

106TH CONGRESS  
1ST SESSION

# H. R. 2131

To amend the Endangered Species Act of 1973 to prohibit the imposition under that Act of any requirement to mitigate for the impacts of activities that occurred in the past.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 1999

Mr. CALVERT introduced the following bill; which was referred to the  
Committee on Resources

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## A BILL

To amend the Endangered Species Act of 1973 to prohibit the imposition under that Act of any requirement to mitigate for the impacts of activities that occurred in the past.

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 “Stop Taking Our Prop-  
5       erty Act of 1999”.

1 **SEC. 2. LIMITATION ON IMPOSITION OF MITIGATION RE-**  
2 **QUIREMENTS FOR IMPACTS OF ACTIVITIES**  
3 **THAT OCCURRED IN THE PAST.**

4 (a) MITIGATION REQUIRED FOR FEDERAL AGENCY  
5 ACTIONS.—Section 7 of the Endangered Species Act of  
6 1973 (16 U.S.C. 1536) is amended by adding at the end  
7 the following:

8 “(q) LIMITATION ON REQUIRED MITIGATION.—

9 “(1) MITIGATION PURSUANT TO OPINION OF  
10 SECRETARY.—This section does not require mitiga-  
11 tion for a covered agency action, and the Secretary  
12 may not specify any measure under clause (ii) or  
13 (iii) of subsection (b)(4)(C) and may not require  
14 compliance with any term or condition under para-  
15 graph subsection (b)(4)(C)(iv) for a covered agency  
16 action, to mitigate impacts of any activity that oc-  
17 curred before the date of the covered agency action.

18 “(2) MITIGATION PURSUANT TO COMMITTEE  
19 EXEMPTION.—The Committee may not establish any  
20 mitigation and enhancement measures under sub-  
21 section (h)(1)(B) for any covered agency action to  
22 mitigate impacts of any activity that occurred before  
23 the date of the covered agency action.

24 “(3) COVERED AGENCY ACTION DEFINED.—In  
25 this subsection the term ‘covered agency action’  
26 means—

1           “(A) any construction activity funded (in  
2           whole or in part) or carried out by a Federal  
3           agency; and

4           “(B) the issuance by any Federal agency  
5           of a license or permit that would authorize any  
6           construction activity that is carried out or fund-  
7           ed (in whole or in part) by a State or local gov-  
8           ernment agency.”.

9           (b) MITIGATION REQUIRED FOR INCIDENTAL TAKE  
10          PERMITS.—Section 10 of the Endangered Species Act of  
11          1973 (16 U.S.C. 1539) is amended by adding at the end  
12          the following:

13          “(k) LIMITATION ON REQUIRED MITIGATION.—

14                 “(1) IN GENERAL.—Subsection (a)(2) does not  
15                 require, and the Secretary may not require as a  
16                 term or condition of a permit under subsection  
17                 (a)(1)(B), that a permittee for a public project take  
18                 any measures to mitigate impacts of any taking or  
19                 other activity that occurred before the date of the  
20                 issuance of the permit.

21                 “(2) PUBLIC PROJECT DEFINED.—In this sub-  
22                 section the term ‘public project’ means any construc-  
23                 tion activity funded (in whole or in part) or carried  
24                 out by a Federal, State, or local agency.”.

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