

SENATE BILL REPORT

E2SHB 1563

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, March 28, 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: Passed House: 3/06/13, 51-46.

Committee Activity: Financial Institutions, Housing & Insurance: 3/26/13, 3/28/13 [DPA, DNP].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: Do pass as amended.

Signed by Senators Hobbs, Chair; Mullet, Vice Chair; Fain, Hatfield and Nelson.

Minority Report: Do not pass.

Signed by Senator Benton, Ranking Member.

Staff: Alison Mendiola (786-7483)

Background: Inventory of Surplus Property for Affordable Housing. The Department of Commerce (Department) must 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 (DOC), the Department of Enterprise Services (DES), the Department of Natural Resources (DNR), the Department of Social and Health Services (DSHS), and the Department of Transportation (WSDOT). Similar provisions applicable to counties and cities were repealed in 2012.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

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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 (State Parks), 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 Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Amendments): 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, or exchange 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 must monitor compliance with the covenant or note. The selling governmental entities that sell, lease, or exchange surplus property for less than fair market value must document that the value received is commensurate with the level of affordable housing provided.

Eligible organizations may obtain surplus properties through purchase, lease, or exchange, 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. 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 such:

Household Percentage of County Area Median Income

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

Governmental entity means a county, city, or town government or regional transit authority.

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.

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. Surplus property does not include property subject to federal prohibitions on its disposal for less than fair market value. Real property includes air rights.

Inventory of Surplus Property for Affordable Housing. The requirement that the Department work with specified state agencies to identify and catalog surplus real property is repealed.

EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Amendments): Surplus property does not include state-owned property or property subject to federal prohibitions on its disposal for less than fair market value. Surplus property cannot be donated. A selling governmental agency that sells, leases, or exchanges surplus property for less than fair market value must document that the value received is commensurate with the level of affordable housing provided on the property.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The proposed striker is supported. Homelessness is a big issue and this bill puts another tool in the toolbox. The language of

this bill is permissive; there are no requirements. The port language is removed and the striker acknowledges that there may be instances where a federal prohibition would prohibit the sale of land for less than fair market value. A good home is necessary for a good life. A home needs to be near transit and other services. Finding a good site for any type of housing is an issue, even more so for affordable housing. Families who spend time away from families because they cannot afford to live where they work is not only a burden on families but also society. The affordable housing required is 51 percent to promote mixed-used housing so there are not concentrations of poverty. There is land purchased for building transit that is sitting vacant. It was used for staging, in the development of the transportation. Selling the land for less than fair market value is better than the land just sitting there.

Persons Testifying: PRO: Representative Farrell, prime sponsor; M.A. Leonard, Enterprise Community Partners; Emily Alvarado, Housing Development Consortium; Paul Edwards, WA State Housing Finance Commission; Marty Kooistra, Habitat for Humanity, Seattle-King County.