

chair; and after some time spent therein,

37.4 RECORDED VOTE

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

Amendment submitted by Mr. MINETA:

In section 3(a), strike "any portion" and all that follows through "10 percent" and insert "that property has been limited by an agency action, under a specified regulatory law, that diminishes the fair market value of that property by 20 percent".

Amendment in the nature of a substitute, as amended, submitted by Mr. CANADY:

Strike all after the enacting clause and insert the following:

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 10 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Act shall not thereafter be used contrary to the limitation imposed by the agency action, even if that action is later rescinded or otherwise vitiated. However, if that action is later rescinded or otherwise vitiated, and the owner elects to refund the amount of the compensation, adjusted for inflation, to the Treasury of the United States, the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. 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. 9. 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 XIII 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 "State" includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States; and

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

It was decided in the Yeas ..... 173
negative ..... Nays ..... 252

37.5 [Roll No. 194]
AYES—173

Table with 3 columns: Name, Name, Name. Lists names of members such as Abercrombie, Ackerman, Andrews, Baldacci, Barcia, Barrett (WI), Becerra, Beilenson, Bentsen, Berman, Bishop, Bontor, Borski, Boucher, Brown (CA), Brown (FL), Brown (OH), Cardin, Clay, Clayton, Clement, Clyburn, Coleman, Collins (IL), Collins (MI), Conyers, Costello, Coyne, Cramer, Davis, DeFazio, DeLauro, Dellums, Deutsch, Dicks, Dingell, Dixon, Doggett, Dooley, Doyle, Durbin, Ehlers, Engel, Eshoo, Evans, Farr, Fattah, Fazio, Fields (LA), Filner, Flake, Foglietta, Ford, Fox, Frank (MA), Frost, Gejdenson, Gephardt, Gibbons, Gilchrest, Greenwood, Gutierrez, Hall (OH), Hamilton, Hastings (FL), Hefner, Hilliard, Hinchey, Jackson-Lee, Jacobs, Jefferson, Johnson (CT), Johnson (SD), Johnson, E. B., Johnston, Kanjorski, Kaptur, Kelly, Kennedy (MA), Kennedy (RI), Kennelly, Kildee, Kleczka, Klink, LaFalce, Lantos, Levin, Lewis (GA), Lincoln, Lipinski, Lofgren, Lowey, Luther, Maloney, Manton, Markey, Martinez, Mascara, Matsui, McCarthy, McDermott, McHale, McKinney, Meehan, Meek, Menendez, Meyers, Mfume, Miller (CA), Mineta, Minge, Mink, Mollohan, Moran, Morella, Murtha, Nadler, Neal, Oberstar, Obey, Olver, Owens, Pallone, Pastor, Payne (NJ), Pelosi, Peterson (FL), Pomeroy, Poshard, Rahall, Reed, Richardson, Rivers, Roemer, Rose, Roybal-Allard, Rush, Sabo, Sanders, Sawyer, Schiff, Schroeder, Schumer, Scott, Serrano, Skaggs, Slaughter, Spratt, Stark, Stokes, Studds, Stupak, Thompson.

Thornton  
Torres  
Torrice  
Torrice  
Towns  
Traficant  
Tucker  
Velazquez

Vento  
Visclosky  
Ward  
Waters  
Watt (NC)  
Waxman  
Williams

Wise  
Wooley  
Wyden  
Wynn  
Yates  
Zimmer

NOES—252

Allard  
Archer  
Arme  
Bachus  
Baesler  
Baker (CA)  
Baker (LA)  
Ballenger  
Barr  
Barrett (NE)  
Bartlett  
Barton  
Bass  
Bateman  
Bereuter  
Bevill  
Bilbray  
Bilirakis  
Biley  
Blute  
Boehlert  
Boehner  
Bonilla  
Bono  
Brewster  
Browder  
Brownback  
Bryant (TN)  
Bunn  
Bunning  
Burr  
Burton  
Buyer  
Callahan  
Calvert  
Camp  
Canady  
Castle  
Chabot  
Chambliss  
Chapman  
Chenoweth  
Christensen  
Chrysler  
Clinger  
Coble  
Coburn  
Collins (GA)  
Combest  
Condit  
Cooley  
Cox  
Crane  
Crapo  
Cremean  
Cubin  
Cunningham  
Danner  
de la Garza  
Deal  
DeLay  
Diaz-Balart  
Dickey  
Doolittle  
Dornan  
Dreier  
Duncan  
Dunn  
Edwards  
Ehrlich  
Emerson  
English  
Ensign  
Everett  
Ewing  
Fawell  
Fields (TX)  
Flanagan  
Foley  
Forbes  
Fowler  
Franks (CT)  
Franks (NJ)  
Frelinghuysen

Frisa  
Funderburk  
Furse  
Gallegly  
Ganske  
Gekas  
Geren  
Gillmor  
Gilman  
Goodlatte  
Goodling  
Gordon  
Goss  
Green  
Gunderson  
Gutknecht  
Hall (TX)  
Hancock  
Hansen  
Harman  
Hastert  
Hastings (WA)  
Hayes  
Hayworth  
Hefley  
Heineman  
Herger  
Hilleary  
Hobson  
Hoekstra  
Hoke  
Holden  
Horn  
Hostettler  
Houghton  
Hunter  
Hutchinson  
Hyde  
Inglis  
Istook  
Johnson, Sam  
Kasich  
Kim  
King  
Kingston  
Klug  
Knollenberg  
Kolbe  
LaHood  
Largent  
Latham  
LaTourette  
Laughlin  
Lazio  
Leach  
Lewis (CA)  
Lewis (KY)  
Lightfoot  
Linder  
Livingston  
LoBiondo  
Longley  
Lucas  
Manzullo  
Martini  
McCollum  
McCrery  
McDade  
McHugh  
McInnis  
McIntosh  
McKeon  
McNulty  
Metcalf  
Mica  
Miller (FL)  
Molinari  
Montgomery  
Moorhead  
Myers  
Myrick  
Nethercutt  
Neumann  
Ney

Norwood  
Nussle  
Ortiz  
Orton  
Oxley  
Packard  
Parker  
Paxon  
Payne (VA)  
Peterson (MN)  
Petri  
Pickett  
Pombo  
Porter  
Portman  
Pryce  
Quillen  
Quinn  
Radanovich  
Ramstad  
Regula  
Riggs  
Rogers  
Rohrabacher  
Ros-Lehtinen  
Roth  
Roukema  
Royce  
Salmon  
Sanford  
Saxton  
Scarborough  
Schaefer  
Seastrand  
Sensenbrenner  
Shadegg  
Shaw  
Shays  
Shuster  
Sisisky  
Skeen  
Skelton  
Smith (MI)  
Smith (NJ)  
Smith (TX)  
Solomon  
Souder  
Spence  
Stearns  
Stenholm  
Stockman  
Stump  
Talent  
Tanner  
Tate  
Tauzin  
Taylor (MS)  
Taylor (NC)  
Tejeda  
Thomas  
Thornberry  
Thurman  
Tiahrt  
Torkildsen  
Upton  
Volkmer  
Vucanovich  
Waldholtz  
Walker  
Walsh  
Collins (GA)  
Condit  
Costello  
Cox  
Cramer  
Crane  
Cremean  
Cunningham  
Danner  
Davis  
de la Garza  
Deal  
DeFazio  
DeLauro  
DeLay  
Deutsch  
Diaz-Balart  
Dickey  
Dicks  
Doggett

NOT VOTING—9

Bryant (TX)  
Gonzalez  
Graham

Hoyer  
Jones  
Moakley

Rangel  
Reynolds  
Roberts

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

After some further time,

37.6 RECORDED VOTE

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

In section 3(a), strike "10" and insert "20".  
It was decided in the affirmative { Yeas ..... 338  
Nays ..... 83

37.7 [Roll No. 195] AYES—338

Abercrombie  
Ackerman  
Allard  
Andrews  
Archer  
Arme  
Bachus  
Baesler  
Baker (LA)  
Baldacci  
Ballenger  
Barcia  
Barr  
Barrett (NE)  
Barrett (WI)  
Bartlett  
Bass  
Bateman  
Bentsen  
Bereuter  
Bilbray  
Bilirakis  
Bishop  
Bliley  
Blute  
Boehlert  
Boehner  
Bono  
Boucher  
Brewster  
Browder  
Brown (FL)  
Brown (OH)  
Brownback  
Bryant (TN)  
Bunn  
Bunning  
Burton  
Buyer  
Callahan  
Calvert  
Camp  
Canady  
Castle  
Chabot  
Chambliss  
Chapman  
Christensen  
Chrysler  
Clinger  
Coble  
Coburn  
Collins (NJ)  
Crapo  
Cubin  
Cunningham  
Danner  
de la Garza  
Deal  
DeFazio  
DeLauro  
DeLay  
Deutsch  
Diaz-Balart  
Dickey  
Dicks  
Doggett

Dooley  
Doolittle  
Doyle  
Dreier  
Duncan  
Dunn  
Durbin  
Edwards  
Ehrlich  
Engel  
English  
Ensign  
Eshoo  
Evans  
Everett  
Ewing  
Farr  
Fawell  
Fazio  
Fields (LA)  
Flanagan  
Foley  
Forbes  
Ford  
Fowler  
Fox  
Franks (CT)  
Franks (NJ)  
Frisa  
Frost  
Funderburk  
Gallegly  
Ganske  
Gejdenson  
Gekas  
Gephardt  
Geren  
Gibbons  
Gillmor  
Girman  
Goodlatte  
Goodling  
Gordon  
Goss  
Graham  
Green  
Greenwood  
Gunderson  
Gutierrez  
Gutknecht  
Hall (OH)  
Hamilton  
Hancock  
Hansen  
Harman  
Hastert  
Hastings (WA)  
Hayes  
Hayworth  
Hefley  
Hefner  
Heineman  
Hilleary  
Hilliard  
Hobson  
Hoekstra  
Hoke  
Holden  
Horn  
Houghton  
Hoyer  
Hutchinson  
Hyde  
Inglis  
Istook  
Jackson-Lee

Jacobs  
Jefferson  
Johnson (CT)  
Johnson (SD)  
Johnson, E.B.  
Johnson, Sam  
Johnston  
Jones  
Kanjorski  
Kaptur  
Kasich  
Kelly  
Kennedy (MA)  
Kennedy (RI)  
Kennelly  
Kildee  
Kim  
King  
Kingston  
Kleczka  
Klink  
Klug  
Knollenberg  
Kolbe  
LaFalce  
LaHood  
Lantos  
Latham  
LaTourette  
Laughlin  
Lazio  
Leach  
Levin  
Lewis (CA)  
Lewis (KY)  
Lightfoot  
Lincoln  
Linder  
Lipinski  
Livingston  
Longley  
Lowey  
Lucas  
Luther  
Maloney  
Manton  
Manzullo  
Martinez  
Martini  
Mascara  
Matsui  
McCarthy  
McCollum  
McCrery  
McDade  
McHale  
McHugh  
McInnis  
McIntosh  
McKeon  
McNulty  
Menendez  
Metcalf  
Meyers  
Mica  
Miller (CA)  
Miller (FL)  
Minge  
Mink  
Molinari  
Mollohan  
Montgomery  
Moorhead  
Moran  
Murtha  
Myers

Myrick  
Nethercutt  
Ney  
Norwood  
Nussle  
Obey  
Olver  
Ortiz  
Orton  
Oxley  
Packard  
Pallone  
Paxon  
Payne (VA)  
Pelosi  
Peterson (FL)  
Peterson (MN)  
Petri  
Pickett  
Pombo  
Pomeroy  
Portman  
Poshard  
Pryce  
Quillen  
Quinn  
Rahall  
Ramstad  
Reed  
Regula  
Riggs  
Roberts  
Roemer  
Rogers  
Rohrabacher  
Ros-Lehtinen  
Rose

Roth  
Roukema  
Royce  
Salmon  
Sanders  
Sanford  
Sawyer  
Saxton  
Scarborough  
Schiff  
Schroeder  
Schumer  
Scott  
Seastrand  
Sensenbrenner  
Shadegg  
Shaw  
Shays  
Shuster  
Sisisky  
Skaggs  
Skeen  
Skelton  
Slaughter  
Smith (MI)  
Smith (NJ)  
Smith (WA)  
Solomon  
Spence  
Spratt  
Stearns  
Stenholm  
Stump  
Stupak  
Talent  
Tanner  
Tate

Tauzin  
Taylor (MS)  
Taylor (NC)  
Tejeda  
Thomas  
Thornberry  
Thurman  
Tiahrt  
Torkildsen  
Torres  
Traficant  
Upton  
Volkmer  
Vucanovich  
Waldholtz  
Walker  
Walsh  
Wamp  
Ward  
Watts (OK)  
Weldon (FL)  
Weldon (PA)  
Weller  
White  
Whitfield  
Wicker  
Wilson  
Wise  
Wolf  
Wooley  
Wyden  
Wynn  
Young (AK)  
Young (FL)  
Zeliff  
Zimmer

NOES—83

Baker (CA)  
Barton  
Becerra  
Beilenson  
Bevill  
Bonilla  
Bonior  
Borski  
Cardin  
Chenoweth  
Clyburn  
Collins (IL)  
Collins (MI)  
Combest  
Conyers  
Cooley  
Coyne  
Crapo  
Cubin  
Dellums  
Dingell  
Dixon  
Ehlers  
Fattah  
Fields (TX)  
Filner  
Flake  
Foglietta

Frank (MA)  
Frelinghuysen  
Furse  
Gilchrest  
Hall (TX)  
Hastings (FL)  
Herger  
Hinchey  
Hostettler  
Hunter  
Lewis (GA)  
LoBiondo  
Lofgren  
Markey  
McDermott  
McKinney  
Meehan  
Meek  
Mineta  
Morella  
Nadler  
Neal  
Neumann  
Oberstar  
Owens  
Parker  
Pastor  
Payne (NJ)

Porter  
Reynolds  
Richardson  
Rivers  
Roybal-Allard  
Rush  
Sabo  
Schaefer  
Serrano  
Smith (TX)  
Souder  
Stark  
Stockman  
Studds  
Thompson  
Thornberry  
Torrice  
Towns  
Tucker  
Velazquez  
Vento  
Visclosky  
Waters  
Watt (NC)  
Waxman  
Williams  
Yates

NOT VOTING—13

Berman  
Brown (CA)  
Bryant (TX)  
Clay  
Dornan

Emerson  
Gonzalez  
Largent  
Mfume  
Moakley

Radanovich  
Rangel  
Stokes

So the amendment to the amendment in the nature of a substitute, as amended, was agreed to.

After some further time,

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

When Mr. SHUSTER, Chairman, reported that the Committee, having had under consideration said bill, had come to no resolution thereon.

37.8 ORDER OF BUSINESS—DEBATE ON H.R. 925

On motion of Mr. CANADY, by unanimous consent,

Ordered, That the time for consideration under the 5-minute rule on the bill (H.R. 925) to compensate owners of private property for the effect of certain regulatory restrictions, as pro-