

HOUSE BILL REPORT

HB 1332

As Reported by House Committee On:

Housing
Appropriations

Title: An act relating to affordable housing development.

Brief Description: Addressing affordable housing development.

Sponsors: Representatives Pettigrew, Dunn, Miloscia, Springer, McCune, Ormsby, Kenney, Roberts, Wood, Santos and Chase.

Brief History:

Committee Activity:

Housing: 1/22/07, 2/19/07 [DPS];

Appropriations: 2/6/08, 2/8/08 [DP2S(w/o sub HOUS)].

Brief Summary of Second Substitute Bill

- Requires certain state agencies, local governments, and school districts to offer surplus property for sale that they judge to be suitable for affordable or special needs housing to eligible organizations for the initial 180 days of sale availability.

HOUSE COMMITTEE ON HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Miloscia, Chair; Springer, Vice Chair; Dunn, Ranking Minority Member; Kelley and Ormsby.

Minority Report: Do not pass. Signed by 2 members: Representatives McCune and Schindler.

Staff: Robyn Dupuis (786-7166).

Background:

Local Governments and State Agencies

The Department of Social and Health Services (DSHS), the Department of Transportation (DOT), the Department of Corrections (DOC), General Administration (GA), and cities,

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towns, and counties are required to identify and catalog real property that is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households. These entities must provide a copy of these inventories to the Department of Community, Trade and Economic Development (DCTED) annually each November 1. Upon request, the DCTED must provide a copy of information regarding all such lands to parties interested in developing affordable housing.

Department of Transportation

The DOT has a policy which states that priority for surplus land disbursement is to be given to abutting property owners. The DOT, however, may sell the property to a number of governmental entities or persons including nonprofit organizations dedicated to providing affordable housing.

Parks and Recreation Commission

When deeding land to a local government or other entity for outdoor recreation, the Parks and Recreation Commission (Commission) includes a clause requiring that the land be remitted to the Commission if not to be used for that purpose. If the Commission has no use of such land to be remitted, however, the holder of the land must reimburse the Commission for the release of the reversionary interest in the land in the amount of the fair market value. Other surplus Commission lands may be sold to the highest bidder or exchanged for other lands of equal value. Monies from reversionary interest transactions or land sales are deposited into the Parkland Acquisition Account for the purchase of property to be used as state park property.

Department of Natural Resources (DNR)

The DNR may sell surplus lands to the highest bidder through a public auction. The DNR may transfer or dispose of lands of less than ten contiguous acres or which have a value of \$25,000 or less without a public auction. Proceeds from these transfers or disposals are deposited into the Park Land Trust Revolving Fund.

School Districts

Any School District Board of Directors may sell land no longer required for school purposes in accordance with statutory public notice requirements.

Summary of Substitute Bill:

Surplus Property Affordable or Special Needs Housing Inventory Requirement

The DCTED, the DNR, the DSHS, the DOC, the DOT, the GA, the Commission, as well as all cities, towns, and counties are required to inventory all surplus property which is for sale and which they judge to be suitable for affordable or special needs housing. These entities must submit this inventory to the DCTED as suitable property becomes available, but at least annually, beginning in June 2008. School districts must submit a comparable inventory to their county which will include the information in the county inventory. The DCTED will consolidate these inventories and advertise these properties on its website. The DCTED will also include information about available federal surplus property on the website.

Exclusive Purchasing Opportunity

All surplus properties for sale by the DCTED, the DNR, the DSHS, the DOC, the GA, the Commission, as well as all cities, towns, counties, and school districts that are judged suitable for affordable or special needs housing must be offered exclusively to eligible organizations for the first 90 days. Eligible organizations have the right of first opportunity to purchase these surplus properties at a discounted price, representing between 90 and 100 percent of the fair market value, in return for a commitment that they will develop affordable or special needs housing on the land within eight years of property purchase and that the housing will be available to the target population for a minimum of 30 years.

The discount below fair market value will be calculated by the DCTED using a formula which will take into consideration the percentage of housing in the development that will be used for affordable or special needs housing.

Included in a purchase offer, eligible organizations must present to the agency, commission, city, town, county, or school district an affordable or special needs housing project description. This project description must provide development details including the number and percentage of affordable or special needs housing units. Selling entities must establish criteria to use in the event more than one eligible organization is interested in purchasing a single property.

Penalty for Non-Compliance

If an eligible organization does not substantially complete the affordable or special needs housing project within eight years, the purchasing entity must repay the selling entity the amount of the discount received plus interest at a rate to be determined by the DCTED.

Annual Report Requirement

The DCTED, the DNR, the DSHS, the DOC, the DOT, the GA, the Commission, as well as all cities, towns, and counties must submit an annual report regarding sales of surplus property to the DCTED. School districts must submit an annual report to the county which will include the information in the county report to the DCTED. The DCTED will produce an annual consolidated report to the Legislature.

Alternate Processes

The DCTED, the DNR, the DSHS, the DOC, the GA, the Commission, as well as all cities, towns, counties, and school districts may use an alternative process for the sale or disposition of surplus property for affordable or special needs housing purposes as long as those alternative processes meet, at a minimum, the same standards included in the act.

The powers granted to community renewal agencies through the Community Renewal Law, Housing Authorities under the Housing Authorities Law, and a state agency under the Housing Cooperation Law are not limited by this act.

Exempt Lands

Land acquired by the federal government as state forest lands is exempt, as are lands acquired under restrictive conveyances.

Definitions:

Affordable Housing: Residential housing that is rented or owned by a person who qualifies as a very low-income or low-income household or who is from a special needs population, and whose monthly housing costs, including utilities other than telephone, do not exceed 30 percent of the household's monthly income.

Very Low-Income Household: A household whose adjusted income is at or below 50 percent of the median family income.

Low-Income Household: A household whose adjusted income is at or below 80 percent of the median family income.

Special Needs Populations: Includes, but is not limited to, persons with mental illness, dementia, a developmental disability, or other condition affecting cognition.

Fair Market Value: The price that a property will bring in the open market measured by a qualified appraiser agreeable to both the seller and buyer.

Substitute Bill Compared to Original Bill:

The date by which agencies must provide their first inventories to the DCTED is changed from September 2007 to June 2008. Definitions of "special needs populations" and "fair market value" are added. The terms "non-profit housing organizations" and "eligible public agencies" are replaced with "eligible organizations" which must have experience developing housing. The requirement for surplus properties to include the current zoning classification and current market price of the properties is removed. The time period in which a development must be completed is extended from five to eight years. School districts are required to inventory property and provide that inventory to counties as property becomes available. A statement is made that cities, towns, counties and school districts have the sole authority to classify surplus property as suitable for affordable housing.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support of original bill) Land is a substantial expense for affordable and special needs housing developers and this bill should increase the availability of land. The notice of all available properties on a website will be a great informational resource for developers. Allowing non-profit and governmental affordable housing developers ninety days to pursue a purchase is a great advantage for these groups that typically cannot move as quickly as for-profit developers. The discounted price is a necessary component of this program, for with escalating land prices, even fair market value often exceeds the amount a non-profit developer

is able to pay. This program will enable developers to pursue larger developments in order to maximize purchasing power and use resources more efficiently. There are many wonderful examples of affordable housing developments that have taken advantage of the availability of surplus lands.

(With concerns on original bill) The bill should specifically note that the provision of housing for persons with developmental disabilities is a goal and should promote policies that enable the ability of this population to access independent housing. Currently, policies by the Department of Social and Health Services prohibit persons with developmental disabilities from accessing independent housing. Some of the definitions in the bill are not clear.

(Opposed) None.

Persons Testifying: (In support of original bill) Representative Pettigrew, prime sponsor; Maureen Howard, Habitat for Humanity; and Kim Herman, Washington State Housing Finance Commission.

(With concerns on original bill) Loren Freeman, Freeman & Associates; and Randall Lewis, Association of Washington Cities and the City of Tacoma.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Housing. Signed by 22 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Cody, Conway, Darneille, Ericks, Fromhold, Green, Haigh, Hunt, Hunter, Kagi, Kessler, Linville, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist, Sullivan and Walsh.

Minority Report: Do not pass. Signed by 8 members: Representatives Alexander, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Hinkle, Kretz, Ross and Schmick.

Staff: Owen Rowe (786-7391).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Housing:

The requirement that public entities have to sell a property at a discounted price is removed. The requirement of public entities to offer surplus property for affordable housing or special needs housing development is expanded from 90 to 180 days. The requirement for the Department of Community, Trade and Economic Development to collect, compile and publish the inventories is removed. The requirement for a report from agencies and local governments to the state regarding what surplus properties were sold for affordable housing is removed. Only "known" information about the property need be reported in agency and local government inventories and the inventories are required to be updated once per year. Only

buildable lands counties and counties with populations over 400,000; cities and towns with populations at or above 5,000 within buildable lands counties and within counties with populations over 400,000; and school districts with enrollment over 5,000 are required to complete inventories and are subject to the sale requirement. Agencies, commissions and local governments subject to this section have the sole authority to determine what constitutes option and purchase conditions. The Department of Transportation is added to the list of agencies that must offer surplus land to eligible organizations for affordable housing development pursuant to this act. A federal severability clause was added. A null and void clause was added so that this legislation is not enacted unless referenced in the budget.

A null and void clause was added, making the bill null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) The Washington Low Income Housing Alliance and the state's non-profit and public housing developers are in support of this bill. There is a shortage of affordable housing and land for development for low income housing. This bill would make public entities part of the solution. Last year when this bill went forward there were concerns about the cost to government agencies, cities and counties from maintaining inventories, and reporting to the Department of Community, Trade and Economic Development. The proposed second substitute removes the inventory requirement and the 10 percent discount on price that concerned public entities. The bill is another tool for the state to provide affordable housing.

(Opposed) None.

Persons Testifying: Nick Federici, Washington Low-Income Housing Alliance; and Kim Herman, Washington State Housing Finance Commission.

Persons Signed In To Testify But Not Testifying: None.