

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 80
REGULATORY TAKINGS

67-8001. DECLARATION OF PURPOSE. The purpose of this chapter is to establish an orderly, consistent review process that better enables state agencies and local governments to evaluate whether proposed regulatory or administrative actions may result in a taking of private property without due process of law. It is not the purpose of this chapter to expand or reduce the scope of private property protections provided in the state and federal constitutions.

[67-8001, added 1994, ch. 116, sec. 1, p. 265; am. 1995, ch. 182, sec. 1, p. 668.]

67-8002. DEFINITIONS. As used in this chapter:

(1) "Local government" means any city, county, taxing district or other political subdivision of state government with a governing body.

(2) "Private property" means all property protected by the constitution of the United States or the constitution of the state of Idaho.

(3) "State agency" means the state of Idaho and any officer, agency, board, commission, department or similar body of the executive branch of the state government.

(4) "Regulatory taking" means a regulatory or administrative action resulting in deprivation of private property that is the subject of such action, whether such deprivation is total or partial, permanent or temporary, in violation of the state or federal constitution.

[67-8002, added 1994, ch. 116, sec. 1, p. 265; am. 1995, ch. 182, sec. 2, p. 668; am. 2003, ch. 141, sec. 1, p. 409.]

67-8003. PROTECTION OF PRIVATE PROPERTY. (1) The attorney general shall establish, by October 1, 1994, an orderly, consistent process, including a checklist, that better enables a state agency or local government to evaluate proposed regulatory or administrative actions to assure that such actions do not result in an unconstitutional taking of private property. The attorney general shall review and update the process at least on an annual basis to maintain consistency with changes in law. All state agencies and local governments shall follow the guidelines of the attorney general.

(2) An owner of private property that is the subject of such action may submit a written request with the clerk or the agency or entity undertaking the regulatory or administrative action. Not more than twenty-eight (28) days after the final decision concerning the matter at issue, a state agency or local governmental entity shall prepare a written taking analysis concerning the action. Any regulatory taking analysis prepared hereto shall comply with the process set forth in this chapter, including use of the checklist developed by the attorney general pursuant to subsection (1) of this section and shall be provided to the private property owner no longer than forty-two (42) days after the date of filing the request with the clerk or secretary of the agency whose action is questioned. A regulatory taking analysis prepared pursuant to this section shall be considered public information.

(3) A governmental action is voidable if a written taking analysis is not prepared after a request has been made pursuant to this chapter. A private property owner, whose property is the subject of governmental action, affected by a governmental action without the preparation of a requested taking analysis as required by this section may seek judicial determination of the validity of the governmental action by initiating a declaratory judgment action or other appropriate legal procedure. A suit seeking to invalidate a governmental action for noncompliance with subsection (2) of this section must be filed in a district court in the county in which the private property owner's affected private property is located. If the affected property is located in more than one (1) county, the private property owner may file suit in any county in which the affected private property is located.

(4) During the preparation of the taking analysis, any time limitation relevant to the regulatory or administrative actions shall be tolled. Such tolling shall cease when the taking analysis has been provided to the property owner. Both the request for a taking analysis and the taking analysis shall be part of the official record regarding the regulatory or administrative action.

(5) A private property owner is not required to submit a request under this chapter. The decision by the private property owner not to submit a request under this chapter shall not prevent or prohibit the private property owner from seeking any legal or equitable remedy including, but not limited to, the payment of just compensation.

[67-8003, added 1994, ch. 116, sec. 1, p. 265; am. 1995, ch. 182, sec. 3, p. 669; am. 2003, ch. 141, sec. 2, p. 409; am. 2016, ch. 225, sec. 1, p. 620.]

67-8004. SHORT TITLE. The provisions of this chapter shall be known and cited as the "Idaho Regulatory Takings Act."

[67-8004, added 1994, ch. 116, sec. 1, p. 266.]