

# SENATE BILL REPORT

## 3SHB 2382

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As of February 21, 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:** Passed House: 2/09/18, 53-45.

**Committee Activity:** Human Services & Corrections: 2/20/18.

### Brief Summary of Bill

- Requires the Department of Commerce (Commerce) to work with designated state agencies to identify, catalog, and recommend the best use for under-utilized state-owned surplus land and property.
- Requires designated state agencies remit 10 percent of any net proceeds from the sale of state surplus public property for public benefit to the Washington Housing Trust Fund Account (Trust Fund) through June 30, 2029.
- Requires that state agencies provide written notice to other state agencies; federal agencies; and certain counties, cities, towns, and federally recognized Indian tribes, at least 60 days prior to the disposal of surplus state property to a private or nongovernmental party.
- Allows any state or local agency to dispose of property to any public, private, or nongovernmental body for affordable housing development on any mutually agreed on terms and conditions, except where the law requires the sale at fair market value, with priority given to state agencies.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Keri Waterland (786-7490)

**Background:** 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

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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.

Commerce 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, behavioral health organizations, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes, and regional or statewide nonprofit housing assistance organizations.

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

Commerce must work with the Department of Social and Health Services (DSHS), the Department of Natural Resources (DNR), the Department of Transportation (DOT), the Department of Corrections (DOC), and the Department of Enterprise Services (DES) to identify and catalog property suitable for the development of affordable housing for low income households. Each year, these agencies must submit an inventory to Commerce of their real property that is available for lease or sale. Commerce must provide these inventories of state-owned lands and buildings to parties interested in developing sites for affordable housing.

Some state agencies have authority to dispose of state surplus property. DES has general authority to dispose of real property for all state agencies that do not have specific authority to do so themselves. 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, specifically, the Department of Fish and Wildlife, DNR, DOT, DES, and the State Parks and Recreation Commission (Parks 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 market value of the property.

DOT may sell or exchange surplus lands for fair market value through a solicitation and bidding process, but may also sell land at fair market value directly to certain parties. 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 Trust Fund. Revenue from the sale of such property is directed to be deposited in the Motor Vehicle Account.

**Summary of Bill:** Inventory of State Property for Affordable Housing. Commerce must work with designated agencies to identify, catalog, and recommend the best use for under-

utilized state-owned land and property. All designated agencies must provide an inventory of real property that is owned or administered by each agency, and is vacant or available for sale or lease. Commerce must work with the designated agencies to provide a consolidated list of any property transactions under the authority of this act, including appraisal, terms and conditions of the transaction, the value of the public benefit, and the impact to the agency, by November 1, annually. Designated agencies include the Parks Commission, WSP, DNR, DOT, DSHS, DOC, and DES.

Commerce must consolidate inventories into land that is either suitable or not suitable for affordable housing development in consideration of the property location, size, current use, and zoning classification. Affordable housing development means state-owned real property appropriate for sale, transfer, or lease to an affordable housing developer capable of receiving the property within 180 days, and creating affordable housing units for occupancy within 36 months from the time of transfer.

Each of the designated agencies must remit 10 percent of the net proceeds of any sale of real property at fair market value into the Trust Fund, through June 30, 2029, unless the remittance is otherwise prohibited by law. The net proceeds means the sales price less the original price, real estate broker commission and fees, transaction costs, and any debt or lien on the property. In instances where the original purchase price is not known, a reasonable estimate of the value of the property may be used when determining net proceeds. Commerce must determine how the funds will be used to support affordable housing development for households at or below 80 percent of the local adjusted median income, and must include but not be limited to: Brownfield remediation of sites for affordable housing development; reducing impact fees for affordable housing development; preservation of existing affordable housing; and the implementation of innovative housing options such as microhousing, modular housing and other nontraditional housing models.

The following are excluded from the 10 percent remittance requirement:

- DNR land bank lands;
- higher education institution lands that were donated or purchased with nonappropriated funds;
- DOT lands acquired for or planned for certain projects;
- surplus real property acquired for use related to, in the vicinity of, or included in any planned design of the State Route 520 bridge replacement and High-Occupancy Vehicle program;
- the Alaska Way Viaduct Replacement Project;
- the Southbound Tacoma Narrows Bridge;
- the Interstate 405 Corridor Program;
- the Puget Sound Gateway Program;
- the United States 395 North Spokane Corridor program; and
- DOT and WSP, if the remittance is otherwise prohibited by law.

Right of First Refusal for Government Agencies. State agencies must provide written notice to all other state agencies; federal agencies within state; and the governing authority of counties, cities, and towns, and federally recognized Indian tribes whose land in which the property is located, at least 60-days prior to the disposal of surplus state property to a private or nongovernmental party. The state agency providing notice must dispose of the property to

any governmental entity responding in the notification period. Priority must be given to state agencies. The disposition may be for any agreed upon terms and conditions, except where the law requires the sale at fair market value.

Disposal of Public Property for Public Benefit. Any state agency, municipality, or political subdivision with authority to dispose of surplus public property may transfer property to any public, private, or nongovernmental body on any mutually agreeable terms and conditions, including a no-cost transfer, if the property is to be used for a public benefit. The deed, lease or other document disposing of the property must include a requirement that the property will be used for a designated public benefit, as well as remedies that apply if the property is not used for the designated purpose. Public benefit means affordable housing development, or related facilities, for households at or below 80 percent of the local adjusted median income. Surplus public property means excess real property that is not required for the needs of or the discharge of the responsibilities of the state agency, municipality, or political subdivision.

Each government entity must enact rules to regulate the disposition of surplus public property for public benefit purposes, which must be consistent with existing local plans. The authority to dispose of surplus property for public benefit may be used as an alternative to the authority of WSP, DOT, and city governments to sell surplus property at fair market value, but does not apply to state forest lands, common school lands, or other lands subject to legal restrictions. The disposition of surplus public property for public benefit must be consistent with any applicable local comprehensive plan, is deemed a lawful purpose for any state or local agency that keeps accounts on an enterprise fund, and is exempted from the local government accounting requirement that intra-agency property transfers must be paid for at true and full value. State forest lands, common school lands, or other lands subject to legal restrictions, are exempt from public property disposals for public benefit.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: The need exceeds the availability of housing. There is a shortage of affordable housing and this is supportive of addressing homelessness and the increasing challenges to affordable housing. Many people are struggling to keep housing and live in stable conditions. Housing stability leads to people being productive members of society. This is step forward but is not enough. Rents are growing and becoming unaffordable. The federal government is pulling back so the state cannot. We need more creative solutions. This benefits communities because this opens new options and most communities do not have their own abilities to gain lands at an affordable rate to develop, and this provides an important tool to those areas, especially rural. This provides funding, helps decrease cost of land, and ensures that public agencies have some accountability to helping with affordable housing and homelessness. The 10 percent remittance rate needs to be worked out during the interim.

OTHER: Asking for amendment to include parks and open spaces—green spaces. Concern is that costs are skyrocketing and that subsidized housing is so expensive. If money comes into trust fund, the 10 percent should be set aside for rural communities. Should be a balance between urban and rural.

**Persons Testifying:** PRO: Representative Cindy Ryu, Prime Sponsor; Nick Federici, Washington Low Income Housing Alliance; Lisa Wolters, Association of Washington Housing Authorities and Seattle Housing Authority; M.A. Leonard, Vice President, Enterprise Community Partners; State Affordable Housing Advisory Board, Chair; Gina Chamberlain, Housing Developer, Community Frameworks.

OTHER: Mary Fleck, Seattle Green Spaces Coalition; Roger Valdez, Seattle for Growth.

**Persons Signed In To Testify But Not Testifying:** No one.