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HOUSE BILL 2100

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State of Washington

54th Legislature

1995 Regular Session

By Representatives B. Thomas, Dyer, Carlson, Cooke, Radcliff, L. Thomas and Huff

Read first time 04/23/95. Referred to Committee on Government Operations.

1 AN ACT Relating to regulation of private property; and adding a new  
2 chapter to Title 64 RCW.

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

4 NEW SECTION. **Sec. 1.** Unless the context clearly requires  
5 otherwise, the definitions in this section apply throughout this  
6 chapter.

7 (1) "Full compensation" means the reduction in the fair market  
8 value of property that is attributable to the new regulation or  
9 restriction. The reduction must be measured as of the date of the  
10 imposition of restriction on the use of private property.

11 (2) "Governmental entity" means Washington state, state agencies,  
12 agencies and commissions funded fully or partially by the state,  
13 counties, cities, and other political subdivisions.

14 (3) "Private property" means a monetary interest in real property  
15 recognized under Washington law, including;

16 (a) Land;

17 (b) An interest in land or improvements on the land; and

18 (c) A proprietary water right.

1 (4) "Restriction" means a limitation, requirement, or restriction  
2 by a governmental entity that limits the use of private property,  
3 including ordinances, resolutions, rules, and statutes.

4 (5) "Unreasonable use of property" means use of property that a  
5 reasonable person would consider unreasonable in light of the  
6 historically permitted uses of similar property within the same general  
7 area as the subject property. This definition is intended to include  
8 at a minimum all actions that constitute nuisances under common law.

9 NEW SECTION. **Sec. 2.** (1) A governmental entity shall pay full  
10 compensation to the owner of a parcel of real property when the  
11 governmental entity imposes a restriction on the use of the real  
12 property or on a portion of a parcel of the real property that  
13 decreases the fair market value of the owner's entire monetary interest  
14 in the property by twenty-five percent or more.

15 (2) The compensation requirement in subsection (1) of this section  
16 does not apply when:

17 (a) The restriction only prevents, mitigates, or abates the  
18 injuries to another person or property that are likely to be caused by  
19 an unreasonable use of property;

20 (b) The restriction only mitigates the adverse effects to others or  
21 their property caused by the use of the remainder of the parcel;

22 (c) The restriction is part of a zoning ordinance common to the  
23 area surrounding the property that regulates the type or intensity of  
24 use permitted on the property.

25 (3) Restrictions imposed by more than one government action that  
26 cumulatively decrease the property value by twenty-five percent or more  
27 require each responsible government entity to pay its share of the  
28 decrease.

29 (4) A governmental entity may require waiving the compensation  
30 under this section neither as a condition of approval of use or another  
31 permit nor as a condition for subdivision of land.

32 (5) A governmental entity may not deflate the value of property by  
33 suggesting or threatening to adopt a regulation or restriction on the  
34 use of land to reduce the amount of compensation due to the owner.

35 (6) The assessor shall adjust property valuation for tax purposes  
36 and notify the owner of the new tax valuation, which must be reflected  
37 and identified in the next tax assessment notice, for property on which  
38 a governmental entity has imposed a restriction.

1 (7) The state is responsible for the compensation liability of  
2 other governmental entities for an action that restricts the use of  
3 property when the action is mandated by state law or a state agency.

4 (8) Claims for compensation as a result of a taking of private  
5 property under this chapter must be brought within the time period  
6 specified in RCW 4.16.080.

7 NEW SECTION. **Sec. 3.** When considering whether to adopt a new  
8 regulation or restriction on the use of land, a governmental entity may  
9 not require a private property owner to provide or pay for studies,  
10 maps, plans, or reports used in the consideration. This section does  
11 not prohibit government for requiring information from private property  
12 owners to determine whether a proposed use of land complies with state  
13 or local law.

14 NEW SECTION. **Sec. 4.** This chapter may be enforced in superior  
15 court against a governmental entity that fails to comply with this  
16 chapter by owner of property subject to the jurisdiction of the entity.  
17 A prevailing property owner is entitled to recover the costs of  
18 litigation, including reasonable attorneys' fees.

19 NEW SECTION. **Sec. 5.** This chapter is intended to provide  
20 protection to private property owners in addition to any constitutional  
21 rights under either or both the state and federal constitutions and is  
22 not intended to restrict or replace any constitutional rights.

23 NEW SECTION. **Sec. 6.** This act may be known and cited as the  
24 private property regulatory fairness act.

25 NEW SECTION. **Sec. 7.** If any provision of this act or its  
26 application to any person or circumstance is held invalid, the  
27 remainder of the act or the application of the provision to other  
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act shall  
30 constitute a new chapter in Title 64 RCW.

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