

Union Calendar No. 28

105TH CONGRESS  
1ST Session

**H. R. 752**

[Report No. 105-42]

**A BILL**

To amend the Endangered Species Act of 1973 to ensure that persons that suffer or are threatened with injury resulting from a violation of the Act or a failure of the Secretary to act in accordance with the Act have standing to commence a civil suit on their own behalf.

MARCH 21, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 1997

Mrs. CHENOWETH (for herself, Mr. YOUNG of Alaska, Mr. SMITH of Oregon, Mr. POMBO, Mr. DOOLITTLE, Mr. RADANOVICH, Mr. CRAPO, Mr. BARTLETT of Maryland, Mr. TAUZIN, Mr. RIGGS, Mr. BONO, Mr. CUNNINGHAM, Mr. HANSEN, Mr. SAM JOHNSON of Texas, Mr. ROHRABACHER, Mr. KOLBE, Mr. STUMP, Mr. SMITH of Texas, Mr. THORNBERRY, Mr. MCINTOSH, Mr. GIBBONS, Mr. HERGER, Mr. BARTON of Texas, Mr. BUNNING, Mr. HOSTETTLER, Mr. SNOWBARGER, Mr. DICKEY, Mr. BURTON of Indiana, Mr. CANNON, Mr. ISTOOK, Mr. ADERHOLT, Mr. COMBEST, Mr. NEUMANN, Mr. HILL, Mr. SOLOMON, Mr. METCALF, Mrs. CUBIN, Mr. CRANE, Mr. BARR of Georgia, Mr. COOKSEY, Mr. NEY, Mr. DELAY, Mr. HUNTER, Mr. PETERSON of Pennsylvania, Mr. BONILLA, and Mr. McKEON) introduced the following bill; which was referred to the Committee on Resources

MARCH 21, 1997

Additional sponsors: Mr. CALVERT, Mr. LUCAS of Oklahoma, Mr. SHADEGG, Mr. HASTINGS of Washington, and Mr. SKEEN

MARCH 21, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

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## A BILL

To amend the Endangered Species Act of 1973 to ensure that persons that suffer or are threatened with injury resulting from a violation of the Act or a failure of the Secretary to act in accordance with the Act have standing to commence a civil suit on their own behalf.

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 “Citizen’s Fair Hearing  
 5       Act of 1996”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds the following:

8               (1) The Endangered Species Act of 1973 grants  
 9       broad regulatory authority to various agencies to  
 10      take actions to protect, preserve, and recover species  
 11      of plants and animals determined to be in danger of  
 12      extinction or threatened with becoming so within the  
 13      foreseeable future.

14              (2) Recently, private property owners and other  
 15      persons that have been adversely impacted by Fed-  
 16      eral agency actions under the Endangered Species  
 17      Act of 1973 have sought to bring civil actions for ju-

7 SEC. 3. GIVING PERSONS WITH AFFECTED ECONOMIC IN-  
8 TERESTS EQUAL STANDING TO SUE UNDER  
9 THE ENDANGERED SPECIES ACT OF 1973.

Section 11(g)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1540(g)(1)) is amended by striking so much as precedes subparagraph (A) and inserting the following:

14       “(g) CITIZEN SUITS.—(1) Except as provided in  
15 paragraph (2), any person that satisfies the requirements  
16 of the Constitution and demonstrates having suffered or  
17 being threatened with economic or other injury resulting  
18 from a violation of the Act or a failure of the Secretary  
19 to act in accordance with the Act is deemed to be within  
20 the zone of protected interests of this Act and shall have  
21 standing to commence a civil suit on his or her own be-  
22 half—”.

23 **SECTION 1. SHORT TITLE.**

24        *This Act may be cited as the “Citizen’s Fair Hearing*  
25 *Act of 1997”.*

1 **SEC. 2. FINDINGS.**

2 *The Congress finds the following:*

3 *(1) The Endangered Species Act of 1973 grants*  
 4 *broad regulatory authority to various agencies to take*  
 5 *actions to protect, preserve, and recover species of*  
 6 *plants and animals determined to be in danger of ex-*  
 7 *inction or threatened with becoming so within the*  
 8 *foreseeable future.*

9 *(2) Recently, private property owners and other*  
 10 *persons that have been adversely impacted by Federal*  
 11 *agency actions under the Endangered Species Act of*  
 12 *1973 have sought to bring civil actions for judicial re-*  
 13 *view of those agency actions. The United States Cir-*  
 14 *cuit Court of Appeals for the 9th Circuit has found*  
 15 *that plaintiffs in those actions do not have standing*  
 16 *to bring the suits, because they do not fall into the*  
 17 *zone of interests protected by the Endangered Species*  
 18 *Act of 1973.*

19 **SEC. 3. GIVING PERSONS WITH AFFECTED ECONOMIC IN-**  
 20 **TERESTS EQUAL STANDING TO SUE UNDER**  
 21 **THE ENDANGERED SPECIES ACT OF 1973.**

22 *Section 11(g)(1) of the Endangered Species Act of 1973*  
 23 *(16 U.S.C. 1540(g)(1)) is amended by striking so much as*  
 24 *precedes subparagraph (A) and inserting the following:*

25 *“(g) CITIZEN SUITS.—(1) Except as provided in para-*  
 26 *graph (2), any person that satisfies the requirements of the*

1 *Constitution and demonstrates having suffered or being*  
2 *threatened with economic or other injury resulting from a*  
3 *violation of this Act or a failure of the Secretary to act*  
4 *in accordance with this Act is deemed to be within the zone*  
5 *of protected interests of this Act and shall have standing*  
6 *to commence a civil suit on his or her own behalf—”.*