

Representative Anthony E. Loubet proposes the following substitute bill:

PROPERTY RIGHTS OMBUDSMAN AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies the Property Rights Ombudsman Act.

Highlighted Provisions:

This bill:

▶ ~~§~~ → [———clarifies] provides ~~←§~~ that a party who prevails in court on an issue that the

Office of the Property

Rights Ombudsman previously decided in the party's favor ~~§~~ → [is] may be ~~←§~~ entitled to an

award of

attorney fees;

▶ provides that the party described above may be entitled to collect a civil penalty and consequential damages ~~§~~ → in certain circumstances ~~←§~~ ; and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-43-206, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4



57 the neutral third party under Subsection (6)(b), unless:

58 (i) the parties agree to extend the deadline; or

59 (ii) the neutral third party determines that the matter is complex and requires additional
60 time to render an opinion, which may not exceed 30 calendar days.

61 (9) An advisory opinion shall include a statement of the facts and law supporting the
62 opinion's conclusions.

63 (10) (a) Copies of any advisory opinion issued by the Office of the Property Rights
64 Ombudsman shall be delivered as soon as practicable to all necessary parties.

65 (b) A copy of the advisory opinion shall be delivered to the government entity in the
66 manner provided for in Section 63G-7-401.

67 (11) An advisory opinion issued by the Office of the Property Rights Ombudsman is
68 not binding on any party to, nor admissible as evidence in, a dispute involving land use law
69 except as provided in Subsection (12).

70 (12) Subject to Subsection (13), if the Office of the Property Rights Ombudsman issues
71 an advisory opinion described in this section, and if the same issue that is the subject of the
72 advisory opinion is subsequently litigated in court on a cause of action alleging the same facts
73 and circumstances that are at issue in the advisory opinion, and if the court resolves the issue
74 consistent with the advisory opinion, the court ~~§~~→ [shall] may ←~~§~~ award the substantially
74a prevailing party:

75 (a) reasonable attorney fees and court costs pertaining to the development of the cause
76 of action from the date the Office of the Property Rights Ombudsman delivers the advisory
77 opinion to the date of the court's resolution; and

78 (b) if the court finds that the opposing party knowingly and intentionally violated the
79 law governing the cause of action;

80 (i) a civil penalty of \$250 per day; and

81 (ii) consequential damages;

82 [~~(12) Subject to Subsection (13), if a dispute involving land use law results in the~~
83 ~~issuance of an advisory opinion described in this section, if the same issue that is the subject of~~
84 ~~the advisory opinion is subsequently litigated on the same facts and circumstances at issue in~~
85 ~~the advisory opinion, and if the relevant issue is resolved consistent with the advisory opinion,~~
86 ~~the substantially prevailing party on that cause of action may collect:]~~

87 [~~(a) reasonable attorney fees and court costs pertaining to the development of that~~