

# SENATE BILL REPORT

## SHB 2138

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As Reported by Senate Committee On:  
Financial Institutions, Housing & Insurance, February 23, 2010  
Ways & Means, March 1, 2010

**Title:** An act relating to the use of surplus property for the development of affordable housing.

**Brief Description:** Concerning the use of surplus property for the development of affordable housing.

**Sponsors:** House Committee on Local Government & Housing (originally sponsored by Representatives Simpson and Chase).

**Brief History:** Passed House: 2/13/10, 58-36.

**Committee Activity:** Financial Institutions, Housing & Insurance: 2/23/10 [DP-WM, w/oRec].

Ways & Means: 2/27/10, 3/01/10 [DPA, DNP, w/oRec].

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

**Majority Report:** Do pass and be referred to Committee on Ways & Means.  
Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and McDermott.

**Minority Report:** That it be referred without recommendation.  
Signed by Senators Parlette and Schoesler.

**Staff:** Alison Mendiola (786-7483)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass as amended.  
Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Fairley, Hobbs, Keiser, Kline, Kohl-Welles, McDermott, Murray, Pridemore, Regala and Rockefeller.

**Minority Report:** Do not pass.  
Signed by Senators Tom, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Carrell, Honeyford and Schoesler.

**Minority Report:** That it be referred without recommendation.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Signed by Senators Brandland, Hewitt and Parlette.

**Staff:** Alison Mendiola (786-7483)

**Background:** Department of Commerce's Surplus Land Inventory Program. The Department of Commerce (Department) is required to administer a program for the statewide identification and cataloging of under-utilized, state-owned real property that is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households. Specified state agencies and local governments are required to provide the Department with an inventory, subject to yearly updates, of all real property that is owned or controlled by such agencies and that is available for lease or sale. The state agencies and local governments subject to this requirement are the:

- Department of Natural Resources;
- Department of Transportation (DOT);
- Department of Social and Health Services;
- Department of Corrections;
- Department of General Administration;
- counties; and
- cities, towns, and code cities.

Although not specifically referenced in the Department's surplus lands inventory statute (RCW 43.63A.510), counties, cities, towns, and code cities are explicitly required to fully participate in the inventory program by statutes contained in the various chapters regulating these municipalities.

As part of the Department's inventory program, each of the participating state agencies and local governments are required to provide the Department with an inventory of its eligible surplus property by November 1 of each year. The inventory must include pertinent information regarding the location, approximate size, and current zoning classification of the property. In addition, by November 1 of each year, the governmental entities must purge their real property inventories of sites that are no longer available for the development of affordable housing. The Department must then update its master inventory to reflect the inventory changes reported by the governmental entities.

Upon written request, the Department is required to provide a copy of the inventory of state-owned and publicly-owned real property to parties interested in developing the sites for affordable housing.

Affordable housing is defined as residential housing that is rented or owned by a person who qualifies as a very low-income, low-income, or moderate-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.

Disposition of Surplus Housing by the Department of Transportation. DOT is required to sell or dispose of surplus properties in accordance with specified statutory procedures and policies. DOT is granted broad discretionary authority in selling surplus property, provided the property is no longer needed for transportation purposes and it is in the best interests of the public for it to be sold. With respect to surplus property that is suitable for residential

use, DOT is explicitly authorized to sell surplus property to eligible nonprofit organizations dedicated to the development of affordable housing for very low-income, low-income, and moderate-income households.

DOT is also required to participate in the Department's program for inventorying surplus property that is suitable for the development of affordable housing. Accordingly, DOT must provide the Department with an inventory of its eligible surplus property by November 1 of each year. The inventory must include pertinent information regarding the location, approximate size, and current zoning classification of the property.

Sale or Disposition of Surplus Land by Governmental Entities Not Required to Participate in Department's Surplus Land Inventory. 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. Most of these governmental entities, however, 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 is not a participant in the inventory or otherwise directed to consider affordable housing uses when selling surplus property.

**Summary of Bill (Recommended Amendments):** The State Parks and Recreation Commission is added to those state agencies required to maintain a listing of surplus property determined by the agency to be appropriate for the development of affordable housing. It is clarified that counties, cities, towns, and code cities are to maintain a list of surplus property as well.

The act creates uniformity in the regulations and guidelines applicable to all participating governmental entities. Each inventory by a participating governmental entity must include descriptive information about each property that includes, if known, the contact information for the property and the location, approximate size, sale or lease price and terms, and current zoning classification of the property. Each inventory must be updated at least once a year and printed, and electronic copies of each inventory must be provided upon request.

Surplus property offered for sale, lease, exchange, or donation by participating governmental entities, and which is suitable for the development of affordable housing, must be offered for at least the first 180 days after its availability for conveyance exclusively to eligible organizations for the purpose of developing affordable housing. Eligible organizations have the right of first opportunity to purchase, lease, offer other properties in exchange, or accept the donation of surplus properties, under reasonable option and purchase conditions, in return for a commitment to provide affordable housing for at least 30 years.

A governmental entity that sells, leases, exchanges, or donates real property in a transaction with an eligible entity may do so without receiving fair market value, provided the affordable housing developed on the property is occupied solely by individuals or families who are extremely low-income, very low-income, or low-income. Eligible organization means any city, town, or county government, local housing authority, public development authority, community renewal agency, regional support network established under chapter 71.24 RCW, nonprofit community or neighborhood-based organization, federally recognized Indian tribe

in Washington, or regional or statewide nonprofit housing assistance organization; each having experience in the development of affordable housing.

Real property means land, buildings, or buildings and land.

Participating governmental entities have the sole authority to determine:

- whether or not property is surplus;
- whether or not the property is suitable for the development of affordable housing for extremely low-income, very low-income, and low-income persons or families; and
- what constitutes reasonable option and purchase conditions.

Each participating governmental entity must develop the criteria and procedures necessary for inventorying surplus property and offering it for conveyance to eligible organizations.

**EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Amendments):** The Department is not required to maintain an inventory of public surplus property designated as appropriate for the development of affordable housing. The Department's reporting requirement to the Legislature is eliminated.

**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 (Financial Institutions, Housing & Insurance):** PRO: The Department already keeps information about surplus land. This bill would provide low-income house developers the first right to receive the property, which is a modest step in providing additional affordable housing. The government entity determines what land is surplus and the terms of the sale, lease, exchange, or donation. Affordable housing is hard to finance; often there are six or seven different sources of funding, but the development not only helps low-income households, but also creates jobs and is a form of economic stimulus.

**Persons Testifying (Financial Institutions, Housing & Insurance):** PRO: Representative Simpson, prime sponsor; Kim Herman, Washington State Housing Finance Commission, Connie Brown, Tacoma-Pierce County Affordable Housing Group; Nick Federici, Washington Low-Income Housing Alliance.

**Staff Summary of Public Testimony on Substitute House Bill (Ways & Means):** PRO: Land costs are a major hurdle in the development of affordable housing. The availability of public surplus property has benefitted non-profit housing developers such as the Habitat for Humanity. Clarifications made in this bill for the benefit of some jurisdictions. The key is that no agency or local municipality is required to sell their surplus property; they determine what property is surplus and appropriate for the development of affordable housing.

**Persons Testifying (Ways & Means):** PRO: Nick Federici, Washington Low-Income Housing Alliance.