

# RLUIPA: Protecting Religious Freedom of Houses of Worship and Institutionalized Persons

## Background on the Religious Land Use and Institutionalized Persons Act

America has a robust history of religious tolerance, which is embodied by the religion clauses of the Constitution's First Amendment. This history may account for data suggesting that Americans, more than any other Western Society, describe themselves as being observant of some faith. Yet discrimination by local and state governments against houses of worship and the religious practice of institutionalized persons is a disturbing problem across our country.

During the late 1990s, Congress sought to address this issue by holding multiple investigative hearings. They revealed overwhelming evidence that local governments discriminate against both majority and minority religious groups in the drafting and implementation of zoning and land-use regulations, as well as evidence of arbitrary and frivolous restrictions on the religious practice of institutionalized persons within prisons, mental hospitals, and other government institutions.

In response to the troubling information brought to light by these hearings, Congress in 2000 unanimously passed the federal Religious Land Use and Institutionalized Persons Act ("RLUIPA"). This statute safeguards the religious freedom of houses of worship in the land-use context and institutionalized persons by restoring courts' ability to apply a strict standard for reviewing laws that substantially burden religious exercise. Prior to the enactment of RLUIPA, the U.S. Supreme Court had eliminated this standard of review for neutral laws applicable to both the religious and secular. RLUIPA also contains an Equal Terms provision that prohibits local governments from enacting or applying land use regulations that treat religious groups less favorably than non-religious groups.

Under RLUIPA's rigorous standard, a local or state government must show that there is a "compelling reason" for the substantial burden on religion, and the law or regulation burdening a house of worship or institutionalized person must be the "least restrictive means" of accomplishing that compelling reason.

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