

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda-underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Corporate Board --in recent past or present

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at www.SourceWatch.org.

DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

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The Private Property Protection Act

Did you know the trade group for the gas industry was a corporate co-chair in 2011?

Summary

ALEC's model Private Property Protection Act is designed to ensure property owner rights as established under the 5th Amendment to the United States Constitution through the establishment of reasonable standards for takings and a method of relief for landowners whose rights have been taken by excess regulation. Key components of the bill include: a definition of regulatory takings, governmental compensations for property rights infringement, inverse condemnation procedures, regulatory rollback procedures, legal challenges and tax adjustments.

Model Legislation

{Title, enacting clause, etc.}

Section 1. {Short Title.} This act shall be known and may be cited as the Private Property Protection Act.

Section 2. {Legislative Findings & Declarations.} The legislature finds and declares that:

(A) From time to time State and Local regulatory programs have the effect of reducing the market value of private property.

(B) When State and local regulatory programs reduce the market value of private property and do not through their implementation abate a public nuisance affecting the public health, safety, morals or general welfare, it is fair and appropriate that the State or the locality compensate the property owner for the loss in market value of the property caused by the implementation of regulatory program.

(C) Compensation to the property owner is also fair and appropriate in cases involving regulatory programs which abate a public nuisance when the property owner neither contributed to the public nuisance nor acquire the property knowing of the public nuisance nor acquired the property in circumstances where the property owner should have know about the nuisance based upon prevailing community standards.

(D) In order to establish a fair and equitable compensation system to address these stated public policy concerns and findings, there is hereby established a compensation system in this act.

Section 3. {Inverse condemnation.}

(A) Regulatory takings. Whenever implementation by the State or any of its political subdivisions of any regulatory program operates to reduce the fair market value of real property for the uses permitted at the time the owner acquired the title, or {insert date}, whichever is later, the property shall be deemed to have been taken for the use of the public. Such regulatory programs include, but are not limited to, land use planning or zoning programs.

(B) Compensation Required. The owner or user shall have the right to require condemnation by and just compensation from the governmental unit, or units, when more than one governmental unit is involved, imposing the regulation resulting in decreased value, or to receive compensation for the reduction in value caused by government action, and in either case to have such compensation determined by a jury. When more than one governmental unit is involved, the court shall determine the proportion each unit shall be required to contribute to the compensation.

(C) Fair Market value. The compensation shall be for the full value of the interest taken or for the full amount of the decrease in fair market value.

(D) Conditional waivers prohibited. Governmental units subject to the provisions of this Act shall not make waiver of the provisions of this Act a condition for approval of the use of real property or the issuance of any permit or other entitlement. Plaintiffs may accept an approval of use, permit, or other entitlement granted by the governmental unit without compromising their rights under this Act if:

(1) A written reservation of rights is made at the time of acceptance of said authorization, permit, or other entitlement; or

(2) By oral statement made before the governmental unit granting the authorization, permit, or other entitlement at a public meeting at which the governmental unit renders its decision.

(3) The owner or user may make his/her reservation in either or both forms.

Section 4. {Exceptions.} No compensation shall be required by virtue of this Act if the regulatory program is an exercise of the police power to prevent uses noxious in fact or demonstrable harm to the health and safety of the public. A use shall be deemed a noxious use if, and only if, it amounts to a public nuisance in fact. Determination by the governmental unit or units involved that a use is a noxious use or poses a demonstrable harm to public health and safety shall not be binding upon the court. Review of the governmental unit or units' determination shall be *de novo*.

Section 5. {Statute of Limitations.}

(A) Injuries to real property. The statute of limitations for actions brought pursuant to this section shall be the statute of limitations for ordinary actions brought for injuries to real property. The statute of limitations shall begin to run upon the final administrative decision implementing the regulatory program affecting plaintiffs' property. This statute of limitations for any claim which may be brought pursuant to any other provisions of law.

(B) Implementation defined. A program is implemented with respect to an owner's or user's property when actually applied to that property.

(C) Retroactive application. The act shall apply not only to new regulatory programs, but also to the application of regulatory programs in effect at the time of this Act, including, but not limited to, land use law or zoning laws and regulations to the owner's property.

Section 6. {Regulatory rollback.}

(A) Conditional relaxation authorized. If the governmental unit of which inverse condemnation is successfully required under Section 3 is unwilling or unable to pay the costs awarded, it may instead relax the land use planning, zoning, or other regulatory program as it affects the plaintiff's land and all similarly situated land in the jurisdiction in which the regulatory program is in effect to the level of regulation in place as of the time the owner acquired title or {insert date}, whichever is later. In such event, the governmental unit shall be liable to the plaintiff landowner or user for the reasonable and necessary costs of the inverse condemnation action, plus any actual and demonstrable economic losses caused the plaintiff by regulation during the period in which it was in effect.

(B) Constitutional requirements. This Section shall not be deemed to affect any remedy which is constitutionally required.

(C) Relaxation procedure. Notwithstanding any other provision of law, the governmental unit or units subject to an award of compensation under this Act may elect to relax the land use planning, zoning, or other regulatory program without further public hearings, proceedings, or environmental review required. If the governmental unit or units elect to so relax the affected regulatory program, the previously effective program shall automatically be in effect.

(D) Continuance of entitlement. Any permit, authorization, or other entitlement granted under a program rolled back pursuant to this Section shall continue to be valid, notwithstanding any provision of law in the program reinstated by the rollback.

Section 7. {Legal challenges.} Nothing in this Act shall be construed to preclude property owners from bringing legal challenges to regulatory programs affected by this Act in instances where the regulation caused diminution in value of the property for the uses permitted at the time the owner acquired title, or {insert date}, whichever is later, nor shall it be construed to preclude property owners from bringing legal challenges to regulatory programs affected by this Act based on other provisions of law.

Section 8. {Tax adjustment.} Whenever, after {insert date}, the state or any of its political subdivisions imposes, changes, or implements any land use planning, zoning or other regulatory program in such a way as to reduce the previous fair market value of a taxpayer's property, the listers of a municipality shall, on or before the ensuing April 1, adjust the taxpayer's grand list downward by an amount equal to the difference between the fair market value of the property under the new regulatory program, and the previous fair market.

Section 9. {Severability clause.}

Section 10. {Repealer clause.}

Section 11. {Effective date.}

Were your laws repealed?

¹ "Bringing Reason To Regulation", Fortune (October 1992).

ALEC's Sourcebook of American State Legislation 1995

Exposed

By the Center for
Media and Democracy
www.prwatch.org

Center for Media and Democracy's quick summary

From CMD: This "model" legislation attempts to expand the interpretation of the Fifth Amendment's "takings" clause to make taxpayers liable to land owners, including corporations, that claim their property value is diminished by government regulations (such as environmental, zoning, or land use regulations). The U.S. Supreme Court has held that a regulation can be a Taking requiring compensation when it "goes too far," such as when it deprives the property owner of "all economically beneficial uses." This bill would lower the bar for a regulatory taking to basically *any reduction* in property value, and allow a property owner to demand compensation from taxpayers for that reduction in value. Additionally, the compensation would not be the government's determination of "just compensation" but subject to a jury determination. Section 3(B) would allow a property owner to demand condemnation of their property if a regulation adversely affects its value, which could have the effect of overturning regulations and conflict with other laws.