
SECOND SUBSTITUTE HOUSE BILL 2382

State of Washington

65th Legislature

2018 Regular Session

By House Capital Budget (originally sponsored by Representatives Ryu, Kagi, and Valdez)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to promoting the use of surplus public property
2 for public benefit; amending RCW 43.63A.510, 43.17.400, 35.94.040,
3 43.09.210, 43.43.115, 43.82.010, and 47.12.063; and adding a new
4 section to chapter 39.33 RCW.

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

6 **PART 1 - INVENTORY OF STATE PROPERTY**

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

9 (1) The department (~~shall~~) must work with the (~~departments of~~
10 ~~natural resources, transportation, social and health services,~~
11 ~~corrections, and general administration~~) designated agencies to
12 identify (~~and~~), catalog, and recommend best use of under-utilized,
13 state-owned land and property suitable for the development of
14 affordable housing for very low-income, low-income or moderate-income
15 households. The (~~departments of natural resources, transportation,~~
16 ~~social and health services, corrections, and general administration~~
17 ~~shall~~) designated agencies must provide an inventory of real
18 property that is owned or administered by each agency and is vacant
19 or available for lease or sale. The department must work with the
20 designated agencies to include in the inventories a consolidated list

1 of any property transactions executed by the agencies under the
2 authority of section 3 of this act, including the property appraisal,
3 the terms and conditions of sale, lease, or transfer, the value of
4 the public benefit, and the impact of transaction to the agency. The
5 inventories ((shall)) with revisions must be provided to the
6 department by November 1((, 1993, with inventory revisions provided
7 each November 1 thereafter))st of each year.

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

18 (3)(a) Through June 30, 2029, unless specifically prohibited by
19 law, each designated agency that sells real property at fair market
20 value must remit an amount equal to ten percent of the net proceeds
21 to the state treasurer to be deposited in the Washington housing
22 trust fund, pursuant to RCW 43.185.030. The remittance requirement
23 does not apply to land bank lands, as defined in RCW 79.02.010, real
24 property donated to state institutions of higher education, or real
25 property acquired with cash donations or nonappropriated funds by
26 state institutions of higher education.

27 (b) Permissible uses of the account shall be determined by the
28 department and shall include, but is not limited to: Brownfield
29 remediation of sites for affordable housing development for low-
30 income and very low-income households; reduction of impact fees for
31 affordable housing development for low-income and very low-income
32 households; preservation of existing affordable housing units for
33 low-income and very low-income households; and the implementation of
34 innovative housing options in bringing to market additional
35 affordable housing for low-income and very low-income households.

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

39 ((+3)) (5) As used in this section:

1 (a) "Affordable housing" means residential housing that is rented
2 or owned by a person who qualifies as a very low-income, low-income,
3 or moderate-income household or who is from a special needs
4 population, and whose monthly housing costs, including utilities
5 other than telephone, do not exceed thirty percent of the household's
6 monthly income.

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

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

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

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

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

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

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

29 (g) "Innovative housing options" means those construction and
30 building practices that create an alternative affordable housing
31 product including, but not limited to, microhousing, modular housing,
32 or other nontraditional housing models.

33 (h) "Net proceeds" means the sale price less:

34 (i) The original purchase price or, if the original purchase
35 price is unknown, a reasonable estimate of the value of the property
36 at that time;

37 (ii) Real estate broker commission and fees;

38 (iii) Transaction costs; and

39 (iv) Any debt or lien to the property.

1 **PART 2 - RIGHT OF FIRST REFUSAL FOR GOVERNMENT AGENCIES**

2 **Sec. 2.** RCW 43.17.400 and 2015 c 225 s 64 are each amended to
3 read as follows:

4 (1) ~~((The definitions in this subsection apply throughout this~~
5 ~~section unless the context clearly requires otherwise.~~

6 ~~(a) "Disposition" means sales, exchanges, or other actions~~
7 ~~resulting in a transfer of land ownership.~~

8 ~~(b) "State agencies" includes:~~

9 ~~(i) The department of natural resources established in chapter~~
10 ~~43.30 RCW;~~

11 ~~(ii) The department of fish and wildlife established in chapter~~
12 ~~43.300 RCW;~~

13 ~~(iii) The department of transportation established in chapter~~
14 ~~47.01 RCW;~~

15 ~~(iv) The parks and recreation commission established in chapter~~
16 ~~79A.05 RCW; and~~

17 ~~(v) The department of enterprise services established in this~~
18 ~~chapter.~~

19 ~~(2) State agencies proposing disposition of state-owned land must~~
20 ~~provide written notice of the proposed disposition to the legislative~~
21 ~~authorities of the counties, cities, and towns in which the land is~~
22 ~~located at least sixty days before entering into the disposition~~
23 ~~agreement.)) Before any state agency may dispose of surplus state-~~
24 ~~owned real property to a private or any nongovernmental party, the~~
25 ~~agency must provide written notice to the following governmental~~
26 ~~entities at least sixty days before entering into any proposed~~
27 ~~disposition agreement:~~

28 ~~(a) All other state agencies;~~

29 ~~(b) Each federal agency operating within the state; and~~

30 ~~(c) The governing authority of each county, city, town, special~~
31 ~~purpose district, and federally recognized Indian tribe in which the~~
32 ~~land is located.~~

33 ~~(2) The state agency must dispose of the property, for continued~~
34 ~~public benefit as defined in section 3 of this act, to any~~
35 ~~governmental entity responding within the notification period, upon~~
36 ~~mutual agreement reached within a reasonable time period after the~~
37 ~~response is received. Priority must be given to state agencies. The~~
38 ~~disposition may be for any terms and conditions agreed upon by the~~

1 proper authorities of each party, in accordance with RCW 39.33.010,
2 except where the disposition at fair market value is required by law.

3 (3) The requirements of this section are in addition and
4 supplemental to other requirements of the laws of this state.

5 (4) For purposes of this section, "disposition" means the sale,
6 exchange, or other action resulting in a transfer of ownership.

7 **PART 3 - DISPOSAL OF PUBLIC PROPERTY FOR PUBLIC BENEFIT**

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 39.33
9 RCW to read as follows:

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

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

25 (a) A covenant or other requirement that the property shall be
26 used for the designated public benefit purpose; and

27 (b) Remedies that apply if the recipient of the property fails to
28 use it for the designated public purpose or ceases to use it for such
29 purpose.

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

37 (4) This section is deemed to provide a discretionary alternative
38 method for the doing of the things authorized herein, and shall not

1 be construed as imposing any additional condition upon the exercise
2 of any other powers vested in any state agency, municipality, or
3 political subdivision.

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

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

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

19 (8) For purposes of this section:

20 (a) "Public benefit" means affordable housing for low-income and
21 very low-income households as defined in RCW 43.63A.510, and related
22 facilities that support the goals of affordable housing development
23 in providing economic and social stability for low-income persons;
24 and

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

29 **Sec. 4.** RCW 35.94.040 and 1973 1st ex.s. c 95 s 1 are each
30 amended to read as follows:

31 (1) Whenever a city shall determine, by resolution of its
32 legislative authority, that any lands, property, or equipment
33 originally acquired for public utility purposes is surplus to the
34 city's needs and is not required for providing continued public
35 utility service, then such legislative authority by resolution and
36 after a public hearing may cause such lands, property, or equipment
37 to be leased, sold, or conveyed. Such resolution shall state the fair
38 market value or the rent or consideration to be paid and such other

1 terms and conditions for such disposition as the legislative
2 authority deems to be in the best public interest.

3 (2) The provisions of RCW 35.94.020 and 35.94.030 shall not apply
4 to dispositions authorized by this section.

5 (3) This section does not apply to property transferred, leased,
6 or otherwise disposed in accordance with section 3 of this act.

7 **Sec. 5.** RCW 43.09.210 and 2000 c 183 s 2 are each amended to
8 read as follows:

9 (1) Separate accounts shall be kept for every appropriation or
10 fund of a taxing or legislative body showing date and manner of each
11 payment made therefrom, the name, address, and vocation of each
12 person, organization, corporation, or association to whom paid, and
13 for what purpose paid.

14 (2) Separate accounts shall be kept for each department, public
15 improvement, undertaking, institution, and public service industry
16 under the jurisdiction of every taxing body.

17 (3) All service rendered by, or property transferred from, one
18 department, public improvement, undertaking, institution, or public
19 service industry to another, shall be paid for at its true and full
20 value by the department, public improvement, undertaking,
21 institution, or public service industry receiving the same, and no
22 department, public improvement, undertaking, institution, or public
23 service industry shall benefit in any financial manner whatever by an
24 appropriation or fund made for the support of another.

25 (4) All unexpended balances of appropriations shall be
26 transferred to the fund from which appropriated, whenever the account
27 with an appropriation is closed.

28 (5) This section does not apply to:

29 (a) Agency surplus personal property handled under RCW
30 43.19.1919(~~(+5)~~) (1)(e); or

31 (b) The transfer, lease, or other disposal of surplus property
32 for public benefit purposes, as provided under section 3 of this act.

33 **Sec. 6.** RCW 43.43.115 and 1993 c 438 s 1 are each amended to
34 read as follows:

35 (1) Whenever real property owned by the state of Washington and
36 under the jurisdiction of the Washington state patrol is no longer
37 required, it may be sold at fair market value, or otherwise disposed
38 as permitted under section 3 of this act. Any such sale or disposal

1 must be in accordance with RCW 43.17.400. All proceeds received from
2 the sale of real property, less any real estate broker commissions up
3 to four percent of the sale price, shall be deposited into the state
4 patrol highway account: PROVIDED, That if accounts or funds other
5 than the state patrol highway account have contributed to the
6 purchase or improvement of the real property, the office of financial
7 management shall determine the proportional equity of each account or
8 fund in the property and improvements, and shall direct the proceeds
9 to be deposited proportionally therein.

10 (2) Through June 30, 2029, any real property sold at fair market
11 value must include a remittance of an amount equal to ten percent of
12 the net proceeds to the state treasurer to be deposited in the
13 Washington housing trust fund, pursuant to RCW 43.185.030. For
14 purposes of this subsection, "net proceeds" means the sale price less
15 the original purchase price, real estate broker commission and fees,
16 transaction costs, and any debt or lien to the property.

17 **Sec. 7.** RCW 43.82.010 and 2015 c 99 s 1 are each amended to read
18 as follows:

19 (1) The director of enterprise services, on behalf of the agency
20 involved and after consultation with the office of financial
21 management, shall purchase, lease, lease purchase, rent, or otherwise
22 acquire all real estate, improved or unimproved, as may be required
23 by elected state officials, institutions, departments, commissions,
24 boards, and other state agencies, or federal agencies where joint
25 state and federal activities are undertaken and may grant easements
26 and transfer, exchange, sell, lease, or sublease all or part of any
27 surplus real estate for those state agencies which do not otherwise
28 have the specific authority to dispose of real estate. Any such
29 transfer, exchange, or sale must comply with RCW 43.17.400, and may
30 be made in accordance with section 3 of this act. This section does
31 not transfer financial liability for the acquired property to the
32 department of enterprise services.

33 (2) Except for real estate occupied by federal agencies, the
34 director shall determine the location, size, and design of any real
35 estate or improvements thereon acquired or held pursuant to
36 subsection (1) of this section. Facilities acquired or held pursuant
37 to this chapter, and any improvements thereon, shall conform to
38 standards adopted by the director and approved by the office of
39 financial management governing facility efficiency unless a specific

1 exemption from such standards is provided by the director of
2 enterprise services. The director of enterprise services shall report
3 to the office of financial management and the appropriate committees
4 of the legislature annually on any exemptions granted pursuant to
5 this subsection.

6 (3) Except for leases permitted under subsection (4) of this
7 section, the director of enterprise services may fix the terms and
8 conditions of each lease entered into under this chapter, except that
9 no lease shall extend greater than twenty years in duration. The
10 director of enterprise services may enter into a long-term lease
11 greater than ten years in duration upon a determination by the
12 director of the office of financial management that the long-term
13 lease provides a more favorable rate than would otherwise be
14 available, it appears to a substantial certainty that the facility is
15 necessary for use by the state for the full length of the lease term,
16 and the facility meets the standards adopted pursuant to subsection
17 (2) of this section. The director of enterprise services may enter
18 into a long-term lease greater than ten years in duration if an
19 analysis shows that the life-cycle cost of leasing the facility is
20 less than the life-cycle cost of purchasing or constructing a
21 facility in lieu of leasing the facility.

22 (4) The director of enterprise services may fix the terms of
23 leases for property under the department of enterprise services'
24 control at the former Northern State Hospital site for up to sixty
25 years.

26 (5) Except as permitted under chapter 39.94 RCW, no lease for or
27 on behalf of any state agency may be used or referred to as
28 collateral or security for the payment of securities offered for sale
29 through a public offering. Except as permitted under chapter 39.94
30 RCW, no lease for or on behalf of any state agency may be used or
31 referred to as collateral or security for the payment of securities
32 offered for sale through a private placement without the prior
33 written approval of the state treasurer. However, this limitation
34 shall not prevent a lessor from assigning or encumbering its interest
35 in a lease as security for the repayment of a promissory note
36 provided that the transaction would otherwise be an exempt
37 transaction under RCW 21.20.320. The state treasurer shall adopt
38 rules that establish the criteria under which any such approval may
39 be granted. In establishing such criteria the state treasurer shall
40 give primary consideration to the protection of the state's credit

1 rating and the integrity of the state's debt management program. If
2 it appears to the state treasurer that any lease has been used or
3 referred to in violation of this subsection or rules adopted under
4 this subsection, then he or she may recommend that the governor cause
5 such lease to be terminated. The department of enterprise services
6 shall promptly notify the state treasurer whenever it may appear to
7 the department that any lease has been used or referred to in
8 violation of this subsection or rules adopted under this subsection.

9 (6) It is the policy of the state to encourage the colocation and
10 consolidation of state services into single or adjacent facilities,
11 whenever appropriate, to improve public service delivery, minimize
12 duplication of facilities, increase efficiency of operations, and
13 promote sound growth management planning.

14 (7) The director of enterprise services shall provide coordinated
15 long-range planning services to identify and evaluate opportunities
16 for collocating and consolidating state facilities. Upon the renewal
17 of any lease, the inception of a new lease, or the purchase of a
18 facility, the director of enterprise services shall determine whether
19 an opportunity exists for collocating the agency or agencies in a
20 single facility with other agencies located in the same geographic
21 area. If a colocation opportunity exists, the director of enterprise
22 services shall consult with the affected state agencies and the
23 office of financial management to evaluate the impact colocation
24 would have on the cost and delivery of agency programs, including
25 whether program delivery would be enhanced due to the centralization
26 of services. The director of enterprise services, in consultation
27 with the office of financial management, shall develop procedures for
28 implementing colocation and consolidation of state facilities.

29 (8) The director of enterprise services is authorized to
30 purchase, lease, rent, or otherwise acquire improved or unimproved
31 real estate as owner or lessee and to lease or sublet all or a part
32 of such real estate to state or federal agencies. The director of
33 enterprise services shall charge each using agency its proportionate
34 rental which shall include an amount sufficient to pay all costs,
35 including, but not limited to, those for utilities, janitorial and
36 accounting services, and sufficient to provide for contingencies;
37 which shall not exceed five percent of the average annual rental, to
38 meet unforeseen expenses incident to management of the real estate.

39 (9) If the director of enterprise services determines that it is
40 necessary or advisable to undertake any work, construction,

1 alteration, repair, or improvement on any real estate acquired
2 pursuant to subsection (1) or (8) of this section, the director shall
3 cause plans and specifications thereof and an estimate of the cost of
4 such work to be made and filed in his or her office and the state
5 agency benefiting thereby is hereby authorized to pay for such work
6 out of any available funds: PROVIDED, That the cost of executing such
7 work shall not exceed the sum of twenty-five thousand dollars. Work,
8 construction, alteration, repair, or improvement in excess of twenty-
9 five thousand dollars, other than that done by the owner of the
10 property if other than the state, shall be performed in accordance
11 with the public works law of this state.

12 (10) In order to obtain maximum utilization of space, the
13 director of enterprise services shall make space utilization studies,
14 and shall establish standards for use of space by state agencies.
15 Such studies shall include the identification of opportunities for
16 colocation and consolidation of state agency office and support
17 facilities.

18 (11) The director of enterprise services may construct new
19 buildings on, or improve existing facilities, and furnish and equip,
20 all real estate under his or her management. Prior to the
21 construction of new buildings or major improvements to existing
22 facilities or acquisition of facilities using a lease purchase
23 contract, the director of enterprise services shall conduct an
24 evaluation of the facility design and budget using life-cycle cost
25 analysis, value-engineering, and other techniques to maximize the
26 long-term effectiveness and efficiency of the facility or
27 improvement.

28 (12) All conveyances and contracts to purchase, lease, rent,
29 transfer, exchange, or sell real estate and to grant and accept
30 easements shall be approved as to form by the attorney general,
31 signed by the director of enterprise services or the director's
32 designee, and recorded with the county auditor of the county in which
33 the property is located.

34 (13) The director of enterprise services may delegate any or all
35 of the functions specified in this section to any agency upon such
36 terms and conditions as the director deems advisable. By January 1st
37 of each year, beginning January 1, 2008, the department shall submit
38 an annual report to the office of financial management and the
39 appropriate committees of the legislature on all delegated leases.

1 (14) This section does not apply to the acquisition of real
2 estate by:

3 (a) The state college and universities for research or
4 experimental purposes;

5 (b) The state liquor (~~control~~) and cannabis board for liquor
6 stores and warehouses;

7 (c) The department of natural resources, the department of fish
8 and wildlife, the department of transportation, and the state parks
9 and recreation commission for purposes other than the leasing of
10 offices, warehouses, and real estate for similar purposes; and

11 (d) The department of commerce for community college health
12 career training programs, offices for the department of commerce or
13 other appropriate state agencies, and other nonprofit community uses,
14 including community meeting and training facilities, where the real
15 estate is acquired during the 2013-2015 fiscal biennium.

16 (15) Notwithstanding any provision in this chapter to the
17 contrary, the department of enterprise services may negotiate ground
18 leases for public lands on which property is to be acquired under a
19 financing contract pursuant to chapter 39.94 RCW under terms approved
20 by the state finance committee.

21 (16) The department of enterprise services shall report annually
22 to the office of financial management and the appropriate fiscal
23 committees of the legislature on facility leases executed for all
24 state agencies for the preceding year, lease terms, and annual lease
25 costs. The report must include leases executed under RCW 43.82.045
26 and subsection (13) of this section.

27 **Sec. 8.** RCW 47.12.063 and 2015 3rd sp.s. c 13 s 2 are each
28 amended to read as follows:

29 (1) It is the intent of the legislature to continue the
30 department's policy giving priority consideration to abutting
31 property owners in agricultural areas when disposing of property
32 through its surplus property program under this section.

33 (2) Whenever the department determines that any real property
34 owned by the state of Washington and under the jurisdiction of the
35 department is no longer required for transportation purposes and that
36 it is in the public interest to do so, the department may sell the
37 property or exchange it in full or part consideration for land or
38 building improvements or for construction of highway improvements at
39 fair market value to any person through the solicitation of written

1 bids through public advertising in the manner prescribed under RCW
2 47.28.050 or in the manner prescribed under RCW 47.12.283. Any such
3 real property subject to sale or exchange under this section must
4 comply with RCW 43.17.400.

5 (3) The department may forego the processes prescribed by RCW
6 47.28.050 and 47.12.283 and (~~sell~~) dispose the real property in
7 accordance with section 3 of this act, or sell to any of the
8 following entities or persons at fair market value:

9 (a) Any other state agency;

10 (b) The city or county in which the property is situated;

11 (c) Any other municipal corporation;

12 (d) Regional transit authorities created under chapter 81.112
13 RCW;

14 (e) The former owner of the property from whom the state acquired
15 title;

16 (f) In the case of residentially improved property, a tenant of
17 the department who has resided thereon for not less than six months
18 and who is not delinquent in paying rent to the state;

19 (g) Any abutting private owner but only after each other abutting
20 private owner (if any), as shown in the records of the county
21 assessor, is notified in writing of the proposed sale. If more than
22 one abutting private owner requests in writing the right to purchase
23 the property within fifteen days after receiving notice of the
24 proposed sale, the property shall be sold at public auction in the
25 manner provided in RCW 47.12.283;

26 (h) To any other owner of real property required for
27 transportation purposes;

28 (i) In the case of property suitable for residential use, any
29 nonprofit organization dedicated to providing affordable housing to
30 very low-income, low-income, and moderate-income households as
31 defined in RCW 43.63A.510 and is eligible to receive assistance
32 through the Washington housing trust fund created in chapter 43.185
33 RCW; or

34 (j) A federally recognized Indian tribe within whose reservation
35 boundary the property is located.

36 (4) When selling real property pursuant to RCW 47.12.283, the
37 department may withhold or withdraw the property from an auction when
38 requested by one of the entities or persons listed in subsection (3)
39 of this section and only after the receipt of a nonrefundable deposit
40 equal to ten percent of the fair market value of the real property or

1 five thousand dollars, whichever is less. This subsection does not
2 prohibit the department from exercising its discretion to withhold or
3 withdraw the real property from an auction if the department
4 determines that the property is no longer surplus or chooses to sell
5 the property through one of the other means listed in subsection (2)
6 of this section. If a transaction under this subsection is not
7 completed within sixty days, the real property must be put back up
8 for sale.

9 (5) Sales to purchasers may, at the department's option, be for
10 cash, by real estate contract, or exchange of land or highway
11 improvements. Transactions involving the construction of improvements
12 must be conducted pursuant to chapter 47.28 RCW and Title 39 RCW, as
13 applicable, and must comply with all other applicable laws and rules.

14 (6) Conveyances made pursuant to this section shall be by deed
15 executed by the secretary of transportation and shall be duly
16 acknowledged.

17 (7) Unless otherwise provided, all moneys received pursuant to
18 the provisions of this section less any real estate broker
19 commissions paid pursuant to RCW 47.12.320 shall be deposited in the
20 motor vehicle fund. Through June 30, 2029, any real property sold at
21 fair market value must include a remittance of an amount equal to ten
22 percent of the net proceeds to the state treasurer to be deposited in
23 the Washington housing trust fund, pursuant to RCW 43.185.030. For
24 purposes of this subsection, "net proceeds" means the sale price less
25 the original purchase price, real estate broker commission and fees,
26 transaction costs, and any debt or lien to the property.

27 (8) The department may not enter into equal value exchanges or
28 property acquisitions for building improvements without first
29 consulting with the office of financial management and the joint
30 transportation committee.

--- END ---