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**SUBSTITUTE HOUSE BILL 1908**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** House Housing, Human Services & Veterans (originally sponsored by Representatives Steele, Santos, Eslick, Graham, and Macri)

AN ACT Relating to surplus public property for affordable housing; and amending RCW 39.33.015.

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

**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 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~~)) legally binding, recorded document in effect that permanently restricts the occupancy of the unit to a qualified moderate-income, low-income, or very low-income household. These documents include, but are not limited to, affordability covenants, deed restrictions, and community land trust leases. Resale restrictions may include, but are not limited to:

(i) Continuous ownership of land by a public entity or nonprofit housing provider with a lease allowing ownership of the structure by an income-eligible household; or

(ii) A nonpossessory interest or right in real property, such as a deed restriction, restrictive covenant, resale restriction, or other contractual agreement, that ensures affordability; 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.

(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) 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) For purposes of this section:

(a) "Public benefit" means affordable rental housing and permanently affordable homeownership for moderate-income, low-income, and very low-income households as defined in RCW ((~~43.63A.510~~)) 36.70A.030, and related facilities that support the goals of affordable housing development in providing economic and social stability for low-income persons. Monthly housing costs may not exceed:

(i) For rental housing, 30 percent of the household's monthly income for rent and utilities, other than telephone; or

(ii) For permanently affordable owner-occupied housing, 38 percent of the household's monthly income for mortgage principal, interest, property taxes, homeowner's insurance, homeowner's association fees, and land lease fees, as applicable. In addition, total household debt is no more than 45 percent of the monthly household income; 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 ---**