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HOUSE BILL 3017

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State of Washington

59th Legislature

2006 Regular Session

By Representatives Springer, P. Sullivan, Upthegrove, Chase, Morrell, Simpson, Sells, Schual-Berke, Green, Kilmer, B. Sullivan, Linville and Hasegawa; by request of Governor Gregoire and Commissioner of Public Lands

Read first time 01/18/2006. Referred to Committee on Judiciary.

1 AN ACT Relating to restrictions on condemnation and sale of  
2 condemned property by state and local governments; and creating new  
3 sections.

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

5 NEW SECTION. **Sec. 1.** (1) Members of the public have expressed  
6 concern regarding a recent United States supreme court decision, *Kelo*  
7 *v. New London* (No. 04-108 (June 23, 2005)), which upheld, under the  
8 United States Constitution, a Connecticut city's exercise of eminent  
9 domain. It is the intent of the legislature to recognize, reaffirm,  
10 and support existing Washington case law under Article I, section 16 of  
11 the state Constitution, that prohibits the condemnation of private  
12 property other than for certain public purposes pursuant to law.

13 (2) In light of the United States supreme court decision in *Kelo v.*  
14 *New London*, the legislature intends to reaffirm existing Washington  
15 state law relating to the use of eminent domain by state and local  
16 governments, and to reaffirm the prohibition in Article I, section 16  
17 of the state Constitution on the use of eminent domain to take private  
18 property for private use. To this end, the legislature recognizes,  
19 reaffirms, and supports the restrictions on the use of eminent domain

1 to take private property for private use, as set forth in chapters  
2 8.04, 8.08, 8.12, 8.16, and 8.20 RCW and in the Washington state  
3 supreme court's decisions of *Hogue v. Seattle*, 54 Wn.2d 799, 341 P.2d  
4 171 (1959); *Miller v. Tacoma*, 61 Wn.2d 374, 378 P.2d 464 (1963); *In re*  
5 *Petition of Seattle*, 96 Wn.2d 616, 638 P.2d 549 (1981); and *State ex*  
6 *rel. Washington State Convention & Trade Center v. Evans*, 136 Wn.2d  
7 811, 966 P.2d 1252 (1998).

8 NEW SECTION. **Sec. 2.** If a state or local government determines  
9 that private property condemned for a public purpose no longer is  
10 necessary for a public purpose and should be sold, the owner of the  
11 property at the time it was condemned shall have a right of first  
12 refusal to purchase the property at fair market value as of the date  
13 the government announces its decision to sell the property. This right  
14 of first refusal shall expire ninety days from the date the state or  
15 local government notifies the owner of the government's decision to  
16 sell the property, or at any later date agreed to by the government.  
17 A right of refusal shall exist under this section for ten years after  
18 the completion of eminent domain proceedings.

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