

vided by House Resolution 101, be extended by ten minutes.

37.9 PRIVATE PROPERTY RIGHTS

The SPEAKER pro tempore, Mr. DOOLITTLE, pursuant to House Resolution 101 and rule XXIII, declared the House resolved into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 925) to compensate owners of private property for the effect of certain regulatory restrictions.

Mr. SHUSTER, Chairman of the Committee of the Whole, resumed the chair; and after some time spent therein,

37.10 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. WATT of North Carolina to the foregoing amendment in the nature of a substitute, as amended, submitted by Mr. CANADY:

Strike section 6(f).

It was decided in the negative { Yeas ..... 127 Nays ..... 299

37.11 [Roll No. 196] AYES—127

- Abercrombie Green Pastor
Ackerman Gutierrez Payne (NJ)
Becerra Hastings (FL) Pelosi
Beilenson Hefner Rahall
Bentsen Hilliard Reed
Berman Hinchey Reynolds
Bishop Hoyer Richardson
Bonior Jackson-Lee Rivers
Borski Jefferson Rose
Boucher Johnson, E. B. Roybal-Allard
Brown (FL) Johnston Rush
Cardin Kaptur Sabo
Clay Kennedy (MA) Sanders
Clayton Kennedy (RI) Sawyer
Clement Kennelly Schroeder
Clyburn Kildee Schumer
Coleman LaFalce Scott
Collins (MI) Lantos Serrano
Conyers Lewis (GA) Skaggs
Coyne Lofgren Slaughter
DeFazio Stark
DeLauro Maloney Stokes
Dellums Manton Studds
Deutsch Markey Thompson
Dingell Martinez Torres
Dixon Matsui Torricelli
Doggett McCarthy Towns
Engel McDermott Tucker
Evans McKinney Velazquez
Farr Meehan Vento
Fattah Meeke Visclosky
Fazio Menendez Ward
Fields (LA) Mfume Waters
Filner Miller (CA) Watt (NC)
Flake Mineta Waxman
Foglietta Mink Williams
Ford Nadler Wise
Frank (MA) Neal Woolsey
Frost Oberstar Wyden
Furse Obey Wynn
Gejdenson Olver Yates
Gephardt Owens
Gibbons Pallone

NOES—299

- Allard Bartlett Brewster
Andrews Barton Browder
Archer Bass Brown (OH)
Army Bateman Brownback
Bachus Bereuter Bryant (TN)
Baesler Beville Bunn
Baker (CA) Bilbray Bunning
Baker (LA) Bilirakis Burr
Baldacci Bliley Burton
Ballenger Blute Buyer
Barcia Boehlert Callahan
Barr Boehner Calvert
Barrett (NE) Bonilla Camp
Barrett (WI) Bono Canady

- Castle Hobson Peterson (MN)
Chabot Hoekstra Petri
Chambliss Hoke Pickett
Chenoweth Holden Pombro
Christensen Horn Pomeroy
Chrysler Hostettler Porter
Clinger Houghton Portman
Coble Hunter Poshard
Coburn Hutchinson Pryce
Collins (GA) Hyde Quillen
Combest Inglis Quinn
Condit Istook Radanovich
Cooley Jacobs Ramstad
Costello Johnson (CT) Regula
Cox Johnson (SD) Riggs
Cramer Johnson, Sam Roberts
Crane Jones Roemer
Crapo Kanjorski Rogers
Creameans Kasich Rohrabacher
Cubin Kelly Ros-Lehtinen
Cunningham Kim Roth
Danner King Roukema
Davis Kingston Royce
de la Garza Kleczka Salmon
Deal Klink Sanford
DeLay Klug Saxton
Diaz-Balart Knollenberg Scarborough
Dickey Kolbe Schaefer
Dicks LaHood Schiff
Dooley Largent Seastrand
Doolittle Latham Sensenbrenner
Doyle LaTourrette Shadegg
Dreier Laughlin Shaw
Duncan Lazio Shays
Dunn Leach Shuster
Durbin Levin Sisisky
Edwards Lewis (CA) Skeen
Ehlers Lewis (KY) Skelton
Ehrlich Lightfoot Smith (MI)
Emerson Lincoln Smith (NJ)
English Linder Smith (TX)
Ensign Lipinski Smith (WA)
Eshoo Livingstone Solomon
Everett LoBiondo Souder
Ewing Longley Spence
Fawell Lucas Spratt
Fields (TX) Luther Stearns
Flanagan Manzullo Stenholm
Foley Martini Stockman
Forbes Mascara Stump
Fowler McCollum Stupak
Fox McCrery Talent
Franks (CT) McDade Tanner
Franks (NJ) McHale Tate
Frelinghuysen McHugh Tauzin
Frisa McInnis Taylor (MS)
Funderburk McIntosh Taylor (NC)
Gallegly McKeon Tejeda
Ganske McNulty Thomas
Gekas Metcalf Thornberry
Geren Meyers Thornton
Gilchrist Mica Thurman
Gillmor Miller (FL) Tiahrt
Gilman Minge Torkildsen
Goodlatte Molinari Traficant
Goodling Mollohan Upton
Gordon Montgomery Volkmer
Goss Moorhead Vucanovich
Graham Moran Waldholtz
Greenwood Morella Walker
Gunderson Murtha Walsh
Gutknecht Myers Wamp
Hall (OH) Myrick Watts (OK)
Hall (TX) Nethercutt Weldon (FL)
Hamilton Neumann Weldon (PA)
Hancock Ney Weller
Hansen Norwood White
Harman Nussle Whitfield
Hastert Ortiz Wicker
Hastings (WA) Orton Wilson
Hayes Oxley Wolf
Hayworth Packard Young (AK)
Hefley Parker Young (FL)
Heineman Paxon Zeliff
Herger Payne (VA) Zimmer
Hilleary Peterson (FL)

NOT VOTING—8

- Brown (CA) Collins (IL) Moakley
Bryant (TX) Dornan Rangel
Chapman Gonzalez

So the amendment to the amendment in the nature of a substitute, as amended, was not agreed to.

The SPEAKER pro tempore, Mr. HANSEN, assumed the Chair.

When Mr. SHUSTER, Chairman, pursuant to House Resolution 101, reported

the bill back to the House with an amendment adopted by the Committee.

The previous question having been ordered by said resolution.

The following amendment, reported from the Committee of the Whole House on the state of the Union, was agreed to:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Property Protection Act of 1995".

SEC. 2. FEDERAL POLICY AND DIRECTION.

(a) GENERAL POLICY.—It is the policy of the Federal Government that no law or agency action should limit the use of privately owned property so as to diminish its value.

(b) APPLICATION TO FEDERAL AGENCY ACTION.—Each Federal agency, officer, and employee should exercise Federal authority to ensure that agency action will not limit the use of privately owned property so as to diminish its value.

SEC. 3. RIGHT TO COMPENSATION.

(a) IN GENERAL.—The Federal Government shall compensate an owner of property whose use of any portion of that property has been limited by an agency action, under a specified regulatory law, that diminishes the fair market value of that portion by 20 percent or more. The amount of the compensation shall equal the diminution in value that resulted from the agency action. If the diminution in value of a portion of that property is greater than 50 percent, at the option of the owner, the Federal Government shall buy that portion of the property for its fair market value.

(b) DURATION OF LIMITATION ON USE.—Property with respect to which compensation has been paid under this Act shall not thereafter be used contrary to the limitation imposed by the agency action, even if that action is later rescinded or otherwise vitiated. However, if that action is later rescinded or otherwise vitiated, and the owner elects to refund the amount of the compensation, adjusted for inflation, to the Treasury of the United States, the property may be so used.

SEC. 4. EFFECT OF STATE LAW.

If a use is a nuisance as defined by the law of a State or is already prohibited under a local zoning ordinance, no compensation shall be made under this Act with respect to a limitation on that use.

SEC. 5. EXCEPTIONS.

(a) PREVENTION OF HAZARD TO HEALTH OR SAFETY OR DAMAGE TO SPECIFIC PROPERTY.—No compensation shall be made under this Act with respect to an agency action the primary purpose of which is to prevent an identifiable—

- (1) hazard to public health or safety; or
(2) damage to specific property other than the property whose use is limited.

(b) NAVIGATION SERVITUDE.—No compensation shall be made under this Act with respect to an agency action pursuant to the Federal navigation servitude, as defined by the courts of the United States, except to the extent such servitude is interpreted to apply to wetlands.

SEC. 6. PROCEDURE.

(a) REQUEST OF OWNER.—An owner seeking compensation under this Act shall make a written request for compensation to the agency whose agency action resulted in the limitation. No such request may be made later than 180 days after the owner receives actual notice of that agency action.

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

(c) CHOICE OF REMEDIES.—If, not later than 180 days after the written request is made, the parties do not come to an agreement as to the right to and amount of compensation, the owner may choose to take the matter to binding arbitration or seek compensation in a civil action.

(d) ARBITRATION.—The procedures that govern the arbitration shall, as nearly as practicable, be those established under title 9, United States Code, for arbitration proceedings to which that title applies. An award made in such arbitration shall include a reasonable attorney's fee and other arbitration costs (including appraisal fees). The agency shall promptly pay any award made to the owner.

(e) CIVIL ACTION.—An owner who does not choose arbitration, or who does not receive prompt payment when required by this section, may obtain appropriate relief in a civil action against the agency. An owner who prevails in a civil action under this section shall be entitled to, and the agency shall be liable for, a reasonable attorney's fee and other litigation costs (including appraisal fees). The court shall award interest on the amount of any compensation from the time of the limitation.

(f) SOURCE OF PAYMENTS.—Any payment made under this section to an owner, and any judgment obtained by an owner in a civil action under this section shall, notwithstanding any other provision of law, be made from the annual appropriation of the agency whose action occasioned the payment or judgment. If the agency action resulted from a requirement imposed by another agency, then the agency making the payment or satisfying the judgment may seek partial or complete reimbursement from the appropriated funds of the other agency. For this purpose the head of the agency concerned may transfer or reprogram any appropriated funds available to the agency. If insufficient funds exist for the payment or to satisfy the judgment, it shall be the duty of the head of the agency to seek the appropriation of such funds for the next fiscal year.

SEC. 7. LIMITATION.

Notwithstanding any other provision of law, any obligation of the United States to make any payment under this Act shall be subject to the availability of appropriations.

SEC. 8. DUTY OF NOTICE TO OWNERS.

Whenever an agency takes an agency action limiting the use of private property, the agency shall give appropriate notice to the owners of that property directly affected explaining their rights under this Act and the procedures for obtaining any compensation that may be due to them under this Act.

SEC. 9. RULES OF CONSTRUCTION.

(a) EFFECT ON CONSTITUTIONAL RIGHT TO COMPENSATION.—Nothing in this Act shall be construed to limit any right to compensation that exists under the Constitution or under other laws of the United States.

(b) EFFECT OF PAYMENT.—Payment of compensation under this Act (other than when the property is bought by the Federal Government at the option of the owner) shall not confer any rights on the Federal Government other than the limitation on use resulting from the agency action.

SEC. 10. DEFINITIONS.

For the purposes of this Act—

(1) the term "property" means land and includes the right to use or receive water;

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

(3) the term "agency action" has the meaning given that term in section 551 of title 5, United States Code, but also includes the making of a grant to a public authority conditioned upon an action by the recipient

that would constitute a limitation if done directly by the agency;

(4) the term "agency" has the meaning given that term in section 551 of title 5, United States Code;

(5) the term "specified regulatory law" means—

(A) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(B) the Endangered Species Act of 1979 (16 U.S.C. 1531 et seq.);

(C) title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.); or

(D) with respect to an owner's right to use or receive water only—

(i) the Act of June 17, 1902, and all Acts amendatory thereof or supplementary thereto, popularly called the "Reclamation Acts" (43 U.S.C. 371 et seq.);

(ii) the Federal Land Policy Management Act (43 U.S.C. 1701 et seq.); or

(iii) section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604);

(6) the term "fair market value" means the most probable price at which property would change hands, in a competitive and open market under all conditions requisite to a fair sale, between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts, at the time the agency action occurs;

(7) the term "State" includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States; and

(8) the term "law of the State" includes the law of a political subdivision of a State.

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

The question being put, viva voce, Will the House pass said bill?

The SPEAKER pro tempore, Mr. HANSEN, announced that the yeas had it.

Mr. CANADY demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the affirmative { Yeas ..... 277 Nays ..... 148

¶37.12

[Roll No. 197]

YEAS—277

- Allard Bryant (TN) Cunningham
Archer Bunn Danner
Armey Bunning Davis
Bachus Burr de la Garza
Baesler Burton Deal
Baker (CA) Buyer DeLay
Baker (LA) Callahan Diaz-Balart
Baldacci Calvert Dickey
Ballenger Camp Dooley
Barcia Canady Doolittle
Barr Chabot Doyle
Barrett Chambliss Dreier
Bartlett Chapman Duncan
Barton Chapmen Dunn
Bass Christensen Durbin
Bateman Chrysler Edwards
Bentsen Clinger Ehrlich
Beruter Coble Emerson
Bevill Coburn English
Bilbray Collins (GA) Ensign
Billrakis Combust Everrett
Bishop Condit Ewing
Bliley Cooley Fawell
Boehner Costello Fazio
Bonilla Cox Fields (TX)
Bono Cramer Flanagan
Brewster Crane Foley
Browder Crapo Forbes
Brown (OH) Cremeans Fowler
Brownback Cubin Fox

- Franks (CT)
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gerens
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Graham
Green
Gundersen
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce
Quillen
Radanovich
Regula
Reynolds
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—148

- Abercrombie
Ackerman
Andrews
Barrett (WI)
Becerra
Beilenson
Berman
Blute
Boehlert
Bonior
Borski
Boucher
Brown (FL)
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Goss
Greenwood
Gutierrez
Hastings (FL)
Hinche
Hoyer
Jackson-Lee
Jefferson
Johnson (CT)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennedy
Kildee
Kleczka
Klink
Klug
LaFalce
Lazio
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martini
Matsui
McCarthy
McDermott
Meehan
Meek
Menendez
Mfume
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi