

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 561

To ensure that Federal agencies establish the appropriate procedures for assessing whether or not Federal regulations might result in the taking of private property, and to direct the Secretary of Agriculture to report to the Congress with respect to such takings under programs of the Department of Agriculture.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 1993

Mr. CONDIT (for himself, Mr. BAKER of Louisiana, Mr. BARRETT of Nebraska, Mr. DOOLEY, Mr. DOOLITTLE, Mr. EMERSON, Mr. PETE GEREN of Texas, Mrs. LLOYD, Mr. OXLEY, Mr. MONTGOMERY, Mr. QUILLEN, Mr. SENSENBRENNER, Mr. THOMAS of Wyoming, Mr. ZELIFF, Mr. SKEEN, Mr. PICKETT, Mr. STENHOLM, Mr. BALLENGER, Mr. ENGLISH of Oklahoma, Mr. ANDREWS of New Jersey, Mr. JACOBS, Mr. SCHIFF, and Mr. SUNDQUIST) introduced the following bill; which was referred jointly to the Committees on the Judiciary and Agriculture

MAY 16, 1994

Additional sponsors: Mr. BREWSTER, Mr. GILLMOR, Mr. POMBO, Mr. McDADE, Mr. SARPALIUS, Mr. LIGHTFOOT, Mr. CRAPO, Mr. PENNY, Mr. SMITH of Oregon, Mr. STUMP, Mr. CAMP, Mr. HANSEN, Mr. ROHRABACHER, Mr. EWING, Mr. TAYLOR of North Carolina, Mr. FIELDS of Texas, Mr. HYDE, Mr. MCHUGH, Mr. INHOFE, Mr. TAUZIN, Mr. ROBERTS, Mr. BONILLA, Mr. LIVINGSTON, Mr. PARKER, Mr. BURTON of Indiana, Mr. TRAFICANT, Mr. HEFLEY, Mr. LAFALCE, Mr. LAUGHLIN, Mr. SLATTERY, Mr. BARCIA of Michigan, Mr. HAYES, Mr. HOLDEN, Mr. BOEHNER, Mr. ISTOOK, Mr. APPELEGATE, Mr. MYERS of Indiana, Mr. BARTLETT of Maryland, Mr. ORTON, Mr. BATEMAN, Mr. GORDON, Mr. SANTORUM, Mr. NUSSLE, Mr. HOKE, Mr. BLILEY, Mr. CUNNINGHAM, Mr. WALKER, Mr. MURTHA, Mr. SISISKY, Mr. SCHAEFER, Mr. KYL, Mr. PACKARD, Mr. THOMAS of California, Mr. GALLEGLY, Mr. PAXON, Mr. SHUSTER, Mr. RIDGE, Mr. TALENT, Mr. McMILLAN, Mr. CLINGER, Mr. MCCREERY, Mr. ALLARD, Mr. McINNIS, Mr. DORNAN, Mr. COMBEST, Mr. HOEKSTRA, Ms. LAMBERT, Mr. SOLOMON, Mr. PETERSON of Minnesota, Mr. KIM, Mr. COSTELLO, Mr. DEAL, Mr. VOLKMER, Mr. TANNER, Mr. HALL of Texas, Mr. HUTTO, Mr. JOHNSON of Georgia, Mr. BAESLER,

Mr. PAYNE of Virginia, Mr. POSHARD, Mr. SMITH of Texas, Mr. ARMEY,  
Mr. HERGER, Mr. UPTON, Mr. ROWLAND, Mr. COOPER and Mr. KOLBE

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## **A BILL**

To ensure that Federal agencies establish the appropriate procedures for assessing whether or not Federal regulations might result in the taking of private property, and to direct the Secretary of Agriculture to report to the Congress with respect to such takings under programs of the Department of Agriculture.

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       Protection Act of 1993”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds that there are certain Federal  
8       laws, regulations, and actions, which adversely affect the  
9       value of private property.

10       **SEC. 3. PURPOSE.**

11       The purpose of this Act is to reduce the risk of undue  
12       or inadvertent burdens on the public resulting from cer-  
13       tain lawful Federal Government actions.

14       **SEC. 4. DEFINITIONS.**

15       In this Act—

1           (1) the term “private property” includes all  
2 property protected by the fifth amendment to the  
3 Constitution, including real and personal property  
4 and tangible and intangible property;

5           (2) the term “taking of private property”  
6 means an activity wherein private property is taken  
7 such that compensation to the owner of that prop-  
8 erty is required by the fifth amendment to the Con-  
9 stitution; and

10           (3) the term “agency” means a Federal agency  
11 in the executive branch which engages in activity  
12 with the potential for taking private property, in-  
13 cluding the Department of Agriculture and any mili-  
14 tary department, government corporation, govern-  
15 ment-controlled corporation, or other establishment  
16 in the executive branch of the United States Govern-  
17 ment.

18 **SEC. 5. PROTECTION OF PRIVATE PROPERTY.**

19           No regulation issued by an agency after the date of  
20 enactment of this section shall become effective until the  
21 issuing agency is certified by the Attorney General to be  
22 in compliance with Executive Order 12360 or similar pro-  
23 cedures to assess the potential for the taking of private  
24 property in the course of Federal regulatory activity, with  
25 the goal of minimizing such takings where possible. The

1 Attorney General shall make a certification under this  
2 paragraph no later than 90 days after the date of the issu-  
3 ance of the regulation.

4 **SEC. 6. JUDICIAL REVIEW.**

5 (a) JURISDICTION.—Judicial review of an action  
6 taken pursuant to this Act shall be limited to the question  
7 of whether the Attorney General has certified the issuing  
8 agency under section 5 as being in compliance with Execu-  
9 tive Order 12360 or similar procedures.

10 (b) STANDING.—Only persons adversely affected by  
11 an agency action taken pursuant to this Act shall have  
12 standing to challenge and seek judicial review of that ac-  
13 tion.

14 (c) SAVINGS.—Except as specifically provided in this  
15 section, nothing in this section shall be construed to  
16 limit—

17 (1) the right of a person to file a claim under  
18 any other Federal law; or

19 (2) the scope of judicial review of an agency ac-  
20 tion.

21 **SEC. 7. STUDY AND REPORT ON TAKINGS, FARM ECONOMY,**  
22 **AND AGRICULTURAL PRODUCTION.**

23 (a) STUDY.—Before the end of the 90-day period be-  
24 ginning on the date of the enactment of this Act, the Sec-  
25 retary of Agriculture shall conduct a study to determine

1 the effect that this Act will have on the farm economy  
2 and agricultural production of the United States.

3 (b) REPORT.—Before the end of the 90-day period  
4 beginning on the date of the enactment of this Act, the  
5 Secretary of Agriculture shall submit to the Committee on  
6 Agriculture of the House of Representatives and the Com-  
7 mittee on Agriculture, Nutrition, and Forestry of the Sen-  
8 ate a report on the findings and conclusions of the study  
9 under subsection (a), which shall include—

10 (1) a discussion of—

11 (A) administrative procedures followed by  
12 the Department of Agriculture to minimize the  
13 taking of private property in regulatory activi-  
14 ties of that department; and

15 (B) measures undertaken by that depart-  
16 ment to implement Executive Order 12360; and

17 (2) recommendations for any further legislative  
18 or administrative actions that are appropriate for  
19 limiting the effect that this Act will have on the  
20 farm economy and agricultural production of the  
21 United States.

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