

110TH CONGRESS
2D SESSION

H. R. 6219

To authorize appropriations for the Department of Commerce and to prohibit Federal economic development funds to States that carry out public takings for private purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 2008

Mr. SULLIVAN (for himself, Mr. BARTON of Texas, Mr. BROUN of Georgia, Mr. MACK, Mr. LUCAS, Mrs. MUSGRAVE, Mr. BURGESS, Mr. ROGERS of Michigan, Mr. HALL of Texas, Mr. MCCOTTER, Mr. UPTON, Mr. SESSIONS, Mr. MCHENRY, Mr. PITTS, Mr. GINGREY, Ms. FALLIN, Mrs. EMERSON, Mr. PEARCE, Mr. SHIMKUS, Mrs. MYRICK, Mrs. DRAKE, Mr. TERRY, Mr. CONAWAY, Mr. BUYER, and Mr. BURTON of Indiana) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize appropriations for the Department of Commerce and to prohibit Federal economic development funds to States that carry out public takings for private purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Private Property
3 Rights Protection and Government Accountability Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) Congress has the power to regulate com-
7 merce among the several States and Indian tribes;

8 (2) property rights are essential to interstate
9 commerce, ensuring that individuals make the best
10 economic use of their property;

11 (3) potential residents and businesses may
12 avoid communities that have a record of taking pri-
13 vate property for private economic development;

14 (4) public takings for private purposes are
15 harmful to communities and to interstate commerce;

16 (5) public taking of private property for eco-
17 nomic development is not a traditional nor sound
18 function of State or local government; and

19 (6) in order to promote and protect interstate
20 commerce, public takings for private purposes should
21 be prohibited.

22 **SEC. 3. PROHIBITION ON ECONOMIC DEVELOPMENT**
23 **FUNDS.**

24 Any State or political subdivision of a State that car-
25 ries out a public taking for any private purpose in or af-
26 fecting interstate commerce shall not be eligible to receive

1 any Federal economic development funds for a period of
2 10 fiscal years.

3 **SEC. 4. INJUNCTIVE RELIEF AND RESTORATION TO OWNER.**

4 (a) CAUSE OF ACTION.—Any owner of private prop-
5 erty that is subject to a public taking described in section
6 3 may bring an action in the appropriate Federal or State
7 court to obtain injunctive and declaratory relief.

8 (b) ATTORNEY’S FEE AND OTHER COSTS.—In any
9 action or proceeding under this section, the court shall
10 allow a prevailing plaintiff a reasonable attorney’s fee as
11 part of the costs, and include expert fees as part of the
12 attorney’s fee.

13 **SEC. 5. DEFINITIONS.**

14 As used in this Act, the following definitions apply:

15 (1) PRIVATE PURPOSE.—

16 (A) IN GENERAL.—The term “private pur-
17 pose”, with regard to property that has been
18 acquired and conveyed through a public taking,
19 means the ownership, control, or use of such
20 property by a private party or parties that ad-
21 vances the economic interests of the private
22 party or parties. Such term includes but is not
23 limited to the following:

24 (i) Any use of such property in an
25 economic development plan of which the

1 benefit to the public is increased tax rev-
2 enue, increased employment, or other indi-
3 rect benefit.

4 (ii) The lease of such property to a
5 private party or parties for private develop-
6 ment, including commercial, industrial, or
7 residential development.

8 (iii) Any control of such property by a
9 private party that—

10 (I) excludes a general public use
11 or benefit; or

12 (II) primarily benefits the private
13 party or parties and benefits the pub-
14 lic indirectly.

15 (B) EXCEPTIONS.—Such term shall not in-
16 clude—

17 (i) conveying private property to pub-
18 lic ownership, such as for a road, hospital,
19 or prison, or to an entity, such as a com-
20 mon carrier, that makes the property avail-
21 able for use by the general public as of
22 right, such as a railroad, public utility, or
23 public facility, or for use as a right of way,
24 aqueduct, pipeline, or similar use;

1 (ii) acquiring property to eliminate
2 harmful uses of the property, provided
3 such uses present an imminent and sub-
4 stantial danger to the public health;

5 (iii) leasing property to a private per-
6 son or entity that occupies an incidental
7 part of public property or a public facility,
8 such as a retail establishment on the
9 ground floor of a public building;

10 (iv) acquiring abandoned property;

11 and

12 (v) clearing defective chains of title.

13 (2) FEDERAL ECONOMIC DEVELOPMENT
14 FUNDS.—The term “Federal economic development
15 funds” means any Federal funds—

16 (A) administered by the Secretary of Com-
17 merce, the Secretary of Energy, or the Adminis-
18 trator of the Environmental Protection Agency,
19 and distributed to or through States or political
20 subdivisions of States, to the extent such funds
21 are not provided to assist States or political
22 subdivisions of States in complying with any re-
23 quirements of Federal law or regulation; or

24 (B) distributed to or through States or po-
25 litical subdivisions of States under Federal laws

1 and whose purpose is to promote interstate
2 commerce and improve or increase the size of
3 the economies of States or political subdivisions
4 of States.

5 (3) PUBLIC TAKING.—The term “public taking”
6 means an action by a State or political subdivision
7 of a State or by any person or entity to which such
8 power has been delegated that transfers all or part
9 of the legal rights in property from a private owner
10 to another person or to public ownership without the
11 consent of the private owner.

12 **SEC. 6. GENERAL AUTHORIZATION OF APPROPRIATIONS**
13 **FOR DEPARTMENT OF COMMERCE.**

14 There is authorized to be appropriated to the Sec-
15 retary of Commerce to carry out the functions of the De-
16 partment—

- 17 (1) \$8,919,000,000 for fiscal year 2009;
18 (2) \$11,974,000,000 for fiscal year 2010;
19 (3) \$6,953,000,000 for fiscal year 2011;
20 (4) \$6,691,000,000 for fiscal year 2012; and
21 (5) \$6,780,000,000 for fiscal year 2013.

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