

# HOUSE BILL REPORT

## EHB 2896

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**As Passed House:**  
February 17, 2020

**Title:** An act relating to the use of surplus property for public benefit.

**Brief Description:** Concerning the use of surplus property for public benefit.

**Sponsors:** Representatives Ryu, Santos and Morgan.

**Brief History:**

**Committee Activity:**

Housing, Community Development & Veterans: 2/4/20, 2/5/20 [DP].

**Floor Activity:**

Passed House: 2/17/20, 60-38.

**Brief Summary of Engrossed Bill**

- Requires the Department of Commerce (Commerce) to publish the inventories of state-owned real properties available for lease or sale that are submitted to Commerce by state agencies on its website.
- Modifies the authority of a state agency, municipality, or political subdivision to dispose of surplus public property for affordable housing purposes.

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### HOUSE COMMITTEE ON HOUSING, COMMUNITY DEVELOPMENT & VETERANS

**Majority Report:** Do pass. Signed by 6 members: Representatives Ryu, Chair; Morgan, Vice Chair; Frame, Johnson, J., Leavitt and Ramel.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Jenkin, Ranking Minority Member; Gildon, Assistant Ranking Minority Member; Barkis.

**Staff:** Cassie Jones (786-7303).

**Background:**

Inventories of State-Owned Land—Multiple Agencies.

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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.*

The Department of Commerce (Commerce) must work with the Washington State Patrol (WSP), the Parks and Recreation Commission (PNRC), and the departments of Social and Health Services (DSHS), Natural Resources (DNR), Transportation (DOT), Corrections (DOC), and Enterprise Services (DES) to identify, catalog, and recommend best use of under-utilized, state-owned property suitable for the development of affordable housing for very low-income, low-income, or moderate-income households. Each year, these agencies must submit to Commerce an inventory of their real property that is available for lease or sale. Commerce must work with the agencies to include in the inventories a consolidated list of any property transactions executed by the agencies that transfer, lease, or dispose of public property for affordable housing purposes 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 Commerce by November 1 of each year.

Commerce must consolidate inventories into two groups: (1) properties suitable for consideration in affordable housing development; and (2) properties not suitable for consideration in affordable housing development. In making this determination, Commerce must use industry accepted standards such as: location, approximate lot size, current land use designation, and current zoning classification of the property. Commerce must provide a recommendation, based on this grouping, to the Office of Financial Management and appropriate policy and fiscal committees of the Legislature by December 1 of each year. Upon written request, Commerce must 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.

#### Inventory of State-Owned Land—Department of Transportation.

The Department of Transportation must identify and catalog real property that is no longer required for DOT purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households. The inventory must include the location, approximate size, and current zoning classification of the property. The DOT shall provide a copy of the inventory to Commerce by November 1, 1993, and every November 1 thereafter. By November 1 of each year, beginning in 1994, the DOT shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The DOT must include an updated listing of real property that has become available since the last update.

#### Transfer, Lease, or Disposal of Public Property for Affordable Housing.

Any state agency, municipality, or political subdivision, with authority to dispose of surplus public property, may transfer, lease, or otherwise dispose of such property for a public benefit purpose. 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. Consideration must 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.

A deed, lease, or other instrument transferring or conveying surplus property pursuant for a public benefit purpose must include:

- a covenant or other requirement that the property shall be used for the designated public benefit purpose; and
- 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.

"Public benefit" means affordable housing for low-income and very low-income households and related facilities that support the goals of affordable housing development in providing economic and social stability for low-income persons.

"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.

### **Summary of Engrossed Bill:**

#### Inventory of State-Owned Land.

The inventory of state-owned real property available for lease or sale is due to Commerce by April 1, 2021, and then by April 1 of each year, rather than November 1 for the WSP, PNR, DSHS, DNR, DES, and DES. In determining whether the properties on the agencies' inventories are suitable for affordable housing, Commerce may consider other appropriate criteria in addition to location, lot size, land use designation, and zoning classification. Commerce must annually publish the inventories of state-owned and publicly owned lands and buildings on its website. Upon written request, Commerce must provide notice of publication of the inventory to parties interested in developing the sites for affordable housing.

#### Transfer, Lease, or Disposal of Public Property for Affordable Housing.

The requirement that consideration for the transfer of surplus property for a public benefit purpose include appraisal costs, debt service, all closing costs, and any other liabilities to the agency, municipality, or political subdivision is eliminated. The entity transferring the surplus property may determine the required minimum time period that the property must be used for the public benefit purpose. 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 is deemed a lawful tax.

The definition of "public benefit" is expanded to include uses that support the goals of affordable housing development, subsidizing or reducing the cost of affordable housing development, and that which is required by local development regulations.

A city with a population of greater than 500,000 located in a county with a population of greater than \$1.5 million is required to submit a biennial report to the Legislature containing: (1) a list identifying each property that was transferred, leased, or disposed of for a public benefit purpose and each entity that received the property; and (2) the number of units of affordable housing that were developed on each property.

**Appropriation:** None.

**Fiscal Note:** Requested on January 30, 2020.

**Effective Date:** 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 is a follow-up to a previous bill that passed a couple of years ago in an effort to perfect that law. Because of the lack of affordable housing inventory and the homelessness crisis, the state and local governments are spending significant resources on these issues. There are entities who take advantage of the programs in this bill to transfer property for affordable housing purposes. This bill is narrowly tailored to affordable housing purposes. Housing providers rely on a number of state and local tools in order to provide affordable rental housing and homeownership. Accessing surplus public property at no or low cost is a critical tool that has produced new affordable housing units.

(Opposed) None.

(Other) Aligning the dates for the inventory will allow better, more timely information to be provided for parcels suitable for affordable housing.

**Persons Testifying:** (In support) Representative Ryu, prime sponsor; and Robin Koskey, Seattle Office of Housing.

(Other) Dave Pringle, Department of Commerce.

**Persons Signed In To Testify But Not Testifying:** None.