
SUBSTITUTE SENATE BILL 5598

State of Washington

63rd Legislature

2013 Regular Session

By Senate Financial Institutions, Housing & Insurance (originally sponsored by Senators Mullet, Litzow, McAuliffe, Fain, Kohl-Welles, Shin, Nelson, Chase, and Frockt; by request of Washington State Housing Finance Commission)

READ FIRST TIME 02/20/13.

1 AN ACT Relating to the disposition of surplus property for the
2 development of affordable housing; amending RCW 43.63A.510, 43.20A.037,
3 72.09.055, 43.19.19201, 79A.05.170, 79A.05.175, 79.11.005, 47.12.064,
4 and 81.112.080; adding a new section to chapter 36.34 RCW; and adding
5 a new section to chapter 35.21 RCW.

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

7 **Sec. 1.** RCW 43.63A.510 and 1993 c 461 s 2 are each amended to read
8 as follows:

9 (1) The department ((shall)) may work with ((the departments of
10 natural resources, transportation, social and health services,
11 corrections, and general administration to identify and catalog under-
12 utilized, state owned land and property)) state and local governmental
13 entities that choose to utilize real property, including air rights,
14 owned by these governmental entities suitable for the development of
15 affordable housing for extremely low-income, very low-income, federally
16 qualified low-income, or low-income ((or moderate income)) households.
17 The state and local governmental entities subject to the requirements
18 of this section are the departments of natural resources,
19 transportation, social and health services, corrections, and ((general

1 administration shall provide an inventory of real property that is
2 owned or administered by each agency and is available for lease or
3 sale. The inventories shall be provided to the department by November
4 1, 1993, with inventory revisions provided each November 1 thereafter.

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

8 (3)) enterprise services, public lands except for state forest
9 lands, the state parks and recreation commission, counties, cities,
10 towns, and regional transit authorities.

11 (2) A governmental entity that sells or leases real property,
12 including air rights, to an eligible organization under this section
13 may do so at a price that is less than fair market value, provided that
14 the housing developed on the property will be occupied primarily by
15 households who are extremely low-income, very low-income, federally
16 qualified low-income, or low-income.

17 (3) A governmental entity that sells or leases real property,
18 including air rights, to an eligible organization under this section
19 may create beneficial sales terms including, but not limited to,
20 extended closings, provided that the housing developed on the property
21 will be occupied primarily by households who are extremely low-income,
22 very low-income, federally qualified low-income, or low-income.

23 (4) An eligible organization may obtain these surplus properties
24 through purchase, lease, exchange, or donation, under reasonable option
25 and conveyance conditions, in return for (a) a recorded covenant to
26 provide rental housing for extremely low-income, very low-income, or
27 federally qualified low-income households for at least forty years; or
28 (b) a loan note in the name of a governmental entity for homeownership
29 programs in which the homeowners are extremely low-income, very low-
30 income, federally qualified low-income, or low-income.

31 (5) Each governmental entity must (a) enter into a recorded
32 covenant with the purchaser of the surplus property or a loan note in
33 the name of the governmental entity, to ensure that the property will
34 meet the required income, rent, and sales price restrictions; and (b)
35 monitor compliance with the covenant or loan note.

36 (6) As an alternative to the requirements of this section,
37 counties, cities, and towns may sell surplus property at a discount for
38 affordable housing that may be part of mixed-income or mixed-use

1 developments, provided that the affordable housing complies with the
2 guidelines for affordable housing, income levels, affordable rents,
3 affordable sales prices, and minimum terms of affordability under RCW
4 36.70A.540 for affordable housing incentive programs. The authority
5 granted to counties, cities, and towns in this subsection is in
6 addition to, and must not be construed to limit, any existing
7 authority.

8 (7) As used in this section:

9 (a) "Affordable housing" means residential housing that is rented
10 or owned by a person who qualifies as ~~((a))~~ an extremely low-income,
11 very low-income, federally qualified low-income, or low-income~~((or~~
12 ~~moderate-income))~~ household or who is from a special needs population,
13 and ~~((whose))~~ for which monthly housing costs, including utilities
14 other than telephone, do not exceed thirty percent of the
15 ~~((household's))~~ maximum allowed monthly income for the housing unit.

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

21 (c) "Low-income household" means a single person, family, or
22 unrelated persons living together whose income is more than ~~((fifty))~~
23 sixty percent but is at or below eighty percent of the county area
24 median income where the affordable housing is located, adjusted for
25 household size.

26 ~~((("Moderate-income household" means a single person, family, or~~
27 ~~unrelated persons living together whose income is more than eighty~~
28 ~~percent but is at or below one hundred fifteen percent of the median~~
29 ~~income where the affordable housing is located))~~ "Eligible
30 organization" means any city, town, or county government, local housing
31 authority, public development authority, community renewal agency,
32 regional support network established under chapter 71.24 RCW, nonprofit
33 community or neighborhood-based organization, federally recognized
34 Indian tribe in the state of Washington, entity that develops or is
35 seeking to develop farmworker housing in compliance with chapter
36 70.114A RCW, or nonprofit housing assistance organization, including
37 such entities materially participating as a general partner or managing

1 members of a partnership, limited liability company, or equivalent
2 organization.

3 (e) "Extremely low-income household" means a single person, family,
4 or unrelated persons living together whose income is at or below thirty
5 percent of the county area median income where the affordable housing
6 is located, adjusted for household size.

7 (f) "Federally qualified low-income household" means a single
8 person, family, or unrelated persons living together whose income is
9 more than fifty percent but is at or below sixty percent of the county
10 area median income where the affordable housing is located, adjusted
11 for household size.

12 (g) "Primarily" means fifty-one percent or more.

13 (h) "Real property" means land, buildings, or buildings and land.

14 **Sec. 2.** RCW 43.20A.037 and 1995 c 399 s 65 are each amended to
15 read as follows:

16 ~~((1) The department shall identify and catalog real property that~~
17 ~~is no longer required for department purposes and is suitable for the~~
18 ~~development of affordable housing for very low income, and moderate-~~
19 ~~income households as defined in RCW 43.63A.510. The inventory shall~~
20 ~~include the location, approximate size, and current zoning~~
21 ~~classification of the property. The department shall provide a copy of~~
22 ~~the inventory to the department of community, trade, and economic~~
23 ~~development by November 1, 1993, and every November 1 thereafter.~~

24 ~~(2) By November 1 of each year, beginning in 1994, the department~~
25 ~~shall purge the inventory of real property of sites that are no longer~~
26 ~~available for the development of affordable housing. The department~~
27 ~~shall include an updated listing of real property that has become~~
28 ~~available since the last update. As used in this section, "real~~
29 ~~property" means buildings, land, or buildings and land.))~~

30 The department may sell, lease, or exchange real property for less
31 than fair market value to an eligible organization as defined in RCW
32 43.63A.510, or may create beneficial sales terms including, but not
33 limited to, extended closings, if the affordable housing to be
34 developed on the property will be occupied primarily by extremely low-
35 income, very low-income, federally qualified low-income, or low-income
36 households as provided in RCW 43.63A.510.

1 **Sec. 3.** RCW 72.09.055 and 1995 c 399 s 202 are each amended to
2 read as follows:

3 ~~((1) The department shall identify and catalog real property that
4 is no longer required for department purposes and is suitable for the
5 development of affordable housing for very low income, low income, and
6 moderate income households as defined in RCW 43.63A.510. The inventory
7 shall include the location, approximate size, and current zoning
8 classification of the property. The department shall provide a copy of
9 the inventory to the department of community, trade, and economic
10 development by November 1, 1993, and every November 1 thereafter.~~

11 ~~(2) By November 1 of each year, beginning in 1994, the department
12 shall purge the inventory of real property of sites that are no longer
13 available for the development of affordable housing. The department
14 shall include an updated listing of real property that has become
15 available since the last update. As used in this section, "real
16 property" means buildings, land, or buildings and land.))~~

17 The department may sell, lease, or exchange real property for less
18 than fair market value to an eligible organization as defined in RCW
19 43.63A.510, or may create beneficial sales terms including, but not
20 limited to, extended closings, if the affordable housing to be
21 developed on the property will be occupied primarily by extremely low-
22 income, very low-income, federally qualified low-income, or low-income
23 households as provided in RCW 43.63A.510.

24 **Sec. 4.** RCW 43.19.19201 and 2011 1st sp.s. c 43 s 218 are each
25 amended to read as follows:

26 ~~((1) The department shall identify and catalog real property that
27 is no longer required for department purposes and is suitable for the
28 development of affordable housing for very low income, low income, and
29 moderate income households as defined in RCW 43.63A.510. The inventory
30 shall include the location, approximate size, and current zoning
31 classification of the property. The department shall provide a copy of
32 the inventory to the department of commerce by November 1, 1993, and
33 every November 1 thereafter.~~

34 ~~(2) By November 1 of each year, beginning in 1994, the department
35 shall purge the inventory of real property of sites that are no longer
36 available for the development of affordable housing. The department~~

1 ~~shall include an updated listing of real property that has become~~
2 ~~available since the last update. As used in this section, "real~~
3 ~~property" means buildings, land, or buildings and land.))~~

4 The department may sell, lease, or exchange real property for less
5 than fair market value to an eligible organization as defined in RCW
6 43.63A.510, or may create beneficial sales terms including, but not
7 limited to, extended closings, if the affordable housing to be
8 developed on the property will be occupied primarily by extremely low-
9 income, very low-income, federally qualified low-income, or low-income
10 households as provided in RCW 43.63A.510.

11 **Sec. 5.** RCW 79A.05.170 and 1991 sp.s. c 13 s 23 are each amended
12 to read as follows:

13 (1) The commission may sell, lease, or exchange real property for
14 less than fair market value to an eligible organization as defined in
15 RCW 43.63A.510, or may create beneficial sales terms including, but not
16 limited to, extended closings, if the affordable housing to be
17 developed on the property will be occupied primarily by extremely low-
18 income, very low-income, federally qualified low-income, or low-income
19 households as provided in RCW 43.63A.510.

20 (2) Except for those lands subject to RCW 43.63A.510, any lands
21 owned by the ((state parks and recreation)) commission, which are
22 determined to be surplus to the needs of the state for development for
23 state park purposes and which the commission proposes to deed to a
24 local government or other entity, shall be accompanied by a clause
25 requiring that if the land is not used for outdoor recreation purposes,
26 ownership of the land shall revert to the ((state parks and
27 recreation)) commission.

28 ~~((2) The state parks and recreation commission,))~~ (a) In cases
29 where land subject to such a reversionary clause is proposed for use or
30 disposal for purposes other than recreation, the commission shall
31 require that, if the land is surplus to the needs of the commission for
32 park purposes at the time the commission becomes aware of its proposed
33 use for nonrecreation purposes, the holder of the land or property
34 shall reimburse the commission for the release of the reversionary
35 interest in the land. The reimbursement shall be in the amount of the
36 fair market value of the reversionary interest as determined by a

1 qualified appraiser agreeable to the commission. Appraisal costs shall
2 be borne by the local entity which holds title to the land.

3 ~~((+3+))~~ (b) Any funds generated under a reimbursement under this
4 section shall be deposited in the parkland acquisition account which is
5 hereby created in the state treasury. Moneys in this account are to be
6 used solely for the purchase or acquisition of property for use as
7 state park property by the commission, as directed by the legislature;
8 all such funds shall be subject to legislative appropriation.

9 **Sec. 6.** RCW 79A.05.175 and 2007 c 145 s 1 are each amended to read
10 as follows:

11 Except for those lands subject to RCW 43.63A.510 and 79A.05.170(1),
12 whenever the commission finds that any land under its control cannot
13 advantageously be used for park purposes, it is authorized to dispose
14 of such land by the method provided in this section or by the method
15 provided in RCW 79A.05.170. If such lands are school or other grant
16 lands, control thereof shall be relinquished by resolution of the
17 commission to the proper state officials. If such lands were acquired
18 under restrictive conveyances by which the state may hold them only so
19 long as they are used for park purposes, they may be returned to the
20 donor or grantors by the commission. All other such lands may be
21 either sold by the commission to the highest bidder or exchanged for
22 other lands of equal value by the commission, and all conveyance
23 documents shall be executed by the governor. All such exchanges shall
24 be accompanied by a transfer fee, to be set by the commission and paid
25 by the other party to the transfer; such fee shall be paid into the
26 parkland acquisition account established under RCW 79A.05.170. The
27 commission may accept sealed bids, electronic bids, or oral bids at
28 auction. Bids on all sales shall be solicited at least twenty days in
29 advance of the sale date by an advertisement appearing at least once a
30 week for two consecutive weeks in a newspaper of general circulation in
31 the county in which the land to be sold is located. If the commission
32 feels that no bid received adequately reflects the fair value of the
33 land to be sold, it may reject all bids, and may call for new bids.
34 All proceeds derived from the sale of such park property shall be paid
35 into the park land acquisition account. All land considered for
36 exchange shall be evaluated by the commission to determine its
37 adaptability to park usage. The equal value of all lands exchanged

1 shall first be determined by the appraisals to the satisfaction of the
2 commission. No sale or exchange of state park lands shall be made
3 without the unanimous consent of the commission.

4 **Sec. 7.** RCW 79.11.005 and 2003 c 334 s 201 are each amended to
5 read as follows:

6 (1) Subject to RCW 43.63A.510, the department is authorized to sell
7 any real property not designated or acquired as state forest lands, but
8 acquired by the state, either in the name of the forest board, the
9 forestry board, or the division of forestry, for administrative sites,
10 lien foreclosures, or other purposes whenever it shall determine that
11 the lands are no longer or not necessary for public use.

12 (2) The department may sell, lease, or exchange real property for
13 less than fair market value to an eligible organization as defined in
14 RCW 43.63A.510, or may create beneficial sales terms including, but not
15 limited to, extended closings, if the affordable housing to be
16 developed on the property will be occupied primarily by extremely low-
17 income, very low-income, federally qualified low-income, or low-income
18 households as provided in RCW 43.63A.510.

19 (3) Except as otherwise provided under RCW 43.63A.510, the sale may
20 be made after public notice to the highest bidder for such a price as
21 approved by the governor, but not less than the fair market value of
22 the real property, plus the value of improvements thereon. Any
23 instruments necessary to convey title must be executed by the governor
24 in a form approved by the attorney general.

25 ~~((+3))~~ (4) All amounts received from the sale must be credited to
26 the fund of the department of government that is responsible for the
27 acquisition and maintenance of the property sold.

28 **Sec. 8.** RCW 47.12.064 and 1995 c 399 s 121 are each amended to
29 read as follows:

30 ~~((1) The department shall identify and catalog real property that~~
31 ~~is no longer required for department purposes and is suitable for the~~
32 ~~development of affordable housing for very low income, low income, and~~
33 ~~moderate income households as defined in RCW 43.63A.510. The inventory~~
34 ~~shall include the location, approximate size, and current zoning~~
35 ~~classification of the property. The department shall provide a copy of~~

1 ~~the inventory to the department of community, trade, and economic~~
2 ~~development by November 1, 1993, and every November 1 thereafter.~~

3 ~~(2) By November 1 of each year, beginning in 1994, the department~~
4 ~~shall purge the inventory of real property of sites that are no longer~~
5 ~~available for the development of affordable housing. The department~~
6 ~~shall include an updated listing of real property that has become~~
7 ~~available since the last update. As used in this section, "real~~
8 ~~property" means buildings, land, or buildings and land.))~~

9 The department may sell, lease, or exchange real property for less
10 than fair market value to an eligible organization as defined in RCW
11 43.63A.510, or may create beneficial sales terms including, but not
12 limited to, extended closings, if the affordable housing to be
13 developed on the property will be occupied primarily by extremely low-
14 income, very low-income, federally qualified low-income, or low-income
15 households as provided in RCW 43.63A.510.

16 **Sec. 9.** RCW 81.112.080 and 1992 c 101 s 8 are each amended to read
17 as follows:

18 An authority shall have the following powers in addition to the
19 general powers granted by this chapter:

20 (1) To carry out the planning processes set forth in RCW
21 81.104.100;

22 (2) To acquire by purchase, condemnation, gift, or grant and to
23 lease, construct, add to, improve, replace, repair, maintain, operate,
24 and regulate the use of high capacity transportation facilities and
25 properties within authority boundaries including surface, underground,
26 or overhead railways, tramways, busways, buses, bus sets, entrained and
27 linked buses, ferries, or other means of local transportation except
28 taxis, and including escalators, moving sidewalks, personal rapid
29 transit systems or other people-moving systems, passenger terminal and
30 parking facilities and properties, and such other facilities and
31 properties as may be necessary for passenger, vehicular, and vessel
32 access to and from such people-moving systems, terminal and parking
33 facilities and properties, together with all lands, rights-of-way,
34 property, equipment, and accessories necessary for such high capacity
35 transportation systems. When developing specifications for high
36 capacity transportation system operating equipment, an authority shall
37 take into account efforts to establish or sustain a domestic

1 manufacturing capacity for such equipment. The right of eminent domain
2 shall be exercised by an authority in the same manner and by the same
3 procedure as or may be provided by law for cities of the first class,
4 except insofar as such laws may be inconsistent with the provisions of
5 this chapter. Public transportation facilities and properties which
6 are owned by any city, county, county transportation authority, public
7 transportation benefit area, or metropolitan municipal corporation may
8 be acquired or used by an authority only with the consent of the agency
9 owning such facilities. Such agencies are hereby authorized to convey
10 or lease such facilities to an authority or to contract for their joint
11 use on such terms as may be fixed by agreement between the agency and
12 the authority.

13 The facilities and properties of an authority whose vehicles will
14 operate primarily within the rights-of-way of public streets, roads, or
15 highways, may be acquired, developed, and operated without the corridor
16 and design hearings that are required by RCW 35.58.273 for mass transit
17 facilities operating on a separate right-of-way;

18 (3) To dispose of any real or personal property acquired in
19 connection with any authority function and that is no longer required
20 for the purposes of the authority, in the same manner as provided for
21 cities of the first class. When an authority determines that a
22 facility or any part thereof that has been acquired from any public
23 agency without compensation is no longer required for authority
24 purposes, but is required by the agency from which it was acquired, the
25 authority shall by resolution transfer it to such agency;

26 (4) An authority may sell, lease, or exchange real property for
27 less than fair market value to an eligible organization as defined in
28 RCW 43.63A.510, or may create beneficial sales terms including, but not
29 limited to, extended closings, if the affordable housing to be
30 developed on the property will be occupied primarily by extremely low-
31 income, very low-income, federally qualified low-income, or low-income
32 households as provided in RCW 43.63A.510;

33 (5) To fix rates, tolls, fares, and charges for the use of such
34 facilities and to establish various routes and classes of service.
35 Fares or charges may be adjusted or eliminated for any distinguishable
36 class of users.

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 36.34 RCW
2 to read as follows:

3 As an alternative to the powers provided in RCW 43.63A.510, a
4 county may sell surplus property at a discount for affordable housing
5 that may be part of mixed-income or mixed-use developments, provided
6 that the affordable housing complies with the guidelines for affordable
7 housing, income levels, affordable rents, affordable sales prices, and
8 minimum terms of affordability under RCW 36.70A.540 for affordable
9 housing incentive programs. The authority granted to counties in this
10 section is in addition to, and must not be construed to limit, any
11 existing authority.

12 NEW SECTION. **Sec. 11.** A new section is added to chapter 35.21 RCW
13 to read as follows:

14 As an alternative to the powers provided in RCW 43.63A.510, every
15 city and town, including every code city operating under Title 35A RCW,
16 may sell surplus property at a discount for affordable housing that may
17 be part of mixed-income or mixed-use developments, provided that the
18 affordable housing complies with the guidelines for affordable housing,
19 income levels, affordable rents, affordable sales prices, and minimum
20 terms of affordability under RCW 36.70A.540 for affordable housing
21 incentive programs. The authority granted to cities and towns in this
22 section is in addition to, and must not be construed to limit, any
23 existing authority.

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