiture proceeding, a claimant with standing to contest the seizure of the property may move to sup-

press the fruits of the seizure in accordance with the normal rules regarding the suppression of illegally seized evidence. If the claimant prevails on such motion, the fruits of the seizure shall not be admitted into evidence as to that claimant at the forfeiture trial. However, a finding that evidence should be suppressed shall not bar the forfeiture of the property based on evidence obtained independently before or after the seizure.

“(h) USE OF HEARSAY AT PRE-TRIAL HEARINGS.—At any pre-trial hearing under this section in which the governing standard is probable cause, the court may accept and consider hearsay otherwise inadmissible under the Federal Rules of Evidence.

“(i) STIPULATIONS.—Notwithstanding the claimant's offer to stipulate to the forfeitability of the property, the Government shall be entitled to present evidence to the finder of fact on that issue before the claimant presents any evidence in support of any affirmative defense.

“(j) PRESERVATION OF PROPERTY SUBJECT TO FORFEITURE.—The court, before or after the filing of a forfeiture complaint and on the application of the Government, may—

“(1) enter any restraining order or injunction in the manner set forth in section 413(e) of the Controlled Substances Act (21 U.S.C. 853(e));

“(2) require the execution of satisfactory performance bonds;

“(3) create receiverships;

“(4) appoint conservators, custodians, appraisers, accountants or trustees; or

“(5) take any other action to seize, secure, maintain, or preserve the availability of property subject to forfeiture under this section.

“(k) EXCESSIVE FINES.—(1) At the conclusion of the trial and following the entry of a verdict of forfeiture, or upon the entry of summary judgment for the Government as to the forfeitability of the property, the claimant may petition the court to determine whether the excessive fines clause of the Eighth Amendment applies, and if so, whether forfeiture is excessive. The claimant shall have the burden of establishing that a forfeiture is excessive by a preponderance of the evidence at a hearing conducted in the manner provided in Rule 43(e), Federal Rules of Civil Procedure, by the Court without a jury. If the court determines that the forfeiture is excessive, it shall adjust the forfeiture to the extent necessary to avoid the Constitutional violation.

“(2) The claimant may not object to the forfeiture on Eighth Amendment grounds other than as set forth in paragraph (1), except that a claimant may, at any time, file a motion for summary judgment asserting that even if the property is subject to forfeiture, the forfeiture would be excessive. The court shall rule on such motion for summary judgment only after the Government has had an opportunity—

“(A) to conduct full discovery on the Eighth Amendment issue; and

“(B) to place such evidence as may be relevant to the excessive fines determination before the court in affidavits or at an evidentiary hearing.

“(l) PRE-DISCOVERY STANDARD.—In a judicial proceeding on the forfeiture of property, the Government shall not be required to establish the forfeitability of the property before the completion of discovery pursuant to the Federal Rules of Civil Procedure, particularly Rule 56(f) as may be ordered by the court or if no discovery is ordered before trial.

“(m) APPLICABILITY.—The procedures set forth in this section apply to any civil forfeiture action brought under any provision of this title, the Controlled Substances Act, or the Immigration and Naturalization Act.”

(b) RELEASE OF PROPERTY.—Chapter 46 of title 18, United States Code, is amended to add the following section after section 984:

“§ 985. Release of property to avoid hardship

“(a) A person who has filed a claim under section 983 is entitled to release pursuant to subsection (b) of seized property pending trial if—

“(1) the claimant has a possessory interest in the property sufficient to establish standing to contest forfeiture and has filed a non-frivolous claim on the merits of the forfeiture action;

“(2) the claimant has sufficient ties to the community to provide assurance that the property will be available at the time of the trial;

“(3) the continued possession by the United States Government pending the final disposition of forfeiture proceedings will cause substantial hardship to the claimant, such as preventing the claimant from working, leaving the claimant homeless, or preventing the functioning of a business;

“(4) the claimant's hardship outweighs the risk that the property will be destroyed, damaged, lost, concealed, diminished in value or transferred if it is returned to the claimant during the pendency of the proceeding; and

“(5) none of the conditions set forth in subsection (c) applies;

“(b)(1) The claimant may make a request for the release of property under this subsection at any time after the claim is filed. If, at the time the request is made, the seizing agency has not yet referred the claim to a United States Attorney pursuant to section 608 of the Tariff Act of 1930 (19 U.S.C. 1608), the request may be filed with the seizing agency; otherwise the request must be filed with the United States Attorney to whom the claim was referred. In either case, the request must set forth the basis on which the requirements of subsection (a)(1) are met.

“(2) If the seizing agency, or the United States Attorney, as the case may be, denies the request or fails to act on the request within 20 days, the claimant may file the request as a motion for the return of seized property in the district court for the district represented by the United States Attorney to whom the claim was referred, or if the claim has not yet been referred, in the district court that issued the seizure warrant for the property, or if no warrant was issued, in any district court that would have jurisdiction to consider a motion for the return of seized property under Rule 41(e), Federal Rules of Criminal Procedure. The motion must set forth the basis on which the requirements of subsection (a) have been met and the steps the claimant has taken to secure the release of the property from the appropriate official.

“(3) The district court must act on a motion made pursuant to this subsection within 30 days or as soon thereafter as practicable, and must grant the motion if the claimant establishes that the requirements of subsection (a) have been met. If the court grants the motion, the court must enter any order necessary to ensure that the value of the property is maintained while the forfeiture action is pending, including permitting the inspection, photographing and inventory of the property, and the court may take action in accordance with Rule E of the Supplemental Rules for Certain Admiralty and Maritime Cases. The Government is authorized to place a lien against the property or to file a lis pendens to ensure that it is not transferred to another person.

“(4) If property returned to the claimant under this section is lost, stolen, or diminished in value, any insurance proceeds shall be paid to the United States and such pro-

ceeds shall be subject to forfeiture in place of the property originally seized.

“(c) This section shall not apply if the seized property—

“(1) is contraband, currency or other monetary instrument, or electronic funds unless such currency or other monetary instrument or electronic funds constitutes the assets of a business which has been seized,

“(2) is evidence of a violation of the law,

“(3) by reason of design or other characteristic, is particularly suited for use in illegal activities; or

“(4) is likely to be used to commit additional criminal acts if returned to the claimant.”

“(d) Once a motion for the release of property under this section is filed, the person filing the motion may request that the motion be transferred to another district where venue for the forfeiture action would lie under section 1355(b) of title 28 pursuant to the change of venue provisions in section 1404 of title 28.”

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 46 of title 18, United States Code, is amended—

(1) by inserting after the item relating to section 982 the following:

“983. Civil forfeiture procedures”; and

(2) by inserting after the item relating to section 984 the following:

“985. Release of property to avoid hardship”.

(f) CIVIL FORFEITURE OF PROCEEDS.—Section 981(a)(1) of title 18, United States Code, is amended—

(1) in subparagraph (C) by inserting before the period the following: “or any offense constituting ‘specified unlawful activity’ as defined in section 1956(c)(7) of this title or a conspiracy to commit such offense”; and

(2) by striking subparagraph (E).

(d) UNIFORM DEFINITION OF PROCEEDS.—Section 981(a) of title 18, United States Code, as amended by subsection (c), is amended—

(A) in paragraph (1), by striking “gross receipts” and “gross proceeds” wherever those terms appear and inserting “proceeds”; and

(B) by adding the following after paragraph (1):

“(2) For purposes of paragraph (1), the term ‘proceeds’ means property of any kind obtained, directly or indirectly, as the result of the commission of the offense giving rise to forfeiture, and any property traceable thereto, and is not limited to the net gain or profit realized from the commission of the offense. In a case involving the forfeiture of proceeds of a fraud or false claim under paragraph (1)(C) involving billing for goods or services part of which are legitimate and part of which are not legitimate, the court shall allow the claimant a deduction from the forfeiture for the amount obtained in exchange for the legitimate goods or services. In a case involving goods or services provided by a health care provider, such goods or services are not ‘legitimate’ if they were unnecessary.

“(3) For purposes of the provisions of subparagraphs (B) through (H) of paragraph (1) which provide for the forfeiture of proceeds of an offense or property traceable thereto, where the proceeds have been commingled with or invested in real or personal property, only the portion of such property derived from the proceeds shall be regarded as property traceable to the forfeitable proceeds. Where the proceeds of the offense have been invested in real or personal property that has appreciated in value, whether the relationship of the property to the proceeds is too attenuated to support the forfeiture of such property shall be determined in accordance with the excessive fines clause of the Eighth Amendment.”

SEC. 3. COMPENSATION FOR DAMAGE TO SEIZED PROPERTY.

(a) TORT CLAIMS ACT.—Section 2680(c) of title 28, United States Code, is amended—

(1) by striking "law-enforcement" and inserting "law enforcement"; and

(2) by inserting before the period the following: " , except that the provisions of this chapter and section 1346(b) of this title do apply to any claim based on the destruction, injury, or loss of goods, merchandise, or other property, while in the possession of any officer of customs or excise or any other law enforcement officer, if the property was seized for the purpose of forfeiture under any provision of Federal law (other than the Tariff Act of 1930 or the Internal Revenue Code of 1986) providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense but the interest of the claimant is not forfeited.

(b) DEPARTMENT OF JUSTICE.—

(1) IN GENERAL.—With respect to a claim that cannot be settled under chapter 171 of title 28, United States Code, the Attorney General may settle, for not more than \$50,000 in any case, a claim for damage to, or loss of, privately owned property caused by an investigative or law enforcement officer (as defined in section 2680(h) of title 28, United States Code) who is employed by the Department of Justice acting within the scope of his or her employment.

(2) LIMITATIONS.—The Attorney General may not pay a claim under paragraph (1) that—

(A) is presented to the Attorney General more than 1 year after it occurs; or

(B) is presented by an officer or employee of the United States Government and arose within the scope of employment.

SEC. 4. PREJUDGMENT AND POSTJUDGMENT INTEREST.

Section 2465 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "Upon"; and

(2) adding at the end the following:

"(b) INTEREST.—

"(1) POST-JUDGMENT.—Upon entry of judgment for the claimant in any proceeding to condemn or forfeit property seized or arrested under any provision of Federal law (other than the Tariff Act of 1930 or the Internal Revenue Code of 1986) providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense, the United States shall be liable for post-judgment interest as set forth in section 1961 of this title.

"(2) PRE-JUDGMENT.—The United States shall not be liable for pre-judgment interest in a proceeding under any provision of Federal law (other than the Tariff Act of 1930 or the Internal Revenue Code of 1986) providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense, except that in cases involving currency, other negotiable instruments, or the proceeds of an interlocutory sale, the United States shall disgorge to the claimant any funds representing—

"(A) interest actually paid to the United States from the date of seizure or arrest of the property that resulted from the investment of the property in an interest-bearing account or instrument; and

"(B) for any period during which no interest is actually paid, an imputed amount of interest that such currency, instruments, or proceeds would have earned at the rate described in section 1961.

"(3) LIMITATION ON OTHER PAYMENTS.—The United States shall not be required to disgorge the value of any intangible benefits nor make any other payments to the claimant not specifically authorized by this subsection."

SEC. 5. APPLICABILITY.

Unless otherwise specified in this Act, the amendments made by this Act apply with respect to claims, suits, and actions filed on or after the date of the enactment of this Act.

It was decided in the { Yeas 155 negative } Nays 268

70.15 [Roll No. 254] AYES—155

- Allen Hayes Peterson (MN)
Andrews Heger Pickering
Bachus Hill (IN) Pomeroy
Baird Hilleary Porter
Ballenger Hoeffel Portman
Barcia Holden Pryce (OH)
Barrett (WI) Holt Quinn
Barton Hooley Ramstad
Bateman Horn Regula
Bilbray Houghton Reyes
Blagojevich Hoyer Reynolds
Blumenauer Hulshof Rogers
Blunt Hutchinson Ros-Lehtinen
Boehert Insee Rothman
Bonior Isakson Roukema
Boswell John Salmon
Boyd Johnson (CT) Sanchez
Brady (TX) Jones (NC) Saxton
Bryant Jones (OH) Shaw
Buyer Kildee Shays
Calvert Kind (WI) Sherman
Capps Kleczka Shows
Cardin Knollenberg Sisisky
Castle Kuykendall Slaughter
Chambliss Larson Smith (WA)
Coburn Latham Souder
Collins Leach Stabenow
Condit Levin Stearns
Cooksey Lowey Stupak
Cramer Luther Sweeney
Crowley Maloney (CT) Taylor (MS)
Cubin Maloney (NY) Terry
Deal McCarthy (NY) Thomas
Deutsch McColium Thompson (CA)
Dickey McCrery Thornberry
Dixon McDermott Thune
Doggett McHugh Thurman
Dooley McIntyre Turner
Dunn McNulty Visclosky
Edwards Mica Vitter
Ehlers Miller (FL) Walden
Ehrlich Moore Walsh
Etheridge Moran (KS) Waxman
Fowler Moran (VA) Weiner
Frelinghuysen Morella Weldon (FL)
Gekas Myrick Weldon (PA)
Gilman Norwood Weygand
Gordon Nussle Whitfield
Goss Ose Wolf
Green (WI) Oxley Wu
Greenwood Pallone Young (FL)
Gutierrez Pascrell

NOES—268

- Abercrombie Canady Dreier
Ackerman Cannon Duncan
Aderholt Capuano Emerson
Archer Carson Engel
Armey Chabot English
Baker Chenoweth Eshoo
Baldacci Clay Evans
Baldwin Claymont Everett
Barr Clement Ewing
Barrett (NE) Clyburn Farr
Bartlett Coble Fattah
Bass Combest Filner
Becerra Conyers Fletcher
Bentsen Cook Foley
Bereuter Cox Forbes
Berkley Coyne Ford
Berry Crane Fossella
Biggart Cummings Frank (MA)
Billirakis Cunningham Franks (NJ)
Bishop Danner Frost
Billey Davis (FL) Gallegly
Boehner Davis (IL) Ganske
Bonilla Davis (VA) Gejdenson
Bono DeFazio Gephardt
Borski DeGette Gibbons
Boucher Delahunt Gillmor
Brady (PA) DeLauro Gonzalez
Brown (FL) DeLay Goode
Brown (OH) DeMint Goodlatte
Burr Diaz-Balart Goodling
Burton Dicks Graham
Callahan Dingell Granger
Camp Doolittle Green (TX)
Campbell Doyle Gutknecht

- Hall (OH) McIntosh Sanford
Hall (TX) McKeon Sawyer
Hansen McKinney Scarborough
Hastings (FL) Meehan Schaffer
Hastings (WA) Meek (FL) Schakowsky
Hayworth Meeks (NY) Scott
Hefley Menendez Sensenbrenner
Hill (MT) Metcalf Serrano
Hilliard Millender Sessions
Hinchee McDonald Shadegg
Hinojosa Miller, Gary Sherwood
Hobson Miller, George Shimkus
Hoekstra Minge Shuster
Hostettler Mink Simpson
Hunter Moakley Skeen
Hyde Murtha Skelton
Istook Nadler Smith (MI)
Jackson (IL) Napolitano Smith (NJ)
Jackson-Lee Neal Smith (TX)
(TX) Nethercutt Snyder
Jefferson Ney Spence
Jenkins Northup Spratt
Johnson, E. B. Oberstar Stark
Johnson, Sam Obey Stenholm
Kanjorski Oliver Strickland
Kaptur Ortiz Stump
Kelly Owens Sununu
Kennedy Pastor Talent
Kilpatrick Paul Tancredo
King (NY) Payne Tanner
Kingston Pease Tauscher
Klink Pelosi Tauzin
Kolbe Peterson (PA) Taylor (NC)
Kucinich Petri Thompson (MS)
LaFalce Phelps Tiahrt
LaHood Pickett Tierney
Lampson Pitts Toomey
Lantos Pombo Towns
LaTourette Price (NC) Trafficant
Lee Radanovich Udall (CO)
Lewis (CA) Rahall Udall (NM)
Lewis (GA) Rangel Upton
Lewis (KY) Riley Velazquez
Linder Rivers Vento
Lipinski Rodriguez Wamp
LoBiondo Roemer Waters
Lofgren Rogan Watkins
Lucas (KY) Rohrabacher Watt (NC)
Lucas (OK) Roybal-Allard Watts (OK)
Manzullo Royce Weller
Markey Rush Wexler
Martinez Ryan (WI) Wicker
Mascara Ryun (KS) Wilson
Matsui Sabo Woolsey
McCarthy (MO) Sanders Wynn
McGovern Sandlin Young (AK)

NOT VOTING—11

- Berman Kasich Mollohan
Brown (CA) Largent Packard
Costello Lazio Wise
Gilchrist McInnis

So the amendment in the nature of a substitute was not agreed to.

The SPEAKER pro tempore, Mr. HEFLEY, assumed the Chair.

When Mr. LAHOOD, Chairman, pursuant to House Resolution 216, reported the bill back to the House with an amendment adopted by the Committee.

The previous question having been ordered by said resolution.

The following amendment, reported from the Committee of the Whole House on the state of the Union, was agreed to:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Asset Forfeiture Reform Act".

SEC. 2. CREATION OF GENERAL RULES RELATING TO CIVIL FORFEITURE PROCEEDINGS.

Section 981 of title 18, United States Code, is amended—

(1) by inserting after subsection (i) the following:

"(j)(1)(A) In any nonjudicial civil forfeiture proceeding under a civil forfeiture statute, with respect to which the agency conducting a seizure of property must give written notice to interested parties, such notice shall be given as soon as practicable and in no