

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 385

To ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible.

---

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. SOLOMON introduced the following bill; which was referred to the  
Committee on the Judiciary

---

## A BILL

To ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Private Property  
5 Rights Act of 1993”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act:

1           (1) The term “agency” means all executive  
2           branch agencies which engage in activity with the  
3           potential for taking private property, including any  
4           military department of the United States Govern-  
5           ment, any United States Government corporation,  
6           United States Government controlled corporation, or  
7           other establishment in the Executive Branch of the  
8           United States Government.

9           (2) The term “taking of private property”  
10          means an activity wherein private property is taken  
11          such that compensation to the owner of that prop-  
12          erty is required by the Fifth Amendment to the Con-  
13          stitution of the United States.

14 **SEC. 3. PROTECTION OF PRIVATE PROPERTY.**

15          No regulation promulgated after the date of enact-  
16          ment of this Act by any agency shall become effective until  
17          the issuing agency is certified by the Attorney General to  
18          be in compliance with Executive Order 12630 or similar  
19          procedures to assess the potential for the taking of private  
20          property in the course of Federal regulatory activity, with  
21          the goal of minimizing such where possible.

22 **SEC. 4. JUDICIAL REVIEW.**

23          (a) Judicial review of actions taken pursuant to this  
24          Act shall be limited to whether the Attorney General has  
25          certified the issuing agency as in compliance with Execu-

1 tive Order 12630 or similar procedures, such review to be  
2 permitted in the same forum and at the same time as the  
3 issued regulations are otherwise subject to judicial review.  
4 Only persons adversely affected or grieved by agency ac-  
5 tion shall have standing to challenge that action as con-  
6 trary to this Act. In no event shall such review include  
7 any issue for which the United States Claims Court has  
8 jurisdiction.

9 (b) Nothing in this section shall affect any otherwise  
10 available judicial review of agency action.

○