

# SENATE BILL REPORT

## ESB 6379

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As Passed Senate, February 13, 2018

**Title:** An act relating to requiring a public hearing before a local government may remove a recorded restrictive covenant from land owned by the local government.

**Brief Description:** Requiring a public hearing before a local government may remove a recorded restrictive covenant from land owned by the local government.

**Sponsors:** Senators Fain, Keiser, Takko and Short.

**Brief History:**

**Committee Activity:** Local Government: 1/23/18 [DP].

**Floor Activity:**

Passed Senate: 2/13/18, 46-1.

**Brief Summary of Engrossed Bill**

- Requires a local government to hold a public hearing when it proposes to remove, vacate, or extinguish a recorded restrictive covenant, or any known covenant from an unrecorded deed, from property it owns.

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### SENATE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass.

Signed by Senators Takko, Chair; Palumbo, Vice Chair; Short, Ranking Member; Angel and Liias.

**Staff:** Bonnie Kim (786-7316)

**Background:** Generally, the owner of real property has a right to use the property as they choose. Sometimes property may be subject to certain encumbrances, such as easements, covenants, or other restrictions. A covenant is an agreement between two parties about what can or cannot be done to or on a property. Typically, a restrictive covenant is an agreement between parties to refrain from doing something on or to a piece of land.

Counties, cities, towns, and other metropolitan municipal corporations may hold or acquire a development right, easement, covenant, restriction, or other right or interest in land. These

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restrictions on real property may serve to protect, preserve, maintain, improve, restore, limit the future use of, or conserve for open space purposes, any land or improvement on the land. This right or interest is classified as real property.

Cities, towns, municipal corporations, code cities, and counties that wish to remove, vacate, or extinguish a restrictive covenant from property owned by the local government must first hold a public hearing. The local government must provide notice of the public hearing at least ten days before the hearing at its usual place of business and issue a press release to local media providing the date, time, location, and reason for the public hearing.

The notice must be posted on the local government's website if it is updated for any reason before the hearing date. The notice must identify the property and provide a brief explanation of the restrictive covenant that the local government is proposing to remove, vacate, or extinguish.

Members of the public may provide testimony regarding the proposed action at the public hearing.

**Summary of Engrossed Bill:** A city, town, municipal corporation, code city, or county must hold a public hearing when it proposes to remove, vacate, or extinguish a recorded restrictive covenant, or any known covenant from an unrecorded deed, from property it owns.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill fixes some confusion over the definition of "restrictive covenant" and whether those covenants must be recorded to trigger the public hearing requirement. Title reports do not show unrecorded covenants. Cities may incur liability to meet requirements that do not appear in title reports.

**Persons Testifying:** PRO: Doug Levy, City of Kent; Tammy White, City of Kent, Assistant City Attorney.

**Persons Signed In To Testify But Not Testifying:** No one.