

2005 Assembly Bill 534

Date of enactment: **May 10, 2006**
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2005 WISCONSIN ACT 392

AN ACT *to renumber and amend* 84.09 (5); *to amend* 84.01 (30) (a), 84.01 (30) (g) 3., 84.09 (5m), 84.09 (5r) and 84.09 (8) (b); and *to create* 84.09 (5) (b) and (c) of the statutes; **relating to:** sale, by the Department of Transportation, of surplus real property.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 84.01 (30) (a) of the statutes is amended to read:

84.01 (30) (a) A provision specifying that title is held by the private entity until title is transferred to the department pursuant to a lease with option to purchase at ~~fair market~~ the appraised value or purchase at ~~fair market~~ the appraised value of the constructed project upon its completion.

SECTION 2. 84.01 (30) (g) 3. of the statutes, as created by 2005 Wisconsin Act 25, is amended to read:

84.01 (30) (g) 3. Notwithstanding any other statute, the department may sell, at ~~fair market~~ the appraised value, the real estate upon which a park-and-ride facility is or may be located, if the department determines that the sale is in the best interests of the public and the department determines that the real estate will be used in a manner consistent with the state's transportation interests.

SECTION 3. 84.09 (5) of the statutes is renumbered 84.09 (5) (a) and amended to read:

84.09 (5) (a) Subject to pars. (b) and (c) and to the approval of the governor, the department may sell at public or private sale property of whatever nature owned by the state and under the jurisdiction of the department when the department determines that the property is no

longer necessary for the state's use for transportation purposes and, if real property, the real property is not the subject of a petition under s. 560.9810 (2). The department shall present to the governor a full and complete report of the property to be sold, the reason for the sale, and the minimum price for which the same should be sold, together with an application for the governor's approval of the sale. The governor shall thereupon make such investigation as he or she may deem necessary and approve or disapprove the application. Upon such approval and receipt of the full purchase price, the department shall by appropriate deed or other instrument transfer the property to the purchaser. The approval of the governor is not required for public or private sale of property having ~~a fair market~~ an appraised value at the time of sale of not more than \$15,000, for the transfer of surplus state real property to the department of administration under s. 560.9810, or for the transfer of surplus state personal property to the department of tourism under sub. (5s). The funds derived from sales under this subsection shall be deposited in the transportation fund, and the expense incurred by the department in connection with the sale shall be paid from such fund.

SECTION 4. 84.09 (5) (b) and (c) of the statutes are created to read:

84.09 (5) (b) Subject to the approval of the governor in the manner, scope, and form specified in par. (a), with

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

respect to the sale of property acquired by the department for a project that is completed after the effective date of this paragraph [revisor inserts date], the department shall, and with respect to the sale of property acquired by the department for a project that is completed before the effective date of this paragraph [revisor inserts date], the department may offer for sale or transfer ownership of the property that the department determines is no longer necessary for the state's use for transportation purposes, if the property is not the subject of a petition under s. 560.9810 (2). This disposition process shall take place within 24 months of the completion of the transportation project for which the property was acquired. Except as provided in par. (c) 3., the department shall offer limited and general marketable properties at appraised value, as determined by a state-certified or licensed appraiser, for not less than 12 months. If the department does not sell the property at or above its appraised value, the department shall offer the property for sale by means of sealed bids or public auction. For the purposes of this paragraph, a project is completed when final payment is made under the contract for the project.

(c) 1. Prior to conducting a public sale on a generally marketable surplus land parcel under par. (b), the department shall contact the county, municipality, and the local school district where the land parcel is located and the department of natural resources to solicit interest in acquiring the parcel for public use. Upon notification from the department, the county, municipality, local school district, and department of natural resources must respond to the department, stating their interest in the land for public use, within 60 days. Failure to respond within 60 days constitutes noninterest in the land parcel.

2. Except as provided in subd. 2m. if a county, a municipality, a local school district, or the department of natural resources expresses interest in acquiring the land for public use, the department shall offer the county, municipality, local school district, or department of natural resources the property at its appraised value if all of the following are true:

a. The county, municipality, local school district, or department of natural resources provides a plan to the department identifying the proposed public use for the land parcel and the acreage involved in the public use.

b. The public use would benefit a cross-section of the population.

c. The land parcel will not be purchased for the generation of profit either through the sale price or its long-term intended public use.

2m. If a county, municipality, or a local school district expresses interest in acquiring the land for public use related to transportation or infrastructure, the department may offer the county, municipality, or the local school district the property, for less than the appraised value of the property, if all of the following are true:

a. The county, municipality, or local school district provides a plan to the department identifying the proposed use of the property for transportation or infrastructure purposes.

b. The county, municipality, or local school district agrees to a permanent restriction on the use of the land for the purpose identified.

3. If the conditions of subd. 2. are met, the department shall transfer ownership of the land parcel to the county, municipality, local school district, or department of natural resources upon receipt of the appraised value of the land parcel. If the conditions of subd. 2m. are met, the department shall transfer ownership of the land parcel to the county, municipality, or local school district upon receipt of the agreed purchase price of the land parcel. Ownership of the land parcel shall be transferred contingent upon the public use identified under subd. 2., and shall remain in the ownership of the public entity preserving the public use.

SECTION 5. 84.09 (5m) of the statutes is amended to read:

84.09 (5m) Subject to the approval of the governor in the manner, scope, and form provided by sub. (5) (a), the department may convey lands or interests therein acquired pursuant to this section and improvements installed thereon to municipalities within whose limits such lands or interests therein are located. The conveyance of said lands or interests therein and improvements shall restrict the use of the premises by the municipality to the uses for which they were acquired, except that said lands or interests therein declared by the department to be excess may be so conveyed without restrictions as to use. This subsection shall apply only to the sale of property acquired by the department for a project that is completed before the effective date of this subsection [revisor inserts date]. The department may sell property that is acquired by the department for a project that is completed after the effective date of this subsection [revisor inserts date], to a municipality under sub. (5) (c), as applicable.

SECTION 6. 84.09 (5r) of the statutes is amended to read:

84.09 (5r) In lieu of the sale or conveyance of property under sub. (5) or (5m), the department may, subject to the approval of the governor, donate real property that is adjacent to the veterans memorial site located at The Highground in Clark County and owned by the state and under the jurisdiction of the department to the Wisconsin Vietnam Veterans Memorial Project, Inc., for the purpose of the veterans memorial site located at The Highground in Clark County for the purpose of a memorial hall specified in s. 70.11 (9). The department may donate property under this subsection only when the department determines that the property is no longer necessary for the state's use for transportation purposes and is not the sub-

ject of a petition under s. 560.9810 (2) and is transferred with a restriction that the donee may not subsequently transfer the real property to any person except to this state, which shall not be charged for any improvements thereon. Such restriction shall be recorded in the office of the register of deeds in the county in which the property is located. The department shall present to the governor a full and complete report of the property to be donated, the reason for the donation, and the minimum price for which the property could likely be sold under sub. (5), together with an application for the governor's approval of the donation. The governor shall thereupon make such investigation as he or she considers necessary and approve or disapprove the application. Upon such approval, the department shall by appropriate deed or other instrument transfer the property to the donee. The approval of the governor is not required for donation of property having ~~a fair market~~ an appraised value at the

time of donation of not more than \$15,000. Any expense incurred by the department in connection with the donation shall be paid from the transportation fund.

SECTION 7. 84.09 (8) (b) of the statutes is amended to read:

84.09 (8) (b) Biennially, beginning on January 1, 1984, the department shall submit to the state building commission and the joint committee on finance an inventory of surplus land containing a general description of the location and an estimated value of each parcel. For each inventory submitted after the effective date of this paragraph [revisor inserts date], the inventory shall contain a report including the estimated marketable value totals, by marketable type, of the land parcels, the net gain and net sale of surplus properties in the previous 2-year period, and a summary of the 5 most recent reports submitted under this paragraph.