

TITLE 25

PUBLIC LANDS

- Chapter 270. State Real Property
271. Use and Disposition of Public Lands Generally; Easements
272. Federal Lands
273. State Lands Generally
274. Submersible and Submerged Lands
275. County Lands

Chapter 270

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State Real Property

GENERAL PROVISIONS	
270.005	Definitions
270.010	Policy
270.015	Effect of ORS 270.005 to 270.190; agency rules
270.020	Title to property
270.025	Agreements with United States Government for electrical and other transmission lines; effect on rights of private property owners
TRANSFER PROCEDURES	
270.100	Notice to department before sale of real property; rules; procedures; restrictions on final disposition
270.105	Procedures before terminal disposition of real property
270.110	Disposition of property not needed for public use; lease approval by department
270.120	Advisory committee; membership; officers; compensation and expenses; duties
270.130	Publication of notice of sale
270.135	Decision of state agency on proposal for sale of property
270.140	Action if no satisfactory proposal received; rules
MANAGEMENT	
270.150	Proceeds of sale of real property
270.155	Agreements for management of state real property; reimbursement for costs
270.165	Grants of easements in public interest
270.180	Inventory of state-owned real property; status information reports; periodic revision; rules
270.190	Disposition of operating fund revenues

PUBLIC LANDS

GENERAL PROVISIONS

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

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

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

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

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

(5) "Surplus real property" means all state-owned real property and improvements surplus to agency and state need.

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

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

(8) "Urban unincorporated community" has the meaning given that term in ORS 197.015. [1991 c.816 §3; 1993 c.500 §11; 1997 c.685 §5; 1999 c.314 §79; 2003 c.794 §224; 2015 c.572 §2]

270.010 Policy. (1) It shall be the policy of the State of Oregon to hold in state ownership no more state-owned real property than is necessary to conduct official business, with allowance for reasonably foreseeable demands of the future. The acquisition, sale, exchange, lease, retention and management of state-owned real property shall be subject to a statewide plan that will encourage the transfer through sale or lease of state-owned real property already in state ownership to private ownership and use so as to minimize state investment in such land and place such land on the tax rolls.

(2) In transferring state-owned real property through sale or lease, to the extent consistent with applicable trust responsibilities, the state policy shall be to give right of first refusal to purchase in the following order:

(a) To the lessee of the land.

(b) Where the intended activity or use is similar to that of adjacent properties within the region:

(A) To adjacent landowners.

(B) To residents within the region.

(C) To persons outside the region. [1991 c.816 §2; 1995 c.589 §1]

270.015 Effect of ORS 270.005 to 270.190; agency rules. (1) The power granted by ORS 184.634, 270.005 to 270.015, 270.100 to 270.190, 273.416, 273.426 to 273.436 and 273.551 is vested in the State of Oregon. The power is self-operating, without the necessity of further legislation.

(2) In carrying out the provisions of ORS 184.634, 270.005 to 270.015, 270.100 to 270.190, 273.416, 273.426 to 273.436 and 273.551, the state shall act by and through its duly constituted board, commission or agency. The state by statute or through its respective board, commission or agency may provide rules necessary in carrying out the provisions of ORS 184.634, 270.005 to 270.015, 270.100 to 270.190, 273.416, 273.426 to 273.436 and 273.551. [1991 c.816 §4; 1999 c.314 §80]

270.020 Title to property. Title to any parcel of land held by a state agency shall be in the name of the state, by and through the state agency controlling the parcel. [Formerly 273.195]

270.025 Agreements with United States Government for electrical and other transmission lines; effect on rights of private property owners. The State of Oregon may enter into agreements with the United States or any agency thereof, relative to the conditions for and places where electrical and other transmission lines may be placed and maintained across any property owned or controlled by the state, which agreements may be in perpetuity or for such length of time as may be specified. However, no such agreement shall affect the constitutional rights of any owners of private property who do not join therein. [Formerly 273.461]

TRANSFER PROCEDURES

270.100 Notice to department before sale of real property; rules; procedures; restrictions on final disposition. (1)(a) Before offering for sale any real property or equitable interest in real property that the state owns, the state agency acting for the state in the sales transaction shall report to the Oregon Department of Administrative Services that the state agency intends to sell or transfer the real property or the equitable interest. The department, or an agency the department specifically designates, shall notify other state agencies authorized to own real property of the intended sale or transfer to determine whether acquiring the real property or interest in the real property would be advantageous to another state agency.

(b)(A) The department shall give the first opportunity after other state agencies to ac-

quire, purchase, exchange or lease real property or an interest in real property that the State of Oregon disposes of or sells to:

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

(I) Nonprofit organizations; and

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

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

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

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

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

(2) Before a state agency acquires any real property or interest in real property, except for highway right of way that the Department of Transportation acquires, park properties that the State Parks and Recreation Department acquires and property within the approved projected campus boundaries for public universities listed in ORS 352.002, the state agency shall report to the Oregon Department of Administrative Services that the state agency intends to acquire the real property or the interest in real property. The department shall notify other state agencies that own land that the state agency intends to acquire real property or an interest in real property to determine whether another state agency desires to sell or transfer property that would meet the needs of the acquiring agency. In accordance

with rules the Oregon Department of Administrative Services adopts, if no other state agency desires to sell or transfer property that would meet the needs of the agency that intends to acquire real property or an interest in real property, the agency may acquire the real property or interest in real property, consistent with applicable provisions of law.

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

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

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

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

(c) Property that the Department of Transportation controls;

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

(e) Property that public universities listed in ORS 352.002 control;

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

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

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

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

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

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

(b) Real property that the Housing and Community Services Department acquires or sells under the provisions of ORS 456.515 to 456.725 or 458.480 to 458.490 or ORS chapter 458.

(c) Real property that the Oregon Health Authority or the Department of Human Services acquires or sells under ORS 410.075 or 416.340. [1991 c.816 §6; 1999 c.314 §81; 2005 c.625 §64; 2009 c.762 §50; 2011 c.34 §2; 2011 c.637 §82; 2013 c.167 §1; 2013 c.768 §119; 2015 c.285 §1; 2015 c.572 §1a; 2015 c.767 §§72,228,229; 2016 c.61 §4; 2017 c.275 §3]

270.105 Procedures before terminal disposition of real property. Before a state agency terminally disposes of real property to other than another state agency, the disposing agency shall:

(1) If the value of the real property is \$100,000 or less, consider all the values of the property to the people of this state, including values for fish and wildlife habitat and public access to other real property; or

(2) If the value of the real property is greater than \$100,000, invite public comment on and consider all the values of the property to the people of this state, including values for fish and wildlife habitat and public access to other property. [1991 c.816 §21]

270.110 Disposition of property not needed for public use; lease approval by department. (1) Except as provided in subsection (2) of this section:

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

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

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

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

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

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

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

(2) If the ownership, right or title of the state to any real property set apart by deed, will or otherwise for a burial ground or cemetery, or for the purpose of interring the remains of deceased persons, is limited or qualified or the use of such real property is restricted, whether by dedication or otherwise, the state or its agency may, after first declaring by resolution that such real prop-

erty is not needed for public use, or that the sale, exchange, conveyance or lease thereof will further the public interest, file a complaint in the circuit court for the county in which such real property is located against all persons claiming any right, title or interest in such real property, whether the interest be contingent, conditional or otherwise, for authority to sell, exchange, convey or lease all or any part of such real property. The resolution is prima facie evidence that such real property is not needed for public use, or that the sale, exchange, conveyance or lease will further the public interest. The action shall be commenced and prosecuted to final determination in the same manner as an action not triable by right to a jury. The complaint shall contain a description of such real property, a statement of the nature of the restrictions, qualifications or limitations, and a statement that the defendants claim some interest therein. The court shall make such judgment as it shall deem proper, taking into consideration the limitations, qualifications or restrictions, the resolution and all other matters pertinent thereto. Neither costs nor disbursements may be recovered against any defendant.

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

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

(a) Negotiated by the Oregon Department of Aviation;

(b) Of state forestlands;

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

(d) Of property controlled by the legislative or judicial branches of state government. [1991 c.816 §5; 1999 c.935 §25; 2005 c.15 §1; 2009 c.762 §51; 2013 c.768 §120; 2015 c.572 §3]

270.120 Advisory committee; membership; officers; compensation and expenses; duties. (1) In exercising certain of its functions under ORS 184.634, 270.005 to 270.015, 270.100 to 270.190, 273.416, 273.426 to 273.436 and 273.551, the Oregon Department of Administrative Services shall be advised by an advisory committee consisting of seven members appointed by the Governor.

(2) The advisory committee appointed under subsection (1) of this section shall consist of two members of the Legislative

Assembly, one real estate licensee as defined in ORS 696.010, two persons who serve in the executive branch of state government, one person qualified as a land use planner, and one person qualified as a real estate management expert.

(3) Members of the advisory committee shall meet at such times and places and elect such officers and make such rules for the conduct of committee business as the committee may specify.

(4) Members of the advisory committee who are not members of the Legislative Assembly are entitled to compensation under ORS 292.495. Members of the advisory committee who are members of the Legislative Assembly shall be paid compensation and expense reimbursement as provided in ORS 171.072, payable from funds appropriated to the Legislative Assembly.

(5) Expenses of the committee shall be paid from funds appropriated to the department to carry out subsection (6) of this section.

(6)(a) The advisory committee shall advise the department on the acquisition, exchange or disposal of real property valued at \$100,000 or more.

(b) The department may request the advice of the committee involving any real property transaction valued less than \$100,000. [Formerly 273.655; 1997 c.632 §2; 1999 c.314 §82; 2007 c.319 §27; 2013 c.145 §8]

270.130 Publication of notice of sale.

The state agency acting for the state in the transaction shall give the notice of the proposed sale not less than once a week for three successive weeks by publication in one or more newspapers of general circulation in the county in which such real property is situated, and in such other newspapers, if any, as the agency considers advisable. The notice shall describe generally and by legal subdivision such property and the asking price. The state agency shall reserve the right to accept or reject any proposal. [1991 c.816 §7]

270.135 Decision of state agency on proposal for sale of property. The decision of the state agency on the question of the most advantageous proposal for real property to be sold, shall be final and conclusive, and shall not be subject to review by any court. [1991 c.816 §11; 2009 c.481 §1]

270.140 Action if no satisfactory proposal received; rules. (1) If the provisions of ORS 270.100, 270.110 and 270.130 have been complied with as to property administered by it and no satisfactory proposal has been received, a state agency acting for the state in the sale of real property or an equitable interest in real property that the state

owns may, beginning at any time no later than 18 months after completing the process of giving notice under ORS 270.130, offer for sale the real property or equitable interest in any manner that the state agency considers appropriate, including such commercially reasonable means as through a real estate licensee as set forth in ORS 696.007.

(2) If efforts by a state agency to sell real property or an equitable interest pursuant to subsection (1) of this section have been discontinued for a period of 12 months or more, the state agency may not resume offering the real property or equitable interest for sale pursuant to subsection (1) of this section without first complying with the provisions of ORS 270.100, 270.110 and 270.130.

(3) The Oregon Department of Administrative Services may adopt rules necessary to carry out the provisions of this section. [1991 c.816 §9; 2017 c.205 §1]

MANAGEMENT

270.150 Proceeds of sale of real property. (1) The proceeds, less costs, of any real property sold by the Oregon Department of Administrative Services under ORS 270.100, 270.110 and 270.130 may be credited to and deposited in the Capital Projects Fund established by ORS 276.005 or the Trust for Cultural Development Account established in ORS 359.405.

(2) The proceeds of any real property sold by a state agency under ORS 270.100 and 270.110 may be credited to and deposited in the Trust for Cultural Development Account. If the proceeds are credited to and deposited in the account, a state agency may retain from the proceeds the costs of selling the real property and the amount originally paid by the state agency when the state agency acquired the real property.

(3) The revenue from the rental or lease of surplus real property managed by the department shall be deposited in the State Treasury to the credit of the operating fund established by ORS 283.076.

(4) Notwithstanding the provisions of subsection (1) or (2) of this section, an agency may negotiate with the department to apply the proceeds of a sale, transfer or lease of such surplus real property to another capital acquisition of that agency. [1991 c.816 §10; 2001 c.954 §29]

270.155 Agreements for management of state real property; reimbursement for costs. In addition to authority granted to the Oregon Department of Administrative Services under ORS 184.634, 270.005 to 270.015, 270.100 to 270.190, 273.416, 273.426 to 273.436 and 273.551, the department, pursuant to an agreement under ORS 190.110, may under-

take the management of any real property, and improvements thereon, that is the property of or within the management jurisdiction of any state agency. Reimbursement of department costs shall be made subject to terms of the agreement. [Formerly 273.695; 1999 c.314 §83]

270.165 Grants of easements in public interest. The Oregon Department of Administrative Services acting on behalf of the State of Oregon may grant an easement or right of way on any real property under its control if the department determines that the easement or right of way would be in the public interest. [Formerly 273.639]

270.180 Inventory of state-owned real property; status information reports; periodic revision; rules. (1) The Oregon Department of Administrative Services shall maintain and keep current an inventory of all state-owned real property and shall classify all such property on the basis of current use, value, idle or surplus to agency need. The department shall establish categories of real property necessary for management of state-owned real property. Land owning agencies shall provide status information, as requested by the department, of agency owned land for the department to carry out its clearinghouse function.

(2) On or before October 1 of each even-numbered year, a state agency shall submit

to the department a revised and updated inventory of any surplus real property that it owns. The inventory shall list separately any surplus real property located within an urban growth boundary.

(3) The department may apportion to each state agency owning real property its contribution to reimburse the department for the costs incurred in maintaining the real property inventory set forth in subsections (1) and (2) of this section.

(4) Contributions apportioned by the department under subsection (3) of this section are continuously appropriated to the department to reimburse it for its costs incurred in maintaining the real property inventory.

(5) The department shall adopt rules to assess state land owning agencies for administration of the state lands management program. [Formerly 273.675]

270.190 Disposition of operating fund revenues. At the end of each biennium, the Oregon Department of Administrative Services shall transfer from the Oregon Department of Administrative Services Operating Fund to the Capital Projects Fund established by ORS 276.005 all revenue from the rental or lease of property described in ORS 270.150 not expended for administration, taxes, repairs or improvements. [Formerly 273.628; 1993 c.500 §12]

