



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2005 Wisconsin Act 392
[2005 Assembly Bill 534]

**Sale of Surplus Real Property
by DOT**

The Department of Transportation (DOT) is authorized under current law to sell at public or private sale any property under its jurisdiction that the DOT declares to be surplus. The DOT is required to present to the Governor a report of the property to be sold, the reason for the sale, and the minimum price. The Governor's approval is required for the sale to proceed, except that sale of property that has a fair market value at the time of sale of less than \$15,000 does not require the Governor's approval.

2005 Wisconsin Act 392 creates the following new requirements for the disposal of surplus real property by DOT:

- The DOT is required to offer limited and generally marketable properties at appraised value for not less than 12 months. The appraisal must be done by a state-certified or licensed appraiser.
- If the property does not sell at or above its appraised value, DOT is required to sell the property by means of sealed bid or public auction. The disposition process must take place within 24 months of the completion of the transportation project for which the property is acquired. A project is "completed" when final payment is made under the contract for the project.
- The provisions in the Act apply to the sale of property acquired by DOT for a project that is completed after the effective date of the Act, and to the sale of property acquired by DOT for a project that is completed before the effective date of the Act.

Prior to conducting a public sale of generally marketable surplus land, Act 392 requires DOT to contact the county, municipality, and local school district where the land is located and the Department of Natural Resources (DNR) to determine if there is interest in acquiring the parcel for public use. The DOT is required to allow 60 days for a response declaring an interest in the land.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

If there is interest in the land, DOT is required to offer the county, municipality, local school district, or DNR the property at its appraised value if all of the following apply:

- The county, municipality, local school district, or DNR provides a plan to DOT identifying the proposed public use for the land parcel and the acreage involved in the public use.
- The public use would benefit a cross-section of the population.
- The land will not be purchased with the intention of profiting by the purchase, either through the sale price or long-term intended public use.

If these conditions are met, DOT must transfer ownership of the land to the county, municipality, local school district, or DNR, upon receipt of the appraised value of the land. DOT is required to convey the land subject to permanent restrictions guaranteeing the public use. The land must remain in the ownership of the grantee.

A second procedure is available if a county, municipality, or local school district expresses an interest in acquiring the land. If there is an interest in the land for a public use related to transportation or infrastructure, the DOT may offer the county, municipality, or local school district the property for less than the appraised value of the property if all of the following apply:

- The county, municipality, or local school district provides a plan to the DOT identifying the proposed use of the property for transportation or infrastructure.
- The county, municipality, or local school district agrees to a permanent restriction on the use of the land for the purposes identified.

If these conditions are met, DOT must 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.

The DOT is required to include in its biennial report to the State Building Commission and the Joint Committee on Finance regarding surplus property, an inventory containing 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 two-year period, and a summary of the five most recent biennial reports submitted.

Effective Date: May 26, 2006.

Prepared by: Mark C. Patronsky, Senior Staff Attorney

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MCP:rv:jal