

HOUSE BILL REPORT

HB 1462

As Reported by House Committee On: Community Development & Housing

Title: An act relating to the use of surplus property for the development of affordable housing.

Brief Description: Concerning the use of surplus property for the development of affordable housing.

Sponsors: Representatives Kenney, Pettigrew, Ryu, Santos, Orwall, Ormsby, Springer, Reykdal, Dickerson, Frockt and Kagi.

Brief History:

Committee Activity:

Community Development & Housing: 2/2/11, 2/10/11 [DPS].

Brief Summary of Substitute Bill

- Permits the Department of Commerce to work with specified state and local governments to maintain an inventory of surplus or underutilized property appropriate for the development of affordable housing.
- Allows a governmental entity selling surplus property to an eligible entity to do so without receiving fair market value as long as the affordable housing developed on the property is occupied primarily by extremely low-income, very low-income, or low-income individuals or families.
- Requires each participating governmental entity, upon declaring a surplus property to be: (1) available for sale; (2) suitable for the development of affordable housing; and (3) selected for the purpose of developing affordable housing to exclusively offer the property for at least 180 days to eligible organizations for the purpose of developing affordable housing.

HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT & HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Kenney, Chair; Finn, Vice Chair; Maxwell, Ryu and Santos.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 4 members: Representatives Smith, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Ahern and Walsh.

Staff: Jennifer Thornton (786-7147).

Background:

Department of Commerce's Surplus Land Inventory Program.

The Department of Commerce (Department) is required to administer a program for the statewide identification and cataloging of underutilized, state-owned real property that is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households. Specified state agencies and local governments are required to provide the Department with an inventory, subject to yearly updates, of all real property that is owned or controlled by such agencies and that is available for lease or sale. The state agencies and local governments subject to this requirement are the:

- Department of Natural Resources;
- Department of Transportation;
- Department of Social and Health Services;
- Department of Corrections;
- Department of General Administration;
- counties; and
- cities, towns, and code cities.

Although not specifically referenced in the Department's surplus lands inventory statute, counties, cities, towns, and code cities are explicitly required to fully participate in the program by statutes contained in the various chapters regulating these municipalities.

As part of the Department's inventory program, each of the participating state agencies and local governments are required to provide the Department with an inventory of its eligible under-utilized property by November 1 of each year. The inventory must include pertinent information regarding the location, approximate size, and current zoning classification of the property. In addition, by November 1 of each year, the governmental entities must purge their real property inventories of sites that are no longer available for the development of affordable housing. The Department must then update its master inventory to reflect the inventory changes reported by the governmental entities.

Upon written request, the Department is required to provide a copy of the inventory of state-owned and publicly owned real property to parties interested in developing the sites for affordable housing.

"Affordable housing" is defined as residential housing that is rented or owned by a person who qualifies as a very low-income, low-income, or moderate-income household, or who is from a special needs population, and whose monthly housing costs, including utilities other than telephone, do not exceed 30 percent of the household's monthly income.

Sale or Disposition of Surplus Land by Governmental Entities Not Required to Participate in the Department's Surplus Land Inventory.

Most state and local governmental entities that are authorized to own, control, or administer real property are subject to some form of statutory regulation regarding the sale, disposition, or administration of such property. Most of these governmental entities, however, are not required to participate in the Department's surplus property inventory, nor are they subject to statutory provisions requiring that they consider the development of affordable housing when disposing of surplus property. The Parks and Recreation Commission, port districts, public utility districts, and water-sewer districts are among the governmental entities that are not participants in the inventory or otherwise directed to consider affordable housing uses when selling surplus property.

Summary of Substitute Bill:

The Department is permitted to work with specified state and local governments to maintain an inventory of surplus or underutilized property appropriate for the development of affordable housing.

Each specified governmental entity, upon declaring a surplus property to be: (1) available for sale; (2) suitable for the development of affordable housing; and (3) selected for the purpose of developing affordable housing must first exclusively offer the property for at least 180 days to eligible organizations for the purpose of developing affordable housing. The governmental entity also has sole authority to determine what constitutes reasonable option and conveyance conditions for the purchase, lease, exchange, or donation of the property.

A governmental entity that sells real property to an eligible entity under this section may do so at a price that is less than fair market value as long as the housing developed on the property is occupied primarily by individuals or households who are extremely low-income, very low-income, or low-income.

Each governmental entity must develop the criteria and procedures for inventorying surplus property and offering it for the sale, lease, exchange, or donation of affordable housing. The governmental entity must enter into a recorded covenant or loan note to ensure the property meets income requirements and monitor compliance with the covenant or loan note.

The specified state and local government entities subject to the surplus property requirements are the Department of Natural Resources, the Department of Social and Health Services, the Department of Corrections, the Department of General Administration, public lands, the State Parks and Recreation Commission, cities and towns with a population greater than 10,000, counties with a population greater than 100,000, regional transit authorities, and water-sewer districts.

Eligible organizations have the right to obtain these surplus properties through purchase, lease, exchange, or donation under reasonable option and purchase conditions in return for a recorded covenant to provide affordable housing for at least 40 years or a loan note for single-family homeownership programs.

An eligible organization includes any city, town, or county government, local housing authority, public development authority, community renewal agency, regional support network, nonprofit community or neighborhood-based organization, federally recognized Indian tribe in Washington, or regional or statewide nonprofit housing assistance organization.

Substitute Bill Compared to Original Bill:

The Department is permitted, rather than required, to work with specified state and local governments to maintain an inventory of surplus or underutilized property appropriate for the development of affordable housing.

The list of specified state and local governments is modified in the following ways:

- the Department of Transportation is removed;
- the Department of Natural Resource's state forest lands are removed;
- port districts are removed;
- public utility districts are removed;
- required counties are limited to those with a population greater than 100,000; and
- required cities and towns are limited to those with a population greater than 10,000.

The substitute bill clarifies that each specified governmental entity, upon declaring a surplus property to be: (1) available for sale; (2) suitable for the development of affordable housing; and (3) selected for the purpose of developing affordable housing must first exclusively offer the property for at least 180 days to eligible organizations for the purpose of developing affordable housing.

The substitute bill specifies that counties, cities, and towns are permitted to sell surplus property at a discount for affordable housing that may be part of mixed-income or mixed-use developments as long as specified guidelines for affordable housing incentive programs are met.

Counties, cities, and towns are included in the provisions making suitable properties available exclusively to eligible affordable housing organizations for at least 180 days, authorizing the sale of surplus property to an eligible entity without receiving fair market value, and providing authority to determine if a property is surplus.

The substitute bill makes technical changes, such as changing the name "jurisdiction" to "governmental entity."

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 11, 2011.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill provides a good opportunity to transfer property that government does not need and turn it into affordable housing. The purpose is to try to provide nonprofits and governments that develop affordable housing with access to these properties. It will give them 180 days to arrange for financing. There are examples of award winning projects developed using surplus properties. The governmental entity determines if the property is surplus and usable for affordable housing, and set the terms and conditions on the sale. The property can be sold at market value, or if 51 percent or more is used for affordable housing, it is permitted to be sold for a discount. This is a tool for governments, but the priority is only given if the governmental entity goes through a checklist and wants to use the property for affordable housing. Cities helped develop this bill; several entities were removed at their requests. Though a number of entities already give a priority to affordable housing, others feel they need more clarity in state law to ensure they can do it.

(With concerns) Counties share an interest in affordable housing. Conducting the inventory can cause a drain on resources. It would be helpful to talk through the changes in the proposed substitute bill and see if others are needed.

(Opposed) None.

Persons Testifying: (In support) Representative Kenney, prime sponsor; Kim Herman, Washington State Housing Finance Commission; and Nick Federici, Washington Low Income Housing Alliance.

(With concerns) Rashi Gupta, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying: None.