



The Voice of Small Business

## MICHIGAN

For Immediate Release

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## Small Business Supports Further Civil Forfeiture Reforms

February 8, 2016 (Lansing) – Small business owners in Michigan want to see more reforms of the state’s “civil asset forfeiture” laws to restrict the seizure of private property according to a survey by the National Federation of Independent Business (NFIB). Last year, Governor Snyder signed legislation that included new reporting provisions to track civil asset forfeiture seizures and also raised the standard of proof for seizing assets from a “preponderance of the evidence” to a higher “clear and convincing” standard. NFIB supports the changes but says that its small business members want to carry the reforms further in 2016.

“Civil forfeiture laws allow the government to seize private property from a citizen or small business owner without ever charging them with a crime or providing evidence prior to seizing assets and the government (typically police departments) often pockets the proceeds while providing no prompt way to get a court to review the seizure,” said NFIB State Director Charlie Owens. “There is no incentive or requirement for the government to charge the business owner with a crime. Once the property is seized, government agencies are free to keep the property until the business owner pursues return of the property, which is often a costly and lengthy legal process that is stacked in favor of the government.”

Owens said that a recent survey of NFIB small business members found that they support taking the reforms further. Specifically, when asked: “Should Michigan’s laws on Civil Asset Forfeiture be changed so that private property is seized only after a criminal conviction is secured?” 74 percent of business owners said “Yes”, 12 percent said “No” and 14 percent were “Undecided”.

“We applaud Governor Snyder and the Legislature for passing much needed reforms to Michigan’s civil asset forfeiture laws last year,” said Owens. “However, the current laws still lack due process and need to be changed so that private property is seized only after a criminal conviction is secured”.

Owens said that NFIB is also encouraged by recent legislation introduced by State Representative Peter Lucido (House Bill 4629) that would repeal a requirement for a property owner to provide a cash bond before they could contest a civil forfeiture seizure of their property. The bill is currently in the House Committee on Oversight and Ethics.

“Many small business owners carry large cash sums to the bank and to other business locations for use in making change or deposits and other small business owners still use cash to make large supply purchases”, said Owens. “All of these and other scenarios create a situation where small business is exposed to the potential of civil forfeiture seizures”.

For more information about NFIB, please visit [www.nfib.com](http://www.nfib.com).

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**2016 Michigan State Ballot – Civil Asset Forfeiture Reform**

Should Michigan’s laws on Civil Asset Forfeiture be reformed?

**76% Yes                      12% No                      12% Undecided**

Should Michigan’s laws on Civil Asset Forfeiture be changed so that private property is only seized after a criminal conviction is secured?

**74% Yes                      12% No                      14% Undecided**

**BACKGROUND:** Civil Asset Forfeiture, also called civil judicial forfeiture, is a legal process that allows the government to seize the property and assets of an individual based upon a presumption or suspicion that the person in question is involved with crime or illegal activity. The government authority (typically a law enforcement agency) is not required to provide evidence of a crime or charge an individual with a crime in order to seize the assets, nor is the government required to return the assets. In most cases, the agencies in question are allowed to sell and keep the assets and use the money within their own budgets. While this process was originally intended to allow police agencies greater power to seize assets used in terrorist activities, drug related crimes, and other criminal activity; some believe that average citizens and small business owners are increasingly getting caught in the net designed for hardened criminal enterprises. Many states have pursued reforms to their own Civil Asset Forfeiture laws in an attempt to address this concern.

**SUPPORTERS** of reforming Michigan’s Civil Asset Forfeiture laws argue that the current laws lack due process: The government may seize private property from a small business owner without ever charging them with a crime or providing evidence prior to seizing assets. The government then pockets the proceeds while providing no prompt way to get a court to review the seizure. There is no incentive or requirement for the government to charge the business owner with a crime. Once the property is seized, the government is free to keep the property until the business owner pursues return of the property, which is often a costly and lengthy legal process. Supporters of reform say that data has been provided that shows police agencies in Michigan have pocketed at least \$250 million in seized assets since 2001. They believe that it is time to reform the law to require reporting and a higher threshold of proof before private property is allowed to be seized by authorities. Some have even said that private property should only be seized after a criminal conviction is secured.

**OPPONENTS** of reforming Michigan’s Civil Asset Forfeiture laws claim that they have been a powerful tool in halting hardened criminal enterprises from profiting from their illegal activity. They say that without the current laws, criminals are free to use the illegally obtained assets and money to defend themselves in court and drag out the legal process to their benefit. Opponents of reform point out that the standards for civil asset forfeitures are different from other standards prosecutors and law enforcement follow so that career criminals have to prove their innocence rather than the burden being on the government or the state to prove the individual is guilty. They contend that police authorities exercise great caution in using civil forfeiture and that most of the problems claimed by reform supporters are largely due to sensationalist media reporting and trying cases in the papers.