Chapter 270

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PUBLIC LANDS

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Chapter 270

1999 EDITION

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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 279.011.

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

(4) "Surplus real property" means all state-owned real property and improvements surplus to agency and state need. [1991 c.816 s.3; 1993 c.500 s.11; 1997 c.685 s.5; 1999 c.314 s.79]

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 s.2; 1995 c.589 s.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 s.4; 1999 c.314 s.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; procedures; restrictions on final disposition. (1)(a) Before offering for sale any real property or equitable interest therein owned by the state, the state agency acting for the state in such transaction shall report its intent of sale or transfer to the Oregon Department of Administrative Services. The department, or the agency specifically designated by the department, shall notify other state agencies authorized to own real property of the intended sale or transfer to determine whether acquisition of the real property or interest therein would be advantageous to another state agency.

(b) The department shall give political subdivisions, as defined in ORS 271.005, the first opportunity after other state agencies to acquire, purchase, exchange or lease real property to be sold or disposed of by the State of Oregon. The state agency responsible for selling or transferring the property may require at the time of the sale or transfer that any state real property sold or transferred to a political subdivision, as defined in ORS 271.005, shall be for use for a public purpose or benefit, and not be for resale to a private purchaser.

(c) If property is not disposed of under paragraph (a) or (b) of this subsection, in accordance with rules adopted by the department, the state agency desiring to sell or transfer the property shall cause it to be appraised by one or more competent and experienced appraisers. Except as provided in ORS 273.825, if such property has an appraised value exceeding $5,000 it shall 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 acquisition of any real property or interest therein by any state agency, except for highway right of way acquired by the Department of Transportation and park properties acquired by the State Parks and Recreation Department and property within the approved projected campus boundaries for institutions of the Department of Higher Education, the state agency shall report its intent of acquisition to the Oregon Department of Administrative Services. The department shall notify other state agencies owning land of the intended acquisition to determine whether another state agency desires to sell or transfer property which would meet the needs of the purchasing agency. In accordance with rules adopted by the Oregon Department of Administrative Services, if no other state agency desires to sell or transfer property which would meet the needs of the agency, the agency may acquire the real property or interest therein, 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 controlled by the State Department of Fish and Wildlife;

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

(c) Property controlled by the Department of Transportation;

(d) Property controlled by the Division of State Lands;

(e) Property controlled by the Department of Higher Education;

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

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

(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 that 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) to (4) do not apply to a home or farm acquired, sold, or both, by the Director of Veterans' Affairs under ORS 88.720, 273.388, 406.050, 407.135, 407.145, 407.375 and 407.377. [1991 c.816 s.6; 1999 c.314 s.81]

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 s.21]

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

(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 property 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) Except for airspace leases negotiated by the Oregon Department of Aviation, leases of state forestlands, and leases of property controlled by the Division of State Lands, Department of Higher Education or the legislative or judicial branches of state government, any lease of state real property exceeding five years must be approved in advance by the Oregon Department of Administrative Services. [1991 c.816 s.5; 1999 c.935 s.25]

Note: The amendments to 270.110 by section 25, chapter 935, Oregon Laws 1999, become operative July 1, 2000. See section 41, chapter 935, Oregon Laws 1999. The text that is operative until July 1, 2000, is set forth for the user's convenience.

270.110. (1) Except as provided in subsection (2) of this section, 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.

(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 property 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) Except for airspace leases negotiated by the Department of Transportation, leases of state forestlands, and leases of property controlled by the Division of State Lands, Department of Higher Education or the legislative or judicial branches of state government, any lease of state real property exceeding five years must be approved in advance by the Oregon Department of Administrative Services.

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 person who is licensed under ORS 696.020, 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 s.2; 1999 c.314 s.82]

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 s.7]

270.135 Proposal for sale of property; requirements. (1) 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.

(2) Each proposal shall be accompanied by a certified check or by sufficient bond furnished by a surety company authorized to do business in this state, in favor of the State of Oregon, in a sum not less than 10 percent of the total amount of the value of the proposal. [1991 c.816 s.11]

270.140 Action if no satisfactory proposal received. 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, the state agency may, at any time during a period of 18 months after the advertised date of sale, sell such property in such manner as it considers appropriate, including such commercially reasonable means as through a real estate licensee as set forth in ORS 696.007. [1991 c.816 s.9]

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 shall be credited to and deposited in the Capital Projects Fund established by ORS 276.005.

(2) 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.

(3) Notwithstanding the provisions of subsection (1) 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 s.10]

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 undertake 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 s.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. (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 s.12]