

103D CONGRESS  
1ST SESSION

# S. 177

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.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. DOLE (for himself, Mr. CRAIG, Mr. WALLOP, Mr. GRAMM, Mr. SIMPSON, Mr. HELMS, Mr. NICKLES, Mr. BOND, Mr. McCONNELL, Mr. STEVENS, and Mr. LOTT) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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## 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, including any military department  
3       of the United States Government, any United States  
4       Government corporation, United States Government  
5       controlled corporation, or other establishment in the  
6       Executive Branch of the United States Government.

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

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

13       No regulations promulgated after the date of enact-  
14      ment of this Act by any agency shall become effective until  
15      the issuing agency is certified by the Attorney General to  
16      be in compliance with Executive Order 12630, as in effect  
17      in 1991, the language of which is hereby incorporated by  
18      reference and enacted into public law, to assess the poten-  
19      tial for the taking of private property in the course of Fed-  
20      eral regulatory activity, with the goal of minimizing such  
21      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.

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