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**SENATE BILL 6808**

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**State of Washington                      59th Legislature                      2006 Regular Session**

**By** Senators Roach, Benton, Sheldon, Oke and Stevens

Read first time 01/25/2006.      Referred to Committee on Government Operations & Elections.

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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