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SENATE BILL 5598

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State of Washington

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By Senators Mullet, Litzow, McAuliffe, Fain, Kohl-Welles, Shin, Nelson, Chase, and Frockt; by request of Washington State Housing Finance Commission

Read first time 02/05/13. Referred to Committee on Financial Institutions, Housing & Insurance.

1 AN ACT Relating to the disposition of surplus property for the  
2 development of affordable housing; amending RCW 43.63A.510, 43.20A.037,  
3 72.09.055, 43.19.19201, 79A.05.170, 79A.05.175, 79.11.005, 47.12.064,  
4 53.08.090, 53.08.091, and 81.112.080; adding a new section to chapter  
5 36.34 RCW; and adding a new section to chapter 35.21 RCW.

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

7 **Sec. 1.** RCW 43.63A.510 and 1993 c 461 s 2 are each amended to read  
8 as follows:

9 (1) The department ((shall)) may work with ((the departments of  
10 natural resources, transportation, social and health services,  
11 corrections, and general administration to identify and catalog under-  
12 utilized, state owned land and property)) state and local governmental  
13 entities that choose to utilize real property, including air rights,  
14 owned by these governmental entities suitable for the development of  
15 affordable housing for extremely low-income, very low-income, federally  
16 qualified low-income, or low-income ((or moderate income)) households.  
17 The state and local governmental entities subject to the requirements  
18 of this section are the departments of natural resources,  
19 transportation, social and health services, corrections, and ((general

1 ~~administration shall provide an inventory of real property that is~~  
2 ~~owned or administered by each agency and is available for lease or~~  
3 ~~sale. The inventories shall be provided to the department by November~~  
4 ~~1, 1993, with inventory revisions provided each November 1 thereafter.~~

5 ~~(2) Upon written request, the department shall provide a copy of~~  
6 ~~the inventory of state-owned and publicly owned lands and buildings to~~  
7 ~~parties interested in developing the sites for affordable housing.~~

8 ~~(3)) enterprise services, public lands except for state forest~~  
9 ~~lands, the state parks and recreation commission, counties, cities,~~  
10 ~~towns, port districts, and regional transit authorities.~~

11 (2) A governmental entity that sells or leases real property,  
12 including air rights, to an eligible organization under this section  
13 may do so at a price that is less than fair market value, provided that  
14 the housing developed on the property is occupied primarily by  
15 individuals or households who are extremely low-income, very low-  
16 income, federally qualified low-income, or low-income.

17 (3) A governmental entity that sells or leases real property,  
18 including air rights, to an eligible organization under this section  
19 may create beneficial sales terms including, but not limited to,  
20 extended closings, provided that the housing developed on the property  
21 is occupied primarily by individuals or households who are extremely  
22 low-income, very low-income, federally qualified low-income, or low-  
23 income.

24 (4) An eligible organization may obtain these surplus properties  
25 through purchase, lease, exchange, or donation, under reasonable option  
26 and conveyance conditions, in return for (a) a recorded covenant to  
27 provide rental housing for extremely low-income, very low-income, or  
28 federally qualified low-income households for at least forty years; or  
29 (b) a loan note in the name of a governmental entity for homeownership  
30 programs in which the homeowners are extremely low-income, very low-  
31 income, federally qualified low-income, or low-income.

32 (5) Each governmental entity must (a) enter into a recorded  
33 covenant with the purchaser of the surplus property or a loan note in  
34 the name of the governmental entity, to ensure that the property will  
35 meet the required income restrictions; and (b) monitor compliance with  
36 the covenant or loan note.

37 (6) As an alternative to the requirements of this section,  
38 counties, cities, and towns may sell surplus property at a discount for

1 affordable housing that may be part of mixed-income or mixed-use  
2 developments, provided that the affordable housing complies with the  
3 guidelines for affordable housing, income levels, affordable rents,  
4 affordable sales prices, and minimum terms of affordability under RCW  
5 36.70A.540 for affordable housing incentive programs.

6 (7) As used in this section:

7 (a) "Affordable housing" means residential housing that is rented  
8 or owned by a person who qualifies as ((a)) an extremely low-income,  
9 very low-income, federally qualified low-income, or low-income~~((or~~  
10 ~~moderate-income))~~ household or who is from a special needs population,  
11 and whose monthly housing costs, including utilities other than  
12 telephone, do not exceed thirty percent of the household's monthly  
13 income.

14 (b) "Very low-income household" means a single person, family, or  
15 unrelated persons living together whose income is at or below fifty  
16 percent of the county area median income~~((, adjusted for household~~  
17 ~~size,))~~ for the county where the affordable housing is located,  
18 adjusted for household size.

19 (c) "Low-income household" means a single person, family, or  
20 unrelated persons living together whose income is more than ((fifty))  
21 sixty percent but is at or below eighty percent of the county area  
22 median income where the affordable housing is located, adjusted for  
23 household size.

24 ~~((("Moderate income household" means a single person, family, or~~  
25 ~~unrelated persons living together whose income is more than eighty~~  
26 ~~percent but is at or below one hundred fifteen percent of the median~~  
27 ~~income where the affordable housing is located))~~ "Eligible  
28 organization" means any city, town, or county government, local housing  
29 authority, public development authority, community renewal agency,  
30 regional support network established under chapter 71.24 RCW, nonprofit  
31 community or neighborhood-based organization, federally recognized  
32 Indian tribe in the state of Washington, or regional or statewide  
33 nonprofit housing assistance organization, including such entities  
34 materially participating as a general partner or managing members of a  
35 partnership, limited liability company, or equivalent organization.

36 (e) "Extremely low-income household" means a single person, family,  
37 or unrelated persons living together whose income is at or below thirty

1 percent of the county area median income where the affordable housing  
2 is located, adjusted for household size.

3 (f) "Federally qualified low-income household" means a single  
4 person, family, or unrelated persons living together whose income is  
5 more than fifty percent but is at or below sixty percent of the county  
6 area median income where the affordable housing is located, adjusted  
7 for household size.

8 (g) "Primarily" means fifty-one percent or more.

9 (h) "Real property" means land, buildings, or buildings and land.

10 **Sec. 2.** RCW 43.20A.037 and 1995 c 399 s 65 are each amended to  
11 read as follows:

12 ~~((1) The department shall identify and catalog real property that~~  
13 ~~is no longer required for department purposes and is suitable for the~~  
14 ~~development of affordable housing for very low income, and moderate-~~  
15 ~~income households as defined in RCW 43.63A.510. The inventory shall~~  
16 ~~include the location, approximate size, and current zoning~~  
17 ~~classification of the property. The department shall provide a copy of~~  
18 ~~the inventory to the department of community, trade, and economic~~  
19 ~~development by November 1, 1993, and every November 1 thereafter.~~

20 ~~(2) By November 1 of each year, beginning in 1994, the department~~  
21 ~~shall purge the inventory of real property of sites that are no longer~~  
22 ~~available for the development of affordable housing. The department~~  
23 ~~shall include an updated listing of real property that has become~~  
24 ~~available since the last update. As used in this section, "real~~  
25 ~~property" means buildings, land, or buildings and land.))~~

26 The department may sell, lease, or exchange real property for less  
27 than fair market value to an eligible organization as defined in RCW  
28 43.63A.510, or may create beneficial sales terms including, but not  
29 limited to, extended closings, if the affordable housing to be  
30 developed on the property is to be occupied primarily by extremely low-  
31 income, very low-income, federally qualified low-income, or low-income  
32 households as provided in RCW 43.63A.510.

33 **Sec. 3.** RCW 72.09.055 and 1995 c 399 s 202 are each amended to  
34 read as follows:

35 ~~((1) The department shall identify and catalog real property that~~  
36 ~~is no longer required for department purposes and is suitable for the~~

1 development of affordable housing for very low income, low income, and  
2 moderate income households as defined in RCW 43.63A.510. The inventory  
3 shall include the location, approximate size, and current zoning  
4 classification of the property. The department shall provide a copy of  
5 the inventory to the department of community, trade, and economic  
6 development by November 1, 1993, and every November 1 thereafter.

7 (2) By November 1 of each year, beginning in 1994, the department  
8 shall purge the inventory of real property of sites that are no longer  
9 available for the development of affordable housing. The department  
10 shall include an updated listing of real property that has become  
11 available since the last update. As used in this section, "real  
12 property" means buildings, land, or buildings and land.))

13 The department may sell, lease, or exchange real property for less  
14 than fair market value to an eligible organization as defined in RCW  
15 43.63A.510, or may create beneficial sales terms including, but not  
16 limited to, extended closings, if the affordable housing to be  
17 developed on the property is to be occupied primarily by extremely low-  
18 income, very low-income, federally qualified low-income, or low-income  
19 households as provided in RCW 43.63A.510.

20 **Sec. 4.** RCW 43.19.19201 and 2011 1st sp.s. c 43 s 218 are each  
21 amended to read as follows:

22 ((1) The department shall identify and catalog real property that  
23 is no longer required for department purposes and is suitable for the  
24 development of affordable housing for very low income, low income, and  
25 moderate income households as defined in RCW 43.63A.510. The inventory  
26 shall include the location, approximate size, and current zoning  
27 classification of the property. The department shall provide a copy of  
28 the inventory to the department of commerce by November 1, 1993, and  
29 every November 1 thereafter.

30 (2) By November 1 of each year, beginning in 1994, the department  
31 shall purge the inventory of real property of sites that are no longer  
32 available for the development of affordable housing. The department  
33 shall include an updated listing of real property that has become  
34 available since the last update. As used in this section, "real  
35 property" means buildings, land, or buildings and land.))

36 The department may sell, lease, or exchange real property for less  
37 than fair market value to an eligible organization as defined in RCW

1 43.63A.510, or may create beneficial sales terms including, but not  
2 limited to, extended closings, if the affordable housing to be  
3 developed on the property is to be occupied primarily by extremely low-  
4 income, very low-income, federally qualified low-income, or low-income  
5 households as provided in RCW 43.63A.510.

6 **Sec. 5.** RCW 79A.05.170 and 1991 sp.s. c 13 s 23 are each amended  
7 to read as follows:

8 (1) The commission may sell, lease, or exchange real property for  
9 less than fair market value to an eligible organization as defined in  
10 RCW 43.63A.510, or may create beneficial sales terms including, but not  
11 limited to, extended closings, if the affordable housing to be  
12 developed on the property is to be occupied primarily by extremely low-  
13 income, very low-income, federally qualified low-income, or low-income  
14 households as provided in RCW 43.63A.510.

15 (2) Except for those lands subject to RCW 43.63A.510, any lands  
16 owned by the ((state parks and recreation)) commission, which are  
17 determined to be surplus to the needs of the state for development for  
18 state park purposes and which the commission proposes to deed to a  
19 local government or other entity, shall be accompanied by a clause  
20 requiring that if the land is not used for outdoor recreation purposes,  
21 ownership of the land shall revert to the ((state parks and  
22 recreation)) commission.

23 ((+2) ~~The state parks and recreation commission,~~) (a) In cases  
24 where land subject to such a reversionary clause is proposed for use or  
25 disposal for purposes other than recreation, the commission shall  
26 require that, if the land is surplus to the needs of the commission for  
27 park purposes at the time the commission becomes aware of its proposed  
28 use for nonrecreation purposes, the holder of the land or property  
29 shall reimburse the commission for the release of the reversionary  
30 interest in the land. The reimbursement shall be in the amount of the  
31 fair market value of the reversionary interest as determined by a  
32 qualified appraiser agreeable to the commission. Appraisal costs shall  
33 be borne by the local entity which holds title to the land.

34 ((+3)) (b) Any funds generated under a reimbursement under this  
35 section shall be deposited in the parkland acquisition account which is  
36 hereby created in the state treasury. Moneys in this account are to be

1 used solely for the purchase or acquisition of property for use as  
2 state park property by the commission, as directed by the legislature;  
3 all such funds shall be subject to legislative appropriation.

4 **Sec. 6.** RCW 79A.05.175 and 2007 c 145 s 1 are each amended to read  
5 as follows:

6 Except for those lands subject to RCW 43.63A.510 and 79A.05.170(1),  
7 whenever the commission finds that any land under its control cannot  
8 advantageously be used for park purposes, it is authorized to dispose  
9 of such land by the method provided in this section or by the method  
10 provided in RCW 79A.05.170. If such lands are school or other grant  
11 lands, control thereof shall be relinquished by resolution of the  
12 commission to the proper state officials. If such lands were acquired  
13 under restrictive conveyances by which the state may hold them only so  
14 long as they are used for park purposes, they may be returned to the  
15 donor or grantors by the commission. All other such lands may be  
16 either sold by the commission to the highest bidder or exchanged for  
17 other lands of equal value by the commission, and all conveyance  
18 documents shall be executed by the governor. All such exchanges shall  
19 be accompanied by a transfer fee, to be set by the commission and paid  
20 by the other party to the transfer; such fee shall be paid into the  
21 parkland acquisition account established under RCW 79A.05.170. The  
22 commission may accept sealed bids, electronic bids, or oral bids at  
23 auction. Bids on all sales shall be solicited at least twenty days in  
24 advance of the sale date by an advertisement appearing at least once a  
25 week for two consecutive weeks in a newspaper of general circulation in  
26 the county in which the land to be sold is located. If the commission  
27 feels that no bid received adequately reflects the fair value of the  
28 land to be sold, it may reject all bids, and may call for new bids.  
29 All proceeds derived from the sale of such park property shall be paid  
30 into the park land acquisition account. All land considered for  
31 exchange shall be evaluated by the commission to determine its  
32 adaptability to park usage. The equal value of all lands exchanged  
33 shall first be determined by the appraisals to the satisfaction of the  
34 commission. No sale or exchange of state park lands shall be made  
35 without the unanimous consent of the commission.

1           **Sec. 7.** RCW 79.11.005 and 2003 c 334 s 201 are each amended to  
2 read as follows:

3           (1) Subject to RCW 43.63A.510, the department is authorized to sell  
4 any real property not designated or acquired as state forest lands, but  
5 acquired by the state, either in the name of the forest board, the  
6 forestry board, or the division of forestry, for administrative sites,  
7 lien foreclosures, or other purposes whenever it shall determine that  
8 the lands are no longer or not necessary for public use.

9           (2) The department may sell, lease, or exchange real property for  
10 less than fair market value to an eligible organization as defined in  
11 RCW 43.63A.510, or may create beneficial sales terms including, but not  
12 limited to, extended closings, if the affordable housing to be  
13 developed on the property is to be occupied primarily by extremely low-  
14 income, very low-income, federally qualified low-income, or low-income  
15 households as provided in RCW 43.63A.510.

16           (3) Except as otherwise provided under RCW 43.63A.510, the sale may  
17 be made after public notice to the highest bidder for such a price as  
18 approved by the governor, but not less than the fair market value of  
19 the real property, plus the value of improvements thereon. Any  
20 instruments necessary to convey title must be executed by the governor  
21 in a form approved by the attorney general.

22           ~~((+3))~~ (4) All amounts received from the sale must be credited to  
23 the fund of the department of government that is responsible for the  
24 acquisition and maintenance of the property sold.

25           **Sec. 8.** RCW 47.12.064 and 1995 c 399 s 121 are each amended to  
26 read as follows:

27           ~~((1) The department shall identify and catalog real property that~~  
28 ~~is no longer required for department purposes and is suitable for the~~  
29 ~~development of affordable housing for very low income, low income, and~~  
30 ~~moderate income households as defined in RCW 43.63A.510. The inventory~~  
31 ~~shall include the location, approximate size, and current zoning~~  
32 ~~classification of the property. The department shall provide a copy of~~  
33 ~~the inventory to the department of community, trade, and economic~~  
34 ~~development by November 1, 1993, and every November 1 thereafter.~~

35           ~~(2) By November 1 of each year, beginning in 1994, the department~~  
36 ~~shall purge the inventory of real property of sites that are no longer~~  
37 ~~available for the development of affordable housing. The department~~



1 ~~shall include an updated listing of real property that has become~~  
2 ~~available since the last update. As used in this section, "real~~  
3 ~~property" means buildings, land, or buildings and land.))~~

4 The department may sell, lease, or exchange real property for less  
5 than fair market value to an eligible organization as defined in RCW  
6 43.63A.510, or may create beneficial sales terms including, but not  
7 limited to, extended closings, if the affordable housing to be  
8 developed on the property is to be occupied primarily by extremely low-  
9 income, very low-income, federally qualified low-income, or low-income  
10 households as provided in RCW 43.63A.510.

11 **Sec. 9.** RCW 53.08.090 and 1994 c 26 s 1 are each amended to read  
12 as follows:

13 (1) A port commission may sell, lease, or exchange real property  
14 for less than fair market value to an eligible organization as defined  
15 in RCW 43.63A.510, or may create beneficial sales terms including, but  
16 not limited to, extended closings, if the affordable housing to be  
17 developed on the property is to be occupied primarily by extremely low-  
18 income, very low-income, federally qualified low-income, or low-income  
19 households as provided in RCW 43.63A.510.

20 (2) Except for those lands subject to RCW 43.63A.510, a port  
21 commission may, by resolution, authorize the managing official of a  
22 port district to sell and convey port district property of ten thousand  
23 dollars or less in value. The authority shall be in force for not more  
24 than one calendar year from the date of resolution and may be renewed  
25 from year to year. Prior to any such sale or conveyance the managing  
26 official shall itemize and list the property to be sold and make  
27 written certification to the commission that the listed property is no  
28 longer needed for district purposes. Any large block of the property  
29 having a value in excess of ten thousand dollars shall not be broken  
30 down into components of ten thousand dollars or less value and sold in  
31 the smaller components unless the smaller components be sold by public  
32 competitive bid. A port district may sell and convey any of its real  
33 or personal property valued at more than ten thousand dollars when the  
34 port commission has, by resolution, declared the property to be no  
35 longer needed for district purposes, but no property which is a part of  
36 the comprehensive plan of improvement or modification thereof shall be  
37 disposed of until the comprehensive plan has been modified to find the

1 property surplus to port needs. The comprehensive plan shall be  
2 modified only after public notice and hearing provided by RCW  
3 53.20.010.

4 (3) Nothing in this section shall be deemed to repeal or modify  
5 procedures for property sales within industrial development districts  
6 as set forth in chapter 53.25 RCW.

7 ((+2)) (4) The ten thousand dollar figures in subsection ((+1))  
8 (2) of this section shall be adjusted annually based upon the  
9 governmental price index established by the department of revenue under  
10 RCW 82.14.200.

11 **Sec. 10.** RCW 53.08.091 and 2010 c 8 s 16001 are each amended to  
12 read as follows:

13 Except for those lands subject to RCW 43.63A.510 and 53.08.090(1),  
14 or in cases where the full purchase price is paid at the time of the  
15 purchase, every sale of real property or personal property under  
16 authority of RCW 53.08.090 or 53.25.110 shall be subject to the  
17 following terms and conditions:

18 (1) The purchaser shall enter into a contract with the district in  
19 which the purchaser shall covenant that he or she will make the  
20 payments of principal and interest when due, and that he or she will  
21 pay all taxes and assessments on such property. Upon failure to make  
22 payments of principal, interest, assessments, or taxes when due all  
23 rights of the purchaser under said contract may, at the election of the  
24 district, after notice to said purchaser, be declared to be forfeited.  
25 When the rights of the purchaser are declared forfeited, the district  
26 shall be released from all obligation to convey land covered by the  
27 contract, and in the case of personal property, the district shall have  
28 all rights granted to a secured party under chapter 62A.9 RCW;

29 (2) The district may, as it deems advisable, extend the time for  
30 payment of principal and interest due or to become due;

31 (3) The district shall notify the purchaser in each instance when  
32 payment is overdue, and that the purchaser is liable to forfeiture if  
33 payment is not made within thirty days from the time the same became  
34 due, unless the time be extended by the district;

35 (4) Not less than four percent of the total purchase price shall be  
36 paid on the date of execution of the contract for sale and not less  
37 than four percent shall be paid annually thereafter until the full

1 purchase price has been paid, but any purchaser may make full payment  
2 at any time. All unpaid deferred payments shall draw interest at a  
3 rate not less than six percent per annum.

4 Nothing in this section shall be deemed to supersede other  
5 provisions of law more specifically governing sales of port district  
6 property. It is the purpose of this section to provide additional  
7 authority and procedures for sale of port district property no longer  
8 needed for port purposes.

9 **Sec. 11.** RCW 81.112.080 and 1992 c 101 s 8 are each amended to  
10 read as follows:

11 An authority shall have the following powers in addition to the  
12 general powers granted by this chapter:

13 (1) To carry out the planning processes set forth in RCW  
14 81.104.100;

15 (2) To acquire by purchase, condemnation, gift, or grant and to  
16 lease, construct, add to, improve, replace, repair, maintain, operate,  
17 and regulate the use of high capacity transportation facilities and  
18 properties within authority boundaries including surface, underground,  
19 or overhead railways, tramways, busways, buses, bus sets, entrained and  
20 linked buses, ferries, or other means of local transportation except  
21 taxis, and including escalators, moving sidewalks, personal rapid  
22 transit systems or other people-moving systems, passenger terminal and  
23 parking facilities and properties, and such other facilities and  
24 properties as may be necessary for passenger, vehicular, and vessel  
25 access to and from such people-moving systems, terminal and parking  
26 facilities and properties, together with all lands, rights-of-way,  
27 property, equipment, and accessories necessary for such high capacity  
28 transportation systems. When developing specifications for high  
29 capacity transportation system operating equipment, an authority shall  
30 take into account efforts to establish or sustain a domestic  
31 manufacturing capacity for such equipment. The right of eminent domain  
32 shall be exercised by an authority in the same manner and by the same  
33 procedure as or may be provided by law for cities of the first class,  
34 except insofar as such laws may be inconsistent with the provisions of  
35 this chapter. Public transportation facilities and properties which  
36 are owned by any city, county, county transportation authority, public  
37 transportation benefit area, or metropolitan municipal corporation may

1 be acquired or used by an authority only with the consent of the agency  
2 owning such facilities. Such agencies are hereby authorized to convey  
3 or lease such facilities to an authority or to contract for their joint  
4 use on such terms as may be fixed by agreement between the agency and  
5 the authority.

6 The facilities and properties of an authority whose vehicles will  
7 operate primarily within the rights-of-way of public streets, roads, or  
8 highways, may be acquired, developed, and operated without the corridor  
9 and design hearings that are required by RCW 35.58.273 for mass transit  
10 facilities operating on a separate right-of-way;

11 (3) To dispose of any real or personal property acquired in  
12 connection with any authority function and that is no longer required  
13 for the purposes of the authority, in the same manner as provided for  
14 cities of the first class. When an authority determines that a  
15 facility or any part thereof that has been acquired from any public  
16 agency without compensation is no longer required for authority  
17 purposes, but is required by the agency from which it was acquired, the  
18 authority shall by resolution transfer it to such agency;

19 (4) An authority may sell, lease, or exchange real property for  
20 less than fair market value to an eligible organization as defined in  
21 RCW 43.63A.510, or may create beneficial sales terms including, but not  
22 limited to, extended closings, if the affordable housing to be  
23 developed on the property is to be occupied primarily by extremely low-  
24 income, very low-income, federally qualified low-income, or low-income  
25 households as provided in RCW 43.63A.510;

26 (5) To fix rates, tolls, fares, and charges for the use of such  
27 facilities and to establish various routes and classes of service.  
28 Fares or charges may be adjusted or eliminated for any distinguishable  
29 class of users.

30 NEW SECTION. Sec. 12. A new section is added to chapter 36.34 RCW  
31 to read as follows:

32 As an alternative to the powers provided in RCW 43.63A.510, a  
33 county may sell surplus property at a discount for affordable housing  
34 that may be part of mixed-income or mixed-use developments, provided  
35 that the affordable housing complies with the guidelines for affordable  
36 housing, income levels, affordable rents, affordable sales prices, and

1 minimum terms of affordability under RCW 36.70A.540 for affordable  
2 housing incentive programs.

3 NEW SECTION. **Sec. 13.** A new section is added to chapter 35.21 RCW  
4 to read as follows:

5 As an alternative to the powers provided in RCW 43.63A.510, every  
6 city and town, including every code city operating under Title 35A RCW,  
7 may sell surplus property at a discount for affordable housing that may  
8 be part of mixed-income or mixed-use developments, provided that the  
9 affordable housing complies with the guidelines for affordable housing,  
10 income levels, affordable rents, affordable sales prices, and minimum  
11 terms of affordability under RCW 36.70A.540 for affordable housing  
12 incentive programs.

--- END ---