

107TH CONGRESS  
1ST SESSION

# H. R. 1592

To amend the Land and Water Conservation Fund Act of 1965 to provide greater protection of private property rights.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2001

Mr. THORNBERRY (for himself, Mr. JONES of North Carolina, Mr. GRAVES, Mr. DELAY, and Mr. OTTER) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To amend the Land and Water Conservation Fund Act of 1965 to provide greater protection of private property rights.

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 “Constitutional Land  
5       Acquisition Act”.

6       **SEC. 2. PROTECTION OF PRIVATE PROPERTY RIGHTS.**

7       Title I of the Land and Water Conservation Fund  
8       Act of 1965 (16 U.S.C. 4601–4 et seq.) is amended by  
9       adding at the end the following:

1           “PROTECTION OR PRIVATE PROPERTY RIGHTS

2           “SEC. 14. (a) PROTECTION OF RIGHTS IN NON-FED-  
3 ERAL PROPERTY FROM FEDERAL ACQUISITION OF NEAR-  
4 BY LANDS.—The right of an owner of non-Federal real  
5 property to use and enjoy that property shall not be dimin-  
6 ished based on the property being—

7           “(1) within the boundaries of a Federal unit as  
8 a consequence of the acquisition of lands for that  
9 unit with amounts made available under this Act; or

10           “(2) adjacent to Federal lands acquired with  
11 amounts made available under this Act.

12           “(b) PROPERTY ACQUISITION REQUIREMENTS.—The  
13 amounts made available under this Act for Federal pur-  
14 poses (in this section referred to as the ‘Federal portion’)  
15 may not be used to acquire any interest in property  
16 unless—

17           “(1) the owner of the interest concurs in the ac-  
18 quisition;

19           “(2) the Secretary of the department that ad-  
20 ministers the acquisition certifies that—

21           “(A) acquisition of the interest through an  
22 equal value exchange of property interests is  
23 not feasible and suitable;

24           “(B) in the case of an acquisition of a fee  
25 simple interest, acquisition instead of a con-

1           servation easement is not feasible and suitable;  
2           and

3                   “(C) the acquisition is in accordance with  
4           priorities established by the Secretary for acqui-  
5           sition of interests in property with amounts  
6           made available under this Act that are based on  
7           such factors as important or special resource  
8           attributes, threats to resource integrity, timely  
9           availability, owner hardship, cost escalation,  
10          public recreation use values, and similar consid-  
11          erations; and

12                   “(3) acquisition of that interest is specifically  
13          approved by an Act of Congress.

14          “(c) NOTIFICATION TO AFFECTED AREAS RE-  
15          QUIRED.—The Federal portion for a fiscal year may not  
16          be used to acquire any interest in land unless the Sec-  
17          retary administering the acquisition, by not later than 30  
18          days after the date of the submission of the budget for  
19          the fiscal year under section 1105 of title 31, United  
20          States Code, provides notice of the proposed acquisition—

21                   “(1) in writing to each member of and each  
22          Delegate and Resident Commissioner to the Con-  
23          gress elected to represent any area in which is  
24          located—

25                   “(A) the land; or

1           “(B) any part of any federally designated  
2           unit that includes the land;

3           “(2) in writing to the Governor of the State in  
4           which the land is located;

5           “(3) in writing to each State political subdivi-  
6           sion having jurisdiction over the land; and

7           “(4) by publication of a notice in a newspaper  
8           that is widely distributed in the area under the juris-  
9           diction of each such State political subdivision, that  
10          includes a clear statement that the Federal Govern-  
11          ment intends to acquire an interest in land.

12          “(d) PROHIBITION ON USE FOR CONDEMNATION.—  
13          Amounts made available from the land and water con-  
14          servation fund may not be used to acquire property by  
15          condemnation.”.

16          **SEC. 3. CONVERSION OF PROPERTY TO OTHER USE.**

17          Section 6(f)(3) of such Act (16 U.S.C. 4601–8(f)(3))  
18          is amended—

19                 (1) by inserting “(A)” before “No property”;  
20                 and

21                 (2) by striking the second sentence and insert-  
22                 ing the following:

23                 “(B) Prior to each such conversion, the Governor of  
24          the State shall demonstrate that—

1           “(i) no prudent or feasible alternative exists, ex-  
2           cept that this clause shall not apply to any property  
3           that no longer meets the criteria within the State  
4           plan under subsection (d) as an outdoor conserva-  
5           tion and recreation facility due to changes in demo-  
6           graphics, or that must be abandoned because of en-  
7           vironmental contamination that endangers public  
8           health and safety; and

9           “(ii) the conversion will assure the substitution  
10          of other conservation and recreation properties of at  
11          least equal fair market value and reasonably equiva-  
12          lent usefulness and location and that are consistent  
13          with such State plan.”.

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