

CERTIFICATION OF ENROLLMENT

**SENATE INITIATIVE NO. 164**

54th Legislature  
1995 Regular Session

Passed by the Senate April 18, 1995  
YEAS 28    NAYS 20

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**President of the Senate**

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE INITIATIVE NO. 164** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

## INITIATIVE 164

I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 164 to the Legislature is a true and correct copy as it was received by this office.

### INITIATIVE MEASURE NO. 164

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

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

**NEW SECTION. Sec. 1.** This act is intended to provide remedies to property owners in addition to any constitutional rights under the state and/or federal constitutions and is not intended to restrict or replace any constitutional rights.

**NEW SECTION. Sec. 2.** This act shall be known as the private property regulatory fairness act.

**NEW SECTION. Sec. 3.** A regulation of private property or restraint of land use by a governmental entity is prohibited unless a statement containing a full analysis of the total economic impact in private property of such regulation or restraint is prepared by the entity and made available to the public at least thirty days prior to adoption of the regulation or imposition of the restraint. Such statement shall identify the manner in which the proposed action will substantially advance the purpose of protecting public health and safety against identified public health or safety risks created by the use of private property, and analyze the economic impact of all reasonable alternatives to the regulation or restraint. Should the governmental entity choose to adopt a proposed regulation or restraint on the use private property, the governmental entity shall adopt the regulation or restraint that has the least possible impact on private property and still accomplishes the necessary public purpose.

**NEW SECTION. Sec. 4.** (1) A portion or parcel of private property shall be considered to have been taken for general public use when:

(a) a governmental entity regulates or imposes a restraint of land use on such portion or parcel of property for public benefit including wetlands, fish or wildlife habitat, buffer zone, or other public benefit designations; and

(b) no public nuisance will be created absent the regulation; and

(2) When private property is taken for general public use, the regulating agency or jurisdiction shall pay full compensation of reduction in value to the owner, or the use of the land by the

owner may not be restricted because of the regulation or restraint. The jurisdiction may not require waiving this compensation as a condition of approval of use or another permit, nor as a condition for subdivision of land.

(3) Compensation must be paid to the owner of a private property within three months of the adoption of a regulation or restraint which results in a taking for general public use.

(4) A governmental entity may not deflate the value of property by suggesting or threatening a designation to avoid full compensation to the owner.

(5) A governmental entity that places restrictions on the use of public or private property which deprive a landowner of access to his or her property must also provide alternative access to the property at the governmental entity's expense, or purchase the inaccessible property.

(6) The assessor shall adjust property valuation for tax purposes and notify the owner of the new tax valuation, which must be reflected and identified in the next tax assessment notice.

(7) The state is responsible for the compensation liability of other governmental entities for any action which restricts the use of property when such action is mandated by state law or any state agency.

(8) Claims for compensation as a result of a taking of private property under this act must be brought within the time period specified in RCW 4.16.020.

**NEW SECTION. Sec. 6.** No governmental entity may require any private property owner to provide or pay for any studies, maps, plans, or reports used in decisions to consider restricting the use of private property for public use.

**NEW SECTION. Sec. 7.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Full compensation" means the reduction in the fair market value of the portion or parcel of property taken for general public use which is attributable to the regulation or restraint. Such reduction shall be measured as of the date of adoption of the regulation or imposition of restraint on the use of private property.

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

(3) "Private property" means -  
(a) land;  
(b) any interest in land or improvements thereon;  
(c) any proprietary water right;  
(d) Any crops, forest products, or resources capable of being harvested or extracted that is owned by a non-governmental entity and is protected by either the Fifth or Fourteenth Amendments to the U.S. Constitution or the Washington State Constitution.

(4) "Restraint of land use" means any action, requirement, or restriction by a governmental entity, other than actions to prevent or abate public nuisances, that limits the use or development or private property.

**NEW SECTION. Sec. 8** This act may be enforced in Superior Court against any governmental entity which fails to comply with the provisions of this act by any owner of property subject to the jurisdiction of such entity. Any prevailing plaintiff is entitled to recover the costs of litigation, including reasonable attorney's fees.

**NEW SECTION. Sec. 9.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 10.** Sections 1 through 8 of this act shall constitute a new chapter in Title 64 RCW.

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