

104TH CONGRESS
1ST SESSION

H. R. 925

To compensate owners of private property for the effect of certain regulatory restrictions.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 1995

Mr. CANADY of Florida introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To compensate owners of private property for the effect of certain regulatory restrictions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Private Property Pro-
5 tection Act of 1995”.

6 **SEC. 2. RIGHT TO COMPENSATION.**

7 The Federal Government shall compensate an owner
8 of property whose use of that property has been limited
9 by an agency action, pursuant to a specified regulatory

1 law, that diminishes the fair market value of that property
2 by 33 $\frac{1}{3}$ percent or more, for that diminution in value.

3 **SEC. 3. EFFECT OF STATE LAW.**

4 No compensation shall be made under this Act if the
5 use limited by Federal agency action is proscribed under
6 the law of the State in which the property is located (other
7 than a proscription required by a Federal law, either di-
8 rectly or as a condition for assistance). If a use is a nui-
9 sance as defined by the law of a State, that use is pro-
10 scribed for the purposes of this subsection.

11 **SEC. 4. EXCEPTIONS.**

12 (a) PREVENTION OF HAZARD TO HEALTH AND
13 SAFETY OR DAMAGE TO SPECIFIC PROPERTY.—No com-
14 pensation shall be made under this Act with respect to
15 an agency action the purpose of which is to prevent an
16 imminent and identifiable—

17 (1) hazard to public health and safety; or

18 (2) damage to specific property other than the
19 property whose use is limited.

20 (b) NAVIGATIONAL SERVITUDE.—No compensation
21 shall be made under this Act with respect to an agency
22 action pursuant to the Federal navigational servitude.

23 **SEC. 5. PROCEDURE.**

24 (a) REQUEST OF OWNER.—An owner seeking com-
25 pensation under this Act shall make a written request for

1 compensation to the agency whose agency action resulted
2 in the limitation. No such request may be made later than
3 180 days after the owner receives actual notice of that
4 agency action.

5 (b) NEGOTIATIONS.—The agency may bargain with
6 that owner to establish the amount of the compensation.
7 If the agency and the owner agree to such an amount,
8 the agency shall promptly pay the owner the amount
9 agreed upon.

10 (c) CHOICE OF REMEDIES.—If, not later than 180
11 days after the written request is made, the parties do not
12 come to an agreement, the owner may choose to take the
13 issue to binding arbitration or seek compensation in a civil
14 action.

15 (d) ARBITRATION.—The procedures that govern the
16 arbitration shall, as nearly as practicable, be those estab-
17 lished under title 9, United States Code, for arbitration
18 proceedings to which that title applies. An award made
19 in such arbitration shall include a reasonable attorney's
20 fee and appraisal fees. The agency shall promptly pay any
21 award made to the owner.

22 (e) CIVIL ACTION.—An owner who does not choose
23 arbitration, or who does not receive prompt payment when
24 required by this section, may obtain appropriate relief in
25 a civil action against the agency. An owner who prevails.

1 in a civil action under this section shall be entitled to, and
2 the agency shall be liable for, a reasonable attorney's fee
3 and appraisal fees. The court shall award interest on the
4 amount of any compensation from the time of the limita-
5 tion.

6 (f) SOURCE OF PAYMENTS.—Any payment made
7 under this section to an owner, and any judgment obtained
8 by an owner in a civil action under this section shall, not-
9 withstanding any other provision of law, be made from the
10 annual appropriation of the agency whose action occa-
11 sioned the payment or judgment. If the agency action re-
12 sulted from a requirement imposed by another agency,
13 then the agency making the payment or satisfying the
14 judgment may seek partial or complete reimbursement
15 from the appropriated funds of the other agency. For this
16 purpose the head of the agency concerned may transfer
17 or reprogram any appropriated funds available to the
18 agency. If insufficient funds exist for the payment or to
19 satisfy the judgment, it shall be the duty of the head of
20 the agency to seek the appropriation of such funds for the
21 next fiscal year.

22 **SEC. 6. DEFINITIONS.**

23 For the purposes of this Act—

24 (1) the term “property” means land and in-
25 cludes the right to use or receive water;

1 (2) a use of property is limited by an agency
2 action if a particular legal right to use that property
3 no longer exists because of the action;

4 (3) the term “specified regulatory law”
5 means—

6 (A) section 404 of the Federal Water Pol-
7 lution Control Act (33 U.S.C. 1344);

8 (B) the Endangered Species Act of 1973
9 (16 U.S.C. 1531 et seq.); or

10 (C) subtitle C of title XII of the Food Se-
11 curity Act of 1985;

12 (4) the term “agency action” has the meaning
13 given that term in section 551 of title 5, United
14 States Code, but also includes the making of a grant
15 to a public authority conditioned upon an action by
16 the recipient that would constitute a limitation if
17 done directly by the agency;

18 (5) the term “agency” has the meaning given
19 that term in section 551 of title 5, United States
20 Code;

21 (6) the term “State” includes the District of
22 Columbia, Puerto Rico, and any other territory or
23 possession of the United States; and

- 1 (7) the term “law of the State” includes the
- 2 law of a political subdivision of a State.

