PROPERTY RIGHTS PRESERVATION ACT

Act 101 of 1996

AN ACT to provide for a process of evaluating certain governmental actions that may result in constitutional takings of private property; and to prescribe the powers and duties of certain state agencies and officials.

History: 1996, Act 101, Imd. Eff. Mar. 5, 1996

The People of the State of Michigan enact:

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24.421 Short title.

Sec. 1.

This act shall be known and may be cited as the "property rights preservation act".

History: 1996, Act 101, Imd. Eff. Mar. 5, 1996

24.422 Definitions.

Sec. 2.

As used in this act:

(a) "Constitutional taking" or "taking" means the taking of private property by government action such that compensation to the owner of that property is required by either of the following:

(i) Amendment V or XIV of the constitution of the United States.

(ii) Section 23 of article I and section 2 of article X of the state constitution of 1963.

(b) "Departments" means the departments of natural resources, environmental quality, and transportation.

(c) "Government action" means any of the following:

(i) A decision on an application for a permit or license.

(ii) Proposed rules that if promulgated or enforced may limit the use of private property.

(iii) Required dedications or exactions of private property.

(iv) The enforcement of a statute or rule, including the issuance of an order.

(d) "Government action" does not include any of the following:

(i) The formal exercise of the power of eminent domain.

(ii) The forfeiture or seizure of private property by law enforcement agencies as evidence of a crime or for violations of law.

(iii) The discontinuance of government programs.

(e) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: 1996, Act 101, Imd. Eff. Mar. 5, 1996

24.423 Takings assessment guidelines; development by attorney general and departments.

Sec. 3.

The attorney general, in conjunction with the departments, shall develop takings assessment guidelines pursuant

to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, that will assist the departments in the identification and evaluation of government actions that may result in a constitutional taking. The attorney general and the departments shall base the guidelines on current law as articulated by the United States supreme court and the supreme court of this state and shall update the guidelines at least on an annual basis to reflect changes in the law.

History: 1996, Act 101, Imd. Eff. Mar. 5, 1996

24.424 Takings assessment guidelines; review.

Sec. 4.

Prior to taking a governmental action, the department of natural resources, the department of environmental quality, or the state transportation department, as appropriate, shall review the takings assessment guidelines prepared under section 3 and shall consider the likelihood that the governmental action may result in a constitutional taking.

History: 1996, Act 101, Imd. Eff. Mar. 5, 1996
Compiler's Notes: For transfer of powers and duties of department of natural resources to department of natural resources and environment, and abolishment of department of natural resources, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

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24.425 Immediate response required.

Sec. 5.

If there is an immediate threat to public health and safety that constitutes an emergency and requires an immediate response, the review of the takings assessment guidelines required by section 4 may be made when the response is completed.

History: 1996, Act 101, Imd. Eff. Mar. 5, 1996