



## COMMITTEE ON HOMELAND SECURITY

### ***The “Preventing the Taking of Americans’ Land to Build Trump’s Wall Act” As Introduced by Representative Filemon Vela (D-TX)***

The Federal Government only owns around 35% of land at the U.S.-Mexico border.<sup>1</sup> To construct a 2,000-mile wall along the Southwest border, the Federal government would have to acquire 1,278 miles of privately-owned land, one way or another.<sup>2</sup> Under federal law, a Federal Declaration of Taking must state the amount of money the government considers to be “just compensation” for the land being taken.<sup>3</sup> After depositing that amount of money in the court registry, the land can be condemned and construction activities can commence—even before the landowner receives compensation.<sup>4</sup> Today, the Federal government can legally execute a “quick take” action and quickly take land just so long as the landowner will eventually receive compensation.

Over a decade after the Bush Administration carried out an aggressive eminent domain campaign to acquire land on the U.S.-Mexico border, some landowners who had their lands altered or taken have yet to be paid.<sup>5</sup> One homeowner in who lives in just outside of San Benito, Texas reported that the government informed him that they would pay about \$1,000 for a strip of land about 50 feet from the backdoor of his house in 2008. Subsequently, a steel fence was erected on top of a concrete levee in the family’s backyard, but the homeowner was never compensated.<sup>6</sup>

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<sup>1</sup> “Brief Overview of Border Security Investments and Enforcement,” Prepared by the Subcommittee on Homeland Security, House Appropriations Committee.

<sup>2</sup> Based on the House Committee on Appropriations assessment that the Federal government currently has 654 miles of fencing, with an additional 22 forthcoming to ultimately total 676 miles, along the 1,954 mile U.S-Mexico border, 1,278 miles of privately owned land would need to be seized.

<sup>3</sup> 40 U.S.C. § 3114(a)(5).

<sup>4</sup> 40 U.S.C. § 3114(b).

<sup>5</sup> T. Christian Miller, et al. “The Taking; The federal government’s boldest land grab in a generation produced the first border wall – and a trail of abuse, mistakes and unfairness,” ProPublica and Texas Tribune, December 2017. Available at: <https://features.propublica.org/eminent-domain-and-the-wall/the-taking-texas-government-property-seizure/>

<sup>6</sup> “Eminent Domain: Administration Lacks Plans or Cost Estimates for Land Seizures Necessary to Construct Border Wall,” Prepared by the U.S. Senate Homeland Security & Governmental Affairs Committee, Ranking Member’s Office.

An 84-year-old retired schoolteacher who lives in Calaboz, Texas, west of Brownsville, reported that he was happy to accept the government's offer of \$8,000, though he says he still hasn't been paid four years later.<sup>7</sup>

Given the Trump Administration's strong interest in moving expeditiously to build the President's border wall, there is growing concern that private lands across the southwest border will increasingly be taken without landowners first receiving payment.

The ***Preventing the Taking of Americans' Land to Build Trump's Wall Act***, would prohibit the Federal government from taking or altering, in any way, a private citizen's land until the landowner receives a "just compensation" payment. This would give landowners the peace of mind that the judicial process would have to play out or there would have to be an agreed-to settlement before their property is taken or altered. It also would prevent the Trump Administration from engaging in quick take actions to build President Trump's wall on the Southwest border.

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<sup>7</sup> John Burnett, "Landowners Likely To Bring More Lawsuits As Trump Moves On Border Wall," NPR, February 2017. Available at: <https://wamu.org/story/17/02/24/landowners-likely-to-bring-more-lawsuits-as-trump-moves-on-border-wall/>