
SENATE BILL 5577

State of Washington 60th Legislature 2007 Regular Session

By Senators Roach, Benton, Holmquist, Carrell, Stevens, Clements,
Delvin and Schoesler

Read first time 01/24/2007. Referred to Committee on Judiciary.

1 AN ACT Relating to protecting private property rights; adding a new
2 chapter to Title 8 RCW; and declaring an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** Washington state and its agencies or
5 political subdivisions may not exercise the power of eminent domain for
6 economic development. This chapter may be known and cited as the
7 private property rights protection act.

8 NEW SECTION. **Sec. 2.** (1) The legislature finds, in the wake of
9 the supreme court's decision in *Kelo v. City of New London*, that abuse
10 of eminent domain is a threat to the property rights of all private
11 property owners.

12 (2) The legislature further finds that Washington citizens should
13 not have to fear the government taking their homes, farms, or
14 businesses to give to other persons. Governments should not abuse the
15 power of eminent domain to force property owners from their land in
16 order to develop that land into industrial and commercial property.

17 (3) The legislature therefore declares that it is the policy of the
18 state of Washington to encourage, support, and promote the private

1 ownership of property and to ensure that the constitutional and other
2 legal rights of private property owners are protected by Washington
3 state government.

4 NEW SECTION. **Sec. 3.** (1) No political subdivision or agency of
5 the state may exercise its power of eminent domain, or allow the
6 exercise of this power by any person or entity to which the power has
7 been delegated, over property to be used for economic development or
8 over property that is subsequently used for economic development, if
9 that political subdivision or agency of the state receives state
10 economic development funds during any fiscal year in which it does so.

11 (2) A violation of subsection (1) of this section renders the
12 offending political subdivision or agency of the state ineligible for
13 any state economic development funds for a period of two fiscal years
14 following a final judgment on the merits by a court of competent
15 jurisdiction that subsection (1) of this section has been violated.
16 Any state agency charged with distributing those funds shall withhold
17 them for the two-year period, and any economic development funds
18 distributed to that political subdivision or agency of the state shall
19 be returned or reimbursed by the political subdivision or agency of the
20 state to the appropriate state agency or authority.

21 (3) A political subdivision or agency of the state is not eligible
22 for any state economic development funds under subsection (2) of this
23 section if the political subdivision or agency of the state returns all
24 real property, the taking of which was found by a court of competent
25 jurisdiction to have constituted a violation of subsection (1) of this
26 section, and replaces any other property destroyed and repairs any
27 other property damaged as a result of the violation.

28 NEW SECTION. **Sec. 4.** The definitions in this section apply
29 throughout this chapter unless the context clearly requires otherwise.

30 (1) "Economic development" means taking private property, without
31 the consent of the owner, and conveying or leasing such a property from
32 one private person or entity to another private person or entity for
33 commercial enterprise carried on for profit, or to increase tax
34 revenue, tax base, employment, or general economic health, except that
35 "economic development" does not include:

1 (a) Conveying private property to public ownership, such as for a
2 road, hospital, or military base, or to an entity, such as a common
3 carrier, that makes the property available for use by the general
4 public as of right such as a railroad or public facility, or for use as
5 a right of way, aqueduct, pipeline, or similar use;

6 (b) Removing harmful uses of land provided the uses constitute an
7 immediate threat to public health and safety;

8 (c) Leasing property to a private person or entity that occupies an
9 incidental part of public property or a public facility, such as a
10 retail establishment on the ground floor of a public building;

11 (d) Acquiring abandoned property;

12 (e) Clearing defective chains of title; and

13 (f) Taking private property for use by a public utility.

14 (2) "State economic development funds" means any state funds
15 distributed to or through any political subdivision or agency of the
16 state under state laws designed to improve or increase the size of the
17 economies of political subdivisions or entities of the state.

18 NEW SECTION. **Sec. 5.** (1) Any owner of private property who
19 suffers injury as a result of a violation of any provision of this
20 chapter may bring an action to enforce any provision of this chapter in
21 a state court of competent jurisdiction, and the state, or its
22 political subdivision or agency, is not immune from the action. Such
23 a property owner may also seek any appropriate relief through a
24 preliminary injunction or a temporary restraining order.

25 (2) An action brought under this chapter may be brought by a
26 property owner if the property is used for economic development
27 following the conclusion of any condemnation proceedings condemning the
28 private property of that property owner, but may not be brought later
29 than seven years following the conclusion of any condemnation
30 proceedings and the subsequent use of the condemned property for
31 economic development.

32 (3) In any action or proceeding under this chapter, the court shall
33 allow a prevailing plaintiff a reasonable attorneys' fee as part of the
34 costs, and include expert fees as part of the attorneys' fee.

35 NEW SECTION. **Sec. 6.** (1) Not later than thirty days after the

1 effective date of this act, the attorney general shall provide to each
2 political subdivision or agency the text of this chapter and a
3 description of the rights of property owners under this chapter.

4 (2) Not later than one hundred twenty days after the effective date
5 of this act, the attorney general shall compile a list of the state
6 laws under which state economic development funds are distributed. The
7 attorney general shall compile annual revisions of the list as
8 necessary. The list and any successive revisions of the list shall be
9 made available on the Internet web site maintained by the attorney
10 general for use by the public and by the authorities in each political
11 subdivision and agency of the state empowered to take private property
12 and convert it to public use subject to just compensation for the
13 taking.

14 (3) Not later than thirty days after the effective date of this
15 act, the attorney general shall publish in the Washington state
16 register and make available on the Internet web site maintained by the
17 attorney general a notice containing the text of this chapter and a
18 description of the rights of property owners under this chapter.

19 NEW SECTION. **Sec. 7.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 8.** This chapter shall be construed in favor of
24 a broad protection of private property rights, to the maximum extent
25 permitted by the terms of this chapter and the state and federal
26 Constitutions.

27 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 immediately.

31 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act constitute
32 a new chapter in Title 8 RCW.

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