

SENATE FILE NO. SF0023

Regulatory Takings Act-amendments.

Sponsored by: Joint Agriculture, Public Lands and Water  
Resources Interim Committee

A BILL

for

1 AN ACT relating to the Wyoming Regulatory Takings Act;  
2 modifying definitions; modifying compensation provisions;  
3 providing for an advocate's office; specifying duties and  
4 responsibilities of the advocate; authorizing positions;  
5 providing an appropriation; and providing for an effective  
6 date.

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8 *Be It Enacted by the Legislature of the State of Wyoming:*

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10 **Section 1.** W.S. 9-5-306 through 9-5-308 are created  
11 to read:

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13 **9-5-306. Advocate for private property rights.**

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15 (a) An advocate office is established in the office  
16 of the governor to represent the interests of private

1 property owners in proceedings involving governmental  
2 action.

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4 (b) The governor shall appoint the advocate who shall  
5 serve at the pleasure of the governor. Subject to the  
6 rules of the Wyoming personnel division as to compensation  
7 and as is authorized by the approved budget, the advocate  
8 may employ persons necessary for the proper and efficient  
9 operation of his office. The advocate may contract for  
10 special services as necessary for the proper and efficient  
11 operation of this office.

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13 **9-5-307. Powers and duties of the advocate.**

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15 (a) The advocate may:

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17 (i) Research, study and analyze issues that  
18 involve, relate to or may involve a taking;

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20 (ii) Prepare and present briefs and arguments,  
21 intervene or appear on behalf of private property owners in  
22 general or on behalf of specific private property owners in  
23 any judicial, legislative or administrative hearing or  
24 proceeding;

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(iii) Advise private property owners on issues involving or relating to a taking.

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(b) The advocate shall:

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(i) Notwithstanding the provisions of W.S. 9-5-306 or subsection (a) of this section, only represent the interests of record title owners of residential, small business and agricultural properties before any state agency, the legislature and any court;

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(ii) Receive complaints and inquiries from private property owners regarding a taking;

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(iii) Within thirty (30) days after the end of each calendar quarter, submit a report to the governor and the joint agriculture, public lands and water resources interim committee describing the activities and accomplishments of the office.

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(c) The advocate's office shall record all contacts by private property owners with regard to alleged takings to determine general concerns of private property owners.

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**9-5-308. Compensation.**

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(a) The state agency or local entity shall compensate owners of private property for the property's diminished value for any taking by the state or local entity.

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(b) A person entitled to compensation shall make a claim pursuant to W.S. 1-39-113. The general services division of the department of administration and information shall send a copy of a claim filed pursuant to this subsection to the governor's office, the agency against whom the claim is made and the advocate's office. Any local entity that receives a claim filed pursuant to this subsection shall send a copy to the advocate's office. The limitations of W.S. 1-39-114 shall apply to this act. This act only applies to claims accruing on, or after, July 1, 2003.

(c) A claim shall be settled only if the taking claimed was caused by a government agency as might entitle the claimant to a judgment.

1 (d) Any person whose claim is rejected or who is  
2 unsatisfied with the settlement offered may commence an  
3 action in the appropriate court.

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5 **Section 2.** W.S. 9-5-302(a)(i), (v), by creating a new  
6 paragraph (vi) and by amending and renumbering (vi) as  
7 (vii) and 9-5-305 are amended to read:

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9 **9-5-302. Definitions.**

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11 (a) As used in this act:

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13 (i) "Constitutional implications" means the  
14 unconstitutional taking of private property as determined  
15 by the attorney general in light of current case law or a  
16 taking as defined by paragraph (v) of this subsection;

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18 (v) "Taking" means ~~an uncompensated a~~ taking of  
19 private property ~~in violation of the state or federal~~  
20 ~~constitution~~ by a state agency or local governmental entity  
21 that diminishes the appraised value of the property;

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23 (vi) "Small business" means as defined by the  
24 Small Business Investment Act, 15 U.S.C. § 661;

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~~(vi)~~ (vii) "This act" means W.S. 9-5-301 through ~~9-5-305~~ 9-5-308.

**9-5-305. Declaration of purpose.**

The purpose of this act is to establish an orderly, consistent process that better enables governmental bodies to evaluate whether proposed regulatory or administrative actions may result in a taking of private property or violation of due process. ~~It is not the purpose of this act to expand or reduce the scope of private property protections provided in the state and federal constitutions~~ and to provide compensation when a taking has occurred.

**Section 3.**

(a) The governor's office is authorized two (2) additional full time positions to implement the purposes of this act.

(b) There is appropriated one hundred thousand dollars (\$100,000.00) from the general fund to the governor's office to implement the purposes of this act.

