

# HOUSE BILL REPORT

## 3SHB 2382

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**As Passed House:**  
February 9, 2018

**Title:** An act relating to promoting the use of surplus public property for public benefit.

**Brief Description:** Promoting the use of surplus public property for public benefit.

**Sponsors:** House Committee on Transportation (originally sponsored by Representatives Ryu, Kagi and Valdez).

**Brief History:**

**Committee Activity:**

Community Development, Housing & Tribal Affairs: 1/10/18, 1/18/18 [DPS];  
Capital Budget: 1/23/18, 2/2/18 [DP2S];  
Transportation: 2/5/18, 2/6/18 [DP3S].

**Floor Activity:**

Passed House: 2/9/18, 53-45.

**Brief Summary of Third Substitute Bill**

- Requires certain designated state agencies to remit 10 percent of any net proceeds from the sale of state real property to the Housing Trust Fund through 2029.
- Requires all state agencies to notify state, local, federal, and tribal entities of any sale of surplus state lands.
- Allows any state or local agency to dispose of property to any public, private, or nongovernmental body for affordable housing development on any mutually agreeable terms.

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**HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT, HOUSING & TRIBAL AFFAIRS**

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Ryu, Chair; Macri, Vice Chair; Barkis, Ranking Minority Member; McCabe, Assistant Ranking Minority Member; Jenkin, Reeves and Sawyer.

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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.*

**Staff:** Sean Flynn (786-7124).

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## HOUSE COMMITTEE ON CAPITAL BUDGET

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 10 members: Representatives Tharinger, Chair; Doglio, Vice Chair; Peterson, Vice Chair; Smith, Assistant Ranking Minority Member; Macri, Morris, Riccelli, Ryu, Sells and Stonier.

**Minority Report:** Do not pass. Signed by 7 members: Representatives DeBolt, Ranking Minority Member; Dye, Eslick, Kraft, MacEwen, Steele and Walsh.

**Staff:** Melissa Palmer (786-7388).

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## HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** The third substitute bill be substituted therefor and the third substitute bill do pass. Signed by 14 members: Representatives Clibborn, Chair; Fey, Vice Chair; Wylie, Vice Chair; Chapman, Gregerson, Kloba, Lovick, McBride, Morris, Ortiz-Self, Pellicciotti, Riccelli, Tarleton and Valdez.

**Minority Report:** Do not pass. Signed by 11 members: Representatives Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Hayes, Irwin, Pike, Rodne, Shea, Stambaugh, Van Werven and Young.

**Staff:** Jessica Harrell (786-7140).

### **Background:**

State Housing Program. The State Housing Policy Act identifies the state goal to coordinate, encourage, and direct the public and private sectors to participate in the attainment of a decent home in a healthy environment for every resident in the state. The objectives of this policy include: developing an adequate supply of housing; preserving the existing supply of affordable housing; and ensuring fair and equal access to the housing market.

The Department of Commerce (DOC) administers the state housing programs, including the Housing Assistance Program, which distributes housing funding through a competitive grant process to eligible organizations for projects that serve low-income individuals and families with special needs. Organizations eligible to receive funding include: local governments; local housing authorities; regional support networks; nonprofit community or neighborhood-based organizations; federally recognized Indian tribes; and regional or statewide nonprofit housing assistance organizations.

The Housing Trust Fund Account was established in 1987 as a renewable resource to support the state housing programs and meet the basic housing needs of low-income and special

needs citizens. The Housing Trust Fund is managed by the DOC and received approximately \$83 million from the Legislature in the 2015-17 biennial budget.

Inventory of State Property for Affordable Housing. The DOC must work with the departments of Social and Health Services, Natural Resources, Transportation, Corrections, and Enterprise Services to identify and catalog property suitable for the development of affordable housing for low income households. Each year, these agencies must submit to the DOC an inventory of their real property that is available for lease or sale. The DOC must provide these inventories of state-owned lands and buildings to parties interested in developing sites for affordable housing.

Intergovernmental Transfer of Surplus Public Property. Some state agencies have authority to dispose of state real property that become surplus to the agency's needs. The Department of Enterprise Services has general authority to dispose of real property for all state agencies that do not have such specific authority to dispose of real estate.

State and local government property, generally, may be transferred or exchanged to other state, local, federal or tribal governments on mutually agreed upon terms by each entity. There are certain regulations regarding the intergovernmental transfer of property. For example, the departments of Natural Resources, Fish and Wildlife, Transportation, Enterprise Services, and the Parks and Recreation Commission, must notify counties, cities, and towns, when proposing to dispose of state-owned land located within each local jurisdiction. State uniform accounting requirements for local governments require that any department receiving an internal transfer of property from another department must pay the full and fair value of the property.

The Department of Transportation may sell or exchange surplus lands for fair market value through a solicitation and bidding process, but also may forgo the bidding process and sell land at fair market value directly to certain parties. Such eligible parties include: another state agency; a local or tribal government where the land is located; the previous private owner or resident; an abutting land owner; or a nonprofit organization dedicated to providing affordable housing and eligible to receive funding through the Housing Trust Fund. Revenue from the sale of such property is directed to be deposited in the Motor Vehicle Account, which is used to fund state highway, road, and street construction and maintenance.

### **Summary of Third Substitute Bill:**

Inventory of State Property for Affordable Housing. The State Parks and Recreation Commission and the Washington State Patrol (WSP) are added to the list of agencies that must provide annual inventories of real property available for sale or lease. The agencies must include in the inventories a description of the disposal of any surplus property by each agency. The DOC must designate the agency inventories into categories of land that is suitable for affordable housing development in consideration of the property location, size, current use, and zoning classification.

State Property Sale Remittance for Affordable Housing. Through June 30, 2029, each of the agencies required to provide annual inventories of real property to the DOC must remit 10 percent of the net proceeds of any sale of real property at fair market value. The net proceeds

include the sales price less the original price, real estate broker commission and fees, transaction costs, and any debt or lien on the property. The remittance is deposited in the Housing Trust Fund Account. The DOC determines how the funds may be used to support affordable housing development for households at or below 80 percent of the local adjusted median income, including but not limited to Brownfield remediation; reducing impact fees; preservation of existing housing; and the implementation of innovative housing options such as microhousing and modular housing.

The remittance requirement does not apply to Department of Natural Resources land bank lands or higher education institution lands that were donated or purchased with nonappropriated funds. The remittance also does not apply to lands acquired for or planned for certain Department of Transportation projects.

Intergovernmental Notice and Transfer of Surplus Public Property. The procedural requirement for certain state agencies to provide notice to local governments when proposing to dispose of state-owned real property, is expanded to include all state agencies. In addition to counties, cities, and towns, notice also must be provided to all other state agencies, each federal agency within the state, and tribes whose land in which the property is located. The state agency providing notice must dispose of the property to any entity responding to such notice, with state agencies receiving priority. The disposition may be any terms agreeable to the parties, except where the law requires the sale for fair market value. The notice and transfer provisions are expressly required under the authorization for DES to sell property for other agencies, as well as the authority of the WSP and the Department of Transportation to sell surplus property.

Disposal of Surplus Property for Public Benefit. Any state or local agency with authority to dispose of surplus property may transfer property to any public, private, or nongovernmental body on any terms agreeable to the parties, including a no-cost transfer, if the property is used for a public benefit. Public benefit means affordable housing development, or related facilities, for households at or below 80 percent of the local adjusted median income. Such a transfer must include a requirement that the property will be used for a designated public benefit, as well as remedies if the property is not used for the designated purpose. Each government entity using the authority to dispose of public property must enact rules to do so.

The authority to dispose of surplus property for public benefit is discretionary and may be used as an alternative to existing authority, but does not apply to state forest lands, common school lands, or other lands subject to legal restrictions. Such authority is expressly added as an alternative to the authority of the WSP, the Department of Transportation, and city governments to sell surplus property at fair market value. The disposal of surplus lands for public benefit is deemed a lawful purpose for any state or local agency that keeps accounts on an enterprise fund, and must be consistent with any applicable, local comprehensive plan. The disposal of property for public benefit is expressly exempted from the local government accounting requirement that intra-agency property transfers must be paid for at true and full value.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony (Community Development, Housing & Tribal Affairs):**

(In support) This bill makes public lands accessible to increase opportunities for affordable housing development, especially in areas where rising property values have reduced the adequate supply of affordable housing. More affordable housing options are necessary due to the population growth rates due to an influx of new residents in some urban areas that adds more pressure on affordable housing availability.

Providing inventories of surplus agency properties has been part of a long effort to identify public lands for affordable housing purposes. The use of state land is part of the Affordable Housing Advisory Board's (AHAB's) recommendations for prioritizing affordable housing development needs. The AHAB recommendation acknowledged the big challenge in finding affordable land for development.

Surplus lands should be put to the most beneficial uses. This bill helps to address two problems with affordable housing development. First, it provides more available property for development. Second, it provides resources for state and local agencies to access such properties. There is not one solution to these problems and it takes a number of ideas to address them. Agencies often believe they are restricted on if and how they can dispose of surplus property. This gives more options and reduces barriers for local governments to address housing needs with available properties without having to charge fair market value.

The legal procedures for transferring property are helpful to encourage and facilitate transfers for public beneficial use, which also can support development of community resources, like childcare centers or other community facilities. This puts land in to the hands of developers who can find the best ways for creating new housing opportunities. Free or reduced rate property acquisition has created opportunities for innovative housing projects, such as microhousing projects and refurbishing dilapidated homes.

(Opposed) None.

**Staff Summary of Public Testimony (Capital Budget):**

(In support) The goal of this legislation is to address the affordable housing crisis in our state. Washington needs at least 200,000 more affordable housing units. People are facing steep increases in rents. As more people start to buy homes, there is immense pressure on the housing market. This is not a new idea; other legislators have proposed similar legislation in the past. The cost of land is a factor in developing affordable housing properties. It costs the state \$200,000 to serve the most needy individuals. The state can save money by providing stable housing for these individuals. There has been a 9.7 percent increase in jobs but only a 4.8 percent increase in housing supply. People are paying half of their income for rent. Rent is highest in Seattle, but rent is increasing all over the state, in places such as Aberdeen, Shelton, and Centralia. This is a flexible bill and would allow a local community to address affordable housing or homelessness. It presents an opportunity for underutilized property to be used for affordable housing. There is not a silver bullet to the housing crisis, but this is

part of a silver buckshot. Washington Housing Authorities have over 66,000 households on the waitlist statewide. There are instances in which people have called and retained their place on the waitlist for six years. There is a need for housing all over the state, and this provides an important tool to developing affordable housing. In rural areas there are needs for domestic abuse housing and behavioral health housing. There are a number of approaches that can be taken to create affordable housing by decreasing costs, decreasing barriers, and improving conditions. This can provide land to projects which can help decrease the costs.

(Opposed) None.

(Other) The mission of the Green Spaces Coalition is to repurpose property for public benefit. Parks and open spaces should be included as part of the public benefit under this legislation. Open space and parks are needed in all parts of Washington. Affordable housing and parks are brother and sister, they go hand-in-hand. They are not in competition. Parks departments cannot afford to acquire the land needed to expand or create parks. Including parks and open space is not opening a Pandora's box, but instead is a complement to affordable housing. Open space is often used for community gardens and is frequently the only open space in densely populated areas. These open spaces and community gardens bring together diverse groups of people. The gardeners care for common areas and donate fresh organic produce to local food banks and feeding programs.

**Staff Summary of Public Testimony (Transportation):**

(In support) The work on this legislation has happened over a number of years. The state is currently facing a perfect storm of housing problems with a shortage of housing in total, a lack of affordability for housing that is available, and an urgent need to address the root causes of homelessness. "Surplus property" is excess property that is not needed for the charges of the state agencies responsible for the property. While the short-term effect of this bill reduces revenue to the transportation budget, the long-term effect will hopefully reduce operating costs. Property sold to a nonprofit or private entity is required to have very clear contractual guidelines on what may be done with the property.

(Opposed) None.

(Other) Parks and open space are a matter of public health and are needed in densely populated areas. They should be included in this bill. Dense urban areas without parks lead people to drive from where they live to parks, increasing traffic congestion. Adding parks and open space to this legislation would reduce traffic by providing space nearby.

**Persons Testifying (Community Development, Housing & Tribal Affairs):** Representative Ryu, prime sponsor; James Baumgart, Office of the Governor; Kim Herman, Washington State Housing Finance Commission; Obie Obrien, Affordable Housing Advisory Board and Washington State Association of Counties; Ginger Segal, Community Frameworks and Spokane Low Income Housing Consortium; Mary Fleck, Seattle Green Spaces Coalition; Bill Rumpf, Mercy Housing Northwest; M.A. Leonard, Enterprise Community Partners; Lisa Wolters, Seattle Housing Authority; Bryce Yadon, Futurewise; and Nick Federici, Washington Low Income Housing Alliance.

**Persons Testifying** (Capital Budget): (In support) Nick Federici, Washington Low Income Housing Alliance; M.A. Leonard, Enterprise Community Projects; Max Benson, Community Frameworks; and Lisa Wolters, Seattle Housing Authority and Association of Washington Housing Authorities.

(Other) Mary Fleck, Seattle Green Spaces Coalition, Joyce Moty, Grow; and Lincoln Ferris, Seattle Community Colleges.

**Persons Testifying** (Transportation): (In support) Representative Ryu, prime sponsor.

(Other) Mary Fleck, Seattle Green Spaces Coalition.

**Persons Signed In To Testify But Not Testifying** (Community Development, Housing & Tribal Affairs): None.

**Persons Signed In To Testify But Not Testifying** (Capital Budget): None.

**Persons Signed In To Testify But Not Testifying** (Transportation): None.