

116TH CONGRESS
1ST SESSION

H. R. 1233

To amend the Homeland Security Act of 2002 to establish a fund for private landowners, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2019

Mrs. DEMINGS (for herself and Mr. THOMPSON of Mississippi) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Homeland Security Act of 2002 to establish a fund for private landowners, 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 “Borderland Takings
5 Defense Fund Act”.

1 **SEC. 2. DEFENSE FUND FOR PRIVATE LANDOWNERS.**

2 (a) IN GENERAL.—Subtitle H of title VIII of the
3 Homeland Security Act of 2002 (6 U.S.C. 451 et seq.)
4 is amended by adding at the end the following new section:

5 **“SEC. 890B. DEFENSE FUND FOR PRIVATE LANDOWNERS.**

6 “(a) ESTABLISHMENT.—

7 “(1) IN GENERAL.—The Secretary shall estab-
8 lish a fund to assist eligible property owners whose
9 property the Federal Government seeks to condemn
10 or acquire for the purpose of constructing or install-
11 ing additional physical barriers or roads between
12 ports of entry along the land border with Mexico.

13 “(2) ADMINISTRATION.—

14 “(A) APPOINTMENT.—The Officer for Civil
15 Rights and Civil Liberties of the Department
16 shall appoint an individual to serve as the ad-
17 ministrator of the fund established pursuant to
18 paragraph (1).

19 “(B) QUALIFICATIONS.—The individual
20 appointed under subparagraph (A) to serve as
21 the administrator of the fund shall be an indi-
22 vidual who—

23 “(i) has at least three years of rel-
24 evant experience in pro bono legal assist-
25 ance; and

1 “(ii) to the maximum extent prac-
2 ticable, has a demonstrated record of advoca-
3 cacy on behalf of litigants in actions
4 brought by or against the Federal Govern-
5 ment.

6 “(b) PROHIBITION.—Notwithstanding section 102 of
7 the Illegal Immigration Reform and Immigrant Responsi-
8 bility Act of 1996 (8 U.S.C. 1103 note), the Secretary
9 may not take such actions, such as the removal of obsta-
10 cles, to construct or install additional physical barriers or
11 roads between ports of entry along the land border with
12 Mexico until—

13 “(1) the fund described in subsection (a) is es-
14 tablished and made available to eligible property de-
15 scribed in such subsection; and

16 “(2) such property owners are provided infor-
17 mation on how to access legal support through such
18 fund.

19 “(c) ELIGIBILITY.—To be eligible for assistance
20 through the fund referred to in subsection (a), a property
21 owner shall—

22 “(1) own property along the land border with
23 Mexico that—

24 “(A) is subject to the condemnation or ac-
25 quisition referred to in such subsection; or

1 “(B) is determined by the Administrator to
2 be at risk of such action; and

3 “(2)(A) be the head of a low-income household;
4 or

5 “(B) if such property owner is not the head of
6 a low-income household, be determined by the ad-
7 ministrator of the fund to be in need of such assist-
8 ance but lacking adequate resources to secure rep-
9 resentation against the Federal Government.

10 “(d) OUTREACH.—The Secretary, acting through the
11 administrator of the fund, shall—

12 “(1) implement a targeted outreach strategy to
13 identify and communicate with eligible property own-
14 ers whose property the Federal Government seeks to
15 condemn or acquire for the purpose of constructing
16 or installing additional physical barriers or roads be-
17 tween ports of entry along the land border with
18 Mexico; and

19 “(2) submit to the Committee on Homeland Se-
20 curity of the House of Representatives and the Com-
21 mittee on Homeland Security and Governmental Af-
22 fairs of the Senate a copy of such targeted outreach
23 strategy.

24 “(e) DEFINITIONS.—In this section:

1 “(1) LOW-INCOME HOUSEHOLD.—The term
2 ‘low-income household’ means a household—

3 “(A) in which one or more individuals are
4 receiving—

5 “(i) assistance under a State program
6 funded under part A of title IV of the So-
7 cial Security Act (42 U.S.C. 601 et seq.);

8 “(ii) supplemental security income
9 payments under title XVI of the Social Se-
10 curity Act (42 U.S.C. 1381 et seq.);

11 “(iii) supplemental nutrition assist-
12 ance program benefits under the Food and
13 Nutrition Act of 2008 (7 U.S.C. 2011 et
14 seq.); or

15 “(iv) payments under—

16 “(I) section 1315, 1521, 1541, or
17 1542 of title 38, United States Code;
18 or

19 “(II) section 306 of the Veterans’
20 and Survivors’ Pension Improvement
21 Act of 1978 (38 U.S.C. 1521 note;
22 Public Law 95–588); or

23 “(B) that has an income that, as deter-
24 mined by the State in which such household is
25 located, does not exceed the greater of—

1 “(i) an amount equal to 150 percent
2 of the poverty level for such State; and

3 “(ii) an amount equal to 60 percent of
4 the median income for such State.

5 “(2) PROPERTY.—The term ‘property’ means
6 land, including an estate or interest in land, includ-
7 ing an easement or right of way in land.

8 “(f) AUTHORIZATION OF APPROPRIATIONS.—In addi-
9 tion to any amounts otherwise authorized to be appro-
10 priated for such purpose, there is authorized to be appro-
11 priated \$20,000,000 for each of fiscal years 2019 through
12 2025 to carry out this section.”.

13 (b) CLERICAL AMENDMENT.—The table of contents
14 in section 1(b) of the Homeland Security Act of 2002 is
15 amended by inserting after the item relating to section
16 890A the following new item:

“Sec. 890B. Defense fund for private landowners.”.

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