

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025

A Bill

HOUSE BILL 1754

4
5 By: Representative Gonzales
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For An Act To Be Entitled

8
9 AN ACT TO CREATE THE PRIVATE PROPERTY PROTECTION ACT;
10 TO PROHIBIT CERTAIN PROPERTY USE RESTRICTIONS BY
11 GOVERNMENTAL ENTITIES; AND FOR OTHER PURPOSES.
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Subtitle

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15 TO CREATE THE PRIVATE PROPERTY
16 PROTECTION ACT; AND TO PROHIBIT CERTAIN
17 PROPERTY USE RESTRICTIONS BY
18 GOVERNMENTAL ENTITIES.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 18, Chapter 11 is amended to add an
23 additional subchapter to read as follows:

24 Subchapter 9 – Private Property Protection Act

25
26 18-11-901. Title.

27 This subchapter shall be known and may be cited as the "Private
28 Property Protection Act".
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30 18-11-902. Legislative findings and intent.

31 (a) The General Assembly finds that:

32 (1) The General Assembly has the highest interest in vindicating
33 and protecting private property rights; and

34 (2) The constitutional right to acquire, possess, and protect
35 property under Arkansas Constitution, Article 2, § 2, also embodies the
36 notion of the fundamental right to use property, including the use of



1 property for financial gain or benefit.

2 (b) The General Assembly intends for this subchapter to ensure that
 3 property use restrictions are limited to those demonstrably necessary and
 4 narrowly tailored to fulfill a compelling governmental interest.

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 6 18-11-903. Definitions.

7 As used in this subchapter:

8 (1) "Compelling governmental interest" means a governmental
 9 interest of the highest order;

10 (2) "Governmental entity" means a unit of state or local
 11 government, including without limitation:

12 (A) A state agency;

13 (B) A county;

14 (C) A municipality; or

15 (D) Other political subdivision of the state;

16 (3) "Nuisance" means anything that:

17 (A) Is injurious to health, indecent or offensive to the
 18 senses, or an obstruction to the free use of property so as to interfere with
 19 the comfortable enjoyment of life or property; or

20 (B) Unlawfully obstructs the free passage or use in the
 21 customary manner of a navigable lake, river, bay, stream, canal, or basin or
 22 any public park, square, street, or highway;

23 (4) "Private property" means the following that are owned by a
 24 private person or private entity:

25 (A) Land;

26 (B) Property that is affixed to land, including without
 27 limitation a manufactured home declared an improvement to real property;

28 (C) Property that is incidental or appurtenant to land; or

29 (D) Property that is immovable by law; and

30 (5) "Property use restriction" means a law, ordinance,
 31 resolution, regulation, rule, policy, condition, test, permit, or other
 32 administrative action enacted by a governmental entity on or after the
 33 effective date of this act that restricts the use and enjoyment of private
 34 property by the property owner or other person in lawful possession of the
 35 private property.

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1 18-11-904. Limitations on property use restrictions – Exceptions.

2 (a) Except as provided in subsection (b) of this section, a property
3 use restriction related to a planning board, the planning or zoning of
4 property, local regulation of a subdivision, or land use planning shall be
5 limited to restrictions that are demonstrably necessary and narrowly tailored
6 to fulfill a compelling governmental interest that cannot be achieved through
7 less restrictive means.

8 (b) This section does not apply to:

9 (1) Actions that prevent or abate nuisances;

10 (2) The enforcement of the terms of a license, permit, or
11 authorization, including requirements imposed by federal law;

12 (3) An enforcement action by a governmental entity that is the
13 result of a final, nonappealable judicial determination; or

14 (4) A restrictive covenant entered into between private parties,
15 unless the implementation or adoption of the restrictive covenant was
16 required by a governmental entity.

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18 18-11-905. Enforcement.

19 (a) An owner of private property that is subject to a property use
20 restriction in violation of § 18-11-904 may file an action in a court of
21 competent jurisdiction to challenge the property use restriction.

22 (b) The plaintiff shall prevail in an action filed under this section
23 unless the governmental entity demonstrates to the court that:

24 (1) The property use restriction is demonstrably necessary and
25 narrowly tailored to fulfill a compelling governmental interest;

26 (2) The property use restriction is the least restrictive means
27 to achieve the stated purpose of the restriction; and

28 (3) Reasonable alternatives could not achieve the stated
29 interest of the governmental entity.

30 (c) If a plaintiff prevails in an action under subsection (b) of this
31 section, the court shall permanently enjoin further enforcement of the
32 property use restriction and shall award reasonable attorney fees and costs
33 to the plaintiff.

34 (d) This section does not supersede or preempt an existing cause of
35 action that a person has under the United States Constitution, Arkansas
36 Constitution, a statute, or common law.

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18-11-906. Statute of limitation.

The period prescribed for the commencement of an action under § 18-11-905 is five (5) years from the date a person becomes aware of or reasonably may have become aware of the cause of action having accrued.

SECTION 2. DO NOT CODIFY. Severability clause.

If any provision of this act or the application of this act to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end, the provisions of this act are declared severable.