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**ENGROSSED HOUSE BILL 2896**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Ryu, Santos, and Morgan

AN ACT Relating to the use of surplus property for public benefit; and amending RCW 43.63A.510 and 39.33.015.

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

**Sec.**  RCW 43.63A.510 and 2018 c 217 s 1 are each amended to read as follows:

(1) The department must work with the designated agencies to identify, catalog, and recommend best use of under-utilized, state-owned land and property suitable for the development of affordable housing for very low-income, low-income or moderate-income households. The designated agencies must provide an inventory of real property that is owned or administered by each agency and is vacant or available for lease or sale. The department must work with the designated agencies to include in the inventories a consolidated list of any property transactions executed by the agencies under the authority of RCW 39.33.015, including the property appraisal, the terms and conditions of sale, lease, or transfer, the value of the public benefit, and the impact of transaction to the agency. The inventories with revisions must be provided to the department by ((~~November 1st~~)) April 1, 2021, and then by April 1st of each year.

(2) The department must consolidate inventories into two groups: Properties suitable for consideration in affordable housing development; and properties not suitable for consideration in affordable housing development. In making this determination, the department must use industry accepted standards such as: Location, approximate lot size, current land use designation, ((~~and~~)) current zoning classification of the property, and other appropriate criteria. The department shall provide a recommendation, based on this grouping, to the office of financial management and appropriate policy and fiscal committees of the legislature by December 1st of each year.

(3) Upon written request, the department shall provide a copy of the inventory of state-owned and publicly owned lands and buildings to parties interested in developing the sites for affordable housing.

(4) The department shall annually publish the inventory of state-owned and publicly owned lands and buildings and the inventory received pursuant to RCW 47.12.064 on its web site. Upon written request, the department shall provide notice of publication of the inventories to parties interested in developing the sites for affordable housing.

(5) As used in this section:

(a) "Affordable housing" means 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 thirty percent of the household's monthly income.

(b) "Very low-income household" means a single person, family, or unrelated persons living together whose income is at or below fifty percent of the median income, adjusted for household size, for the county where the affordable housing is located.

(c) "Low-income household" means a single person, family, or unrelated persons living together whose income is more than fifty percent but is at or below eighty percent of the median income where the affordable housing is located.

(d) "Moderate-income household" means a single person, family, or unrelated persons living together whose income is more than eighty percent but is at or below one hundred fifteen percent of the median income where the affordable housing is located.

(e) "Affordable housing development" means state-owned real property appropriate for sale, transfer, or lease to an affordable housing developer capable of:

(i) Receiving the property within one hundred eighty days; and

(ii) Creating affordable housing units for occupancy within thirty-six months from the time of transfer.

(f) "Designated agencies" means the Washington state patrol, the state parks and recreation commission, and the departments of natural resources, social and health services, corrections, and enterprise services.

**Sec.**  RCW 39.33.015 and 2018 c 217 s 3 are each amended to read as follows:

(1) Any state agency, municipality, or political subdivision, with authority to dispose of surplus public property, may transfer, lease, or ((~~other disposal~~)) otherwise dispose of such property for a public benefit purpose, consistent with and subject to this section. Any such transfer, lease, or other disposal may be made to a public, private, or nongovernmental body on any mutually agreeable terms and conditions, including a no cost transfer, subject to and consistent with this section. Consideration ((~~must~~)) may include appraisal costs, debt service, all closing costs, and any other liabilities to the agency, municipality, or political subdivision. However, the property may not be so transferred, leased, or disposed of if such transfer, lease, or disposal would violate any bond covenant or encumber or impair any contract.

(2) A deed, lease, or other instrument transferring or conveying property pursuant to subsection (1) of this section must include:

(a) A covenant or other requirement that the property shall be used for the designated public benefit purpose for a minimum period of time as determined by the entity transferring or conveying the property; and

(b) Remedies that apply if the recipient of the property fails to use it for the designated public purpose or ceases to use it for such purpose for the required minimum period of time.

(3) To implement the authority granted by this section, the governing body or legislative authority of a municipality or political subdivision must enact rules to regulate the disposition of property for public benefit purposes. Any transfer, lease, or other disposition of property authorized under this section must be consistent with existing locally adopted comprehensive plans as described in RCW 36.70A.070.

(4) This section is deemed to provide a discretionary alternative method for the doing of the things authorized herein, and shall not be construed as imposing any additional condition upon the exercise of any other powers vested in any state agency, municipality, or political subdivision.

(5) No transfer, lease, or other disposition of property for public benefit purposes made pursuant to any other provision of law prior to June 7, 2018, may be construed to be invalid solely because the parties thereto did not comply with the procedures of this section.

(6) The transfer at no cost, lease, or other disposal of surplus real property for public benefit purposes is deemed a lawful purpose of any state agency, municipality, or political subdivision, for which accounts are kept on an enterprise fund or equivalent basis, regardless of the primary purpose or function of such agency.

(7) The transfer, lease, or other disposal of surplus municipal utility property at less than true and full value or at no cost for public benefit purposes shall be deemed a lawful tax imposed by a city or town specifically for public benefit as defined in this section and shall not be subject to the provisions of or limitations imposed under RCW 35.21.865 and 35.21.870.

(8) This section does not apply to the sale or transfer of any state forestlands, any state lands or property granted to the state by the federal government for the purposes of common schools or education, or subject to a legal restriction that would be violated by compliance with this section.

((~~(8)~~)) (9)(a) Each city with a population of greater than five hundred thousand located in a county with a population of greater than one million five hundred thousand that transfers, leases, or otherwise disposes of surplus public property for a public benefit purpose pursuant to this section must submit a biennial report to the relevant committees of the legislature containing information regarding each property that was transferred, leased, or otherwise disposed of. The report must contain the following information:

(i) A list identifying each property that was transferred, leased, or disposed of pursuant to this section and each entity that received the property; and

(ii) The number of units of affordable housing that were developed on each property that was transferred, leased, or disposed of pursuant to this section.

(b) The first report required by (a) of this subsection must be submitted by January 1, 2022. Subsequent reports must be submitted every two years thereafter.

(10) For purposes of this section:

(a) "Public benefit" means affordable housing for low-income and very low-income households as defined in RCW 43.63A.510, and related facilities or uses that ((~~support~~)): (i) Support the goals of affordable housing development in providing economic and social stability for low-income persons; (ii) subsidize or reduce the cost of affordable housing development; or (iii) are required by local development regulations; and

(b) "Surplus public property" means excess real property that is not required for the needs of or the discharge of the responsibilities of the state agency, municipality, or political subdivision.

**--- END ---**