

109TH CONGRESS
1ST SESSION

H. R. 4581

To amend the National Trails System Act relating to the statute of limitations that applies to certain claims.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2005

Mr. AKIN (for himself, Mr. CARNAHAN, and Mrs. EMERSON) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on the Judiciary, 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 amend the National Trails System Act relating to the statute of limitations that applies to certain claims.

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 “Easement Owners Fair
5 Compensation Claims Act of 2005”.

1 **SEC. 2. CLAIMS AGAINST UNITED STATES FOR INTERIM**
2 **USE OF RIGHTS-OF-WAY.**

3 (a) AMENDMENT TO NATIONAL TRAILS SYSTEM
4 ACT.—Section 8(d) of the National Trails System Act (16
5 U.S.C. 1247(d)) is amended—

6 (1) by striking “The Secretary of Transpor-
7 tation” and inserting “(1) The Secretary of Trans-
8 portation”; and

9 (2) by adding at the end the following:

10 “(2) In any action brought against the United States,
11 by the owner of property that is subject to a railroad right-
12 of-way and to interim use described in paragraph (1), for
13 damages sustained by reason of paragraph (1), the claim
14 for damages shall not be deemed to first accrue for pur-
15 poses of the limitations period prescribed by section 2501
16 of title 28, United States Code, before the date on which—

17 “(A) the State, political subdivision, or qualified
18 private organization has, by written agreement, as-
19 sumed full responsibility for such right-of-way and
20 interim use under paragraph (1); and

21 “(B) the railroad has in writing conveyed an in-
22 terest in such right of way to such State, political
23 subdivision, or qualified private organization, by do-
24 nation, transfer, lease, sale, or otherwise.”.

25 (b) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 subsection (a) shall take effect on the date of the en-
3 actment of this Act and shall apply to any civil ac-
4 tion pending on, or commenced on or after, such
5 date of enactment.

6 (2) PRIOR ORDERS VACATED UPON REQUEST.—
7 Any order that—

8 (A) was entered, before the date of the en-
9 actment of this Act, by a court in a case pend-
10 ing on such date of enactment, and

11 (B) is inconsistent with the amendments
12 made by subsection (a),

13 shall be vacated by the court if, not later than 1
14 year after such date of enactment, a party to the
15 case or the party's successor in interest files with
16 the court a request for such relief.

17 (c) REVIEW BY COURT OF FEDERAL CLAIMS.—

18 (1) REVIEW OF CERTAIN CLAIMS.—Notwith-
19 standing any other provision of law, the United
20 States Court of Federal Claims shall review on the
21 merits, without regard to the defense of res judicata
22 or collateral estoppel, any claim that—

23 (A) was brought against the United States,
24 by the owner of property that is subject to a
25 railroad right-of-way and to interim use de-

1 scribed in paragraph (1) of section 8(d) of the
2 National Trails System Act, for damages sus-
3 tained by reason of such section 8(d),

4 (B) was dismissed, before the enactment of
5 this Act, for not being brought within the time
6 period provided under section 2501 of title 28,
7 United States Code, and

8 (C) would have been considered to have
9 been brought in a timely manner if the amend-
10 ments made by subsection (a) had been in ef-
11 fect when the claim was brought,

12 if the claimant applies to the court for such review
13 not later than 60 days after the date of the enact-
14 ment of this Act.

15 (2) ACTION BY THE COURT.—In reviewing a
16 claim under paragraph (1), the Court of Federal
17 Claims shall receive and consider any additional evi-
18 dence, including oral testimony, that any party may
19 wish to provide on the issue of a taking of property
20 without due process of law, and shall determine the
21 issues de novo.

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