

105TH CONGRESS
1ST SESSION

H. R. 95

To ensure that Federal agencies establish the appropriate procedures for assessing whether or not Federal regulations might result in the taking of private property, and to direct the Secretary of Agriculture to report to the Congress with respect to such takings under programs of the Department of Agriculture.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. SOLOMON introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Agriculture, 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 ensure that Federal agencies establish the appropriate procedures for assessing whether or not Federal regulations might result in the taking of private property, and to direct the Secretary of Agriculture to report to the Congress with respect to such takings under programs of the Department of Agriculture.

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 Protection Act of 1997”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds that there are certain Federal
6 laws, regulations, and actions, which adversely affect the
7 value of private property.

8 **SEC. 3. PURPOSE.**

9 The purpose of this Act is to reduce the risk of undue
10 or inadvertent burdens on the public resulting from cer-
11 tain lawful Federal Government actions.

12 **SEC. 4. DEFINITIONS.**

13 In this Act—

14 (1) the term “private property” includes all
15 property protected by the fifth amendment to the
16 Constitution, including real and personal property
17 and tangible and intangible property;

18 (2) the term “taking of private property”
19 means an activity wherein private property is taken
20 such that compensation to the owner of that prop-
21 erty is required by the fifth amendment to the Con-
22 stitution; and

23 (3) the term “agency” means a Federal agency
24 in the executive branch which engages in activity
25 with the potential for taking private property, in-
26 cluding any department, government corporation,

1 government-controlled corporation, or other estab-
2 lishment in the executive branch of the United
3 States Government.

4 **SEC. 5. PROTECTION OF PRIVATE PROPERTY.**

5 No regulation issued by an agency after the date of
6 enactment of this section shall become effective until the
7 issuing agency is certified by the Attorney General to be
8 in compliance with Executive Order 12630 or similar pro-
9 cedures to assess the potential for the taking of private
10 property in the course of Federal regulatory activity, with
11 the goal of minimizing such takings where possible. The
12 Attorney General shall make a certification under this
13 paragraph no later than 90 days after the date of the issu-
14 ance of the regulation.

15 **SEC. 6. JUDICIAL REVIEW.**

16 (a) JURISDICTION.—Judicial review of an action
17 taken pursuant to this Act shall be limited to the question
18 of whether the Attorney General has certified the issuing
19 agency under section 5 as being in compliance with Execu-
20 tive Order 12630 or similar procedures.

21 (b) STANDING.—Only persons adversely affected by
22 an agency action taken pursuant to this Act shall have
23 standing to challenge and seek judicial review of that ac-
24 tion.

1 (c) SAVINGS.—Except as specifically provided in this
 2 section, nothing in this section shall be construed to
 3 limit—

4 (1) the right of a person to file a claim under
 5 any other Federal law; or

6 (2) the scope of judicial review of an agency ac-
 7 tion.

8 **SEC. 7. STUDY AND REPORT ON TAKINGS, FARM ECONOMY,**
 9 **AND AGRICULTURAL PRODUCTION.**

10 (a) STUDY.—Before the end of the 90-day period be-
 11 ginning on the date of the enactment of this Act, the Sec-
 12 retary of Agriculture shall conduct a study to determine
 13 the effect that this Act will have on the farm economy
 14 and agricultural production of the United States.

15 (b) REPORT.—Before the end of the 90-day period
 16 beginning on the date of the enactment of this Act, the
 17 Secretary of Agriculture shall submit to the Committee on
 18 Agriculture of the House of Representatives and the Com-
 19 mittee on Agriculture, Nutrition, and Forestry of the Sen-
 20 ate a report on the findings and conclusions of the study
 21 under subsection (a), which shall include—

22 (1) a discussion of—

23 (A) administrative procedures followed by
 24 the Department of Agriculture to minimize the

1 taking of private property in regulatory activi-
2 ties of that department; and

3 (B) measures undertaken by that depart-
4 ment to implement Executive Order 12630; and

5 (2) recommendations for any further legislative
6 or administrative actions that are appropriate for
7 limiting the effect that this Act will have on the
8 farm economy and agricultural production of the
9 United States.

○