

Takings bill fails on House floor

By Allison A. Freeman

A property rights bill was defeated on the House floor this afternoon when it failed to get the two-thirds majority required to move it under the suspension calendar.

The House voted 234-172 for the bill, [H.R. 4772](#), falling short of the two-thirds majority support needed for passage under suspension of the rules.

Majority Leader John Boehner (R-Ohio) said he would bring it back to the House under a regular rule later this week, which would allow for amendments and require a simple majority.

The bill, from Rep. Steve Chabot (R-Ohio), would allow property owners to file Fifth Amendment takings cases in federal court rather than state court./

Environmental groups, state attorney generals and several members of Congress mounted an effort this week to derail the bill. They argued it would harm the ability of local governments to implement zoning laws and environmental regulations.

The measure has support from the Farm Bureau, National Association of Homebuilders and other groups, which claim it is needed to make sure landowners receive a fair trial if the government wants to use their property for another purposes.

Glenn Sugameli, an attorney with Earthjustice who was pushing against the bill, said the groups opposing it would gain momentum if it were brought to the House floor again for a vote and predicted the Senate would not approve it. A similar measure in 1998 met a filibuster from Sens. Patrick Leahy (D-Vt.) and the late John Chafee (R-R.I.).

"This was definitely an attempt to get it out before anyone would know what was going on," Sugameli said. "Opposition is just going to continue to grow."

Much of the property rights controversy has centered on the Supreme Court's *Kelo v. City of New London*, in which the justices decided last year that local governments could use eminent domain power to acquire land for private-development projects if those projects served a public purpose.

But Chabot and other sponsors of the House bill have taken aim at the Supreme Court's *San Remo Hotel v. City and County of San Francisco* ruling, which was handed down the same week as *Kelo*. In *San Remo*, the justices ruled that a takings case heard in state court could preclude property owners from taking their arguments to federal court for compensation. The legislation would allow property owners to go straight to federal court.

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