

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: August 12, 2013

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations
Committee

FROM: Gerry F. Miller *Gerry F. Miller* Council File No: 13-0002-S38
Chief Legislative Analyst Assignment No: 13-03-0181

SUBJECT: Resolution (Parks - Perry) to oppose H.R. 784 which would amend the controlled substances act so as to exempt real property from civil forfeiture due to medical marijuana related conduct that is authorized by state law

CLA RECOMMENDATION: Matters such as those pertaining to a City position on legislation which would legalize the use of medical cannabis, is a policy decision subject to the sole discretion of the City Council.

SUMMARY

On March 6, 2013, a Resolution (Parks - Perry) was introduced to oppose H.R. 784 (Lee), which would amend the controlled substances act so as to exempt real property from civil forfeiture due to medical marijuana related conduct that is authorized by state law. The Resolution states that, while California has legalized marijuana for medicinal use, storefronts used for the sale of medical marijuana often serve as a front for the illegal sale of drugs, and are a threat to the community. The Resolution further states that currently, civil forfeiture of real property due to medical marijuana activity is permitted under federal law, and that this is a valuable tool in combating the illegal sale of narcotics via medical marijuana storefronts.

The Resolution states that H.R. 784 would exempt real property from civil forfeiture due to medical marijuana related activity, eliminating the ability of federal law enforcement to employ this tool. The Resolution, therefore, seeks an official position of the City of Los Angeles to oppose H.R. 784, which would amend the controlled substances act so as to exempt real property from civil forfeiture due to medical marijuana related conduct that is authorized by state law.

BACKGROUND

Under the Controlled Substances Act, the federal government is authorized to utilize civil forfeiture against real property used in drug related activities, including medical marijuana related activities. Civil forfeiture is the act of confiscating property via the court system and then auctioning it off. To prevail in a civil forfeiture case, the government must prove through a preponderance of evidence that the property in question was used for illegal activity. In civil forfeiture cases, the owner of the property does not need to be convicted of a crime, but the government must prove that the property was used to enable illegal activities. A property owner may prevail over the government by using an "innocent owner" defense, an affirmative defense that applies when an owner claims that they are innocent of a crime and therefore their property should not be forfeited, as outlined in the United States Code.

H.R. 784 would amend the Controlled Substances Act, so as to exempt real property from civil forfeiture due to medical marijuana related conduct that is authorized by state law. Opponents of this bill believe that civil forfeiture has been an important tool in limiting the abuse of medical marijuana laws in California and other states that allow marijuana for medicinal uses. Opponents state that federal law enforcement agencies use civil forfeiture to combat for-profit marijuana dealers, who use medical marijuana storefronts as a cover for illegal activity. Opponents argue that H.R. 784 would make it more difficult to punish drug dealers who are using state enacted medical marijuana laws as a cover for their for-profit businesses.


Supporters of H.R. 784 believe that civil forfeiture is being abused by the federal government, and is being used to target individuals and organizations that are acting in a legal manner under state law. Supporters also argue that if a state has legalized medical cannabis, it should be left to the states to regulate and enforce laws concerning medical marijuana without federal interference.

DEPARTMENTS NOTIFIED

Police Department
City Attorney's Office

BILL STATUS

02/15/2013	Bill introduced
02/15/2013	Referred to the House Committee on the Judiciary and House Committee on Energy and Commerce
02/15/2013	Referred to the Subcommittee on Health
04/08/2013	Referred to the Subcommittee on Crime, Terrorism, Homeland Security and Investigations


Joshua Drake
Analyst

GFM:MF:jwd

Attachment: Resolution (Parks - Perry)

13-0002-538

CITY OF LOS ANGELES

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, while California has legalized marijuana for medical use, storefronts used for the sale of medical marijuana often serve as a front for the illegal sale of drugs throughout Los Angeles and are a threat to the community; and

WHEREAS, the federal Controlled Substances Act provides for civil forfeiture of real property seized in connection with illegal drug activity; and

WHEREAS, the federal government does not recognize the medical use of marijuana, and thus real property used in medical marijuana related activities is subject to civil forfeiture; and

WHEREAS, HR 784 (Lee) would amend The Controlled Substances Act to exempt real property from civil forfeiture due to medical marijuana related conduct authorized under state law; and

WHEREAS, the City of Los Angeles should oppose HR 784, as civil forfeiture of real property is a valuable tool in combating the illegal sale of marijuana that occurs at medical marijuana storefronts;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2013 - 2014 Federal Legislative Program OPPOSITION to HR 784, which would amend the controlled substances act so as to exempt real property from civil forfeiture due to medical-marijuana related conduct that is authorized by state law.

PRESENTED BY Bernard C. Parks
BERNARD C. PARKS
Councilmember, 8th District

SECONDED BY [Signature]



jvd

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MAR 6 2013