

SENATE BILL REPORT

SB 5214

As of February 9, 2011

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: Senators Hobbs, Chase, Prentice, Regala and Kline.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/19/11.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

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;
- 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.

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.

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). 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: The Department of Commerce is not required to maintain an inventory of an agency's surplus housing but rather is directed to work with the agencies, including the Department of Public Lands, the State Parks and Recreation Commission, counties, cities, and towns, port districts, regional transit agencies, water-sewer districts, and public utility districts.

Each public entity is to maintain an inventory of surplus or underutilized property determined by the entity to be appropriate for the development of affordable housing. The inventory 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. The inventory is to include any surplus properties that have been sold for affordable housing. Each inventory must be updated at least once a year and electronic copies 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 opportunity to obtain such properties through purchase, lease, exchange, or donation under reasonable option and purchase conditions, in return for a covenant to provide affordable housing for at least 40 years or a loan note in the name of the jurisdiction for single-family homeownership programs.

A governmental entity that sells surplus property to an eligible entity may do so without receiving fair market value, provided the affordable housing developed on the property is occupied primarily 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; including entities materially participating as a general partner, or managing members of a partnership, limited liability company, or equivalent organization.

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 sale, lease, exchange, or donation for affordable housing. Additionally, each governmental entity must (1) enter into a recorded covenant with the purchaser of surplus property or a loan note in the name of the jurisdiction, to ensure that the property will meet the required income restrictions, and (2) monitor compliance with the covenant or loan note.

Appropriation: None.

Fiscal Note: Requested on January 14, 2011.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.