



General Assembly

January Session, 2005

Amendment

LCO No. 6007

HB0678306007HRO

Offered by:
REP. MINER, 66th Dist.

To: Subst. House Bill No. 6783 File No. 399 Cal. No. 313

**"AN ACT CONCERNING THE PRESERVATION AND USE OF
AGRICULTURAL LANDS."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. (NEW) (*Effective October 1, 2005*) (a) As used in this
4 section:

5 (1) "Family member" means the wife, husband, son, daughter,
6 mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law,
7 daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece,
8 nephew, stepparent, stepchild, grandparent or grandchild of the
9 owner of the property, an estate of any of the foregoing family
10 members, or a legal entity owned by any one or combination of these
11 family members or the owner of the property;

12 (2) "Land use regulation" means (A) the provisions of the general
13 statutes and regulations adopted thereunder concerning (i) the use of
14 land or any interest therein, and (ii) farming and forest practices, and

15 (B) municipal plans of conservation and development, zoning
16 ordinances and other municipal ordinances concerning land;

17 (3) "Municipality" means any town, city, borough, consolidated
18 town and city, consolidated town and borough, district, district
19 department of health, or authority established by the general statutes,
20 a special act or local law, ordinance or charter or any public agency;

21 (4) "Owner" means the present owner of the property, or any
22 interest therein; and

23 (5) "Public entity" means the state or a municipality.

24 (b) If a public entity enacts or enforces a new land use regulation or
25 enforces a land use regulation enacted prior to the effective date of this
26 section that restricts the use of private real property or any interest
27 therein and has the effect of reducing the fair market value of the
28 property, or any interest therein, the owner of such property shall be
29 paid just compensation.

30 (c) Just compensation shall be equal to the reduction in the fair
31 market value of the affected property interest resulting from
32 enactment or enforcement of the land use regulation as of the date the
33 owner makes written demand for compensation under this section.

34 (d) The provisions of subsection (b) of this section shall not apply to
35 land use regulations: (1) Restricting or prohibiting activities commonly
36 and historically recognized as public nuisances under common law; (2)
37 restricting or prohibiting activities for the protection of public health
38 and safety, such as fire and building codes, health and sanitation
39 regulations, solid or hazardous waste regulations, and pollution
40 control regulations; (3) to the extent the land use regulation is required
41 to comply with federal law; (4) restricting or prohibiting the use of a
42 property for the purpose of selling pornography or performing nude
43 dancing; or (5) enacted prior to the date of acquisition of the property
44 by the owner or a family member of the owner who owned the subject
45 property prior to acquisition or inheritance by the owner, whichever

46 occurred first. Subdivision (1) of this subsection shall be construed
47 narrowly in favor of a finding of compensation under this section.
48 Nothing in subdivision (4) of this subsection is intended to affect or
49 alter rights provided by the state or United States Constitution.

50 (e) Just compensation under subsection (b) of this section shall be
51 due the owner of the property if the land use regulation continues to
52 be enforced against the property one hundred eighty days after the
53 owner of the property makes written demand for compensation under
54 this section to the public entity enacting or enforcing the land use
55 regulation.

56 (f) For claims arising from land use regulations enacted prior to the
57 effective date of this section, written demand for compensation under
58 subsection (e) of this section shall be made not later than two years
59 after the effective date of this section, or the date the public entity
60 applies the land use regulation as an approval criteria to an application
61 submitted by the owner of the property, whichever is later. For claims
62 arising from land use regulations enacted after the effective date of this
63 section, written demand for compensation under subsection (e) of this
64 section shall be made not later than two years after the enactment of
65 the land use regulation, or the date the owner of the property submits
66 a land use application in which the land use regulation is an approval
67 criteria, whichever is later.

68 (g) If a land use regulation continues to apply to the subject
69 property more than one hundred eighty days after the present owner
70 of the property has made written demand for compensation under this
71 section, the present owner of the property, or any interest therein, shall
72 have a cause of action for compensation under this section in the
73 judicial district in which the real property is located. The present
74 owner of the real property shall be entitled to reasonable attorney fees,
75 expenses, costs, and other disbursements reasonably incurred to collect
76 the compensation under this section.

77 (h) A municipality or public entity may adopt or apply procedures

78 for the processing of claims under this section, but adoption of such
79 procedures section shall not be a prerequisite to the filing of a
80 compensation claim under subsection (g) of this section. The failure of
81 an owner of property to file an application for a land use permit with
82 the municipality shall not be grounds for dismissal, abatement, or
83 delay of a compensation claim under said subsection (g).

84 (i) Notwithstanding any other general statute or the availability of
85 funds under subsection (g) of this section, in lieu of payment of just
86 compensation under this section, the governing body responsible for
87 enacting the land use regulation may modify, remove, or not to apply
88 the land use regulation or land use regulations to allow the owner to
89 use the property for a use permitted at the time the owner acquired the
90 property.

91 (j) Claims made under this section shall be paid from funds, if any,
92 specifically allocated by the General Assembly or the legislative body
93 of the municipality for payment of claims under this section.
94 Notwithstanding the availability of funds under this subsection, a
95 municipality or public entity may use available funds to pay claims or
96 to modify, remove, or not apply a land use regulation or land use
97 regulations pursuant to subsection (g) of this section. If a claim has not
98 been paid within two years from the date on which it accrues, the
99 owner shall be allowed to use the property as permitted at the time the
100 owner acquired the property.

101 (k) The remedy created by this section is in addition to any other
102 remedy under the state or United States Constitution."