



League of United Latin American Citizens

RESOLUTION TO ABOLISH CIVIL ASSET FORFEITURE

WHEREAS, in 1929, the founders of the League of Latin American Citizens, (LULAC) joined together to establish an organization that would become the largest, oldest and successful Hispanic civil rights and service organization in the United States; and

WHEREAS, the United States Federal and States civil asset forfeiture laws, and statutes, and judicial common law, authorize law enforcement to forfeit property alleged to be connected to a crime in a civil in rem action against the property; and

WHEREAS, over the last decade, law enforcement across the nation has seized and forfeited over billions in private property using state civil asset forfeiture laws; and

WHEREAS, in the United States law enforcement agencies, civil asset forfeiture is used to forfeit approximately billions of dollars worth of homes, cars, money, and other property of thousands of property owners every year; and

WHEREAS, civil asset forfeiture permits the government to forfeit property without convicting the property owner of a crime or even charging the owner-or anyone else-with a crime; and

WHEREAS, individuals whose property is the subject of a civil asset forfeiture proceeding do not enjoy the constitutional protections applicable to criminal defendants such as the right to counsel and strong evidentiary burdens requiring the government to affirmatively prove its case; and

WHEREAS, criminal defendants may be unable to challenge a civil forfeiture without undermining their ability to assert their constitutional rights in their criminal case, such as the Fifth Amendment privilege against self-incrimination; and

WHEREAS, many property owners are unable to afford counsel and lack the legal expertise to effectively challenge the forfeiture of their property; and

WHEREAS, the United States civil asset forfeiture laws authorize law enforcement to forfeit property by default if a property owner fails to answer a forfeiture petition or misses a court appearance in the forfeiture proceeding, whether or not the property owner received notice of the proceeding; and

WHEREAS, innocent property owners often have little incentive to contest the forfeiture of their property because the costs of defending their property against forfeiture often vastly outweigh the value of the property at stake; and

WHEREAS, as a result of the above, approximately 80 percent of civil forfeitures in the United States end in default, with local, state and federal prosecutors never having to offer any evidence to a judge that supports the forfeiture or confirms that notice was properly served; and

WHEREAS, the United States civil asset forfeiture laws authorize law enforcement to retain for its own use all property and proceeds derived from forfeiture proceedings; and

WHEREAS, the direct financial incentive for law enforcement to aggressively seek forfeiture undermines public trust in the fair and impartial administration of justice; and

WHEREAS, civil asset forfeiture disproportionately affects low-income people of color; and

WHEREAS, civil asset forfeiture of innocent owners' property hurts neighborhoods, because forfeited real property is often unmarketable due to the difficulty of obtaining title insurance, which increases the risks of vacancy and blight; and

WHEREAS, LULAC will ask the United States Congress and Senate to reform federal and state's forfeiture laws to require that property owners first be convicted of a crime before their property is forfeited and to end the profit incentive for law enforcement to seek forfeiture;

THEREFORE BE IT RESOLVED that LULAC calls on the United States and each state to take immediate and effective steps to abolish civil asset forfeiture in United States to ensure:

1. That forfeiture occur under federal and state law only after the property owner is convicted of a crime, as part of the underlying criminal proceeding, which will guarantee:
 - a. That no property is forfeited by default, and that in every case the government proves the connection between the property and the crime for which the property owner was convicted; and
 - b. That property owners receive adequate notice of the government's intent to seek forfeiture in the criminal charging document; and
 - c. That property owners have a right to appointed counsel when contesting forfeiture; and
 - d. That people convicted of crimes can challenge forfeiture of their property without sacrificing their constitutional rights in their criminal case; and
2. That all proceeds from forfeiture are deposited into the state treasury where there is transparency and accountability, instead of accruing directly to the very law enforcement agencies that are charged with making decisions about when to pursue forfeiture.

Voted & approved by the National Assembly of the 2017 LULAC National Convention on July 8, 2017.



Roger C. Rocha, Jr.
LULAC National President