

# HOUSE BILL REPORT

## E2SHB 1563

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**As Passed House:**  
March 6, 2013

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

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

**Sponsors:** House Committee on Capital Budget (originally sponsored by Representatives Farrell, Wylie, McCoy, Orwall, Seaquist, Bergquist, Springer, Pedersen, O'Ban, Kochmar, Moeller, Fitzgibbon, Appleton, Ryu, Stanford, Maxwell, Jinkins, Hunt, Fey, Pollet, Goodman, Habib and Santos).

**Brief History:**

**Committee Activity:**

Community Development, Housing & Tribal Affairs: 2/14/13, 2/21/13 [DPS];  
Capital Budget: 2/26/13 [DP2S(w/o sub CDHT)].

**Floor Activity:**

Passed House: 3/6/13, 51-46.

**Brief Summary of Engrossed Second Substitute Bill**

- Authorizes specified governmental entities to dispose of surplus property at less than fair market value if the affordable housing developed on the property will be occupied primarily by certain low-income households.
- Authorizes the Department of Transportation to dispose of surplus property not suitable for residential use at less than fair market value for purposes that support or complement development of affordable housing.
- Authorizes counties, cities, and towns to sell surplus property at a discount for affordable housing that may be part of mixed-income or mixed-use developments.
- Repeals the requirement that the Department of Commerce work with specified state agencies to identify and catalog surplus real property.

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*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.*

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## HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT, HOUSING & TRIBAL AFFAIRS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives McCoy, Chair; Appleton, Vice Chair; Ryu, Santos and Sawyer.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Angel, Ranking Minority Member; Johnson, Assistant Ranking Minority Member; Haler and Pike.

**Staff:** Jill Reinmuth (786-7134).

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## HOUSE COMMITTEE ON CAPITAL BUDGET

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Community Development, Housing & Tribal Affairs. Signed by 6 members: Representatives Dunshee, Chair; Stanford, Vice Chair; Appleton, Fey, Riccelli and Stonier.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Warnick, Ranking Minority Member; Hawkins, Assistant Ranking Minority Member; MacEwen, Scott and Smith.

**Staff:** Susan Howson (786-7142).

### **Background:**

#### Inventory of Surplus Property for Affordable Housing.

The Department of Commerce (Department) is required to work with specified state agencies to identify and catalog under-utilized, state-owned real property that is suitable for the development of affordable housing. The specified agencies are the Department of Corrections, the Department of Enterprise Services, the Department of Natural Resources, the Department of Social and Health Services, and the Department of Transportation. Similar provisions applicable to counties and cities were repealed in 2012.

The definition of "affordable housing" is residential housing that is rented or owned by certain persons who qualify as very low-income, low-income, or moderate-income households or who are from special needs populations, and whose monthly housing costs, including utilities other than telephone, do not exceed 30 percent of the household's monthly income.

#### Disposal of Surplus Property.

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. For example, certain entities are required to sell real property at a price that is at least fair market value.

With the exception of the state agencies specified above, most governmental entities 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, counties, cities, and towns are among the entities that are not participants in the inventory or otherwise directed to consider affordable housing uses when selling surplus property.

### **Summary of Engrossed Second Substitute Bill:**

#### Disposal of Surplus Property for Affordable Housing.

The Legislature expresses its recognition that local governments have financial challenges, and its understanding that local governments need to provide services. The Legislature also expresses its intent to provide flexibility to local governments regarding the disposition of surplus property for affordable housing, and to allow discretion to local governments to balance competing needs.

Governmental entities may sell, lease, exchange, or donate surplus property to eligible organizations at less than fair market value if the affordable housing developed on the property will be occupied primarily by certain low-income households. Extended closings and other beneficial sales terms may also be created.

Governmental entities disposing of surplus property must enter into either recorded covenants or loan notes to ensure that the property meets the required income, rent, and sales price restrictions. These entities also are required to monitor compliance with the covenant or note.

The Department of Transportation also may sell, lease, exchange, or donate surplus property not suitable for residential use at less than fair market value for purposes that support or complement development of affordable housing. Beneficial sales terms also may be created.

Eligible organizations may obtain surplus properties through purchase, lease, exchange, or donation, under reasonable option and conveyance conditions, in return for either recorded covenants or loan notes. Covenants must be to provide rental housing for certain low-income households for at least 40 years. Loan notes must be for homeownership programs for certain low-income homeowners.

Counties, cities, and towns may sell surplus property at a discount for affordable housing that may be part of mixed-income or mixed-use developments. The affordable housing must comply with various guidelines for affordable housing under incentive programs enacted by counties or cities under the Growth Management Act. The authority granted to counties, cities, and towns is additional.

#### Definitions.

The definition of "affordable housing" is modified. "Affordable housing" means residential housing rented to or owned by certain households that qualify as extremely low-income or federally qualified low-income, in addition to very low-income and low-income. It does not include housing for moderate-income households. "Affordable housing" also means farmworker housing.

The definitions of certain low-income households are modified. These definitions are based on various percentages of county area median income where the affordable housing is located, adjusted for household size. The households and percentages are as follows:

<u>Household</u>	<u>Percentage of County Area Median Income</u>
Extremely low-income	At or below 30 percent
Very low-income	At or below 50 percent
Federally qualified low-income	Above 50 percent but at or below 60 percent
Low-income	Above 60 percent but at or below 80 percent

A definition of "governmental entity" is added. "Governmental entity" means the state Department of Corrections, the Department of Enterprise Services, the Department of Natural Resources, the Department of Social and Health Services, the Department of Transportation, and the Parks and Recreation Commission. Other specified governmental entities are counties, cities, towns, and regional transit authorities.

A definition of "eligible organization" is added. "Eligible organization" means counties, cities, towns, local housing authorities, public development authorities, community renewal agencies, regional support networks, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes, and nonprofit housing assistance organizations.

A definition of "surplus property" is added. "Surplus property" means real property, or any interest in real property, that is not required for the governmental entity's needs or the discharge of its responsibilities. It includes real property declared surplus by a governmental entity under its own policies and procedures. It does not include state forest lands managed by the Department of Natural Resources. "Real property" includes air rights.

Inventory of Surplus Property for Affordable Housing.

The requirement that the Department of Commerce work with specified state agencies to identify and catalog surplus real property is repealed.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony** (Community Development, Housing & Tribal Affairs):

(In support) This bill provides a powerful and innovative tool for building equitable, sustainable communities. This authority will serve as a catalyst for building the housing for which we are striving.

This bill grants permissive authority to government entities. If there is not a willing seller or willing buyer, there is not a deal. It is important that the authority remain permissive.

This bill gives governmental entities the flexibility to make surplus land available to build strong communities. The biggest barrier to developing affordable housing is the ability to secure land. This bill would be a key step to removing that barrier. While innovative, this bill is not unprecedented; there is similar authority in some other states.

This bill will allow entities to deliver much-needed housing in smart locations where there is good access to essential services, including transportation. Low-income households are often priced out of that access.

This bill will open up opportunities for more affordable housing by making public lands available at reduced costs. It could make the difference in whether some organizations are able to continue developing affordable housing. Other resources and funding for affordable housing are diminishing.

The amendment would exempt industrial lands. Industrial lands are a resource that needs to be protected, and are not appropriate for housing.

Abandoned and vacated properties are not good for anyone. They threaten and stifle economic development.

(With concerns) There is concern about the sections that cover port districts, and there should be an amendment removing ports from the bill. Fundamentally, port property is incompatible with housing. There are noise, safety, and contamination issues.

(Other) One suggestion is to add farmworker housing to the bill so that state and local governments can partner with nonprofits for housing in the rural economy.

There is concern about support for transit-oriented development. When transit stations are built, real estate appreciates. Dollars should not be diverted from the essential mission; dollars should not be diverted from transit to something else.

(Opposed) This bill does not go far enough. There are other needs that warrant a discount. For example, there are nonprofits that provide direct services to support the public good, such as senior services, child care, homeless outreach, and small business outreach. These other services also support the public good, and should be included.

**Staff Summary of Public Testimony (Capital Budget):**

(In support) There is a need for affordable housing in communities across the state. Affordable housing provides stability and safety for children, low wage workers, veterans, and seniors. It also creates jobs and stimulates local economies. This bill provides a permissible tool for developers, housing advocates, local communities, and public agencies to make affordable housing a reality. With this flexibility, communities and public agencies can collaborate to identify opportunities to bring affordable housing and transit together. In order to make this work, there must be a willing seller, a willing buyer, and a piece of property that makes sense for the development of affordable housing. There are good

examples of affordable housing projects that have been developed on unused federal and local government properties in the state.

(With concerns) Port districts should be removed from the bill. Port property is incompatible with housing due to noise, safety, and contamination issues.

(Opposed) None.

**Persons Testifying** (Community Development, Housing & Tribal Affairs): (In support) Representative Farrell, prime sponsor; Steve Walker, Washington State Housing Finance Commission; April Putney, Futurewise; Maureen Fife, Tacoma/Pierce County Habitat for Humanity; Keri Williams, Enterprise Community Partners; and Mary Tisdale, CBRE Inc. Commercial Real Estate.

(With concerns) Eric Johnson, Washington Public Ports Association.

(Other) Paul Roberts, Sound Transit; and Scott Dilley, Washington Farm Bureau.

(Opposed) George Pieper, Seattle Lesbian, Gay, Bisexual and Transgender Community Development.

**Persons Testifying** (Capital Budget): (In support) Representative Farrell, prime sponsor; Emily Alvarado, Housing Development Consortium; and Kim Herman, Housing Alliance Commission.

(With concerns) Eric Johnson, Washington Public Ports Association.

**Persons Signed In To Testify But Not Testifying** (Community Development, Housing & Tribal Affairs): None.

**Persons Signed In To Testify But Not Testifying** (Capital Budget): None.