

Act No. 101
Public Acts of 1996
Approved by the Governor
March 4, 1996
Filed with the Secretary of State
March 5, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Reps. Sikkema, Anthony, Gnodtke, Johnson, Whyman, Jellema, Hill, Jamian, Alley, Voorhees, Oxender, Kukuk, Tesanovich, Profit and Perricone

ENROLLED HOUSE BILL No. 4433

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.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "property rights preservation act".

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.

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.

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.

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.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

Governor.