

Amendment to H.R. 3824

Offered by Congressman Pombo

Page 56, starting at line 1, strike "assistance" and insert "aid".

Page 56, line 4, after "owners" insert "by this Act"

On page 57, starting on line 11 strike the text through line 17 on page 59 and insert instead:

"d) ELIGIBILITY FOR AID. — (1) The Secretary shall award aid to private property owners who:

(A) received a written determination under section 10(k) finding that the proposed use of private property would not comply with section (9)(a); or

(B) received notice under 10(k)(10) that a written determination has been withdrawn.

(2) Aid shall be in an amount no less than the fair market value of the use that was proposed by the property owner if —

(A) the owner has foregone the proposed use;

(B) the owner has requested financial aid:

(i) within 180 days of the Secretary's issuance of a written determination that the proposed use would not comply with section 9(a) or,

(ii) within 180 days after the property owner is notified of a withdrawal under 10(k)(10)

(C) the foregone use would be lawful under state and local law and the property owner has demonstrated that the property owner has the means to undertake the proposed use.

"(e) DISTRIBUTION OF GRANTS AND AID. — (1) The Secretary shall pay eligible aid-

"(A) within 180 days after receipt of a request for aid unless there are unresolved questions regarding the documentation of the foregone proposed use or unresolved questions regarding the fair market value, or;

"(B) at the resolution of any questions concerning the documentation of the foregone use established under (f) or the fair market value established under (g).

“(2) All grants provided under this section shall be paid on the last day of the fiscal year. Aid shall be paid based on the date of the initial request.

“(f) DOCUMENTATION OF THE FORGONE USE.— Within 30 days of the request for aid, the Secretary shall enter into negotiations with the property owner regarding the documentation of the foregone proposed use through mechanisms such as contract terms, lease terms, deed restrictions, easement terms or transfer of title. If the Secretary and the property owner are unable to reach an agreement, then, within 60 days of the request for aid, the Secretary shall determine how the property owner’s foregone use shall be documented with the least impact on the ownership interests of the property owner necessary to document the foregone use.

“(g) FAIR MARKET VALUE.— For purposes of this section, the fair market value of the foregone use of the affected portion of the private property, including business losses is the what a willing buyer would pay to a willing seller in an open market. Fair market value shall take into account the likelihood that the foregone use would be approved under state and local law. The fair market value shall be determined within 180 days of the documentation of the foregone use. The fair market value shall be determined jointly by two licensed independent appraisers, one selected by the Secretary and one selected by the property owner. If the two appraisers fail to agree on fair market value, the Secretary and the property owner shall jointly select a third licensed appraiser whose appraisal within additional 90 days shall be binding on the Secretary and the private land owner. Within one year of the date of enactment, the Secretary shall promulgate regulations regarding selection of the jointly selected appraisers under this paragraph.

“(h) LIMITATION ON AID AVAILABILITY. —Any person receiving aid under this section may not receive additional aid under this section for the same foregone use of the same property and for the same period of time.”

Page 59, line 18: redesignate “(h)” as “(i)”.