



RIGHT TO JUDICIAL REVIEW OF AGENCY DETERMINATIONS ACT

Summary: This bill guarantees property owners an immediate right to judicial review when an agency action restricts the use of private property, without requiring exhaustion of administrative remedies. Courts must review all legal questions de novo, without deferring to the agency. Prevailing property owners are entitled to injunctive relief and attorney's fees.

Section 1. Definitions

For the purposes of this Act:

- (a) "Agency determination" means any decision, finding, order, designation, or other action by a state or local agency that restricts the use of private property including but not limited to wetlands determinations and critical habitat restrictions.
- (b) "Property owner" means the holder of legal title to or right to use real property.

Section 2. Right to Immediate Judicial Review

- (a) Any property owner subject to an agency determination shall have the right to seek immediate judicial review of an agency determination that constitutes a final agency action in a court of competent jurisdiction.
- (b) An agency determination shall be deemed a final agency action and reviewable immediately if the action imposes legal obligations, restrictions, or penalties on a property owner or otherwise impacts a property owner's property rights.
- (c) Judicial review under this section shall not require the exhaustion of administrative remedies.



Section 3. Standard of Review

- (a) In actions brought challenging agency determinations, the reviewing court shall interpret all statutes, regulations, and sub-regulatory documents de novo, and may consider but shall not defer to the agency's interpretation.

- (b) In actions brought challenging agency determinations, after applying all customary tools of interpretation, the reviewing court shall exercise any remaining doubt in favor of a reasonable interpretation which limits agency power and maximizes individual liberty.

Section 4. Relief

- (a) In a successful challenge to an agency determination, the reviewing court may grant the property owner relief including:
 - (1) declaring the agency determination unlawful,
 - (2) setting aside or enjoining enforcement of the agency determination,
 - (3) remanding the matter to the agency for reconsideration, and
 - (4) granting such other relief as may be just and proper.

Section 5. Attorney's Fees

- (a) Prevailing property owners are entitled to reasonable attorney's fees and costs. A property owner shall not be liable for attorneys' fees or costs in favor of the government, nor shall the government require an application for a project to indemnify, defend, or hold harmless government in any manner with respect to an action brought by the applicant, or another person, alleging that the government violated the applicant's rights or deprived the applicant of benefits or protections provided by law.

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