H-2595.1

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**HOUSE BILL 2974**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives Shea, Taylor, Young, Scott, McCaslin, and Condotta

AN ACT Relating to prohibiting the confiscation of an individual's private real and personal property during an emergency; and adding new sections to chapter 38.52 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 38.52 RCW to read as follows:

The legislature finds that the citizens of this state have not only the right to be free from the mere physical restraint of their person, but have the right to be free to lawfully acquire real and personal property and to use such property in all lawful ways as they see fit, to be free in the enjoyment of all their natural faculties and to use them in all lawful ways as they see fit, to live and work where they will, and to pursue any lawful livelihood or avocation of their choosing in order to earn their livelihood, and that for these purposes citizens have the right to be free to enter into all contracts that may be proper, necessary, and essential to their carrying out these purposes to a successful conclusion in their pursuit of happiness. The legislature further finds that liberty and private property rights have been historically abridged during emergencies and remain vulnerable to further erosion during future crises, that attempts to restrain the abuse of emergency powers have not eliminated the ratcheting effect of actual or purported emergencies in augmenting governmental power, and that there is a compelling state interest in forestalling the threat to liberty and private property rights inherent in the emergency psychology in and its exploitation by governmental officials.

NEW SECTION. **Sec.**  A new section is added to chapter 38.52 RCW to read as follows:

(1) No agency of the state or political subdivision of the state, or any officer, employee, or agent of the state or political subdivision of the state, or any person operating pursuant to or under color of state law, or receiving state funds, or under control of any state official, while acting in support of relief from a major disaster or emergency, may:

(a) Temporarily or permanently seize, or authorize seizure of, the real and personal property of a private individual; or

(b) Prohibit the possession or use of any real and personal property of a private individual, or adopt any rule, regulation, or order prohibiting the possession or use of any real and personal property of a private individual, in any place or by any person where such possession is or is not otherwise prohibited by codified law consistent with the plain meaning and original understanding and practice of the drafters and ratifiers as best as can be determined any legal precedent to the contrary notwithstanding.

(2) Any individual aggrieved by a violation of this section may seek relief in an action at law, suit in equity, or other proper proceeding for redress against any person who subjects such individual, or causes such individual to be subjected, to the deprivation of any of the rights, privileges, or immunities secured by this section.

(3) In addition to any existing remedy in law or equity, under any law, an individual aggrieved by the seizure or confiscation of the individual's private real or personal property in violation of this section may bring an action for return of property in the superior court of the county or in which that individual resides or in which such property may be located or found.

(4) In any action or proceeding to enforce this section, the court shall award the prevailing party, other than the state or political subdivision of the state, costs and reasonable attorneys' fees.

**--- END ---**