

PROVIDING FOR THE CONSIDERATION OF H.R. 2372, THE
PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF
2000

MARCH 15, 2000.—Referred to the House Calendar and ordered to be printed

Ms. PRYCE of Ohio, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. 441]

The Committee on Rules, having had under consideration House Resolution 441, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of H.R. 2372, the Private Property Rules Implementation Act of 2000, under a structured rule. The rule provides one hour of general debate divided equally between the chairman and ranking minority member of the Committee on the Judiciary.

The rule makes in order the Committee on the Judiciary amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment. The rule also makes in order only those amendments printed in this report. Those amendments may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

The rule waives all points of order against the amendments printed in this report. The Chairman of the Committee of the Whole may postpone votes during consideration of the bill, and reduce voting time to five minutes on a postponed question if the vote follows a fifteen minute vote. Finally, the rule provides one motion to recommit with or without instructions.

AMENDMENTS MADE IN ORDER UNDER THE RULE

Watt/Conyers: Amends 28 U.S.C. § 1343 and other U.S. Code provisions to ensure uniformity in the litigation of constitutional claims, including those claims involving the uses of property. (20 minutes)

Traficant: Perfecting amendment to Section 5 of the bill to clarify that the government has 14 days to notify landowners of their rights. (10 minutes)

Boehlert: Amendment in the Nature of a Substitute. Eliminates Section 2 of the bill and retains the heart of Sections 3 and 4 of the bill, which attempts to expedite takings cases in which federal (as opposed to local) actions are at issue. (60 minutes)

Text of amendments made in order under the rule:

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WATT OF NORTH CAROLINA, OR REPRESENTATIVE CONYERS OF MICHIGAN, OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

Page 3, beginning on line 8, strike “in an action in which the operative facts concern the uses of real property”.

Page 3, beginning on line 16, strike “in which the operative facts concern the uses of real property and”.

Page 4, line 4, strike “property”.

Page 4, beginning on line 16, strike “, regarding the extent of permissible uses on the property that has been allegedly infringed or taken”.

Page 4, line 20, strike “to use the property”.

Page 5, line 4, strike “to use the property”.

Page 5, beginning on line 6, strike “use, density, or intensity or development of the property that would be approved, with any conditions therefor,” and insert instead “reasons for such disapproval”.

Page 6, line 19, strike “the”.

Page 6, line 20, strike “of takings of property”.

Page 7, beginning on line 1, strike “that” and all that follows through “States,” on line 4.

Page 7, beginning on line 10, strike “, regarding the extent of permissible uses on the property that has been allegedly infringed or taken”.

Page 7, line 14, strike “to use the property”.

Page 7, line 16, strike “or waiver”.

Page 8, line 4, strike “the”.

Page 8, line 5, strike “of takings of property”.

Page 8, beginning on line 10, strike “founded” and all that follows through “States,” on page 8, line 12.

Page 8, beginning on line 18, strike “, regarding the extent of permissible uses on the property that has been allegedly infringed or taken”.

Page 8, line 22, strike “to use the property”.

Page 8, line 24, strike “or waiver”.

Page 9, line 15, strike “limiting the use of private property”.

Page 9, line 17, strike “owners of that property” and insert instead “party affected by such action”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TRAFICANT OF OHIO, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 5, after “the agency shall” insert “, not later than 14 days after the agency takes that action,”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BOEHLERT OF NEW YORK, OR A DESIGNEE, DEBATABLE FOR 60 MINUTES

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Private Property Rights Implementation Act of 2000”.

SEC. 2. UNITED STATES AS DEFENDANT.

Section 1346 of title 28, United States Code, is amended by adding at the end the following:

“(h)(1) Any claim brought under subsection (a) that is founded upon a property right or privilege secured by the Constitution, but was allegedly infringed or taken by the United States, shall be ripe for adjudication upon a final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress.

“(2) For purposes of this subsection, a final decision exists if—

“(A) the United States makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken; and

“(B) one meaningful application, as defined by the relevant department or agency, to use the property has been submitted but denied, and the party seeking redress has applied for but is denied one appeal or waiver, where the applicable law of the United States provides a mechanism for appeal to or waiver by an administrative agency.

The party seeking redress shall not be required to apply for an appeal or waiver described in subparagraph (B) if no such appeal or waiver is available or if such an appeal or waiver would be futile.”.

SEC. 3. JURISDICTION OF COURT OF FEDERAL CLAIMS.

Section 1491(a) of title 28, United States Code, is amended by adding at the end the following:

“(3) Any claim brought under this subsection founded upon a property right or privilege secured by the Constitution, but allegedly infringed or taken by the United States, shall be ripe for adjudication upon a final decision rendered by the United States, that causes actual and concrete injury to the party seeking redress. For purposes of this paragraph, a final decision exists if—

“(A) the United States makes a definitive decision regarding the extent of permissible uses on the property that has been allegedly infringed or taken; and

“(B) one meaningful application, as defined by the relevant department or agency, to use the property has been submitted but denied, and the party seeking redress has applied for but is denied one appeal or waiver, where the applicable law of the United States provides a mechanism for appeal or waiver.

The party seeking redress shall not be required to apply for an appeal or waiver described in subparagraph (B) if no such appeal or waiver is available or if such an appeal or waiver would be futile.”.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to actions commenced on or after the 120th day after the date of the enactment of this Act.

