

63L-3-102 Definitions.

As used in this chapter:

- (1) "Constitutional taking" or "taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by:
 - (a) the Fifth or Fourteenth Amendment of the Constitution of the United States; or
 - (b) Utah Constitution Article I, Section 22.
- (2)
 - (a) "Governmental action" or "action" means:
 - (i) proposed rules and emergency rules by a state agency that if adopted and enforced may limit the use of private property unless:
 - (A) its provisions are in accordance with applicable state or federal statutes; and
 - (B) the agency has adopted and implemented the guidelines required by Section 63L-3-201;
 - (ii) proposed or implemented licensing or permitting conditions, requirements, or limitations to the use of private property unless:
 - (A) its provisions are in accordance with applicable state or federal statutes, rules, or regulations; and
 - (B) the agency has adopted and implemented the guidelines required by Section 63L-3-201;
 - (iii) required dedications or exactions from owners of private property; or
 - (iv) statutes and rules.
 - (b) "Governmental action" or "action" does not mean:
 - (i) activity in which the power of eminent domain is exercised formally;
 - (ii) repealing rules discontinuing governmental programs or amending rules in a manner that lessens interference with the use of private property;
 - (iii) law enforcement activity involving seizure or forfeiture of private property for violations of law or as evidence in criminal proceedings;
 - (iv) school and institutional trust land management activities and disposal of land and interests in land conducted pursuant to Title 53C, School and Institutional Trust Lands Management Act;
 - (v) orders and enforcement actions that are issued by a state agency in accordance with Title 63G, Chapter 4, Administrative Procedures Act, and applicable federal or state statutes; or
 - (vi) orders and enforcement actions that are issued by a court of law in accordance with applicable federal or state statutes.
- (3) "Private property" means any school or institutional trust lands and any real or personal property in this state that is protected by:
 - (a) the Fifth or Fourteenth Amendment of the Constitution of the United States; or
 - (b) Utah Constitution Article I, Section 22.
- (4)
 - (a) "State agency" means an officer or administrative unit of the executive branch of state government that is authorized by law to adopt rules.
 - (b) "State agency" does not include the legislative or judicial branches of state government.
- (5) "Takings law" means the provisions of the federal and state constitutions, the case law interpreting those provisions, and any relevant statutory provisions that require a governmental unit to compensate a private property owner for a constitutional taking.

Renumbered and Amended by Chapter 382, 2008 General Session