



Denise S. Maes, Public Policy Director

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**(via e-mail to [Kurtis.Morrison@state.co.us](mailto:Kurtis.Morrison@state.co.us))**

Governor John Hickenlooper  
Office of the Governor  
136 State Capitol Building  
Denver, CO 80203

**Re: HB17-1313**

Dear Governor:

More than three-fourths of the Colorado Legislature voted this session to protect due process rights and to ensure that forfeiture actions in Colorado abide by Colorado law. The ACLU of Colorado writes to strongly urge you to sign HB 17 – 1313, Civil Forfeiture Reform.

Nationwide and locally, the American Civil Liberties Union (ACLU) has long opposed civil asset forfeiture. This practice allows police to seize — and then keep or sell — any property they allege is involved in a crime. In 2002, Colorado lawmakers, in a bipartisan fashion, tightened Colorado’s civil forfeiture law and enacted greater due process protections for Coloradans. It was clear then, and remains clear now, that Coloradans want and deserve greater due process protections when individual’s assets are seized.

Federal law provides insufficient due process. For example, under federal law, property owners need not ever be arrested or convicted of a crime for their cash, cars, or even real estate to be taken away permanently by the government. The property that is seized need not be instrumental to the underlying crime and if you’re an “innocent owner” — meaning you had nothing to do with the crime — you have to prove your innocence to the government. Colorado law is different. Colorado law requires a conviction, proof that one is *not* an innocent owner, and that the property seized was instrumental to commission of the underlying crime. Colorado protects its citizens.

HB17-1313 seeks to return the majority of Colorado civil forfeitures to the Colorado way. Opponents of HB 1313 cite two arguments. First, they claim that the bill is a solution in search of a problem and second, that the bill will somehow impede their ability to fight crime.

The first problem this bill attempts to resolve is clear. Currently, state and local law enforcement can team up with federal agencies and bypass state requirements for due process.

Between the years 2000 and 2013, \$47 million in assets were seized under federal law in Colorado and, in 2014 alone, \$13.5 million in Colorado assets were seized under federal law. This means that in every single one of these forfeiture proceedings, Coloradans whose property was seized were denied adequate due process. This alone is a problem. House bill 1313 addresses this problem by providing a clear incentive to have forfeiture proceedings with a net worth of \$50,000 or less be forfeited under state law; not federal law, thus ensuring greater due process protections.

The second problem this bill attempts to address is how forfeiture proceeds are spent. Again, in 2002, Colorado lawmakers codified priorities for these proceeds. The priorities involve paying outstanding liens, compensating victims, reimbursing local law enforcement agencies and district attorney offices, and disbursing what remains 50% to the seizing agency to be spent for legitimate law enforcement purposes and 50% to fund mental health and substance abuse programs. C.R.S. 16-13-311(3)(a). When assets are forfeited under federal law, as has been done to the tune of \$13.5 million in one year alone, the seizing agency can keep up to 80% of these proceeds and, regardless of how much the seizing agency gets, not one dime goes to the priorities established by state lawmakers. By creating an incentive to have more forfeiture proceedings go through state courts, HB 1313 honors the priorities in state statute.

Opponents argue that HB 1313 will make crime fighting more difficult because if there are less forfeiture actions under federal law, local law enforcement agencies will get less money and, therefore, not be able to fight crime. This position is untenable and frankly, I'm surprised this argument is asserted with such vigor. Forfeiture was originally presented as a way to cripple large-scale criminal enterprises by diverting their resources. This argument by the opponents underscores the problem with forfeiture in that many police departments use forfeiture to benefit their bottom lines, making seizures motivated by profit rather than crime-fighting. Boiled down, what the opponents are asking you to do is to let them seize property whether or not the property was instrumental in committing a crime and regardless of the guilt or innocence of the person from whom the property was seized so they can supplement their budgets to allegedly fight crime. This is not the purpose of forfeiture laws. This also constitutes a work around the typical public budgeting process and puts law enforcement's desire to supplement their bottom line ahead of standard due process rights.

We ask that you reject the arguments set forth by the opponents of HB 1313. Forfeiture actions in Colorado should abide by Colorado law. This bill returns us to the Colorado way and it's a way that better protects the due process rights of Coloradans.

Sincerely,



Denise S. Maes  
Public Policy Director