

105TH CONGRESS
2^D SESSION

H. R. 992

IN THE SENATE OF THE UNITED STATES

MARCH 12, 1998

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To end the Tucker Act shuffle, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Tucker Act Shuffle
3 Relief Act of 1997”.

4 **SEC. 2. TUCKER ACT SHUFFLE RELIEF.**

5 (a) IN GENERAL.—

6 (1) GRANT OF CONCURRENT JURISDICTION.—

7 Except as provided in paragraph (3), the United
8 States district courts and the United States Court of
9 Federal Claims shall each have original jurisdiction
10 to hear and determine all claims (whether for mone-
11 tary or other relief) arising out of agency action al-
12 leged—

13 (A) to constitute a taking in violation of
14 the fifth article of amendment to the Constitu-
15 tion of the United States; or

16 (B) not to constitute such a taking only
17 because the action was not in accordance with
18 lawful authority.

19 (2) ELECTION BY PLAINTIFF.—The plaintiff, by
20 commencing an action under this section, elects
21 which court shall hear and determine those claims as
22 to that plaintiff.

23 (3) PARTIES INVOLUNTARILY JOINED.—No
24 third party may be involuntarily joined to a case,
25 within the jurisdiction of the Court of Federal
26 Claims by reason of this section, if that party would

1 be entitled to a determination of the claim with re-
2 spect to which that party is joined by a court estab-
3 lished by or under article III of the Constitution of
4 the United States.

5 (4) PRECLUSIVE REVIEW.—The grant of
6 jurisdiction made by this subsection does not
7 extend to matters over which other Federal law
8 has granted exclusive jurisdiction to one or
9 more United States courts of appeals.

10 (b) EQUITABLE AND DECLARATORY REMEDIES.—
11 With respect to any claim within its jurisdiction by reason
12 of this section, the Court of Federal Claims shall have the
13 power to grant equitable and declaratory relief when ap-
14 propriate.

15 (c) APPEALS.—Any appeal from any action com-
16 menced under this section shall be to the United States
17 Court of Appeals for the Federal Circuit.

18 (d) DEFINITIONS.—As used in this Act, the term—
19 (1) “agency” means a department, agency,
20 independent agency, or instrumentality of the United
21 States, including any military department, Govern-
22 ment corporation, Government-controlled corpora-
23 tion, or other establishment in the executive branch
24 of the United States Government; and

1 (2) “agency action” means any action or deci-
2 sion taken by an agency.

3 (e) CONFORMING AMENDMENT TO TITLE 28,
4 UNITED STATES CODE, RELATING TO JURISDICTION
5 OVER TORT CLAIMS.—Section 1346(b) of title 28, United
6 States Code, is amended by inserting “and the Tucker Act
7 Shuffle Relief Act of 1997” after “chapter 171 of this
8 title”.

9 **SEC. 3. REPEAL OF LIMITATION ON FEDERAL CLAIMS**
10 **COURT JURISDICTION BECAUSE OF PEND-**
11 **ENCY OF CLAIMS IN OTHER COURTS.**

12 (a) IN GENERAL.—Section 1500 of title 28, United
13 States Code, is repealed.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 for chapter 91 of title 28, United States Code, is amended
16 by striking out the item relating to section 1500.

 Passed the House of Representatives March 12,
1998.

Attest:

ROBIN H. CARLE,

Clerk.