

103^D CONGRESS
2^D SESSION

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To require Federal agencies to prepare private property taking impact analyses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 25 (legislative day, FEBRUARY 22), 1994

Mr. DOLE (for himself, Mr. HEFLIN, Mr. CRAIG, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To require Federal agencies to prepare private property taking impact analyses, and for other purposes.

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 “Private Property
5 Rights Act of 1994”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) the protection of private property from a
9 taking by the Government without just compensation
10 is an integral protection for private citizens incor-

1 porated into the Constitution by the Fifth Amend-
2 ment and made applicable to the States by the
3 Fourteenth Amendment; and

4 (2) Federal agencies should take into consider-
5 ation the impact of Governmental actions on the use
6 and ownership of private property.

7 **SEC. 3. PURPOSE.**

8 The Congress, recognizing the important role that the
9 use and ownership of private property plays in ensuring
10 the economic and social well-being of the Nation, declares
11 that it is the policy of the Federal Government to use all
12 practicable means and measures to minimize takings of
13 private property by the Federal Government.

14 **SEC. 4. DEFINITIONS.**

15 For purposes of this Act—

16 (1) the term “agency” means an Executive
17 agency as defined under section 105 of title 5,
18 United States Code, and—

19 (A) includes the United States Postal
20 Service; and

21 (B) does not include the General Account-
22 ing Office; and

23 (2) the term “taking of private property”
24 means any action whereby private property is taken

1 in such a way as to require compensation under the
2 Fifth Amendment to the United States Constitution.

3 **SEC. 5. PRIVATE PROPERTY TAKING IMPACT ANALYSIS.**

4 (a) IN GENERAL.—The Congress authorizes and di-
5 rects that, to the fullest extent possible—

6 (1) the policies, regulations, and public laws of
7 the United States shall be interpreted and adminis-
8 tered in accordance with the policies under this Act;
9 and

10 (2) all agencies of the Federal Government
11 shall submit a certification to the Attorney General
12 of the United States that a private property taking
13 impact analysis has been completed before issuing or
14 promulgating any policy, regulation, proposal, rec-
15 ommendation (including any recommendation or re-
16 port on proposal for legislation), or related agency
17 action which could result in a taking or diminution
18 of use or value of private property.

19 (b) CONTENT OF ANALYSIS.—A private property tak-
20 ing impact analysis shall be a written statement that in-
21 cludes—

22 (1) the specific purpose of the policy, regula-
23 tion, proposal, recommendation, or related agency
24 action;

1 (2) an assessment of whether a taking of pri-
2 vate property may occur under such policy, regula-
3 tion, proposal, recommendation, or related agency
4 action;

5 (3) the effect of the policy, regulation, proposal,
6 recommendation, or related agency action on the use
7 or value of private property, including an evaluation
8 of whether such policy, regulation, proposal, rec-
9 ommendation, or related agency action requires com-
10 pensation to private property owners;

11 (4) alternatives to the policy, regulation, pro-
12 posal, recommendation, or related agency action that
13 would lessen the adverse effects on the use or value
14 of private property;

15 (5) an estimate of the cost to the Federal Gov-
16 ernment if the Government is required to com-
17 pensate a private property owner; and

18 (6) an estimate of the reduction in use or value
19 of any affected private property as a result of such
20 policy, regulation, proposal, recommendation, or re-
21 lated agency action.

22 (c) PUBLIC AVAILABILITY OF ANALYSIS.—An agency
23 shall—

24 (1) make each private property taking impact
25 analysis available to the public; and

1 (2) to the greatest extent practicable, transmit
2 a copy of such analysis to the owner or any other
3 person with a property right or interest in the af-
4 fected property.

5 (d) PRESUMPTIONS IN PROCEEDINGS.—For the pur-
6 pose of any agency action or administrative or judicial pro-
7 ceeding, there shall be a rebuttable presumption that the
8 costs, values, and estimates in any private property
9 takings impact analysis shall be outdated and inaccurate,
10 if—

11 (1) such analysis was completed 5 years or
12 more before the date of such action or proceeding;
13 and

14 (2) such costs, values, or estimates have not
15 been modified within the 5-year period preceding the
16 date of such action or proceeding.

17 **SEC. 6. RULES OF CONSTRUCTION.**

18 Nothing in this Act shall be construed to—

19 (1) limit any right or remedy, or bar any claim
20 of any person relating to such person's property
21 under any other law, including claims made under
22 section 1346 or 1402 of title 28, or chapter 91 of
23 title 28; or

24 (2) constitute a conclusive determination of the
25 value of any property for purposes of an appraisal

1 for the acquisition of property, or for the determina-
2 tion of damages.

3 **SEC. 7. STATUTE OF LIMITATIONS.**

4 No action may be filed in a court of the United States
5 to enforce the provisions of this Act on or after the date
6 occurring 6 years after the date of the submission of the
7 certification of the applicable private property taking im-
8 pact analysis with the Attorney General.

9 **SEC. 8. EFFECTIVE DATE.**

10 The provisions of this Act shall take effect 120 days
11 after the date of the enactment of this Act.

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