

(Including Amendments to Resolve Conflicts)

B-Engrossed House Bill 3524

Ordered by the Senate June 9
Including House Amendments dated April 27 and Senate Amendments
dated June 9

Sponsored by Representatives REARDON, PARRISH

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires state, when selling or disposing of real property, to grant right of first refusal to developers of affordable housing. Requires state to offer certain unused real property for sale.

A BILL FOR AN ACT

1
2 Relating to disposition of state property for affordable housing; amending ORS 270.005, 270.100 and
3 270.110.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 270.100 is amended to read:

6 270.100. (1)(a) Before offering for sale any real property or equitable interest therein owned by
7 the state, the state agency acting for the state in such transaction shall report its intent of sale or
8 transfer to the Oregon Department of Administrative Services. The department, or the agency spe-
9 cifically designated by the department, shall notify other state agencies authorized to own real
10 property of the intended sale or transfer to determine whether acquisition of the real property or
11 interest therein would be advantageous to another state agency.

12 (b)(A) The department shall give [*political subdivisions, as defined in ORS 271.005,*] the first
13 opportunity after other state agencies to acquire, purchase, exchange or lease real property to be
14 sold or disposed of by the State of Oregon[.] **to:**

15 (i) **The following entities, on the condition that the entities will develop housing on the**
16 **real property that will be occupied by families and individuals with an income no greater than**
17 **80 percent of the median family income for the county in which the real property is located:**

18 **(I) Nonprofit organizations; and**

19 **(II) Indian tribes, as defined in ORS 97.740; and**

20 **(ii) Political subdivisions, as defined in ORS 271.005.**

21 **(B)** The state agency responsible for selling or transferring the property may require at the time
22 of the sale or transfer that any state real property sold or transferred to a political subdivision[,
23 *as defined in ORS 271.005,*] shall be for use for a public purpose or benefit, and not be for resale to
24 a private purchaser.

25 (c) If property is not disposed of under paragraph (a) or (b) of this subsection, in accordance
26 with rules adopted by the department, the state agency desiring to sell or transfer the property shall

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 cause it to be appraised by one or more competent and experienced appraisers. Except as provided
2 in ORS 273.825, if such property has an appraised value exceeding \$5,000 it shall not be sold to any
3 private person except after notice calling for such proposals as set forth in ORS 270.130.

4 (d) The department shall adopt rules to carry out the provisions of this section.

5 (2) Before acquisition of any real property or interest therein by any state agency, except for
6 highway right of way acquired by the Department of Transportation and park properties acquired
7 by the State Parks and Recreation Department and property within the approved projected campus
8 boundaries for public universities of the Oregon University System or public universities with gov-
9 erning boards listed in ORS 352.054, the state agency shall report its intent of acquisition to the
10 Oregon Department of Administrative Services. The department shall notify other state agencies
11 owning land of the intended acquisition to determine whether another state agency desires to sell
12 or transfer property [which] **that** would meet the needs of the purchasing agency. In accordance
13 with rules adopted by the Oregon Department of Administrative Services, if no other state agency
14 desires to sell or transfer property [which] **that** would meet the needs of the agency, the agency
15 may acquire the real property or interest therein, consistent with applicable provisions of law.

16 (3) Before any terminal disposition of real property or an interest in real property, the state
17 agency acting for the state in the transaction must secure approval of the transaction from the
18 Oregon Department of Administrative Services.

19 (4) Subsection (3) of this section does not apply to terminal disposition of the following real
20 property:

21 (a) Property controlled by the State Department of Fish and Wildlife;

22 (b) State forestlands controlled by the State Forestry Department;

23 (c) Property controlled by the Department of Transportation;

24 (d) Property controlled by the Department of State Lands;

25 (e) Property controlled by the Oregon University System or controlled by public universities
26 with governing boards listed in ORS 352.054;

27 (f) Property controlled by the legislative or judicial branches of state government; and

28 (g) Property controlled by the State Parks and Recreation Department.

29 (5) Notwithstanding the provisions of subsection (4) of this section, prior approval by the Oregon
30 Department of Administrative Services is required for the terminal disposition of public land for less
31 than the fair market value of that land.

32 (6) The provisions of ORS 184.634, 270.005 to 270.015, 270.100 to 270.190, 273.416, 273.426 to
33 273.436, 273.551 and 308A.709 (1) to (4) do not apply to:

34 (a) A home or farm acquired or sold by the Department of Veterans' Affairs under ORS 88.720,
35 406.050, 407.135, 407.145, 407.375 and 407.377.

36 (b) Real property acquired or sold by the Housing and Community Services Department under
37 the provisions of ORS 456.515 to 456.725 or ORS chapter 458.

38 **SECTION 1a. If Senate Bill 224 becomes law, section 1 of this 2015 Act (amending ORS**
39 **270.100) is repealed and ORS 270.100, as amended by section 1, chapter __, Oregon Laws 2015**
40 **(Enrolled Senate Bill 224), is amended to read:**

41 270.100. (1)(a) Before offering for sale any real property or equitable interest in real property
42 that the state owns, the state agency acting for the state in the sales transaction shall report to the
43 Oregon Department of Administrative Services that the state agency intends to sell or transfer the
44 real property or the equitable interest. The department, or an agency the department specifically
45 designates, shall notify other state agencies authorized to own real property of the intended sale or

1 transfer to determine whether acquiring the real property or interest in the real property would be
2 advantageous to another state agency.

3 (b)(A) The department shall give [*political subdivisions, as defined in ORS 271.005,*] the first
4 opportunity after other state agencies to acquire, purchase, exchange or lease real property or an
5 interest in real property that the State of Oregon disposes of or sells **to:**

6 (i) **The following entities, on the condition that the entities will develop housing on the**
7 **real property that will be occupied by families and individuals with an income no greater than**
8 **80 percent of the median family income for the county in which the real property is located:**

9 (I) **Nonprofit organizations; and**

10 (II) **Indian tribes, as defined in ORS 97.740; and**

11 (ii) **Political subdivisions, as defined in ORS 271.005.**

12 (B) The state agency responsible for selling or transferring the property or the equitable inter-
13 est may require at the time of the sale or transfer that a political subdivision must use state real
14 property or an equitable interest in real property sold or transferred to the political subdivision for
15 a public purpose or benefit, and that the political subdivision may not resell the real property or the
16 equitable interest to a private purchaser.

17 (c) If a state agency that intends to sell or transfer real property or an equitable interest in real
18 property has not disposed of the real property or the equitable interest under paragraph (a) or (b)
19 of this subsection, the state agency shall cause the real property to be appraised by one or more
20 competent and experienced appraisers in accordance with rules the department adopts. Except as
21 provided in ORS 273.825, if the property has an appraised value exceeding \$5,000, the property or
22 an equitable interest in the property may not be sold to any private person except after notice
23 calling for such proposals as set forth in ORS 270.130.

24 (d) The department shall adopt rules to carry out the provisions of this section.

25 (2) Before a state agency acquires any real property or interest in real property, except for
26 highway right of way that the Department of Transportation acquires, park properties that the State
27 Parks and Recreation Department acquires and property within the approved projected campus
28 boundaries for public universities of the Oregon University System or public universities with gov-
29 erning boards listed in ORS 352.054, the state agency shall report to the Oregon Department of
30 Administrative Services that the state agency intends to acquire the real property or the interest
31 in real property. The department shall notify other state agencies that own land that the state
32 agency intends to acquire real property or an interest in real property to determine whether another
33 state agency desires to sell or transfer property that would meet the needs of the acquiring agency.
34 In accordance with rules the Oregon Department of Administrative Services adopts, if no other state
35 agency desires to sell or transfer property that would meet the needs of the agency that intends to
36 acquire real property or an interest in real property, the agency may acquire the real property or
37 interest in real property, consistent with applicable provisions of law.

38 (3) Before any terminal disposition of real property or an interest in real property, the state
39 agency acting for the state in the transaction must secure approval of the transaction from the
40 Oregon Department of Administrative Services.

41 (4) Subsection (3) of this section does not apply to terminal disposition of the following real
42 property:

43 (a) Property that the State Department of Fish and Wildlife controls;

44 (b) State forestlands that the State Forestry Department controls;

45 (c) Property that the Department of Transportation controls;

1 (d) Property that the Department of State Lands controls;

2 (e) Property that the Oregon University System controls or that public universities with gov-
3 erning boards listed in ORS 352.054 control;

4 (f) Property that the legislative branch of state government controls;

5 (g) Property that the judicial branch of state government controls; and

6 (h) Property that the State Parks and Recreation Department controls.

7 (5) Notwithstanding the provisions of subsection (4) of this section, prior approval by the Oregon
8 Department of Administrative Services is required for the terminal disposition of public land for less
9 than the fair market value of the public land.

10 (6) The provisions of ORS 184.634, 270.005 to 270.015, 270.100 to 270.190, 273.416, 273.426 to
11 273.436, 273.551 and 308A.709 (1) to (4) do not apply to:

12 (a) A home or farm that the Department of Veterans' Affairs acquires or sells under ORS 88.720,
13 406.050, 407.135, 407.145, 407.375 or 407.377.

14 (b) Real property that the Housing and Community Services Department acquires or sells under
15 the provisions of ORS 456.515 to 456.725 or ORS chapter 458.

16 (c) Real property that the Oregon Health Authority or the Department of Human Services ac-
17 quires or sells under ORS 410.075 or 416.340.

18 **SECTION 2.** ORS 270.005 is amended to read:

19 270.005. For purposes of ORS 184.634, 270.005 to 270.015, 270.100 to 270.190, 273.416, 273.426 to
20 273.436 and 273.551:

21 (1) "Department" means the Oregon Department of Administrative Services.

22 (2) "Improvements" means any and all structures on or attachments to state-owned real prop-
23 erty, but excluding public improvements as defined in ORS 279A.010.

24 (3) "Real property" means all real property together with any and all improvements thereon.

25 (4) **"Rural community" means an unincorporated community that consists primarily of**
26 **permanent residential dwellings but also has at least two other land uses that provide com-**
27 **mercial, industrial or public uses to the community, the surrounding rural area or persons**
28 **traveling through the area.**

29 [(4)] (5) "Surplus real property" means all state-owned real property and improvements surplus
30 to agency and state need.

31 (6) **"Urban growth boundary" has the meaning given that term in ORS 195.060.**

32 (7) **"Urban reserve" means any land designated as an urban reserve under ORS 195.145.**

33 (8) **"Urban unincorporated community" has the meaning given that term in ORS 197.015.**

34 **SECTION 3.** ORS 270.110 is amended to read:

35 270.110. (1) Except as provided in subsection (2) of this section:[]

36 (a) Whenever the state or any agency thereof possesses or controls real property not needed for
37 public use, or whenever the public interest may be furthered, the state or its agency may sell, ex-
38 change, convey or lease for any period not exceeding 99 years all or any part of its interest in the
39 property to or with the state or any political subdivision of the state or the United States or any
40 agency thereof or private individual or corporation. Except where the state is exchanging real
41 property, the consideration for the transfer or lease may be cash or real property, or both.

42 (b) **The state or any agency thereof shall offer for sale any real property in its possession**
43 **or control if the property:**

44 (A) **Is within the urban growth boundary of any city, is within an urban reserve, is within**
45 **a rural community, or is within an urban unincorporated community;**

1 **(B) Is not being used for public purposes; and**

2 **(C) Is not needed for public use within five years of the last date the property was used**
3 **for public purposes.**

4 **(c) Paragraph (b) of this subsection does not apply to the Department of Transportation**
5 **or to the Department of State Lands.**

6 **(d) Nothing in this subsection limits the authority of the state to relinquish title to**
7 **property pursuant to ORS 458.445.**

8 (2) If the ownership, right or title of the state to any real property set apart by deed, will or
9 otherwise for a burial ground or cemetery, or for the purpose of interring the remains of deceased
10 persons, is limited or qualified or the use of such real property is restricted, whether by dedication
11 or otherwise, the state or its agency may, after first declaring by resolution that such real property
12 is not needed for public use, or that the sale, exchange, conveyance or lease thereof will further the
13 public interest, file a complaint in the circuit court for the county in which such real property is
14 located against all persons claiming any right, title or interest in such real property, whether the
15 interest be contingent, conditional or otherwise, for authority to sell, exchange, convey or lease all
16 or any part of such real property. The resolution is prima facie evidence that such real property is
17 not needed for public use, or that the sale, exchange, conveyance or lease will further the public
18 interest. The action shall be commenced and prosecuted to final determination in the same manner
19 as an action not triable by right to a jury. The complaint shall contain a description of such real
20 property, a statement of the nature of the restrictions, qualifications or limitations, and a statement
21 that the defendants claim some interest therein. The court shall make such judgment as it shall
22 deem proper, taking into consideration the limitations, qualifications or restrictions, the resolution
23 and all other matters pertinent thereto. Neither costs nor disbursements may be recovered against
24 any defendant.

25 (3) The authority to lease property granted by this section includes authority to lease property
26 not owned or controlled by the state at the time of entering into the lease. Such lease shall be
27 conditioned upon the subsequent acquisition of the interest covered by the lease.

28 (4) Any lease of state real property exceeding five years must be approved in advance by the
29 Oregon Department of Administrative Services, except for leases:

30 (a) Negotiated by the Oregon Department of Aviation;

31 (b) Of state forestlands;

32 (c) Of property controlled by the Department of State Lands, the Department of Transportation
33 or a public university listed in ORS 352.002; or

34 (d) Of property controlled by the legislative or judicial branches of state government.

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