

CHAPTER 572

AN ACT

HB 3524

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

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

SECTION 1. ORS 270.100 is amended to read:

270.100. (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)(A) 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[.] **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 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 bounda-

ries for public universities of the Oregon University System or public universities with governing boards listed in ORS 352.054, 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]* **that** 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]* **that** 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 Department of State Lands;

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

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

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

SECTION 1a. If Senate Bill 224 becomes law, section 1 of this 2015 Act (amending ORS 270.100) is repealed and ORS 270.100, as amended by section 1, chapter 285, Oregon Laws 2015 (Enrolled Senate Bill 224), is amended to read:

270.100. (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 [*political subdivisions, as defined in ORS 271.005,*] the first opportunity after other state agencies to acquire, 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 of the Oregon University System or public universities with governing boards listed in ORS 352.054, the state agency shall report to the Oregon Department of Administrative Services that the state agency intends to ac-

quire 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 the Oregon University System controls or that public universities with governing boards listed in ORS 352.054 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) to (4) 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 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.

SECTION 2. ORS 270.005 is amended to read:

270.005. 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.**

~~(4)~~ (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.**

SECTION 3. ORS 270.110 is amended to read:

270.110. (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 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) 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.

Approved by the Governor June 25, 2015

Filed in the office of Secretary of State June 29, 2015

Effective date January 1, 2016