

# SENATE BILL REPORT

## SB 5214

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As Reported by Senate Committee On:  
Financial Institutions, Housing & Insurance, 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, 2/09/11 [DPS, w/oRec].

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

**Majority Report:** That Substitute Senate Bill No. 5214 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton, Ranking Minority Member; Keiser.

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

Signed by Senators Fain, Haugen and Litzow.

**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;

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- 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). 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 Substitute):** 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 counties, cities, and towns, and regional transit agencies.

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. Counties with a population of less than 100,000 and cities with a population of less than 10,000 are not required to maintain an annual inventory.

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.

**EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Substitute):**

- The Department of Transportation, State Parks (except for administrative sites), Ports, and Public Utility Districts are not subject to the provisions of this bill
- As to cities and counties, the annual inventory provisions of this bill do not apply to cities with a population of less than 10,000 and counties with a population less than 100,000.
- Other housekeeping changes are made to the language pertaining to cities and counties.
- The Department of Commerce's responsibility of working with other agencies and municipalities is changed to permissive.

**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 on Original Bill:** PRO: This bill would provide an opportunity to create more affordable housing. Agencies and local governments decide if surplus properties are suitable for the development of affordable housing and if so, the terms of the sale, or other conveyance. Also developing housing leads to job creation. There are instances where the surplus property has been in undesirable areas but perfect for affordable housing, so it's a win-win situation for everyone.

CON: Certain properties or land like Ports or wetlands are not suitable for the development of affordable housing or there are other reasons why the land couldn't be sold for affordable housing development.

**Persons Testifying:** PRO: Kim Herman, Washington State Housing Finance Commission; Stephen Sounders, Washington Department of Natural Resources; Connie Brown, Tacoma Pierce County Affordable Housing Consortium; Tony To, HomeSight.

CON: Eric Johnson, Washington Public Ports Association; Sean Eagan, Port of Tacoma.