

PROPERTY RIGHTS OMBUDSMAN AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill enacts language related to the Office of the Property Rights Ombudsman.

Highlighted Provisions:

This bill:

- ▶ prohibits the Office of the Property Rights Ombudsman from representing a person in a legal action;
- ▶ provides that an action by the Office of the Property Rights Ombudsman or its associates does not create an attorney-client privilege; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-43-203, as last amended by Laws of Utah 2013, Chapter 327

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-43-203** is amended to read:

13-43-203. Office of the Property Rights Ombudsman -- Duties.



28 (1) (a) The Office of the Property Rights Ombudsman shall:

29 (i) develop and maintain expertise in and understanding of takings, eminent domain,
30 and land use law;

31 (ii) clearly identify the specific information that is prepared for distribution to property
32 owners whose land is being acquired under the provisions of Section 78B-6-505;

33 (iii) assist state agencies and local governments in developing the guidelines required
34 by Title 63L, Chapter 4, Constitutional Taking Issues Act;

35 (iv) at the request of a state agency or local government, assist the state agency or local
36 government, in analyzing actions with potential takings implications or other land use issues;

37 (v) advise real property owners who:

38 (A) have a legitimate potential or actual takings claim against a state or local
39 government entity or have questions about takings, eminent domain, and land use law; or

40 (B) own a parcel of property that is landlocked, as to the owner's rights and options
41 with respect to obtaining access to a public street;

42 (vi) identify state or local government actions that have potential takings implications
43 and, if appropriate, advise those state or local government entities about those implications;
44 and

45 (vii) provide information to private citizens, civic groups, government entities, and
46 other interested parties about takings, eminent domain, and land use law and their rights,
47 including a right to just compensation, and responsibilities under the takings, eminent domain,
48 or land use laws through seminars and publications, and by other appropriate means.

49 (b) The Office of the Property Rights Ombudsman shall:

50 (i) provide the information described in Section 78B-6-505 on its website in a form
51 that is easily accessible; and

52 (ii) ensure that the information is current.

53 (2) ~~[The]~~ (a) Neither the Office of the Property Rights Ombudsman [may not] nor its
54 individual attorneys may represent private [property owners] parties, state agencies, [or] local
55 governments [in court or in adjudicative proceedings under Title 63G, Chapter 4,
56 Administrative Procedures Act], or any other individual or entity in a legal action that arises
57 from or relates to a matter addressed in this chapter.

58 (b) An action by an attorney employed by the Office of the Property Rights

59 Ombudsman, by a neutral third party acting as mediator or arbitrator under Section 13-43-204,
60 or by a neutral third party rendering an advisory opinion under Section 13-43-205 or
61 13-43-206, taken within the scope of the duties set forth in this chapter, does not create an
62 attorney-client relationship between the Office of the Property Rights Ombudsman, or the
63 office's attorneys or appointees, and an individual or entity.

64 (3) No member of the Office of the Property Rights Ombudsman nor a neutral third
65 party rendering an advisory opinion under Section 13-43-205 or 13-43-206, may be compelled
66 to testify in a civil action filed concerning the subject matter of any review, mediation, or
67 arbitration by, or arranged through, the office.

68 (4) (a) Except as provided in Subsection (4)(b), evidence of a review by the Office of
69 the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the
70 Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action.

71 (b) Subsection (4)(a) does not apply to:

72 (i) actions brought under authority of Title 78A, Chapter 8, Small Claims Courts;

73 (ii) a judicial confirmation or review of the arbitration itself as authorized in Title 78B,
74 Chapter 11, Utah Uniform Arbitration Act;

75 (iii) actions for de novo review of an arbitration award or issue brought under the
76 authority of Subsection 13-43-204(3)(a)(i); or

77 (iv) advisory opinions provided for in Sections 13-43-205 and 13-43-206.

Legislative Review Note
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Office of Legislative Research and General Counsel